

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

ITEM NO 2
APPLIC NO LA07/2015/0545/F Full **DATE VALID** 7/3/15
COUNCIL OPINION REFUSAL
APPLICANT Mr P Smith C/O Agent **AGENT** O'Callaghan
 Planning Unit 1
 10 Monaghan
 Street
 Newry
 BT35 6BH
 028 30835700

LOCATION 40 metres south west of 23a Castlewellan Road
 Hilltown
PROPOSAL Erection of dwelling and detached garage on a farm

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

- 1 The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the ancillary works (access arrangement) do not integrate with their surroundings and therefore would not visually integrate into the surrounding landscape.
- 2 The proposal is contrary to Planning Policy Statement 3, Policy AMP 3 Access to Protected Routes in that it would, if permitted, result in the creation of a new vehicular access onto a Main Traffic Route (Protected Route), thereby prejudicing the free flow of traffic and conditions of general safety.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2015/0545/F

Date Received: 29th June 2015

Proposal: Site for farm dwelling and garage

Location: The site is located in the Crotlieve ward along the main Castlewellan Road just outside (0.2Km) the northern development limit of Hilltown. The B8 Castlewellan Road is a Protected Route.

Site Characteristics & Area Characteristics:

The proposed site is immediately adjacent to the farm at No. 23 Castlewellan Road. The proposed site includes two fields, one at the roadside and the other adjoining and to the rear of the roadside field. The site is clearly visible from the road when travelling north towards Castlewellan. The front portion of the site appears very open as it is a section of a larger field. There is no southern boundary but the northern boundary is defined by a 2m high post and wire fence and a row of semi-mature trees. The rear portion of the site is a small field with natural boundaries on three sides and the farm complex comprising the fourth boundary. A stone wall runs along the roadside boundary. A field gate is located along the road at the proposed site entrance. A track has recently been laid from here to the farm.





Aerial photograph clearly indicates the additional screening around the portion of the site where the revised scheme shows the proposed dwelling. A dwelling here will appear to cluster and visually link with the existing farm complex. The western boundary will screen the dwelling from views from the Castlewellan Road.

Site History:

There is a parallel application for change of use of No 23a to the north to self-catering holiday accommodation (LA07/2015/0549/F).

Planning Policies & Material Considerations:

- Banbridge, Newry and Mourne Area Plan 2015.
- Strategic Planning Policy Statement for Northern Ireland 2015 (SPPS): Planning for Sustainable Development.
- Planning Policy Statement 3 Access (PPS3), Movement and Parking Policy AMP2 and 3 including the consequential amendment contained in Annex 1 of PPS 21
- Planning Policy Statement 21 (PPS21) Sustainable Development in the Countryside.

Consultations:

Statutory - Department of Rural Development Countryside Management Compliance Branch – has confirmed the farm business ID has been in existence for more than 6 years.

Statutory - NI Water has no objections and recommends a number of standard informatives.

Statutory - Transport NI has no objections but notes at the end of the response that the B8 is a protected route and Planning must be satisfied that this application falls within the exceptions listed in the policy relating to new accesses onto protected routes. If this application does not fall within these exceptions listed then it should be refused.

NIEA Archaeology and Built Heritage is content with the proposal, Water Management Unit had no objections, standard informatives

Objections & Representations:

The application was advertised in local newspapers on 24th July 2015. Four neighbouring properties were notified of the proposal on 21st August 2015. No objections or representations were received.

Consideration and Assessment:

This site is located within the rural area as designated within the Banbridge, Newry and Mourne Area Plan 2015 and is part of the Mourne AONB.

Strategic Planning Policy Statement for Northern Ireland 2015 (SPPS): Planning for Sustainable Development.

Page 53 relates to dwellings on farms: provision should be made for a dwelling house on an active and established farm business to accommodate those engaged in the farm business or other rural dwellers. It notes that dwellings on farms must also comply with policies regarding integration and rural character.

Planning Policy Statement 21 (PPS21) Sustainable Development in the Countryside. Policies CTY 1, CTY 8, CTY 10, CTY 13, CTY14 and 16 apply.

CTY 1 Development in the Countryside, assesses the need for this proposal within the rural area. A number of exceptions are listed and these include 'a dwelling on a farm'. CTY 1 also notes that 'All proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage access and road safety.

Policy CTY 8, states "Planning permission will be refused for a building which creates or adds to a ribbon of development". The supporting text adds at paragraph 5.32 that 'Ribbon development has consistently been opposed and will continue to

be unacceptable. I don't consider ribbon development to be an issue for this application.

CTY 10 Dwellings on farms – permission will be granted where a) the farm business has been active for over 6 years and b) no development opportunities have been sold from the farm holding in the last 10 years and c) the new building is **visually linked or sited to cluster** with an established group of buildings on the farm. The policy then notes "In such circumstances the proposed site must also meet the requirements of CTY 13(a-f), CTY 14 and CTY 16".

DARD has confirmed that there has been an active farm business for over 6 years. I am satisfied that the farm is active and established for the purposes of CTY 10 criteria a and b.

A planning history search shows that no other sites have been approved for dwellings on the farm.

I accept that a dwelling on the proposed site would be visually linked and sited to cluster with the existing farm complex.

Following discussions with the agent regarding concerns on the siting and design of the dwelling, revised plans were submitted on 4th May 2016. These plans showed the dwelling set back to the rear of the overall site so the dwelling would appear to cluster with No. 23 and benefit from the existing vegetation to the rear. The overall size of the dwelling was reduced and it is now proposed for a 1.5 storey dwelling of simple form and proportions. 7.1m to finished floor level, 14m front width with 5m side projection for a sunroom. Smooth render finish and natural stone detailing on porch and sunroom. Ground floor area approximately 150m². Single storey double garage.

CTY 13 and CTY 14 relate to new buildings in the countryside and are therefore a material consideration for all planning applications in the rural area.

CTY 13 assesses the impact this proposal will have on the rural area by reason of design, siting, integration and landscaping. The site itself has limited screening and long established boundaries however as the dwelling is proposed to be set back from the road close to the existing farm buildings.

The dwelling was originally proposed in the roadside field of the application site. This part of the site is very open and there are long critical views into the site from the Castlewellan Road. Following discussions with the agent a revised site plan was submitted with the dwelling set back from the road to take advantage of the natural boundaries in the field in the rear area of the red line boundary.

CTY 13 also includes the assessment of access and other ancillary works.

Paragraph 5.71 notes that "New accesses are often a visible feature of new buildings in the countryside and on occasion can be more obtrusive than the building itself, particularly if they include ornate walls, gates and fencing. Accordingly it will often be necessary to attach a condition removing permitted development rights for such boundary features in the interests of preserving the amenity and rural character of an area".

Paragraph 5.72 adds "Wherever possible access to a new building should be taken from an existing lane-way".

The proposed access will cut across a relatively flat field, the applicant has proposed to use dry stone walls along the entrance to conceal the access from obvious view. I consider the relocation of the existing post and wire fence from the roadside and its re-siting some 12 metres back from the road edge to provide the southern visibility splay to be damaging to the character of the area. The site should be accessed from the existing farm access that serves No. 23 and 23a. The applicant states that he does not control the land necessary to provide visibility splays at this location. However, it may be possible to reach an agreement with neighbouring landowners to improve this access sufficiently. As this is the farm lane in policy terms, land ownership is not a valid reason to create a new access elsewhere.

CTY 14 assesses the impact this proposal will have on the rural character of the immediate area. It notes that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. The revised siting has overcome any issues of integration that were apparent under the originally proposed site at the roadside field. The amplification notes at paragraph 5.78 that in assessing the cumulative impact of a building on the rural character the following matters should be taken into consideration. These include intervisibility of the building with existing development, the vulnerability of the landscape and the siting of the proposal.

The revised siting of the dwelling to the rear field will improved the 'clustering' effect required under CTY 10. The new dwelling should appear as part of the farm complex rather than a separate dwelling detached from the farm.

I am satisfied that by siting the dwelling in the rear field the proposal will cluster with the existing farm complex. The issue is the access arrangement directly off the B8 Castlewellan Road.

PPS 3 Access Movement and Parking Policy AMP 2, access to public roads notes that planning permission will only be granted for a development 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 and b) the proposal does not conflict with Policy AMP3 Access to Protected Routes.

Policy AMP 3 was clarified in October 2006 and then again in June 2010 when PPS 21 was published, the revised policy states:

Other Protected Routes – Outside Settlement Limits

Planning permission will only be granted for a development proposal involving access onto this category of Protected Route in the following cases:

(b) A Farm Dwelling – where a farm dwelling would meet the criteria set out in Policy CTY 10 of PPS 21 and access cannot reasonably be obtained from an adjacent minor road. Where this cannot be achieved proposals will be required to make use of an existing vehicular access onto the Protected Route.

Significant correspondence has taken place between the applicant with relation to the access arrangement on this application. There is an existing access that serves No. 23 and the farm holding off the B8. The latest plans show that the existing farm lane has visibility splays of 2.4m x 22m and 2.4m x 21m. This is the access that should be utilised for the farm dwelling. The applicant controls the land to the south in order to provide the required visibility. He maintains that as he does not control the land to the north the existing access cannot be upgraded to meet the required standards. However, applicants often have to come to an arrangement with adjoining landowners to achieve visibility and this should be investigated in this case. Indeed, when the same applicant's farm house was approved under P/1998/1124, he indicated that he controlled the land necessary to provide splays of 2.4m x 125m to both sides. The dwelling was approved on this basis, but the approved entrance was never provided. To facilitate further development at this location, it is essential that a safe access is now created as it should have been 18 years ago.

There is no adjacent minor road that could be used to serve the site. As such the application fails Policy AMP 3. Since the application was previously recommended for refusal, the agent has argued that an existing field gate on the roadside can be used to access the dwelling. He has stated and the planning department agrees that this is an agricultural access. In March 2017, the applicant created a stone track leading from the field gate to the farm yard (see photo below). The agent has stated that this would be permitted development under Part 7 Class C of the Planning (General Permitted Development) Order (Northern Ireland) 2015, though no Certificate is in place to demonstrate its lawfulness.



The key consideration is whether the original field gate can be considered an existing vehicular access onto the protected route. The agent has pointed out that policy AMP3 does not distinguish between different types of access onto a protected route, so he argues that the field gate may be considered such an access for the purposes of the policy. The intention of the protected routes policy is to restrict access onto the main roads that facilitate the efficient movement of traffic over long distances in Northern Ireland. These roads contribute significantly to economic prosperity by providing efficient links between the main towns, airports, seaports and with the Republic of Ireland (paragraph 5.24). The B8 at this point comprises the principle route between Newry and Downpatrick, the two main settlements in this Council area. There are hundreds of agricultural field gates along the route from Newry to Downpatrick. These are used occasionally by farmers for access to fields. But it would be absurd to suggest that each of these field gates would entitle the landowner to a new access onto the protected route for a development that would attract traffic daily. This would severely compromise the intention of designating protected routes for the efficient movement of traffic. The free flow of traffic would be prejudiced by the intensification of vehicular movements in and out of the access and there would be increased road safety risks. If this proposal was allowed to use the field gate as 'an existing access' it would set a dangerous precedent, not only for this protected route, but for all others in the district (e.g. A1, A2, A7, A24, A25, A27, A28, A37 and A50). A field gate cannot be considered an existing access onto the protected route. In support of this position, the PAC found in appeal 2004/A037 that a field gate onto the A1 at Dublin Road, Loughbrickland, was not an existing access, and therefore the proposal was not an exception to the restrictive policy for main traffic routes. Although the policy context has changed slightly since this decision, the principle remains that access to protected routes ought to be restricted and field gates do not constitute an existing access.

In summary, the siting and design of the dwelling house is acceptable, but the existing field gate cannot be considered an existing access onto the protected route

by which a dwelling can be accessed. The works to provide a safe entrance here would not integrate satisfactorily. The applicant has an existing farm lane onto the protected route and he should take steps to make a safe access at this point as he indicated he could do under a previous planning approval. Alternatively, the applicant appears to own other land at Carmeen Road, Hilltown, and there may be an opportunity for a farm dwelling here, which does not require access to the protected route.

Recommendation: Refusal

Refusal Reasons

1. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the ancillary works (access arrangement) do not integrate with their surroundings and therefore would not visually integrate into the surrounding landscape.
2. The proposal is contrary to Planning Policy Statement 3, Policy AMP 3 Access to Protected Routes in that it would, if permitted, result in the creation of a new vehicular access onto a Main Traffic Route (Protected Route), thereby prejudicing the free flow of traffic and conditions of general safety.

Case Officer Signature:

Date:

Appointed Officer Signature:

Date:

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

07th August 2017

Dear Sir / Madam,

Ref: Planning Application: LA07/2015/0545/F
Applicant Name: Paul Smith
Proposal: Erection of dwelling and detached garage on a farm
Site Location: 40 metres south west of 23a Castlewellan Road Hilltown

1. I refer to the above mentioned planning application, which has been recommended for refusal for two particular reasons. The case is to be presented to your Committee on 16th August.
2. On behalf of the applicant, we would ask the Committee to take this submission into account when determining this application. Specifically, we ask the Committee to overturn the planning department's recommendation to refuse permission. In so doing, we have hereby set out a series of rational planning grounds, each of which would strongly support the approval of this planning application. It is our belief that the planning department's recommendation to refuse permission has been based upon a strict interpretation and analysis of the relevant planning policies, whereas in this case a number of other material considerations ought to have been given equal if not greater weight.
3. The background to the case is that the applicant owns an active and established farm business. There have been no adverse consultation responses received, from DARD etc. The application has become protracted, for a number of reasons. At the outset, the applicant sought to position the house forward of its current location. This was deemed unacceptable and after further consideration the applicant moved the house in accordance with the planning department's initial comments. Thereafter, an issue arose with respect to the issue of the access to the site. The applicant was initially advised to



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- utilise an existing access, however further discussions arose when it was proven the existing access is un-safe and incapable of being upgraded.
4. In short, at one point it was conceded that
 - 1) Where the existing access is not suitable, an alternative may be proposed. There are two issues with the current proposal. The existing entrance appears to be of acceptable standard, please indicate how it is considered to be sub-standard; and
 - 2) The alternative access includes a large sweeping (suburban) driveway through the site which we find unacceptable at this exposed location.
 5. In response, it was proven that the existing entrance was sub standard. This was easily proven given the site had already been surveyed by independent surveyors.
 6. At a later date, the access was modified, to push it as close as possible to the host field's northern boundary, thereby mitigating any perception of a "sweeping driveway". In providing this information / amendments, the applicant expected that approval would be forthcoming.
 7. Notwithstanding the provision of amended plans and additional information, the planning department subsequently retracted its advice and indicated that it was not possible to create a new entrance.
 8. However, contrary to the planning department's views on this subject, this Council has recently taken a pragmatic view on this issue of access and protected routes.
 9. Whereas the planning department opines that it is not possible to construct a new access onto a protected route, PPS 21 actually introduced a consequential revision to the protected routes policy as set out in PPS 3. This indicates that exception (to the general presumption against new accesses) can be made for, inter alia, farm dwellings:

(b) A Farm Dwelling – where a farm dwelling would meet the criteria set out in Policy CTY 10 of PPS 21 and access cannot reasonably be obtained from an adjacent minor road. Where this cannot be achieved proposals will be required to make use of an existing vehicular access onto the Protected Route.



10. The Consequential revision indicates that access should be taken from a minor road or from an existing access. However, there is no nearby minor road from which an access can be taken, although there is a nearby access that could, potentially, be used. The policy indicates that where access from a minor road cannot **be achieved proposals will be required to make use of an existing vehicular access onto the Protected Route**. The planning department interpret this as an indication that no other solution can be countenanced. We submit that this approach is flawed.
11. In this case, we recognise that the intention of Policy AMP 3 is to restrict the number of new accesses and to control the level of use of existing accesses onto Protected Routes. The intention behind issuing a consequential revision was to introduce new provisions for new entrances and for intensified accesses. It is not correct to suggest that the consequential revision does not allow the creation of a new entrance if the closest existing access is sub standard and cannot practicably be used to serve a new development, since the point of adopting the "consequential revision" was to make provision for farm dwellings.
12. In this case, there is apparent tension between the wording expressed in the "consequential revision" and the wording set out in Policy AMP 3. AMP 3 itself, which was supposed to be the more stringent of the two policies, indicated that exceptions included "a farm dwelling – where a farm dwelling, including a farm retirement dwelling, would meet the criteria for development in a Green Belt or Countryside Policy Area and access cannot reasonably be obtained from an adjacent minor road".
13. In this case, clearly even Policy AMP 3 would have provided for this proposed new access. Therefore, it is irrational to suppose that the consequential amendment to AMP 3 contained within PPS 21 prohibits any solution other than the use of an existing access or the use of a nearby minor road.
14. In this case, the applicant is being directed to utilise an existing sub-standard access. That solution is impracticable at best, notwithstanding that it would clearly be detrimental to the safety and convenience of road users and pedestrians. Clearly, there ought to be scope from departing from the policy's supposed directive, particularly where there is an alternative that is safer.
15. The planning department have applied the policy as if it were a single rule with an immutable meaning despite its knowledge that planning case law dictates that this is not



the case. It is perfectly legal to depart from or to disapply a planning policy when there is a valid reason for so doing. In this case, departure from the policy is necessary, in the interests of road safety. The salient policy cannot be applied or interpreted as if there is no alternative, because to apply the policy to the letter would be to create an unacceptable risk of road accident.

16. We further submit that Policy AMP 3 of PPS 3, and indeed its consequential amendment, cannot be interpreted as if they were self contained policies. In this respect, we note that PPS 3 itself confirms that

“in all cases, where access to a Protected Route is acceptable in principle it will also be required to be safe in accordance with Policy AMP 2”.

17. In this case, the access the planning department recommends should be used is unacceptable, and the intensified use of that access would be contrary to Policy AMP 2.
18. Clearly, the consequential amendment to PPS 3 was not published to create a risk to road safety. On the contrary, the amendment was introduced to allow additional scope in determining when it will be appropriate to introduce a new access onto a protected route or to intensify the use of an existing access onto a protected route.
19. The council’s planning department has highlighted certain sections of the justification and amplification to Policy AMP 3 of PPS 3.

“It is important that a new access or intensified use of an existing access onto a Protected Route does not compromise their function of facilitating the free **and** (my emphasis) safe movement of traffic or does not significantly add to congestion. Additionally on stretches of Protected Routes designed specifically to facilitate the efficient and safe movement of traffic, **it is essential that access which would compromise road safety or prejudice their design standards, is severely restricted**”.

20. In asserting that the consequential revision to PPS 3 does not constitute a carte blanche directive to utilise an existing access, I would emphasise the fact that the intention of the protected routes policy is not solely to facilitate the free flow of traffic, but also the safe movement of traffic. Clearly, the safe movement of traffic will be prejudiced in the event that the nearby (existing) access has to be used.



21. At the access the planning department wants utilised, visibility splays are in the region of 20 metres. However, if traffic passing this site averaged 44 miles per hour, it is worth noting that stopping distances are approximately 43 metres, in dry conditions. Clearly, visibility splays measuring 20 metres are wholly inadequate in these circumstances. It is therefore unreasonable, un-safe and impractical to suggest this applicant ought to be forced to utilise a nearby (existing) access to serve this proposal.
22. Having established that it would not be appropriate to force this applicant to use an existing sub standard access, it would be reasonable to ask the question "when should a new access be permitted"? It would be illogical to assume that there are no circumstances under which a new access will be permitted if there are no minor roads to be availed of and a nearby access is wholly inadequate, since that would ignore the reason why it was deemed appropriate to publish a consequential revision to Policy AMP 3 in the first place. We contend that in cases such as this, it is entirely appropriate, and lawful, to depart from the salient policy, and to permit a new access in the interests of road safety.
23. This applicant has proposed to implement measures that will be to the benefit of all those who pass this site on a daily basis, through the provision of forward (and rear) visibility splays through a prominent bend on Castlewellan Road. This improvement in road safety is clearly in the public interest and it ought to be taken into account in the assessment of this individual planning application.
24. In these circumstances, we feel a new access would actually be justified. However, the Committee's attention is respectfully drawn to the fact that there has been a long-standing access / entrance at this location. In actual fact, this proposal involves the modification of this access.
25. The existing access comprises a pair of gate posts and a set of ornamental gates. Until recently, the gates opened directly into an agricultural field. However, of late, the applicant has laid a track through this part of the site, for the purposes of improving his access to his farm.





Image 1

This image illustrates the present access to the application site, including a stone lane recently laid to the rear part of farm.



Image 2

Google Streetview Image showing the entrance, operational, in December 2008. Clearly, the access was used by a vehicle, given the tracks evident in the field.



Image 3

This Google Streetview image illustrates the existing access, again in use, in March 2011. Tracks in the ground are consistent with a vehicle having driven through this entrance.

26. Now that we have proven an established access in use at this location, the Committee's attention is drawn back to the specific wording of the consequential revision to Policy AMP 3:

(b) A Farm Dwelling – where a farm dwelling would meet the criteria set out in Policy CTY 10 of PPS 21 and access cannot reasonably be obtained from an adjacent minor road. Where this cannot be achieved proposals will be required to make use of an existing vehicular access onto the Protected Route.

27. The policy directs applicants back to an existing vehicular entrance. The entrance shown above was clearly not intended for pedestrian use. The use of decorative gates is not consistent with the access being used solely for agricultural purposes, but even if it was there would appear to be nothing in statute to prevent the consideration of an existing vehicular access to agricultural lands.

28. Since the pertinent policy does not specifically preclude the use of an existing vehicular access to agricultural land we contend that the proposal is not in fact contrary to planning policy.

29. It is clear that the planning department is concerned with "precedent" arising given the content of its planning report. Therein, it has been highlighted that there are "hundreds of agricultural field gates along the route from Newry to Downpatrick". The planning report indicates that "these are used occasionally by farmers for access to fields", however no evidence has been provided to show how frequently or infrequently these "hundreds" of "field gates" are used.

30. The planning report has concluded that it is absurd to suggest that each of these field gates would entitle the landowner to a new access". We contend that the planning department has dramatically over emphasised the potential precedent arising from an approval in this instance. For example, for proposals involving any of these "hundreds of gates", an applicant would have to first qualify in principle for a form of development provided for in PPS 21, as outlined in the consequential revision to PPS 21. We contend that it is not reasonable to assume that for all those qualifying in principle for a particular form of development, none would have access to an adjacent minor road. We find it further unreasonable to assume that all of these landowners could show that they have



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- 20 metre visibility splays at their existing accesses. It is further unreasonable to assume that each of these “hundreds” of field gates would be able to provide the necessary standard of sight lines and forward visibility. On balance, we submit that the Council’s attempt to show how approval of this application would lead to a significant precedent has failed, abysmally.
31. As has been outlined previously, the designation of protected routes was not solely to facilitate the free flow of traffic. Clearly, the designations were needed in the interests of road safety also. In this case, use of the existing (sub-standard) access, as espoused by the planning department, would be detrimental to road safety.
32. The Council has overlooked a vitally important factor in its assessment of this proposal. That involves a concurrent planning application involving an adjacent building. That building relies upon the use of the Council’s preferred access (2.0 x 20 metres). However, because this access is so poor, we have made provision, under the concurrent planning application, to provide a new access for that dwelling, as part of a proposal to convert it to a self-catering tourist unit. The use of that access would be paired with this new access thereby reducing the flow of traffic on the sub standard access and decreasing the risk of collision.
33. Returning to the issue of potential precedent (arising from the approval of this application), and those “hundreds” of “field gates” the planning department is concerned with, we contend that the only ones of any true relevance to this proposal would be those which:
- Related to an acceptable form of development in the first instance;
 - Could not avail of a minor road;
 - Could not avail of the use of an existing access because its sight lines fall below the minimum published standard, and are 80 metres less than the recommended standard; and
 - Were tied to a concurrent proposal that sought to create a new access for an established dwelling that relies upon the use of a sub standard access onto a protected route (and were going to be paired with that access).
34. In such circumstances, there is no basis for the refusal of this application, either on the basis of precedent, or even on the basis of any perceived failure to comply with policy.



35. The planning department highlighted a PAC decision in its justification behind this refusal recommendation. However, the appeal in question is not relevant to this proposal. That appeal involved a replacement dwelling that was not acceptable in principle and thus could not be considered as an exception to the protected routes policy. This planning report did indicate that the “planning policy context has changed slightly since that decision” but it concluded that the principle remains that the “access to protected routes ought to be restricted” and “field gates do not constitute an existing access”.
36. We have not sought to argue that access to protected routes should be unrestricted. However, we do note that provision is available for new accesses onto protected routes and for intensified use of existing accesses onto protected routes, and in that respect this proposal is entirely justifiable without even having to depart from or disapply the salient planning policy. In the event that this proposal is considered to be a departure from the salient planning policy, approval of this application has been wholly justified regardless.
37. The crux of the planning department’s refusal recommendation is that it considers the existing access to be a “field gate”. However, the evidence shows that the access in question has been established for a number of years, and it has been used for the purposes of vehicular access. There is no support for an approach that would seek to refuse permission on the hypothesis that this existing vehicular access is not of a typology that has been specifically identified as being suitable, for the purposes of the consequential revision to PPS 21. On the contrary, the consequential revision to PPS 21 would appear to be silent in relation to this matter, and in that respect the proposal cannot be considered contrary to policy.
38. Before concluding, I would also take this opportunity to call into question the validity of the current refusal recommendation. It is clear that the application is to be refused on the basis of the “consequential revision” to Policy AMP 3, however this has not been articulated in the refusal reason. In this respect, we contend that the present refusal recommendation is actually not sound and a refusal would be unlawful in these circumstances.
39. Analysis of the planning report shows that there has been no coherent attempt to identify the critical differences between Policy AMP 3 and AMP (consequential revision). It is clear that the consequential revision is worded in stricter terms than Policy AMP 3, and yet it is the original policy that has been specified as a reason for refusal. No attempt has been made to address the apparent tension between Policy AMP 3 or its consequential



revision, which further undermines the soundness of the current refusal recommendation.

40. While the planning department has indicated that the works needed to create a safe entrance would not integrate satisfactorily with the site's surroundings, from the photographs included above it is clear that only limited works are required to provide the necessary visibility splays. The proposal is making use of a lane that is now established. Additionally, we find it significant that no reference has been made to PPS 3's acknowledgement that it may not always be practicable to comply fully with the appropriate visibility standards, or the fact that "exceptionally, a relaxation in standards may be acceptable in order to secure other important planning objectives" (such as visual amenity etc.). There has been no attempt made to ascertain what the lowest acceptable sight line might be, for the purposes of preserving the character and appearance of this rural area.
41. While the planning department has expressed concerns relating to the impact of ancillary works, it is clear that these are directly related to the position of the access, which in turn has been dictated by road safety concerns. There has been no recognition of the often competing interests of road safety or visual amenity, or of the fact that the applicant could have devised a better arrangement (visually) but this would have been rejected on road safety grounds. It is also significant that Policy CTY 14 of PPS 21 appears to make allowances for the construction of site entrances when judging the impact of ancillary works, and there is an acknowledgement therein that visibility splays need not prove detrimental to the assessment as to the impact upon rural character. There has been no attempt to indicate why Policy CTY 13 does not include any tolerance for the visual impact arising from the creation of visibility splays, but overall we respectfully contend that this proposal is well founded and that the approval of planning permission is wholly justifiable in these circumstances.



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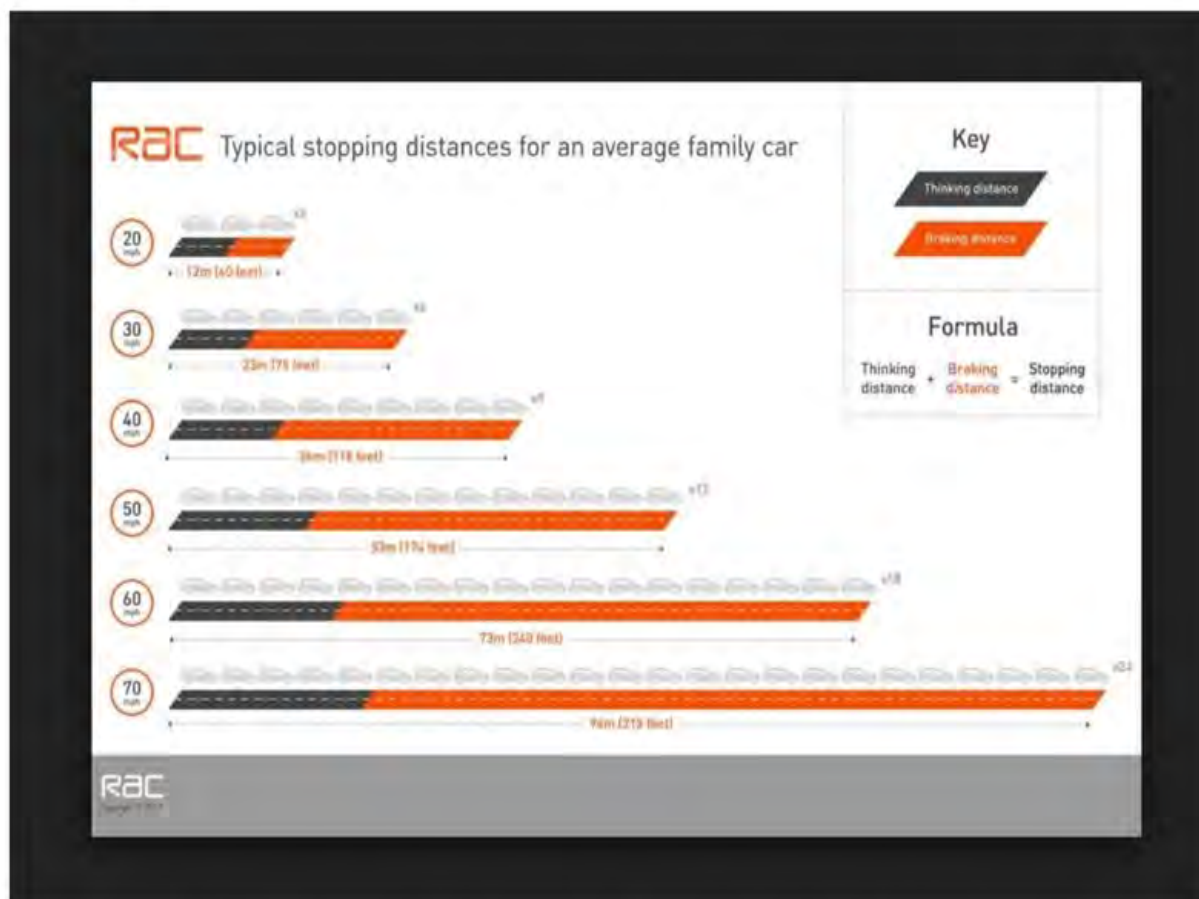
42. I trust that the case in support of this application has been laid out adequately, however in the event that the planning committee requires any additional information please do not hesitate to contact this office.

Yours faithfully,



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

APPENDIX 1



This RAC guide illustrates that braking distances for cars travelling at speeds between 40 and 50 miles per hour will be in the region of 36 to 53 metres.

In this case, visibility plays at the existing access to 23 Castlewellan Road measure 20 metres. Thus, the risk of collision is significant, and any accident arising would have a prejudicial impact upon the free flow of traffic passing this site, thereby supporting the need for a new access to serve this proposal.

APPENDIX 2

Email confirming early indication as to the circumstances under which a new access would be permitted (this position was subsequently retracted by the planning authority).

From: laura.duffy@nmandd.org [mailto:laura.duffy@nmandd.org]

Sent: 25 April 2016 16:32

To: Colin O'Callaghan

Subject: RE: LA07/2015/0545/F - Farm Dwelling at 23 Castlewellan Road, Hilltown

Hi Colin, yes, where the existing access is not suitable, an alternative may be proposed. There are two issues with the current proposal.

1. The existing entrance appears to be of acceptable standard, please indicate how it is considered to be sub-standard; and
2. The alternative access includes a large sweeping (suburban) driveway through the site which we find unacceptable at this exposed location.

I await your response once you have had the opportunity to meet with your client. Please note that we would like to move this application on as soon as possible.

Many thanks

[Laura Duffy BSc \(Hons\) MSc MIPI](#)

Planning Officer
Newry, Mourne and Down District Council

Oifig an lúir
O'Hagan House,
Monaghan Row,
Newry,
Co. Down BT35 8DJ

Council: 0300 013 2233
Planning: 0300 200 7830

APPENDIX 3

Annex 1 – Consequential amendment to Policy AMP 3 of PPS 3 Access, Movement and Parking

Policy AMP 3

Access to Protected Routes (Consequential Revision)

Other Protected Routes – Outside Settlement Limits

Planning permission will only be granted for a development proposal involving access onto this category of Protected Route in the following cases:

- (a) A Replacement Dwelling – where the building to be replaced would meet the criteria set out in Policy CTY 3 of PPS 21 and there is an existing vehicular access onto the Protected Route.
- (b) A Farm Dwelling – where a farm dwelling would meet the criteria set out in Policy CTY 10 of PPS 21 and access cannot reasonably be obtained from an adjacent minor road. Where this cannot be achieved proposals will be required to make use of an existing vehicular access onto the Protected Route.
- (c) A Dwelling Serving an Established Commercial or Industrial Enterprise – where a dwelling would meet the criteria for development set out in Policy CTY 7 of PPS 21 and access cannot reasonably be obtained from an adjacent minor road. Where this cannot be achieved proposals will be required to make use of an existing vehicular access onto the Protected Route.
- (d) Other Categories of Development – approval may be justified in particular cases for other developments which would meet the criteria for development in the countryside and access cannot reasonably be obtained from an adjacent minor road. Where this cannot be achieved proposals will be required to make use of an existing vehicular access onto the Protected Route.

Access arrangements must be in accordance with the Department's published guidance.

The remainder of Policy AMP 3 as set out in the October 2006 Clarification, including the justification and amplification, remains unaltered.

The planning department appears not to have recognised Policy AMP's directive that "access arrangements must be in accordance with the Department's published guidance".



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Chartered Town Planner



Policy AMP 3 Access to Protected Routes

The Department will restrict the number of new accesses and control the level of use of existing accesses onto Protected Routes as follows:

Motorways and High Standard Dual Carriageways – All locations

Planning permission will not be granted for development proposals involving direct access. An exception may be considered in the case of motorway service areas.

Other Dual Carriageways, Ring Roads, Through-Passes and By-Passes – All locations

Planning permission will only be granted for a development proposal involving direct access or the intensification of the use of an existing access in exceptional circumstances or where the proposal is of regional significance.

Other Protected Routes – Outside Settlement Limits

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

- (a) A Replacement Dwelling – where a building to be replaced would meet the criteria for development within a Green Belt or Countryside Policy Area and there is an existing vehicular access onto the Protected Route.
- (b) A Farm Dwelling – where a farm dwelling, including a farm retirement dwelling, would meet the criteria for development within a Green Belt or Countryside Policy Area and access cannot reasonably be obtained from an adjacent minor road.
- (c) A Dwelling Serving an Established Commercial or Industrial Enterprise – where a dwelling would meet the criteria for development within a Green Belt or Countryside Policy Area and access cannot reasonably be obtained from an adjacent minor road.
- (d) Other Categories of Development – approval may be justified in particular cases for other developments which would meet the criteria for development within a Green Belt or Countryside Policy Area where access cannot reasonably be obtained from an adjacent minor road.

4

The Committee is respectfully requested to note the difference between Policy AMP 3 and the Consequential Amendment / Consequential Revision to Policy AMP 3 (the latter includes the words “where this cannot be achieved proposals will be required to make use of an existing vehicular access onto the Protected Route”. This distinction has not been alluded to in the Council’s planning report, and there is no indication as to why greater weight has been given to the consequential revision, nor a statement outlining why the Council feels it appropriate to insist upon the use of an existing access it knows to be significantly below standard.



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From: laura.duffy@nmandd.org [mailto:laura.duffy@nmandd.org]
Sent: 25 April 2016 16:32
To: Colin O'Callaghan
Subject: RE: LA07/2015/0545/F - Farm Dwelling at 23 Castlewellan Road, Hilltown

Hi Colin, yes, where the existing access is not suitable, an alternative may be proposed. There are two issues with the current proposal.

1. The existing entrance appears to be of acceptable standard, please indicate how it is considered to be sub-standard; and
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I await your response once you have had the opportunity to meet with your client. Please note that we would like to move this application on as soon as possible.

Many thanks

Laura Duffy BSc (Hons) MSc MIPI

Planning Officer
Newry, Mourne and Down District Council

Oifig an Iúir
O'Hagan House,
Monaghan Row,
Newry,
Co. Down BT35 8DJ

Council: 0300 013 2233
Planning: 0300 200 7830



From: "Colin O'Callaghan" <Colin@ocallaghanplanning.co.uk>
To: <laura.duffy@nmandd.org>,
Date: 25/04/2016 16:16
Subject: RE: LA07/2015/0545/F - Farm Dwelling at 23 Castlewellan Road, Hilltown

Hi Laura,

I haven't been able to revert to you regarding the above planning application because the applicant has been in Spain for a number of weeks. However, I am due to meet with him on Wednesday and I will come back to you as soon as possible to confirm how we wish to proceed.

There is one thing I would be grateful if you could clarify however – Policy CTY 10 states that, where practicable, an existing access should be used. In this case, the existing access is sub standard. It therefore is not suitable for intensification in use, therefore a new access is required. Because the site is located on a bend, there is only one place an access can be positioned in order to achieve adequate forward (and rear visibility). With that in mind, would you acknowledge that it is not practicable to use an existing access?

Regards,

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

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ITEM NO	6			
APPLIC NO	LA07/2016/0423/F	Full	DATE VALID	3/31/16
COUNCIL OPINION	REFUSAL			
APPLICANT	Mr Thomas Gollogly 81 Maphoner Road Mullaghbawn Newry BT35 9TR		AGENT	O'Callaghan Planning Unit 1 10 Monaghan Street Newry BT35 6BH 028 3083 5700

LOCATION 40 metres South East of 18 Lough Road
Mullaghbawn

PROPOSAL Proposed replacement dwelling and garage

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

- 1 The proposal is contrary to Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the overall size of the proposed replacement dwelling would have a visual impact significantly greater than the existing building and the design of the replacement dwelling is not of a high quality appropriate to its rural setting and does not have regard to local distinctiveness.
- 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 ancillary works do not integrate with their surroundings and the design of the proposed building is inappropriate for the site and its locality.
- 3 The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, be unduly prominent in the landscape, the impact of ancillary works would damage rural character and would therefore result in a detrimental change to the rural character of the countryside.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2016/0423/F

Date Received: 6th April 2016

Proposal: Proposed replacement dwelling and garage

Location: The site is identified as 40 metres south east of 18 Lough Road Mullaghbawn. It is located outside the development limits of Mullaghbawn as defined by the Banbridge / Newry and Mourne Area Plan 2015 and is approximately 1 kilometre west from Mullaghbawn village.

Site Characteristics & Area Characteristics:

The site is rectangular in shape and contains a two storey, stone dwelling. There is a gradual rise in the land behind the dwelling towards the rear of the site. Boundaries of the site are defined by hedging and mature trees with a gate and partial stone wall included along the south western boundary which is the frontage to Lough Road.

The surrounding area is rural in character with a mix of two storey and single storey dwellings and agriculturally sheds in the immediate surrounding area on the west side of Lough Road. In view from the site is the single storey dwelling at 17 Lough Road and a two storey dwelling at 10 Cranny Road to the north-east of the site. Agricultural fields adjoin the site to the north, east and south. Further south along Lough Road are agricultural buildings, dwellings and a golf club.

Site History:

P/2009/0755/O	Site 40 metres south east of no 18 Lough Road, Mullaghbawn	Site for replacement dwelling and detached garage	PERMISSION GRANTED
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Under planning application P/2009/0755/O, permission was previously granted on 25th February 2011 for the replacement of this dwelling with a condition requiring the existing building on site to be retained and sympathetically incorporated into the layout of the overall development scheme. This permission was an outline application which has now lapsed as no reserved matters was submitted.

Planning Policies & Material Considerations:

This planning application has been assessed under the Banbridge, Newry and Mourne Area Plan 2015, Strategic Planning Policy Statement (SPPS) for Northern Ireland, PPS21 - Sustainable Development in the Open Countryside, PPS3 - Access, Movement and Parking, and DCAN 15 - Vehicular Access Standards, and the Building on Tradition Sustainable Design Guide.

Consultations:

There were five consultations issued for this planning application.

NI Water – Generic Response, no objections.

Transport NI – Generic Response, no objections, conditions included.

NIEA – No objections.

Environmental Health – Generic Response, no objections.

Historic Environment Division – No remit to comment on proposal.

Objections & Representations

There were four neighbour notification sent out on 12th April 2016. The application was advertised in the local press. There were no representations received.

Consideration and 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 Banbridge, Newry and Mourne Area Plan 2015 as the Council has not yet adopted a LDP. The site is located outside the development limits of Mullaghbawn village as illustrated on map 3/17. There are no specific policies in the Plan relevant to the determination of the application which directs the decision maker to the operational policies of the SPPS and the retained PPS21.

Strategic Planning Policy Statement (SPPS)

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

PPS21 - Sustainable Development in the Countryside

Policy CTY 1 states a range of types of development which in principle are considered to be acceptable in the countryside. This includes replacement dwellings if they meet the criteria set out in CTY3.

CTY 3 - Replacement Dwellings**CTY 13 – Integration and Design of Buildings in the Countryside**

The existing dwelling has not been used as a dwelling for a number of years and its condition has deteriorated however it displays all the essential characteristics of a dwelling such as windows, door openings, chimney and the external walls are all

intact, the roof of the building appears also to be substantially intact and therefore the building is eligible for replacement under CTY 3.

Non-Listed Vernacular Dwellings

Under CTY3 the retention and sympathetic refurbishment, with adaption if necessary, of non-listed vernacular dwellings in the countryside will be encouraged in preference to their replacement. Further, if the dwelling makes an important contribution to the heritage, appearance or character of the locality planning permission will only be granted where it is not reasonably capable of being made structurally sound or otherwise improved.

Employing the advice set out in Annex 2 of PPS21, we consider the dwelling on site to be a vernacular building. Under planning application P/2009/0755/O comments from NIEA confirmed the building on site to be vernacular and that it was of local interest and should be retained. A structural survey carried out by a qualified structural engineer from the Central Procurement Directorate in 2010, outlined that while the works required in restoring the building on site to a suitable habitable standard would be onerous, it would however be possible to successfully carry out these works. A condition and survey report submitted by the agent as part of this application states:

“Although we have not undertaken formal castings or designs for these remedial works and tests required to guarantee safe occupancy, we would anticipate construction works and professional fees would be in the region of £215,000.00.”

Further, a ‘Cost Estimations for Remedial Works’ was also submitted for consideration which details the stages of work required and the costs involved to construct the property on site to the appropriate standard to achieve a Building Control Completion Certificate. Both the condition and survey report and the cost estimations infer that while it would be a considerable financial cost to undertake remedial works to the existing building, they do not state that the works required are not possible and we can conclude that building is therefore capable of being made structurally sound or otherwise improved.

While it was the Planning Departments initial request that the building on site is retained and incorporated into the overall proposed scheme of works, Senior management, following a site inspection decided that should the applicant be unwilling to retain and incorporate the building, then the Planning Department would be supportive of a replacement dwelling on site, without the need to retain the existing building if the replacement dwelling was designed to be reflective of the building it is intending to replace. The agent had queried where within planning policy it states a replacement dwelling must be of the same design and form of the dwelling to be replaced. It is noted that the merits of each proposal take into consideration site specific particulars and following an inspection of this application site the Planning Department felt that the traditional characteristics exhibited by this vernacular building should not be lost, otherwise there would be a detrimental change to the character of the locality and in order to protect this should the building on site be demolished, the Planning Department requested any new dwelling proposed be reflective of the of what it is intending to replace. The agent has stated

that the applicant wished to peruse with the proposal to demolish the existing building on site and replace with a bungalow type dwelling. The following provides an assessment of the proposed replacement.

All Replacement Cases

The proposed replacement dwelling is to be constructed behind the existing dwelling with the garage to sit just north of the existing dwelling. We note there is no established curtilage around the existing dwelling on site and would consider the position of the replacement dwelling acceptable under policy. The existing dwelling on site is two storeys in height; the proposed replacement dwelling will be single storey with a maximum ridge height of 5.75 metres from finished floor level with the garage standing at 5.2 metres in height from finished floor level. The Site Sections drawing demonstrates that the proposed dwelling will extend higher than the existing on site due to the site levels and when viewed from Lough Road at the site frontage, the new dwelling will be provided with a backdrop due rising land to the rear of the site and so can integrate successfully into the landform when viewed from the west. The existing dwelling on site measures approx. 4 metres in width and approx. 7 metres in length, with a ground floor footprint of approx. 28 sqm. The dwelling proposed will measure a maximum of 11 metres in length and 20.8 metres in width resulting with a floor area of 191 sqm, creating a footprint much larger than that of the existing dwelling and which spreads across most of the sites width. While we acknowledge an increased building footprint will be permitted to allow for modern day standards, the footprint proposed is excessive and not proportionate to what currently exists on site creating a much larger dwelling. On approach from the north and south along Lough Road there are clear views of the existing house, a much larger house on this site will be prominent in the landscape and particularly when viewed while travelling along Lough Road and also Canny Road to the north therefore creating a visual impact greater than the existing building.

The dwelling proposed will be largely linear in shape with varying ridge heights. The dwelling is essentially comprised of two main blocks, adjoined by a lobby and utility, with the building block to the right having a gable end facing the road. Varying window sizes are to be included on the dwelling with roof lights incorporated into the ridge and further roof lights to the back and side roof of the house. The dwelling and garage are to be finished with gloss black Devinish roof tiles, white smooth render walls and appears to include partial stone cladding to the front of the dwelling, black U.P.V.C windows and doors, black rainwater goods and white fascia.

Traditional buildings in the countryside vary in shape but are simple in form. Replacements are most successful where they comply with the form and shape of the building they are replacing. For this proposal the form and design of the building proposed in no way conforms to that of the existing building on site. The dwelling on site is a simple two storey, stone building, this application seeks to replace this with a dwelling that is more complex in shape with changing front building line setbacks, a mix of ridge heights, a front façade comprised of differing building materials and

varying window styles along all elevations resulting in a dwelling design that is not considered appropriate to its rural setting nor that it has regard to the existing local distinctiveness and which is therefore inappropriate for the site and locality. The garage position to the front of the dwelling is a particular suburban feature which is not acceptable in the countryside. Increasing the buildings setback from Lough Road has created a large garden area and this, together with the sweeping driveway are not considered acceptable under Policy CTY13. The access and garden will be highly visible and prominent creating a suburban emphasises which is inappropriate to the sites rural character. A new access that runs unobtrusively along the existing hedgerows on the NW or SE boundaries of the site, provided with natural existing screening would be more suitable for this site and in line with Policy requirements. CTY14 states that permission will be granted for a building in the countryside where it does not cause a detrimental change to or further erode the rural character. As outlined above it is the Planning Departments position that a dwelling that is not reflective of the existing dwelling on site in terms of scale and design and characteristics would result in the loss of the established character of this rural area.

The Planning Department made it clear to the agent, that in the absence of any changes to the proposed dwelling the Planning Department will be seeking the dwelling on site to be retained and incorporated as per the requirements of the previous outline approval (P/2009/0755/O). Following discussions with the agent, it is understood there is no intention to redesign the submitted proposal.

The existing dwellings in the locality appear to have all the necessary services, therefore it is anticipated that these can be extended to the new dwelling without significant adverse impact on the environment or character of the locality.

Transport NI were consulted on this proposal and stated in their response they have no objections to this application. We are satisfied the proposed development will not prejudice road safety or significantly inconvenience the flow of traffic. NI Transport has included conditions.

For the reasons outlined above the proposal as outlined by this application will be refused.

Recommendation:

Refusal

Refusal Reasons

1. The proposal is contrary to Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the overall size of the proposed replacement dwelling would have a visual impact significantly greater than the existing building and the design of the replacement dwelling

is not of a high quality appropriate to its rural setting and does not have regard to local distinctiveness.

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 ancillary works do not integrate with their surroundings and the design of the proposed building is inappropriate for the site and its locality.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, be unduly prominent in the landscape, the impact of ancillary works would damage rural character and would therefore result in a detrimental change to the rural character of the countryside.

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

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

07th August 2017

Dear Sir / Madam,

Re: Planning Application: LA07/2016/0423/F
Proposal: Proposed replacement dwelling and garage
Site Location: 40 metres South East of 18 Lough Road Mullaghbawn

1. I refer to the above mentioned planning application, which has been recommended for refusal on the basis of its purported failure to comply with the requirements of Policies CTY 3, CTY 13 and CTY 14 of PPS 21. The case is to be presented to your Committee on 16th August.
2. On behalf of the applicant, we would ask the Committee to take this submission into consideration. Specifically, we ask the Committee to overturn the planning department's recommendation to refuse permission. In so doing, we have hereby set out a series of rational planning grounds, each of which would strongly support the approval of this planning application. It is our belief that the planning department's recommendation to refuse permission has been based upon a strict interpretation and analysis of the salient planning policy, as well as other supposed tests that do not in fact feature within the salient planning policy, whereas in this case a number of other material considerations ought to have been given equal if not greater weight.
3. The background to this application is that permission was previously granted for a replacement dwelling on this site. The dwelling in question has been deemed to be vernacular and as such it was initially requested to be retained and incorporated into the proposed redevelopment of the site.
4. The planning department clearly deemed the existing building to be vernacular and locally important. Planning policy pertaining to such cases states that:



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if the dwelling makes an important contribution to the heritage, appearance or character of the locality planning permission will only be granted where it is demonstrated that it is not reasonably capable of being made structurally sound or otherwise improved.

5. Notwithstanding that we contend the subject building does not make an important contribution to the heritage, appearance or character of the locality, we provided a chartered engineer's report and detailed financial costings to demonstrate that the building is not reasonably capable of being made structurally sound or otherwise improved.
6. Our views and those of the planning department diverged when it came to the issue of the redevelopment of the site. The planning department determined that the existing dwelling should be sympathetically incorporated into the layout of the overall development scheme. We contend that this was not the appropriate starting point for the department's assessment of the proposal, because Policy CTY 3 proffers the following guidance:

if the dwelling does **not** make an important contribution to the heritage, appearance or character of the locality, planning permission will be granted for a new dwelling. In such cases the retention of the existing structure will be accepted where it is sympathetically incorporated into the layout of the overall development scheme, for example as ancillary accommodation or a store, to form an integrated building group.

7. In the first instance, this guidance applies only to buildings that do **not** make an important contribution to the heritage, appearance or character of the locality. The use of the words "in such cases" clearly indicates that the advice relates to situations where an existing building does not make an important contribution to the heritage, appearance or character of the locality, whereas in contrast the evidence records that the department considers this building is vernacular and of local interest. Given the department's views on the existing dwelling, it ought to be recognised that the aforementioned guidance does not in fact apply to this proposal.



8. Furthermore, while the guidance proclaims that the retention of the existing structure will be accepted where it is sympathetically incorporated into the layout of the overall development scheme, for example as ancillary accommodation or a store, to form an integrated building group, it does not say that proposals will not be accepted where they do not sympathetically incorporate the existing building into the layout of the overall development scheme. In that respect, the planning department's assessment of the proposal had floundered from the outset.
9. This application became protracted from the point at which we queried the logic behind the request to incorporate the existing building into the overall development scheme. Through our repeated requests for updates on this planning application, the responses received have indicated that senior management have inspected the site and are not for changing their opinions on the proposal, albeit at no point were any specific design concerns articulated to the applicant or to ourselves.
10. After a significant delay, we were advised that the planning department could countenance the demolition of the existing building and we were advised the department could countenance a scheme involving the non-retention / non-integration of the existing building into the redevelopment scheme, albeit this would be subject to a suitably designed replacement dwelling being erected in its place.

Email exchanges outlining design concerns:

After repeated attempts to seek an explanation as to the deficiencies of the current proposals, aesthetically, we received the response copied overleaf:



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Chartered Town Planners



From: Laura O'Hare/Down District Council
To: "Colin O'Callaghan" <colin@ocallaghanplanning.co.uk>@NEWRY&MOURNE,
Date: 19/05/2017 13:03
Subject: Re: LA07/2016/0423/F

Hi Colin,

Thank you for your most recent e-mail regarding the proposal at 40 metres SE of 18 Lough Road (LA07/2016/0423/F). Please find below the Planning Departments response to your comments.

It was previously discussed that should the applicant be unwilling to retain the existing dwelling on site, the Planning Department would be willing to consider a new dwelling, without the need to retain the existing building if it was designed to be reflective of the what it is intended to replace and not suggesting it be larger than what has already been proposed.

Further, in response to your comments on mimicking the dwelling to be replaced, we note that Policy CTY 13 of PPS21 states that a new building will be unacceptable where *"the design of the building is inappropriate for the site and its locality"*.

The Planning Department considers a new dwelling reflective of rural form and detailing as demonstrated by the existing structure to be demolished and which would not create a greater visual impact through positioning on the existing buildings footprint would be appropriate for this site and compliant with the criteria set out by policies CTY 13 and CTY 14.

In the absence of any changes to the proposed dwelling design the Planning Department will require that the existing dwelling on site be retained and incorporated as per the previous outline approval granted in 2011 (P/2009/0755/O).

It is hoped that this e-mail has clarified for you how the Planning Department is assessing any development proposed for the application site. Should you wish to submit any further information in relation to this proposal you have 21 days to respond to this e-mail, if you do not respond within the designated time the Planning Department will be obliged to determine the application on the basis of the information already at hand.

Please note this information is requested without prejudice and does not commit the Planning Department to an approval / refusal.



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11. The advice tendered was that "should the applicant be unwilling to retain the existing dwelling on site, the Planning Department would be willing to consider a new dwelling, without the need to retain the existing building if it was designed to be reflective of what it is intended to replace".
12. This marked the first confirmation that the department was prepared to concede on the issue of demolition and new build (without re-integrating the existing building into the proposal). However, the advice was tempered by the caveat that the new dwelling had to be designed to be reflective of what it is intended to replace.
13. Our response was to seek clarification as to the basis for any supposition that the proposed dwelling was not intended to be reflective of what is intended to be replaced. We requested clarification as to what aspects of this proposal were not considered in keeping with traditional rural, or contemporary (as espoused in Building on Tradition) architecture, to no avail.
14. The planning department referred us to guidance contained within Policy CTY 13 of PPS 21:

"we note that Policy CTY 13 of PPS21 states that a new building will be unacceptable where *the design of the building is inappropriate for the site and its locality*".

15. Despite repeated requests, we have as yet been appraised of any reasons the applicant's chosen design might be considered inappropriate for this site and its locality. In this respect, we have offered to amend the design of the dwelling, upon such clarification, and we have indicated that if there was any design issue we had inadvertently overlooked, we would be amenable to revising the design of the proposal.
16. The crux of the matter was outlined in the following extract:

"The Planning Department considers a new dwelling reflective of rural form and detailing as demonstrated by the existing structure to be demolished and which would not create a greater visual impact through positioning on the existing buildings footprint would be appropriate for this site and compliant with the criteria set out by policies CTY 13 and CTY 14".

17. We offered no objections to the notion that the existing dwelling ought to be recognised as being reflective of traditional rural form and detailing. However, we queried the source for the hypothesis that only the existing dwelling, and no other form / detailing, could be accepted as being reflective of rural form. We await a response and in this respect we remain satisfied that there is in fact no basis for supposing that the existing building is the sole type of dwelling that would be reflective of traditional rural form or detailing on this site.
18. We note the concerns in relation to positioning the new building on the existing building's footprint, however we feel the proposal will not have any ill effects arising from the decision to locate the dwelling slightly off the footprint of the existing dwelling. In fact, if this is indeed an area of concern, we see no reason why the applicant would not re-site the dwelling.
19. It has been relayed to us, orally, that senior planning officers expressed a desire to retain this building because it is a reflection of rural character and there is little left from this era. However, the dwelling is only visible from an existing field gate at the roadside. It cannot be seen from the wider / surrounding area much less be so significant as to be held up as an exemplar of the Ring of Gullion's rural character.
20. In this case, the proposal is single storey (whereas the existing building was built over two storeys). The proposal has retained rural characteristics such as vertical windows, narrow gables and the scale, build and mass of the dwelling has been broken up into three smaller elements to minimise visual impact.
21. The apparent desire of the senior planner officials is that the new dwelling should mimic the characteristics of the existing building. However, this is not an approach that is recommended in any planning policy. The approach is not even applied when dealing with listed buildings or buildings in a conservation area. There is no published directive anywhere that indicates such an approach should be applied to replacement dwellings in the countryside.
22. This applicant seeks a modest dwelling, of simple characteristics and modest proportions. Its contemporary appearance will represent a welcome introduction into the AONB and contemporary design solutions are advocated on a widespread basis (by Building on Tradition) whether or not in an AONB, or whether the building in question is vernacular or not.



23. Although it may appear that the applicant has refused repeated opportunities to modify the design of this proposal, the fact that the Council has thus far failed, despite repeated requests, to set out any particular aspect of this design that is not befitting of this rural area, other than hinting that this proposal should mimic the design of the existing building, and stating that the existing building is considered to be a reflection of rural character.
24. A visual analysis has been attached to this submission. This illustrates the visual impact of the proposed dwelling, when viewed from the surrounding area (negligible, given the absence of critical viewpoints beyond the site's current roadside gate).
25. While the planning department's quest to retain the traditional characteristics exhibited by this dwelling are noble, this approach would appear to be based upon personal preference rather than planning policy or guidance.
26. The planning report acknowledges the queries that were raised (asking where, within planning policy, was it indicated that a replacement dwelling must be of the same design as the dwelling to be replaced) however even therein the question is not answered. One is thus drawn to the conclusion that there is in fact no planning policy support for such a hypothesis.
27. Importantly, the planning report confirms that the position of the replacement dwelling to be "acceptable under policy".
28. The department notes that the site sections show that the proposed dwelling will extend higher than the existing building due to site levels, and it appears to have been accepted that the site benefits from a backdrop due to rising land to the rear ("and so can integrate successfully into the landform"). However, a concern was raised that the proposal's footprint is inappropriate, by way of comparison to the existing building's and by virtue of the fact that it covered almost the entire site. The existing building's footprint was stated to have been 4 x 7 metres. Clearly, any modern replacement would occupy a footprint considerably greater than 28 m². In fact, replacement dwellings were typically restricted to 150m² floor space limits in these circumstances (the fact that this applicant proposes an additional 40m² is not detrimental to visual amenity in this case). The fact that the proposed dwelling occupies "most of the site's width" ought to have been



- recognised as a key part of the reason why the existing building could not be retained on the site.
29. The department considers that “on the approach from the north and south, along Lough Road, there are clear views of the existing house. The view has been expressed that a “much larger” house will be prominent in the landscape when viewed when travelling along Lough Road and also Cranny Road to the north. Contrary to the Council’s expressed opinions, the attached visual analysis shows the screening along Lough Road (which prevents views into the site from the road frontage, beyond the existing gate) and also the screening along Cranny Road (and the backdrop to the site, when viewed from Cranny Road). It is our considered opinion that the attached visual analysis conclusively demonstrates that the proposal will not be visually prominent.
 30. The Council indicates that dwellings in the countryside vary in shape but are simple in form – the inference being that this proposal lacks simplicity (through variations in the roof form and varying window sizes in particular). We recognise the statement in the planning report that “replacements are most successful where they comply with the form and shape of the building they are replacing”. However, this statement is not an expression of regional policy, and it cannot be interpreted as if it meant that replacements that do not comply with the form and shape of the building they are replacing cannot succeed.
 31. Complexities seemingly found inappropriate with this design solution include changing front building line setbacks, a mix of ridge heights, a front façade comprised of different building materials and varying window styles along all elevations resulting in a dwelling design “that is not considered appropriate to its rural setting nor that has regard to local distinctiveness”.
 32. While we contend that the above criticisms are not sufficient to justify the refusal of planning permission, had we been appraised of these specific concerns before now, I can confirm that a conscious attempt could have been made to address these issues. The failure to relay these specific concerns to us has unduly delayed the progress of this application and it has prevented us from responding to provide a detailed statement supporting this design approach.
 33. The council has expressed the view that the garage’s position (forward of the dwelling) is a suburban feature which is not acceptable in the countryside, while “increasing the



building's setback has created a large garden area to the front" (the sweeping driveway is not considered to comply with Policy CTY 13). However, the reality is that the garage will be of limited visibility from beyond the site's boundaries, and the site's access position has dictated the arrangement to the front of the site.

34. The council opined that a new access should run unobtrusively along the NW or SE boundary, however this is not possible owing to the need to provide sight lines (which has dictated the position of the dwelling's access).

The Proposal

35. The applicant has applied for a modern / contemporary-designed dwelling. The concept has evolved from the applicant's preference to build an environmentally "passive" house. Innovation and sustainability have been two of the principles that have underpinned the design concept. These principles will not compromise the architectural integrity of the proposal, in terms of potential impact on the special character of this AONB or in terms of prominence at this particular location.
36. While the design is contemporary, the bulk and massing of the dwelling have been broken down into smaller components. The design principles are consistent with traditional rural architecture, i.e. an emphasis on long and narrow lines with smaller projections resembling later additions to an original property, and the use of high quality materials and finishes.
37. Current rural design principles showpiece a variety of roof forms including mono-pitched roofs, half rounded roofs and variations of same. In this respect, the proposal is not considered inappropriate.
38. Materials and finishes are a mixture of traditional and contemporary. External stonework combined with painted render as an external finish is an accepted trend however both these finishes are in keeping with this AONB location. Further, the re-use of some of the existing dwelling's stonework is a sustainable practice that will also preserve some of the historic built form of the existing structure.
39. The limited nature of the critical views into and through the site are deemed to be a significant (positive) aspect of this proposal.



DESIGN

40. The guiding principles for determining planning applications are, inter-alia:
- Development will be permitted unless it will cause harm to interests of acknowledged importance;
 - The Department will reject poor designs. Poor designs may include those inappropriate to their context, for example those clearly out of scale or incompatible with their surroundings;
 - The Department will not attempt to impose a particular architectural taste or style arbitrarily;
 - Details of proposals will not normally be assessed except where such matters have a significant effect on the character of an area;
 - Where the design of a proposed development is consistent with relevant design policies and supplementary design guidance, planning permission will not be refused on design grounds unless there are exceptional circumstances;
 - Design policies and guidance will focus on encouraging good design and avoid stifling responsible innovation, originality or initiative. Such policies and guidance will recognise that the qualities of an outstanding scheme may exceptionally justify departing from them.
41. The site's context is such that there are limited critical views into and through the application site. Because the development will not be an obvious feature in the wider landscape, it will not affect the overall character or appearance of the AONB.
42. The proposal is not out of scale with its surroundings. While the planning report has referred to the external dimensions of the dwelling, the reality is that the dwelling is comprised of small individual elements, which reduce any perception of bulk and massing. The main element of the house is a linear, narrow feature, as was traditional throughout the area.
43. The proposal cannot be deemed incompatible with its surroundings due to the mere fact that it is different from what would have typically been considered to be "traditional" in this area. There is no longer a "typical" architectural style in this area. Modern and recent intrusions have eroded any perception of a traditional architectural style, and in this respect the proposal cannot be considered incompatible with its surroundings.



44. Local planning authorities' overarching principles confirm that a particular architectural style will not be imposed arbitrarily, and that the qualities of an outstanding scheme may exceptionally justify departing from what would otherwise have been considered "normal" standards. This scheme is considered to be outstanding in terms of its individuality, its craftsmanship, the quality of its materials and finishes, and above all in terms of its performance including insulation and sustainability. Its qualities are certainly considered sufficient to warrant consideration as an "exceptional case" if such was in fact necessary.
45. The details of proposals are not normally assessed, however the Department evidently is of the view that this assessment is necessary because the proposal will supposedly have a significant effect on the character of the area. The Department has contended that the dwelling will be a prominent feature in the landscape, however given the position of the critical viewpoints, the backdrop to the dwelling, the scale of the surrounding environment, and the fact that the development will not even be visible beyond the short distance critical viewpoints, the proposal will not have a significant effect on the character of the area. Therefore, assessment of design is not considered necessary.

DESIGN GUIDANCE

46. This site is located inside the Ring of Gullion Area of Natural Beauty. Previous design guidance has been superseded by more recent guidance issued for the entire region (Building on Tradition). Building on Tradition, provides a more flexible framework than the previous guidance, and it provides for contemporary approaches.
47. Paragraph 4.2.1 of Building on Tradition identifies a series of 8 principles that should be adopted to achieve satisfactory "integration". It is respectfully submitted that each of these principles have been adhered to in the formulation of this proposal.
48. The site is reasonably well sheltered, and despite the proposal's perceived elevation it effectively lies in a hollow given the rising ground to the north, south and east. The proposal is to be sited to benefit from the screening at the northern, southern and western boundaries of the site and from the shelter provided by the mature trees along the edge of Lough Road.
49. The guidance also indicates that "full frontal locations at prominent crossroads" should be avoided. This proposal is not located on any such vista, and views into the site are side



- on (and not full-frontal). This ought to be material to the Council's understanding of the issue of prominence however there is no evidence of its consideration in the professional planning report.
50. The guidance advises developers to "look for sites with at least two boundaries in situ and preferably three". Boundaries remain intact on two sides, and whilst the front boundary will not remain fully intact, the vegetation on the northern side of this boundary has excellent screening properties, effectively masking the dwelling from view on this approach.
 51. In design terms, one only has to look at the front and inside cover of the current design guide to note the subtle inference that contemporary and innovative designs will be encouraged, consistent with the advice set out in the SPPS. The design guide is littered with reference to contemporary design solutions, and the message delivered is that innovative design solutions will not be stifled.
 52. An entire section of Building on Tradition is devoted to the contemporary re-interpretation of traditional forms. The use of angular and mono-pitched roofs appears to be championed along with half-rounded roofs and variations of same. It is clear that Building on Tradition conveys the message that it is no longer necessary to adhere to rigid design parameters that would hitherto have been considered to represent "traditional" architecture.
 53. The design guide illustrates features such as overhangs, verandas, and it also showpieces modern design features such as expansive glazed walling, non-traditional chimneys and flat-roofed dormers. Also featured is a section relating to contemporary materials including cedar cladding. In this context, we contend that the proposal is not actually inappropriate, as has been suggested in the Council's assessment.
 54. Hitherto, in the absence of any reasoning behind the Council's request to reconsider the design of the proposal, we were unable to commit to re-visiting this aspect of the proposal. In that respect, we trust the Committee will recognise the fact that despite repeated requests we were not provided with any detailed design critique or commentary that would have justified us amending the design of the proposal.



55. However, now that the Council's specific concerns have been articulated in public, in the event that the Committee deems it necessary, we would respectfully request the opportunity to alter the design of the proposed dwelling.
56. In the event that the Committee deems it necessary to provide any other information, please do not hesitate to contact this office.

Yours faithfully,



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

Appendix 1

Planning approval P/2014/0377/F (Greenpark Road, Rostrevor)



Although located outside the Ring of Gullion AONB, this proposal was granted permission despite its location in the Mourne AONB. This decision is highly relevant insofar as it likewise involved a replacement dwelling and the replacement dwelling was not required to reflect the characteristics of the dwelling to be replaced. Although approved in January 2015, prior to the transfer of planning powers to local authorities in NI, this permission cannot be dismissed lightly, particularly given the “pilot scheme” in operation at that time, whereby a shadow council was operating as if it had the necessary planning powers to determine planning applications in this District.



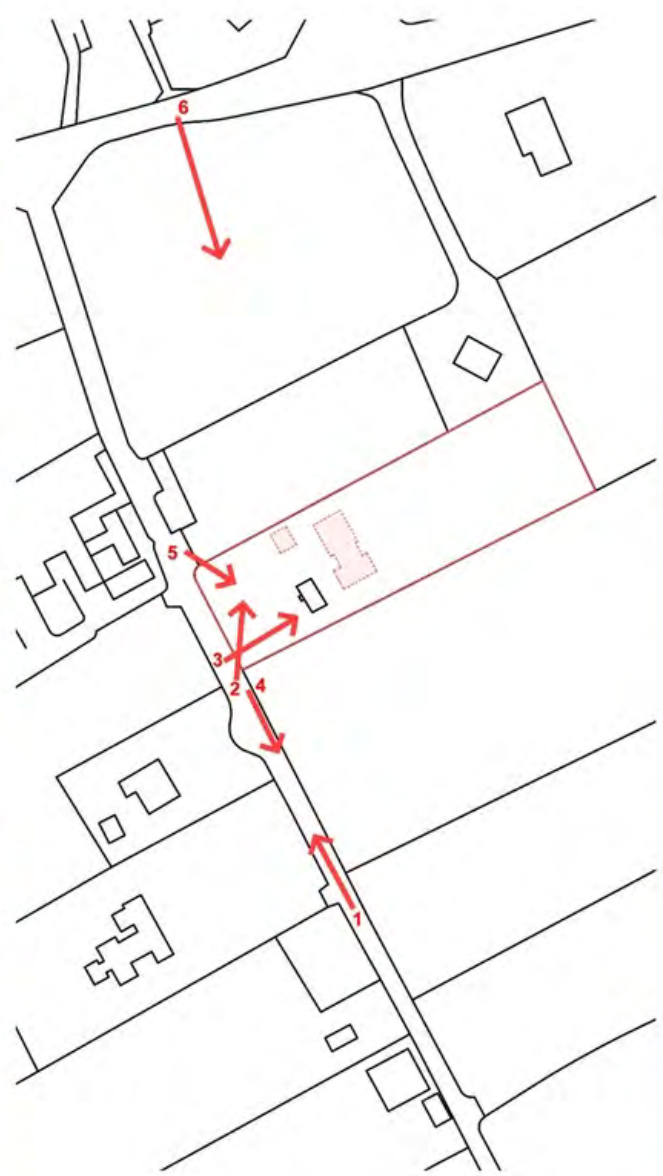
View 03



View 02



View 01



View 06



View 05



View 04

Site Location Plan - Critical Views
Scale - Not to Scale

O'Callaghan PLANNING

Adding Value Through Quality Design

Unit 1, 10 Monaghan Court
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Newry
BT35 6BH

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Mob: 07734800045
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enquiries@o'callaghanplanning.co.uk

Project: Proposed Dwelling & Garage

Client: Mr Thomas Gollogly

Title: Site Layout Plan - Critical Views

Address: At Lough Road, Mulaghbawn.

Date	Scale	File Ref	Drawing No.
08/17	NTS	-----	SK01.



Proposed Elevation
1:100

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Project:
Proposed Replacement Dwelling

Client:
Mr. Thomas Gollogly

Title:
Proposed Elevation

Address:
**At Lough Road,
Mullaghbawn.**

Date: 08/17	Scale: 1:100	File Ref: 	Drawn By: SM02
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Critical View point 01
Existing



Critical View point 01
Proposed



Critical View Point 01
Proposed with sight lines clear



Critical View Point 01
Proposed with new hedge along rear of sight lines

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Project:
Proposed Replacement Dwelling

Client:
Mr. Thomas Gollogly

Title:
Critical Road Side View - Before + After

Address:
At Lough Road,
Mullaghbawn.

Date:	Scale:	File Ref:	Draw Ref:
08/17			SK03

ITEM NO	11				
APPLIC NO	LA07/2016/1103/F		Full	DATE VALID	8/17/16
COUNCIL OPINION	REFUSAL				
APPLICANT	Ronan Morgan 7 Shanowen Rostrevor Newry			AGENT	O'Callaghan Planning Unit 1 10 Monaghan Court Monaghan Street Newry BT35 6BH 02830835700/0773
LOCATION	To the immediate rear of 10 and 10a Finnard Road Finnard Rathfriland				
PROPOSAL	Erection of two replacement dwellings with detached garages, in substitution for replacement dwellings approved under planning application P/2011/0537/F.				
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions	
	0	0		0	0
				Addresses Signatures	Addresses Signatures
				0	0 0 0

- 1 The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since adequate forward sight distance (of 90 metres) is not available, on the public road, at the proposed access in accordance with the standards contained in the Department's Development Control Advice Note 15.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference:

LA07/2016/1103/F

Date Received:

17.08.2016

Proposal:

Erection of two replacement dwellings with detached garages, in substitution for replacement dwellings approved under planning application P/2011/0537/F

Location:

The application site is located to the immediate rear of No.s 10 and 10a Finnard Road, Rathfriland.

Site Characteristics & Area Characteristics:

As per previous Case Officer's report P/2011/0537/F – see Extract 1.

Site History:

- P/2011/0537/F - Erection of 2 replacement dwellings with detached garages. Permission granted on 29 March 2012.
- P/2008/0099/F - Alterations and Extensions to Dwelling. Permission granted 10.02.2009.
- P/2009/0038/F Alterations and Extensions to Dwelling. Permission granted 23.09.2010.

The above approvals established the principle two separate dwellings existed on this site.

- P/2004/1918/O - Demolition of existing dwelling, shop and out offices and erection of new dwelling with domestic garage. Permission granted 17.11.2004. This approval proposed that the replacement was to have been sited to the rear of the existing buildings.

Planning Policies & Material Considerations:

This planning application is assessed against the following relevant documents:

- Banbridge Newry & Mourne Area Plan 2015
- Strategic Planning Policy Statement (SPPS) for Northern Ireland
- PPS 3 -Access Movement and Parking
- PPS 21 - Sustainable Development in the Countryside

Consultations:

- Transport NI- *"The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since adequate forward sight distance (of 90 metres) is not available, on the public road, at the proposed access in accordance with the standards contained in the Department's Development Control Advice Note 15."*
- NIEA Water Management Unit – No comment
- NIEA Natural Heritage – Requested a biodiversity checklist
- Environmental Health – No objection
- NI Water – Conditions
- Rivers Agency – No objection, informatives
- NIEA Historic Environment Division - Content

Objections & Representations

One neighbour notification was issued on 9 September 2016. The application was advertised in the local press on 7 September 2016. No representations were received.

Consideration and Assessment:

The principle of replacement dwellings on this site has been accepted by the previous application P/2011/0537/F. During the processing of the previous application P/2011/0537/F the site was inspected and had a case officer report written, completed and signed on 8 March 2012. In the report the previous case officer raised concerns about access arrangements and noted that clarification should be sought from Roads Service (Now Transport NI). Transport NI provided the Planning Authority with the email from the previous case officer sent to them on 8 March 2012. Subsequently Transport NI responded on 9 March 2012 to highlight their concerns in that they do not believe the applicant could achieve the required access standards within the application site. This email was not placed on the historical application file P/2011/0537/F. The application was discussed at a group meeting on 21 March 2012 with an opinion to approve stating the proposal complies with CTY 3 when access issues had not been addressed. There is no documentation as to why Transport NI comments have not been considered.

At present the Planning Authority have the current application before them which must consider **all** (my emphasis) relevant policy, including the safe provision of access to the site. The roads issues have not changed since the previous decision and Transport NI remain of the opinion that the current application would prejudice road safety as forward sight distance of 90 metres is not available on the public road at the proposed access in accordance with the standards set out in DCAN 15. This is

a relevant issue which must be considered in the current application regardless of the extant approval for the two replacement dwellings. In my opinion the current application must fall on the grounds of road safety concerns raised by Transport NI.

Recommendation:

Refusal

Refusal Reasons:

1. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since adequate forward sight distance (of 90 metres) is not available, on the public road, at the proposed access in accordance with the standards contained in the Department's Development Control Advice Note 15.

Case Officer Signature:
Date: 31/07/2017
Authorised Officer Signature:
Date:

Extract 1

Site Characteristics & Area Characteristics

The site is located to the rear of No's 10 and 10a Finnard Road on the main Newry to Rathfriland Road, in the open countryside. It comprises two derelict / vacant dwellings and an outbuilding as well as an agricultural field to the rear. The field to the rear is rectangular in shape and it is orientated just east of the north – south axis. It has a narrow frontage, onto Finnard Road, and access is gained via an overgrown entrance on Finnard Road. The site has an average width of approx. 36 metres, and an average length of approx. 115 metres. The field lies below the level of the adjacent road, and the entrance to the site is located midway between a pair of sharp bends in the road. The field itself is well defined, and boundaries are identified by lines of mature trees. There is also a belt of mature trees along the site's road frontage. Currently there are at best only filtered views / glimpses into and through the site. Views are restricted because of the horizontal and vertical alignment of the public road, as well as the undulations in the immediate vicinity of the site.

The site lies in the open countryside. The area has experienced a moderate level of pressure for new residential development.

The general terrain is quite undulating in this area, and there are a number of localised hills and drumlins in this area. The terrain in general rises from south west to north east, through the site however there are hills to the south and north east of this site which combine to restrict longer distance views through the site.

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

07th August 2017

Dear Sir / Madam,

Ref: LA07/2016/1103/F
Proposal: Erection of two replacement dwellings with detached garages - in substitution for replacement dwellings approved under planning ref P/2011/0537/F.
Location: To the immediate rear of 10 and 10a Finnard Road, Finnard, Rathfriland.

1. I refer to the above mentioned planning application, which has been recommended for refusal for a single reason. The case is to be presented to your Committee on 16th August.
2. On behalf of the applicant, we would ask the Committee to take this submission into consideration. Specifically, we ask the Committee to overturn the planning department's recommendation to refuse permission. In so doing, we have hereby set out a series of rational planning grounds, each of which would strongly support the approval of this planning application. It is our belief that the planning department's recommendation to refuse permission has been based upon a strict interpretation and analysis of the salient planning policy, whereas in this case a number of other material considerations ought to have been given equal if not greater weight.

3. Chronology:

P/2004/1918/O

Permission granted for demolition of dwelling, shop, and out offices and erection of new dwelling.

P/2008/0099/F

Permission granted for alterations and extension to dwelling.

P/2009/0038/F

Permission granted – alteration and extension to dwelling.



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P/2011/0537/F

Permission granted for 2 replacement dwellings.

Note: the Council's planning report indicates that the 2008 and 2009 planning approvals established that there were two dwellings on this site.

4. When the 2012 planning approval was granted, the earlier permissions were live and capable of being implemented. It is clear that Roads Service (Transport NI) held concerns in relation to the 2012 proposal, however there being live permissions on the site for approvals that were not subject to access improvements, there were no grounds for seeking access improvements at that time.
5. The current applicant acquired the site in 2016, and thereafter he applied for planning permission to make a number of amendments to the designs of the dwellings previously granted.
6. The 2012 application was due to expire on 29th March 2017. There being no progress as regards the determination of this application, and being aware that the planning department was of the view that roads safety concerns could potentially blight this planning application, the applicant set about implementing the previous planning permission so it would be preserved in perpetuity.



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Image 1 - Photographic evidence confirming the demolition of the former dwellings, stripping of topsoil, and the excavation of foundation trenches.

7. The previous permission was due to expire on 23rd March 2017 and a letter confirming the commencement of development was hand delivered, and acknowledged, on 22nd March 2017. In advance of that date, an official from Newry, Mourne and Down Council's Building Control Department inspected the site's foundation trenches.



Image 2 - Due to the gravity of the concerns that had been aired to the applicant, an independent surveyor was commissioned to set out his site boundaries, and to ensure the access and foundations were consistent with the approved details. The independent surveyor's van and surveying equipment can be observed at the entrance to the site.

Critical Issue

8. It is apparent that concerns have arisen that road safety concerns were not addressed under the previous planning application. However, as outlined above, at the time the previous application was under consideration, there were extant approvals in place and one of which was not mandated to provide any access improvements. In such circumstances, it would clearly have proven unacceptable to refuse the previous applicant permission owing to a substandard access.

9. While it has been stated that the previous permission was flawed, procedurally, the fact remains that the approval did at least secure significant access improvements, in terms of sight line provision (80 metres). It transpires that the actual concerns held do not relate to sight lines, but to forward / rear visibility. In this respect, the planning department's concerns are that vehicles waiting to turn right into the site are not able to see through a bend in the road and on that basis the access arrangements are deemed prejudicial to road safety.
10. However, to judge the proposal in this respect is to look at an incomplete picture. While the planning department has relied upon the expert opinion of Transport NI, Transport NI have continually judged this application as if it were an application for a new dwelling on a greenfield site. It is acknowledged that if that were the case, the refusal of planning permission would likely be inevitable. As it stands, the proposal must be judged on the basis of the committed (and now commenced) planning approval. In essence, one must consider whether this proposal, and all it entails, will worsen or exacerbate any potential prejudice to road safety. This is not the case in this instance. This proposal involves precisely the same access arrangements as hitherto. Regardless of any purported flaws with the previous permission, it is lawful and it has been lawfully implemented, thereby preserving it in perpetuity.
11. In attempting to find common ground between the applicant and Transport NI, the planning department's attention was drawn to a comparable case in this locality. In that case (at 76 Ballyvally Road, Mayobridge) we at O'Callaghan Planning took on a case involving a gentleman whose permission for a replacement dwelling was due to expire. That applicant sought to change the design of the dwelling however it became apparent that he could potentially have been required to provide access improvements unless he took steps to implement his permission. On the basis that the permission was then implemented, the new application was approved without having to provide access improvements (which would not have been possible due to third party lands).
12. It appears that the planning department's main concern is that it was purportedly not articulated on the planning history file that Roads Service had serious reservations with the previous approval. Regardless, the fact is there is a committed approval on the site and this proposal involves precisely the same access arrangements.
13. As things stand, the proposal is recommended for refusal on road safety grounds, it purportedly failing to comply with the requirements of Policy AMP 2 of PPS 3. It is stated



that the proposal must fall on the basis of the road safety concerns expressed by Transport NI.

14. Significantly, the road safety concerns articulated by Transport NI have failed to compare this proposal against the implemented / commenced permission. Further, TNI's assessment has differed from the advice it tendered in the case of application LA07/2016/0027/F at Ballyvally Road, wherein its response was that

- Access

Transport NI have been consulted and are content with the access arrangements to the Ballyvally Road as these arrangements could currently be constructed for the previous live approval.

15. Given this type of response would appear to be standard, it is peculiar that one would not appreciate why this approach was taken at the time of the previous approval.
16. In the case of application LA07/2015/0344/O, which involved a full application made within 5 years of the lifetime of an outline approval, the Council's assessment was conducted on the following basis:



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Application ID: LA07/2015/0344/O

unzoned land outside settlement limits as defined on the Banbridge, Newry and Mourne Area Plan 2015. The area has an undulating landscape. The dominant land use is agriculture, and development tends to be clustered around groups of farm buildings, though there are also a number of one-off single houses. There is an historic monument (DOW 047:065) to the north-west of the site.

Planning Assessment of Policy and Other Material Considerations

The application has been assessed under the Strategic Planning Policy Statement for Northern Ireland (SPPS), the Banbridge / Newry & Mourne Area Plan 2015, PPS3 – Access, Movement and Parking, DCAN15 – Vehicular Access Standards, PPS6 – Planning, Archaeology and the Built Heritage, and PPS21 – Sustainable Development in the Countryside. The Building on Tradition Sustainable Design Guide will also be considered.

Planning History

A previous application for a farm dwelling and garage on the site (Ref: P/2009/1597/O) was approved on 19.05.2010. While the three year period for submission of reserved matters (or renewal) had passed, the five year lifespan of the permission was extant when the current application was made on 18.05.2015. Therefore weight can be given to the previous approval in this determination. I have found no record of other previous applications based on the agricultural business ID submitted with this application and no development opportunities have been recently approved on the holding.

17. Since it is universally accepted that it is appropriate to attach weight to the planning history of a site, it is not reasonable to suggest this should not be applied now, nor that the previous approval granted should not have given weight to the (then) live permissions.
18. The planning department's attention was earlier drawn to an application that was recently approved, in similar circumstances. In that case ([LA07/2016/0406/O](#)) the Council initially opined that a dwelling was not substantially intact and as such it's position was that if the dwelling was replaced, its access ought to meet current design standards. An addendum to the professional planning report states that

"it was made clear to TNI over the numerous emails that although the Planning Department did not consider the dwelling to meet the requirements of CTY3 as all walls were not substantially intact, the Planning Committee disagreed. As a result, the response



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from TNI is that as the dwelling is now recognised as a replacement dwelling and there is an existing lane serving the site, there will be no requirement for upgrade.

The email dated 12/10/2016 from TNI states as access to this replacement is through an existing access there will be no detrimental intensification. With regards to bullet point 5 TNI applies this in cases where there is no access and when a new entrance needs to be formed."

19. It is clear in this case that there has been an abject failure to appraise this proposal against PPS 3, which is ironic given it has been listed as the solitary reason behind the intended refusal of this application.

PPS 3 – Policy AMP 2 (justification and Amplification)

Access for Rural Replacement Dwellings

- 5.19 In relation to development proposals for a replacement dwelling⁷ in the countryside, where an existing access is available but this does not meet the current standards, the Department would encourage applicants to consider the potential for incorporating improvements to the access in the interests of road safety.
20. PPS 3's guidance is clear in this respect: the Department "would encourage" applicants to consider the potential for incorporating improvements to the access in the interests of road safety. The guidance sends a clear and unequivocal message: that access improvements will be encouraged, and not that planning permission will be refused for substandard accesses to replacement dwellings. As has been confirmed by TNI in their recent communications to the planning department, where a building is recognised as a replacement opportunity there will be "no requirement for upgrade" and "no detrimental intensification". In such circumstances, there is no logical reason why one would have expected the previous applicant to provide a full standard access (notwithstanding that he did propose significant access improvements) and equally, there is no reason why this applicant should be refused permission or expected to provide a full-standard access arrangement.





Application ID: LA07/2015/1152/O

<i>the environment or character of the locality;</i>	
The existing dwelling appears to have all the necessary services and therefore it is anticipated that these can be extended to the new dwelling without significant adverse impact on the environment or character of the locality.	
<ul style="list-style-type: none"> access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic. 	
The existing pedestrian access on to the Derrywilligan Road is to remain and the vehicular access at Crabtree Hill Road is also to remain unaltered. TransportNI have accepted this proposal in principle.	
Therefore the proposal meets all the requirements of Policy CTY 3.	
Amenity	
The proposed dwelling is sited so that it will not adversely affect the amenity of any nearby dwellings.	
Recommendation – Approval	
Neighbour Notification Checked	Yes
Summary of Recommendation	
Valid replacement opportunity that will not result in intensification of use of access, no adverse amenity impacts and no objections received.	
Conditions	
<ol style="list-style-type: none"> As required by Section 62 of the Planning Act (Northern Ireland) 2011, 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:- <ol style="list-style-type: none"> the expiration of 5 years from the date of this permission; or the expiration of 2 years from the date of approval of the last of the reserved matters to be approved. Reason: Time Limit. Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters"), shall be obtained from the Council, in writing, before any development is commenced. Reason: To enable the Council to consider in detail the proposed development of the site. Full particulars, detailed plans and sections of the reserved matters required in Conditions D1 and D2 shall be submitted in writing to the Council and shall be carried out as approved. 	

21. It is apparent that the same issues arose when NM&D planning department assessed application [LA07/2015/1152/O](#). In that case, the outcome was the same i.e. there was a valid replacement opportunity that would not result in intensification in the use of an existing access, as explained below:

NUMBER OF PETITIONS OF OBJECTION AND SIGNATURES	NO PETITIONS RECEIVED
Summary of Issues:	
Valid replacement opportunity that will not result in intensification of use of access, no adverse amenity impacts and no objections received.	



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relation to the monument. Siting was discussed with the agent who indicated that he was content to leave this to the discretion of the planning authority. Subsequently, a case was made to move it to the SW. This would create additional archaeological issues for NIEA and would not be justified under CTY3. As the crucial trees from critical views are the ones to the eastern gable, the two to the west could be removed allowing some flexibility with regard to the curtilage and specific siting without detriment to amenity. This can be explored further at reserved matters stage and additional archaeological information can be sought if necessary.

SIZE - The existing dwelling has a footprint of approximately 90 square metres. Any dwelling for modern living will need to be larger than this. But in order to ensure that its visual impact will not be significantly greater than the existing building, the size of the dwelling should be restricted to 6.0m ridge height and 120 sq m footprint. The existing shed and trees will help to screen a development of this size so that it is not a prominent feature in the landscape when viewed from Ballyvally Road.

DESIGN - The detailed design will be assessed at reserved matters stage. Informatives should be added to the decision regarding the design of the dwelling which should be in accordance with pages 90 - 101 of the Building on Tradition Sustainable Design Guide.

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

ACCESS - The existing access is sub-standard. Since the previous permission was granted, PPS21 was finalised and introduced a new test for replacement dwellings that access to the public road should not prejudice road safety. However, as this existing dwelling could be reasonably occupied with minor modifications that would not require planning permission, TransportNI would not view the replacement as intensification under DCAN15. It would be unreasonable to insist on improved access arrangements in view of the fallback position that the existing dwelling could be occupied.

Page 3 of 8

Application ID: LA07/2015/0578/O

Therefore the proposal meets all the requirements of policy CTY3.

22. In the case of planning application [LA07/2015/0578/O](#), an extract from which has been included above, NM&D Council approved an application for a replacement dwelling that had a substandard access. In that case, the Council's rationale was that the applicant's fallback position was that he could reasonably have modified the subject dwelling and re-occupied it without requiring planning permission, therefore "Transport NI would not view this as intensification under DCAN 15". Thus, it is unreasonable not to recognise this applicant's "fallback" position (i.e. to complete the previously approved development) nor to reason that the previous applicant ought not to have benefitted from his own fallback position.

23. In short, since current practice is to grant permission for replacement dwellings without arbitrarily requesting access improvements, there is no valid reason to question why the previous permission was not refused permission on road safety grounds, particularly in light of the permissions that were extant and capable of being implementing at the date of the last approval, and likewise there are no reasonable or just grounds for the refusal of this planning application. On that basis, the Committee is respectfully requested to overturn the current refusal recommendation and to approve this application.
24. While I trust that the case in support of this application has been laid out in full, in the event that the Committee deems it necessary to provide further information or amended plans, please do not hesitate to contact this office.

Yours faithfully,



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



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APPENDIX 1

Consideration and file note pertaining to application LA07/2016/0406/O



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APPENDIX 2

Communication from Newry, Mourne and Down Council, in relation to planning application LA07/2016/0027/F, which raised the same issue (of a proposal for change of house type not meeting current access standards, but greater weight given to an extant permission on the basis it was approved with a sub-standard access).

From: kyle.elder@nmandd.org [mailto:kyle.elder@nmandd.org]
Sent: 21 September 2016 11:42
To: Colin O'Callaghan
Subject: Re: 76 Ballyvally Road

Hi Colin,

I chased a reply from Sean again yesterday. From talking with Sean we were satisfied with the access arrangements on the basis of the live approval. The report was completed and the file was brought to group with the recommendation of approval.

Once again, apologies for the delays.



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ITEM NO	18				
APPLIC NO	LA07/2016/1647/F	Full	DATE VALID	12/12/16	
COUNCIL OPINION	REFUSAL				
APPLICANT	DBM Contracts 85 The Sycamores Forest Hills Newry BT34 2FN		AGENT	O'Callaghan Planning Unit 1 10 Monaghan Court Newry BT35 6BH 028 3083 5700/	
LOCATION	20 metres East of 6 Daisy Hill Carnagat Newry				
PROPOSAL	Erection of two dwellings and retention of retaining walls				
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions	
	0	0	0	0	0
			Addresses	Signatures	Addresses Signatures
			0	0	0 0

1. The proposal is contrary to Strategic Planning Policy Statement and Policy QD 1 (Criteria A, C, F, G and H) of the Department's Planning Policy Statement 7 (PPS 7) : Quality Residential Environments and Planning Policy Statement 12: (PCP1 and PCP2) and DES 2 of the Planning Strategy for Rural Northern Ireland in that the applicant has failed to demonstrate that the proposal will create a quality and sustainable residential environment.
2. Under Article 3 (6) of the Planning (General Development Procedure) Order (Northern Ireland) 2015 that insufficient information has been submitted to allow the Council to determine the application.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2016/1647/F

Date Received: 12.12.16

Proposal: Erection of two dwellings and retention of retaining walls

Location: 20 metres East of 6 Daisy Hill, Carnagat

Site Characteristics & Area Characteristics:

Site comprises of a triangular portion of land fronting onto Daisy Hill road which has been completely cleared of vegetation with ground levels lowered to form a flat gravel surface.

Site History:

P/2015/0163/O - Site for dwelling. Site 10 metres East of No 6 Daisyhill, Newry. Granted 08.07.15 (Application site)

P/2002/0422/O - Site for dwelling. Site adjacent to No 10 Daisy Hill, Newry. Granted 12.06.02 (Application site)

P/2004/3028/F - Erection of 6 No. apartments. Adjacent to No.10 Daisy Hill, Newry. Appeal Dismissed

P/1982/07318 – Erection of bungalow. Daisy Hill Road, Newry. Approved (Land at No.8 including application site)

Planning Policies & Material Considerations:

Banbridge/ Newry and Mourne Area Plan 2015 - Site is within the development limits (site is adjacent to LLPA and SLNCI)

PPS3, DCAN 15 and Parking Standards: Transport NI are not satisfied with current plans and have requested amendments to show satisfactory parking and turning for vehicles that would be attracted to the site.

SPPS, PSRNI, PPS7: QD1 and PPS12: PCP1, PCP2, DCAN 8 and Creating Places:

Site Context/ Characteristics:

Whilst the site lies within the development limits of Newry City it nevertheless has a striking rural feel due to surrounding mature vegetation, narrow roadway and detached properties resembling development within the open countryside. Despite its urban setting this portion of Newry is largely undeveloped.

Development within the immediate area of the site is characterised by detached properties on relatively large plots within mature grounds with limited views from the public road.

Clearance of the site has already attracted substantial ground works and excavation to lower ground levels in order to accommodate the proposed development resulting in significant loss of natural vegetation and has left a great 'gaping' hole in a relatively unbroken frontage and visually detracts from the area. The need to use structural retaining walls in order to accommodate development is generally an indicator of overdevelopment of a site (See para 4.13 of PPS7) and is contrary to policy.

Although there is two storey semi-detached dwellings sited to the SE of the site these are visually detached from the site and located within a much more saturated urban context. Whilst it is appreciated the site is contained within the development limits the character of this area is particularly defined by the existing development set within reasonably sized plot sizes, development set back from the public road, with informal gardens to front and hid from view with subtle impact on the undisturbed character of this area. The three storey form is completely out of context at this location appearing dominant and overbearing in the local landscape, with mass much larger than surrounding buildings and is not reflective of built development within the immediate area.

The mass and scale of the development is comparable to previous proposals for 6 apartments which were subsequently recommended for refusal and dismissed by the PAC under the planning reference P/2004/3028/F, in this particular case height and width is much larger than this previous scheme and set closer to the road and is unacceptable.

Dwellings, hard standing and proposed walls immediately abut the public road which will have a hardened visual appearance appearing misplaced given the context of existing development immediately surrounding the site. The loss of existing mature vegetation of the site as well as the extent of ground works already undertaken without the benefit of planning permission have open and exposed the site creating an unattractive vista

Archaeology and Built Heritage

No features identified

Public/ Private Open Space

Whilst private open space has been allocated to each of the dwellings and generally falls within the recommended parameters of garden space provision of approximately 70sqm (See 5.19 of Creating Places). Despite the allocation of open space it is questionable how accessible/useable these are by those whose mobility is impaired but each garden is enclosed by retaining walls or rock faced areas which will create some level of overshadowing and loss of light within areas of private amenity space. The proposed development is dominated by hard standing and retaining structures that proposals will cause an adverse visual impact and substantial levels of landscaping would be required to soften the visual appearance and aid integration.

Local Neighbourhood Facilities

The site is located within the development limits of Newry within walking distance of local neighbourhood facilities

Movement/ Parking

Transport NI in their consultation response are not satisfied that satisfactory parking and turning for vehicles have been provided on site

Design, Form, Materials and Detailing:

The use of external materials is reflective of development found at Mullach Allain and Knockanoney Heights. Whilst it is acknowledged that semi-detached form is found in the wider area for e.g Woodhill and Knockanoney Heights these existing properties are not the best example of built form that could be replicated at this particular site without the need for extensive and substantial engineering works in order to accommodate. There is no example of three storey form at this location and is therefore out of keeping with its immediate surroundings.

Layout

There is no conflict to adjacent land uses, notwithstanding this the layout and orientation of properties will have adverse impact upon the amenity of future residents due to loss of daylight and overshadowing.

Security from Crime

The layout allows for surveillance of access points to the development and is fully enclosed by hardened boundaries which will limit access to the site.

Density

The site when compared with existing residential development and plot sizes immediately adjacent and North is overdeveloped and is reliant on significant engineering works in order to accommodate development which will have a detrimental impact to the local character. Its form, scale, massing and layout is out of keeping within the local landscape having a detrimental impact to the local character

and visual aspect of Daisy Hill. Furthermore the proposed development will have adverse consequences for the amenity of future occupiers of the development.

Sustainable Forms of Development

Site is located within the defined limits of the settlement of Newry were a promotion of development is encouraged within these areas.

House Types and Sizes

Different house types are provided within the scheme in line with HS4 of PPS12

Land Use

The use for residential purpose is in keeping with surrounding land uses

In consideration of the above proposals fail to meet the Strategic Planning Policy Statement PSRNI (DES2) as well as PPS7: Policy QD1 criteria a, c, f, g and h of QD1 and PPS12: PCP1 and 2 of PPS12

Consultations:

Transport NI (11.01.17) - To submit a revised plan showing satisfactory parking and turning for vehicles that would be attracted to the site.

NIEA (23.01.17)

Drainage and Water - No specific comment

Land, Soil and Air - Former activities may have caused land to be affected by contamination. Unable to advise on whether this development would have significant adverse impacts on the water environment

Natural Heritage - Requires further information to fully assess the likely impacts on natural heritage interests. Majority of site cleared the southern boundary of the site is the edge of mature woodland boundary encroaches on Daisy Hill Wood (SLNCI). NED require amended plans showing retention on protection of all trees, if the applicant intends to remove any trees NED will require a bat survey

NIW (18.01.17) - No surface water sewer with 20m

Environmental Health (11.01.17) - No objections

Objections & Representations

3 neighbours notified

Advertised January 2017

1 Representation

- Representation from Newry, Mourne and Down District Council regarding the encroachment of development onto council owned land

Consideration

- The agent has amended proposals, has completed Certificate C of the P2 form serving notice upon the Council and has altered the extent of development

Consideration and Assessment:

The overall proposals fail to meet the Strategic Planning Policy Statement, DES2 of the PSRNI as well as PPS7: Policy QD1 criteria a, c, f, g and h of QD1 and PPS12: PCP1 and 2 of PPS12 in that development is out of context within its surroundings in terms of scale, form and layout, is an overdevelopment of the site, lacks useable private amenity space and will cause adverse impact to the amenity of future occupants of the development and on this basis it is therefore recommended to refuse the application.

Recommendation:

Refusal

Refusal Reasons:

1. The proposal is contrary to Strategic Planning Policy Statement and Policy QD 1 (Criteria A, C, F, G and H) of the Department's Planning Policy Statement 7 (PPS 7) : Quality Residential Environments and Planning Policy Statement 12: (PCP1 and PCP2) and DES 2 of the Planning Strategy for Rural Northern Ireland in that the applicant has failed to demonstrate that the proposal will create a quality and sustainable residential environment.
2. Under Article 3 (6) of the Planning (General Development Procedure) Order (Northern Ireland) 2015 that insufficient information has been submitted to allow the Council to determine the application.

Site prior to clearance works





Site following clearance works







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

08th August 2017

Dear Sir / Madam,

Ref: LA07/2016/1647/F
20 metres East of 6 Daisy Hill, Carnagat, Newry
Erection of two dwellings and retention of retaining walls

1. I refer to the above mentioned planning application, which has been recommended for refusal for two particular reasons. The case is to be presented to your Committee on 16th August.
2. On behalf of the applicant, we would ask the Committee to take this submission into consideration. Specifically, we ask the Committee to overturn the planning department's recommendation to refuse permission, or alternatively to defer a decision pending consideration of the amended plan hereby attached. In making this request, we have hereby set out a series of rational planning grounds, each of which would strongly support the approval of this planning application.
3. At the outset, we are compelled to register our concern at the lack of feedback or interaction with the planning department in respect of this application. We have, periodically, logged numerous calls with the planning department on the NI Direct call system. On each occasion we have been provided with no substantive update and at no point was it ever indicated that there might be any concerns with this proposal. On that basis, we had no expectation whatsoever that the application might run this particular course. Nonetheless, as planning consultants we appreciate that not every individual planning application will succeed, and in certain instances refusal is the only realistic outcome. We contend that this application does not fit that typology.



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4. The chronology to this application is that it was submitted on 12th December 2016. On 11th January 2017, we received an email requesting detailed drawings of retaining walls and a cross section through these. On 23rd January 2017 my colleague responded to the request to advise that he was awaiting details of the retaining walls from the applicant's engineer. We anticipated being provided with engineers' details and structural calculations for same, hence the initial delay in providing that information. My colleague was able to liaise directly with the applicant in respect of this matter and engineering drawings were not deemed necessary due to the fact that the retaining wall was of "gabion" or basket construction.
5. In or around this time, we were contacted by a representative of the Council's Technical Services Department, to advise of a potential issue of encroachment. We subsequently confirmed that the proposal, as initially submitted, did encroach onto Council lands. In response, we modified this application by providing amended drawings, which included the sections through the retaining walls, and wall details, on 08th March 2017. We received no further communications from the planning department thereafter. It appears unreasonable that the application lay dormant throughout that time, with no attempt made to inform us of any concerns or potential concerns.
6. While tracking this application through the NI Planning Portal we became aware of concerns expressed by Transport NI. In the belief that the planning application was unduly delayed, and having had no communications with the planning officer handling the case, we decided to contact Transport NI directly, in an attempt to ascertain the true nature of the technical inadequacies identified in TNI's consultation responses. On 30th May 2017 and 06th July my colleague emailed TNI directly with an amended plan (hereby attached). Unfortunately, the planning department was not informed of this email chain, and in a further twist of fate, it appears that an outdated email address was used to contact the TNI case officer (copies of the emails in question have been attached herewith).
7. Notwithstanding the aforementioned concerns, the application has been recommended for refusal and it now becomes necessary to address the stated reasons for refusal.

1 1. The proposal is contrary to Strategic Planning Policy Statement and Policy QD 1 (Criteria A, C, F, G and H) of the Department's Planning Policy Statement 7 (PPS 7): Quality Residential Environments and Planning Policy Statement 12: (PCP1 and PCP2) and DES 2 of the Planning Strategy for Rural Northern Ireland in that the applicant has failed to

- demonstrate that the proposal will create a quality and sustainable residential environment.
8. The site is on sloping ground and it has already been excavated and retained. These operations occurred prior to our instructions in respect of this matter, and in the circumstances we were content to make this submission based upon the site's present condition rather than its condition prior to the recent site works.
 9. Because of the sloping nature of the site, its shape, and the site's position on the outside of a bend in the road, finding the optimum design solution was always going to be difficult given the competing endeavours of finding an acceptable access solution, minimising the need for retaining structures and achieving a quality residential environment. Unfortunately, something had to give, and in this case considerable retaining structures are already in place. However, in that respect, we draw parallels with the approach taken to the development of sloping sites in this area, and towards the south eastern part of Newry.
 10. Further, we note that this site's context is such that it is positioned within dense woodland, thereby ensuring any development is well screened from general public views. The character of the surrounding woodland will help define the character of this proposal more so than any perceived reliance upon retaining structures. Because of the surrounding landscape, the retaining structures are not prominent nor do they undermine the area's character.
 11. In this case it is also relevant that this area has in the past been affected by various incidents of anti-social behavior. These problems stem, in part, from the lack of a permanent presence in much of the area, its dense woodland, and the general lack of everyday activity (that would otherwise deter anti-social behavior). The Council's planning report acknowledges that development in this area is generally of limited visibility from the public road. In this respect, the proposal will be a welcome addition to this area given the increased activity, monitoring and surveillance of public areas that will act as a deterrent for crime and anti-social behavior.
 12. It is said that the need to utilize retaining structures is generally an indication as to overdevelopment of a site, but in this case we contend this is not so because this is a low density development and the need for retaining structures was dictated as much by the position of the access, the need to achieve adequate visibility splays and the need to



- achieve a satisfactory gradient of access albeit we contend this is not a roads engineered solution (that could equally be described as inappropriate in certain circumstances).
13. We contend that the construction of modern semi-detached houses is not out of character in this context. There are other semi-detached properties within 50 metres of this site. These dwellings are not located in a different neighbourhood, for example, and there is no automatic expectation that the only development that could be accommodated on this site is a detached single dwelling. In that respect, the proposal is not considered out of character.
 14. A three storey design solution has been utilised in order to provide a landmark building and to respond to the changing contours along the adjacent road and to the site's immediate backdrop. Because of the limited critical views into and through this site, and because of the site's wooded backdrop, the proposal does not appear dominant, prominent or visually obtrusive, nor does it dominate this neighbourhood.
 15. In this context, there is no reason why this proposed development should automatically be expected to have a generous setback from the road. While there is a low wall proposed adjacent to the road, overall the walls and retaining structures are overwhelmed by the quality of the surrounding woodland.
 16. While vegetation has previously been removed from the site, no breach of planning control took place in this respect. This was always intended as a development site, and there was no reason to believe that the site would remain as dense woodland, unlike the adjacent "nursery" or other areas of public open space for example.
 17. In terms of private open space, we contend that the proposal has made adequate provision for prospective residents' usual domestic needs such as sitting out, washing, drying etc. Creating Places recommends average garden spaces in the region of 70 m², while stating that no individual property should have a garden measuring less than 40 m². In the amended scheme hereby attached, rear garden spaces measure 87 m² and 49m². These areas are consistent with the recommended guidelines, and the properties have additional spaces to their sides albeit they are not private.
 18. The planning department has questioned how usable these open spaces are. We contend that they are fully usable. The fact that gardens are enclosed by rock faces and / or retaining walls will not be a detrimental shortcoming. Properties are able to achieve an



- acceptable outlook over the public road to the front, in particular, and are not denied an outlook.
19. The orientation of the dwellings is such that they will benefit from south / south west sun to the rear, from mid day onwards (when the sun path is at its highest). In the mornings, the dwellings will benefit from direct sun light to the east.
 20. The resultant residential environment will not be damp, dull or dreary. We contend that it will be a quality residential environment.
 21. We do not accept that the proposal is dominated by hard surfaces and retaining structures, particularly given the open spaces to the sides of the dwelling, and the significance of the surrounding landscape, which frames and dominates this site. Whereas the planning department opine that the proposal is three-storey, it is actually two storeys with a dormer in the roof. Technically, the building to the front is built over three floors, but by keeping the gable narrow we have reduced the overall bulk and massing of the building, and by working with the site's contours we have ensured that the eaves line flows continuously through the two dwellings. The northern dwelling is clearly of a two-storey scale and is entirely consistent with the character of the surrounding area, whereas the other dwelling had to be tied to this while also respecting the site's contours, thereby explaining the additional floor within.
 22. It has been said that substantial levels of landscaping would be required to soften the visual impact of this proposal and to aid integration. However, the site is surrounded by dense woodland and we contend that in a short matter of time the main retaining structure will facilitate growth of low level planting and scrub growth, which will reduce the impact of the structures further.
 23. While TNI indicated that satisfactory parking and turning of vehicles was not provided, the amended proposal hereby attached has addressed this matter. In the course of a meeting regarding an un-related matter, TNI officials confirmed their general satisfaction with the improvements shown, albeit a further amendment is required with regard to the radius of the entrance.
 24. The planning department considers the surrounding two storey semi detached dwellings are not the "best" form that could be accommodated on this site. However, the best form that can be delivered on this site has been dictated by the site's contours, the gradient of



the adjacent road, and the only position(s) at which a suitable entrance can be achieved. We submit that it would not be possible to construct a single detached bungalow on this site even, for example, due to the constraints identified above, and in that respect we feel that the proposal is the most appropriate way of addressing a corner in the road, gaining an outlook over the road, while achieving a satisfactory access and securing off-street car parking provision.

25. The planning department considers the site over developed in terms of its density and its reliance upon retaining structures. However, the principal retaining structure was already in place by the time we were even instructed in respect of this matter. Furthermore, the density of the proposal equates to 28 dwellings per hectare. This compares favourably with the density of the nearby Wood Hill development (33 dwellings per hectare) or Monaghan Row (44 dwellings per hectare).
26. Although the density of 6 and 8 Daisy Hill is low, at 6.5 dwellings per hectare, there are so few detached dwellings in this area that there is no basis for any suggestion that 6 dwellings per hectare is characteristic of this area. Further, when looking at this historic map for the area, it is clear that No. 4 Daisy Hill was located on a plot that measured 0.04 ha, and the equivalent density would have been 23 dwellings per hectare. In that respect, this proposal is not out of character or indeed characteristic of over development. We feel that any identified deficiencies or perceived shortcomings ought not to be given determining weight due to the prospect of creating some activity on this quiet road that has been prone to anti social activity in the past. Further, the impact of retaining structures ought to be given less weight given the site is surrounded by mature woodland, which fulfils the role of softening and screening the proposal and assisting in its integration with the surrounding area.

2. Under Article 3 (6) of the Planning (General Development Procedure) Order (Northern Ireland) 2015 that insufficient information has been submitted to allow the Council to determine the application.

27. Article 3 (6) states that

The council or, as the case may be, the Department may by direction in writing addressed to the applicant require such further information as may be specified in the direction to enable it to determine any application.





Documents associated with this Planning Application

Application reference: LA07/2016/1647/F

The Role of the Planning Authority Consultation Responses

Members of the Public are asked to note that advice or comments provided by consultees Group will take consultee responses into account as material considerations in forming an account of the relevant development, plan, planning policies and other considerations in Applications and other agents are asked to take careful note that if they respond to issue

Document Group	Count
<u>ADDITIONAL DOCUMENTATION</u>	2
<u>CONSULTATION RESPONSES</u>	7
CORRESPONDENCE WITH APPLICANT	0
IMPACT ASSESSMENTS AND STATEMENTS	0
<u>NEIGHBOUR NOTIFICATION</u>	7
OUTGOING CONSULTATIONS	6
PAC DECISIONS AND REPORTS	0
<u>PLANNING DECISIONS AND REPORTS</u>	1
<u>PLANS, MAPS AND DRAWINGS</u>	6
REPRESENTATIONS	0

* PAO is an acronym of Planning Applications Online and refers to planning application in

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28. The above screen shot from the NI Planning Portal confirms that no correspondence has been issued to the applicant.
29. The Council's email to me dated 11th January 2017 was not referenced to the aforementioned planning legislation, albeit I recognise the request for information was made informally and in good faith.



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From: patricia.manley@nmandd.org [mailto:patricia.manley@nmandd.org]

Sent: 11 January 2017 09:59

To: Colin O'Callaghan

Subject: LA07/2016/1647/F

Colin

In relation to the above can you please provide detailed drawings of retaining walls as indicated in your proposal description and a cross section of through this, there are also retaining walls proposed around the dwelling houses and a wall/ pillars along the frontage of the site also provide detailed drawings of these

Patricia

30. The email in question simply requested "detailed drawings" of retaining walls, and "a cross section through this". I respectfully submit that the drawings of the retaining walls were detailed, albeit they were not formally endorsed by an appropriately qualified engineer. However, the email in question did not indicate that engineer's details were required and in that respect I do not accept that the planning department has not been provided with sufficient information to determine the application.
31. The second refusal reason is reliant upon a purported conflict with the requirements of Article 3(6). However, as we have seen, Article 3(6) requires a request for further information to be made in writing, and in any case there has never been any indication received that the required information was not contained within the package of additional information delivered to the planning department on 08th March 2017. I fully appreciate the Council is under no obligation to chase outstanding information. In fact, the Council's Scheme of Delegation was amended to account for delays in the submission of information.



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32. Notwithstanding my concern that this refusal recommendation would appear to be linked to the practice of refusing applications where information has been requested but has not been received, I would point out that the initial request for information, ambiguous as it was, came before the scheme of delegation was modified. In that respect, the applicant has been unjustly treated, through the continued failure to provide a meaningful update as to the progress of the application, the failure to relay any concerns, and the failure to point out that information previously submitted was inadequate or incomplete. Accordingly, we respectfully request this application is omitted from this schedule to allow for further consideration.

Yours faithfully,



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



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Chartered Town Planner



ANNEX A - VISUAL ANALYSIS OF RETAINING STRUCTURES IN RESIDENTIAL DEVELOPMENTS IN NEWRY



Hospital Road, Newry. Note the gradient of the excavated embankment to the immediate rear of the properties.



New development at Chapel Road / Commons Way, Newry. Note the extent of the retaining wall to the left of the upper terrace. This retaining structure wraps around the immediate rear of the dwellings in question.



Modern development at O'Neill Avenue, Newry. The extent of the site excavation is apparent, to the left and right of the terraces. The rock face extends along the rear of the dwellings.



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Knockdarragh, Newry. Note the retaining structures to the rear of the dwellings in question. Note also the retaining structures between individual rows of dwellings.



Retaining structures at Greenacorraig, Burren, Warrenpoint.



Retaining structures at Carrickdesland, Warrenpoint

APPENDIX 1

Email chain with planning department

APPENDIX 2

Emails issued to TNI (to seek their views on amended proposals – note the emails were addressed to a DRD account, whereas this department now falls under DAERA and emails are currently addressed to an “infrastructure-ni.gov.uk” domain)

APPENDIX 3

Amended plan – addressing parking concerns, and ameliorating any purported deficiencies in private amenity space provision

From: Anthony Grimes [mailto:Anthony@ocallaghanplanning.co.uk]
Sent: 23 January 2017 15:32
To: 'Colin O'Callaghan'; patricia.manley@nmandd.org
Subject: RE: LA07/2016/1647/F

Patrica

Sorry for the delay in coming back to you on this.

The client is to provide us with details from his engineer of the Walls on the site.

I will forward these to you as soon as we receive them.

Regards
Anthony Grimes

O'Callaghan Planning
Unit 1, 10 Monaghan Court
Monaghan Street
Newry
BT35 6BH

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<https://www.facebook.com/OCallaghanPlanning>

From: Colin O'Callaghan [mailto:Colin@ocallaghanplanning.co.uk]
Sent: 11 January 2017 10:40
To: patricia.manley@nmandd.org
Cc: anthony@ocallaghanplanning.co.uk
Subject: RE: LA07/2016/1647/F

Hi Patricia,

Thank you for your email. Is this the application at Daisy Hill, Newry?

I recall some sections being drawn up for this however I will check this with Anthony and we will get something up to you in the next few days.

Apologies for the inconvenience,

Regards,

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

O'Callaghan Planning
Unit 1

10 Monaghan Court
Monaghan Street
Newry
BT35 6BH

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From: patricia.manley@nmandd.org [<mailto:patricia.manley@nmandd.org>]

Sent: 11 January 2017 09:59

To: Colin O'Callaghan

Subject: LA07/2016/1647/F

Colin

In relation to the above can you please provide detailed drawings of retaining walls as indicated in your proposal description and a cross section of through this, there are also retaining walls proposed around the dwelling houses and a wall/ pillars along the frontage of the site also provide detailed drawings of these

Patricia

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From: Anthony [<mailto:anthony@ocallaghanplanning.co.uk>]
Sent: 06 July 2017 16:54
To: liam.trainor@drdni.gov.uk
Subject: FW: New Development at Daisy Hill Newry.

Have you ever had a chance to look at this for us?

Regards
Anthony Grimes

O'Callaghan Planning
Unit 1, 10 Monaghan Court
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Newry
BT35 6BH

Tel. 028 3083 5700
Mob. 07734806045

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From: Anthony [<mailto:anthony@ocallaghanplanning.co.uk>]
Sent: 30 May 2017 15:32
To: liam.trainor@drdni.gov.uk
Subject: New Development at Daisy Hill Newry.

Liam

Further to your conversation with Colin this morning regarding the above development. Please find attached revised layout with the parking to the 2 houses amended for your perusal.

Could you please let Colin or myself know if this is satisfactory or if you would require any further amendments.

Regards
Anthony Grimes

O'Callaghan Planning
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Mob. 07734806045

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ITEM NO 19
APPLIC NO LA07/2017/0038/O Outline **DATE VALID** 1/10/17
COUNCIL OPINION REFUSAL
APPLICANT Errol Flynn 14 Milltown Road,
 Lislea, Newry **AGENT** O'Callaghan
 Planning Unit 1,
 10 Monaghan
 Court, Monaghan
 Street, Newry,
 BT35 6BH
 02830835700

LOCATION Immediately south of 91B Maphoner Road
 Latbirget

PROPOSAL Mullaghbawn
 Site for dwelling and detached garage

REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions
	0	1	0	0
			Addresses	Signatures
			0	0 0 0

- 1 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
- 2 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along this part of the Maphoner Road and is not considered an exception
- 3 The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal in that the cluster is not associated with a focal point or at a cross-roads and development of the site cannot be absorbed into the existing cluster through rounding off and consolidation and will visually intrude into the open countryside.
- 4 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and add to a ribbon of development which would therefore result in a detrimental change to further erode the rural character of the countryside.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2017/0038

Date Received: 10.01.2014

Proposal: Site for dwelling and detached garage

Location: The site address is identified as immediately south of 91B Maphoner Road, Latbirget, Mullaghbawn. The site sits outside the development limits of Mullaghbawn and within an Area of Outstanding Natural Beauty as identified by the Banbridge / Newry and Mourne Area Plan 2015. The application site is approximately 10 kilometres South west of Newry City Centre.

Site Characteristics & Area Characteristics:

The application site forms part of an agricultural field with frontage to Maphoner Road (eastern boundary) and Smith's Brae (southern boundary). Within the site the land level drops as you move east to west.

Northern, Eastern and southern boundaries are well defined by mature hedging and a scattering of trees. An agricultural gate along the Maphoner Road frontage provides access to the application site.

The surrounding area is rural in character with a single dwellings immediately north and east of the house and to the south past Smith's Brae.

Site History:

<i>P/2006/0649/F</i>	<i>30 metres north-west of 91 Maphoner Road, Mullaghbawn</i>	<i>Erection of dwelling</i>	<i>PLANNING APPEAL UPHELD</i>
<i>P/2005/0293/O</i>	<i>Adjacent to and north-east of 91 Maphoner Road, Mullaghbawn, Newry</i>	<i>Site for dwelling and garage</i>	<i>PLANNING APPEAL UPHELD</i>

Planning application P/2006/0649/F was overturned at appeal (PAC 2007/A1172) and permission granted for a dwelling on the application site which expired in February 2015. This dwelling was approved under old policy – 'A Planning Strategy for Rural Northern Ireland' and not draft Planning Policy Statement 21 – Sustainable Development in the Countryside and the Planning Department do not consider the planning history as a relevant in the determination of this application.

Planning Policies & Material Considerations:

The Strategic Planning Policy Statement for Northern Ireland (SPPS).
 Banbridge / Newry and Mourne Area Plan 2015.
 Planning Policy Statement 2 – Natural Heritage.
 Planning Policy Statement 3 (PPS3) - Access, Movement and Parking.
 Planning Policy Statement 21 (PPS21) - Sustainable Development in the Countryside.

Consultations:

There were four consultations issued for this proposal.
 Environmental Health- No objection. (27/01/2017)
 Transport NI – no objection, RS1 form attached. (06/02/2017)
 NI Water – No objection to the proposal.

Objections & Representations

There were two neighbour notifications issued for this proposal. The application was advertised in the local press on 16th January 2017. The Planning Department received electronically a comment from the residents of 52 Mill Road, Latbirget, Newry regarding no neighbour notification letter being received. Attempts were made to contact this resident to determine whether their property required neighbour notification but this was unsuccessful. Following a site inspection and review of the properties on Spatial the Planning Department were unable to locate this property.

Consideration and Assessment:

Policy CTY8 refers to Ribbon Development and provides an exception for development of a small gap site sufficient to accommodate a maximum of 2 dwellings within an otherwise substantial and continuously built up frontage provided this respects the existing development pattern along the frontage on terms of size, scale, siting and plot size and meets other planning and environmental requirements. The policy defines a substantial and built up frontage as including a line of three or more buildings along a road frontage without accompanying development to the rear. The SPPS does not conflict with CTY8 and states that the applications for a building which creates or adds to a ribbon of development will be refused.

A dwelling sits to the south of the application site (No. 89) with frontage to Maphoner Road. There are two dwellings to the north of the application site (No. 91a and 91b) The detached dwellings at 91b, 91a and 89 vary in height and orientation however they are all within roadside plots and share their western boundary with the public road. No. 89 is however separated from the application site by a road, Smiths Brae. This road constitutes as a break in the built development along the frontage of Maphoner Road. Consequently there is no continuous built up frontage along this part of Maphoner Road and the proposal therefore relies on development along two frontages, albeit the same road. Policy CTY8 refers to a single frontage. In this case

there is no small gap within a line of three or more buildings along a singular frontage to meet the policy definition.

The Planning Department do not consider that there is a continually built up frontage of three or more dwellings because Smiths Brae breaks the frontage and provides a visual break along this section of Maphoner Road.

The agent has referred to Policy CTY2a in his submission, drawing the Planning Department to consider the proposal against the criteria of this policy also. The proposal does not comply with the criteria of CTY2a in that:

- (a) the cluster is not associated with a focal point such as a social / community building / facility, or is at a cross roads and
- (b) it is not considered that development of the site will be absorbed into the existing cluster and will round off and consolidate the cluster.

While the argument has been made by the agent that a previous PAC decision concluded that if all the other criteria of Policy CTY2a had been met, then the requirement for the cluster to be associated with a focal point could be dis-applied. We note however that the Planning Department do not consider that development of the application site will round off and consolidate the existing cluster and thus not all criteria have been met to consider di-applying the focal point criteria.

PPS3 – Access Movement and Parking

Transport NI have been consulted on this application and in their response dated 19/07/2017 an RS1 form has been included with access requirements to be addressed in a future reserved matters application.

It is felt that a dwelling appropriately conditioned would meet the criteria set out in CTY13.

CTY 14 states that planning permission for a building in the countryside will only be granted where it does not cause detrimental change to or further erode the rural character of the area. The proposal is considered contrary to criterion (b) and criterion (d) of CTY 14 in that development on the application site would when taken cumulatively with existing buildings and their ancillary features in the vicinity would result in a build-up of development and would create a ribbon of development along this part of Maphoner Road and have a detrimental impact on the character of this rural area.

Recommendation:
REFUSAL

Refusal Reasons:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along this part of the Maphoner Road and is not considered an exception
3. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal in that the cluster is not associated with a focal point or at a cross-roads and development of the site cannot be absorbed into the existing cluster through rounding off and consolidation and will visually intrude into the open countryside.
4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and add to a ribbon of development which would therefore result in a detrimental change to further erode the rural character of the countryside.

Case Officer Signature:

Date:

Authorised Officer Signature:

Date:

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

07th August 2017

Dear Sir / Madam,

Ref: LA07/2017/0038/O
Immediately south of 91B Maphoner Road, Latbirget, Mullaghbawn
Site for dwelling and detached garage

1. I refer to the above mentioned planning application, which has been recommended for refusal for four particular reasons. The case is to be presented to your Committee on 16th August.
2. On behalf of the applicant, we would ask the Committee to take this submission into consideration. Specifically, we ask the Committee to overturn the planning department's recommendation to refuse permission. In so doing, we have hereby set out a series of rational planning grounds, each of which would strongly support the approval of this planning application. It is our belief that the planning department's recommendation to refuse permission has been based upon a strict interpretation and analysis of the relevant planning policies, whereas in this case a number of other material considerations ought to have been given equal if not greater weight.
3. Furthermore, it has always been a principle of planning practice that an applicant does not need to adhere to one planning policy in its entirety to achieve planning permission. An application can succeed due to a combination of factors, and this includes situations whereby an applicant meets the majority of individual planning policies' requirements but does not comply fully with all the requirements of any one individual planning policy. This is the concept of objective, and balanced, decision-making.
4. In this particular case, the three main strands to the argument in support of the approval of this application are that:



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- Permission can be granted by giving greater weight to the planning history of the site than to the current planning policy (which does not facilitate new dwellings on greenfield sites) – the recent planning approval, on part of this site, has not long expired. Since there was an expectation of a dwelling on this site, then it would be unfair and unjust to reverse from that position simply because an applicant failed to apply to renew a permission or to implement it in time. NN&D Council has accepted this logic in a number of recent cases, particularly those involving applications for “change of house type” on rural sites with errant works undertaken or indeed no works undertaken at all (as in the case of Peter Collins at Ballymartin – file reference LA07/2016/0716/F);
 - The proposal could, without any difficulty, be justified by granting permission for this as an “infill” site i.e. the site occupies one half of a gap in a line of more than three buildings, and this overall gap is sufficient only to accommodate up to a maximum of two dwellings. This typology is entirely consistent with the “exception” (to the presumption against ribbon development) outlined in Policy CTY 8 of PPS 21. We have been advised that a concern has arisen because a small lane dissects the gap (Smith’s Brae). We contend this is insignificant for a number of reasons, which will be addressed in greater detail in this submission, and in any case, the salient policy does not specifically identify this as a constraint that would prevent the granting of a permission in these circumstances;
 - The site is located at a cluster of dwellings in the countryside. Technically, the proposal meets all the criteria outlined within Policy CTY 2a of PPS 21. However, the planning department disagrees and it finds the absence of a focal point determining. Significantly, this issue has arisen at a recent planning appeal in this District. In that case, the Council withdrew its objection because it recognised the precedent value of previous decisions arising, whereby permission was granted for a dwelling at a cluster that was not located at a focal point. Again, some of these decisions were in this Council district, and on that basis we argue that the absence of a focal point need not be a deciding factor in the determination of this application.
5. On balance, if it was deemed that this was not an acceptable form of “infill” development, because of the presence of Smith’s Brae (which is stated to have dissected the gap, purportedly pointing towards the existence of two distinct frontages as opposed to the singular frontage referred to in Policy CTY 8), and it was deemed that the proposal is not an acceptable form of “clustering” owing to the absence of a focal point, a decision ought to be taken “in the round” or “on balance”, which is the true mark of an objective decision.



When considered in this manner, one would appreciate that given the planning history to this site, the previous commitment for a dwelling, and the general compliance with the overall thrust of consolidating development at an existing cluster / in an existing ribbon of development, approval ought to be forthcoming.

6. Notwithstanding our general comments, as outlined above, we would hereby offer detailed commentary to each of the refusal reasons that have been applied to this proposal.

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

7. As has been outlined above, a combination of factors indicate why this proposal should be treated as an exception to the general presumption against new residential development in the open countryside. These comprise:
- Planning history; and
 - General compliance with the requirements of Policies CTY 2a and CTY 8 of PPS 21. The deficiencies found with the proposal, in terms of the aforementioned policies, have been of a technical nature and ought not to undermine the proposal's integrity given it's overall conformity with the general thrust and the stated aims of those policies, in particular by consolidating development at an existing grouping.
8. The recent permission on a part of the application site is not long expired. NM&D Council, in particular, has been exceptionally pragmatic when dealing with other applications of this nature – be it in relation to sites upon which works commenced without the required sight lines being constructed, sites which were commenced by laying foundations in the incorrect position, and one particular site upon which no work had commenced at all. The Council is respectfully requested to continue with this approach and to approve this particular planning application.

2 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along this part of the Maphoner Road and is not considered an exception

9. We contend that this application site is approximately one half of a wider gap site that could accommodate up to a maximum of two dwellings, as provided for under Policy CTY 8 of PPS 21. This is an acceptable approach to developing one half of a two dwelling gap, and it has been applied by NM&D Council in the past.
10. The planning department acknowledges that this site lies between a line of three dwellings that all front onto Maphoner Road. The department feels that Smith's Brae represents a break in the frontage, and thus there is no continuous built up frontage on this part of Maphoner Road. The department did concede however that all development fronts onto the same Road.
11. PPS 21 (Policy CTY 8) states:

For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.
12. It is clear that this proposal relates to a singular stretch of road frontage along Maphoner Road, and not two frontages as has been suggested by the planning department. The visual impression, when travelling along this straight part of Maphoner Road, is not one of two distinct frontages, but a singular frontage.
13. The crux of the matter is that the planning department considers Smith's Brae to be a break in the frontage. Taking that approach one step further, we would highlight the position of No. 91 Maphoner Road. Since it is located on Smith's Brae, it would be logical to assume the property's address would be located on Smith's Brae. However, the property's address is in fact 91 Maphoner Road. The fact remains that Smith's Brae, in terms of its visual presence and its infrastructural capacity, is not so significant as to form a physical divide in this stretch of road frontage along Maphoner Road.
14. In asserting that the correct approach to be taken in this instance is not to accept the planning department's view that Smith's Brae represents a dividing line between two frontages, we would draw the Committee's attention to planning approval P/2013/0038/F. This related to an "infill" dwelling at Station Road, Jonesborough. This "infill" site was located to one side of a frontage that contained a railway bridge.





- Image 1:** Railway bridge, dividing eastern and western parts of frontage in the vicinity of 2 Station Road, Jonesborough. This arrangement was deemed acceptable by the local planning authority. It may be argued that this decision was taken by the Department of the Environment, however the fact remains that the decision was taken in the same planning policy context as the subject proposal, and no differentiation ought to be made.

Note: details of approved plans pertaining to this planning application have been included in Appendix 1.

15. In summary, if it is accepted that this proposal complies with Policy CTY 8 of PPS 21, it is acceptable in principle, and all other refusal reasons will automatically be set aside.

3 The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal in that the cluster is not associated with a focal point or at a cross-roads and development of the site cannot be absorbed into the existing cluster through rounding off and consolidation and will visually intrude into the open countryside.

16. The key area of disagreement in respect of Policy CTY 2a relates to the absence of a focal point. We respectfully submit that, based upon a number of recent decisions (which have been addressed in an earlier supporting statement) the requirement for a focal point is not absolute, and as it has been disapplied in certain instances in this locality it would be administratively unfair not to adopt the same approach in this instance.

17. We note that the planning department's report appears to acknowledge that the requirement for a focal point can be disapplied in instances. However, the planning department feels this is not an appropriate opportunity to disapply the focal point requirement, on the basis that it feels the proposal will not round off and consolidate the existing cluster.
18. The report states "thus, not all criteria have been met to consider disappling the focal point criteria". However, there are in fact no set criteria for identifying when the focal point requirement can be disapplied or not. It either must be applied or it shall be set aside. The PAC decision in question merely offered an explanation as to why they felt it appropriate to disapply the relevant criterion.
19. In any case, even if the Committee felt bound to follow the planning department's logic, and to accept that the only way the focal point requirement can be set aside is if development will be absorbed into the existing cluster and will round off and consolidate the cluster (as per the PAC's rationale) it is clear that this proposal will do so.



Image 2:

If the Committee accepts the planning department's argument that Smith's Brae represents the dividing line between the two frontages, then logic dictates that Smith's

Brae delineates the southern boundary to one particular cluster. When one then looks at the site in question, the only site in the cluster with no committed approval or development thereon, it can be seen that the site is bounded on two sides by existing dwellings that do lie within the cluster. The numbers 1 and 2 have been added to this image to reflect committed planning approvals and even if the permission on site 2 is considered spent, it would automatically qualify for an "infill" dwelling, thereby ensuring it does represent part of the cluster in question.

20. Since development on the subject site would be located on the inside of the corner that links No's 91 and 91B Maphoner Road, it is illogical to suggest that this proposal is not rounding off or consolidating an existing cluster. Further, it is equally illogical to suggest that this proposal represents encroachment, outwards from the cluster, into the open countryside. In that case, it would appear that the planning department's suggested explanation for not following the PAC's logic (in setting aside the justification for a focal point) is flawed, thereby ensuring that the "focal point" requirement can actually be set aside.

21. Notwithstanding the aforementioned arguments in relation to the issue of a focal point, we would respectfully draw the Committee's attention to the relevant grammar expressed in Policy CTY 2a, in particular the reference to the focal point:

the cluster is associated with a focal point such as a social / community building/facility,
or is located at a cross-roads

22. The word "cross-roads" does not appear in the Oxford English Dictionary. However, the OED does proffer the following definition of the word crossroads

An intersection of two or more roads.

23. According to the everyday meaning of the word crossroads, the salient part of Policy CTY 2a can be interpreted as a requirement that a site be located at an intersection of two or more roads. Thus, if, as the planning department states, Smith's Brae represents a break in the frontage, for the purposes of Policy CTY 8 of PPS 21, this site is located at the point where Smith's Brae meets Maphoner Road. Accordingly, the site is located at a crossroads, according to the everyday meaning of the word, and thus the focal point component of Policy CTY 2a is actually met.

24. If this rationale is not accepted, and it is deemed that the intersection is insufficient to qualify as a focal point, it must be recognised that the planning policy is not explicitly clear in directing applicants to junctions where four roads intersect. Since the planning policy is not clear in this respect, it cannot be assumed that one understanding of the definition is correct and the other is incorrect. Following on from that, if it cannot be proven that our methodology is not actually contrary to policy, then it is the case that we are not even seeking the disapplication of the policy. All that is required in this instance is a pragmatic understanding and application of the salient planning policy. Furthermore, approval can easily be justified given the myriad of other supporting factors that will not be replicated on other individual sites throughout the countryside (there is a possibility that the planning department could argue that approval of this proposal would establish a harmful precedent, for other development at 2-road intersections. We contend this will not actually be the case since this site benefits from a historic approval and it complies with the overall thrust of Policies CTY 2a and CTY 8 of PPS 21 also).
25. In asserting that the planning department's logic (in finding that there is only a singular reason why the requirement for a focal point can be disapplied) is flawed, we would draw the Committee's attention to a recent planning decision taken by its counterparts in Mid Ulster Council.
26. In that particular case, approval was granted for a dwelling at a cluster on Mullaghboy Road, Bellaghy (LA09/2017/0496/O).



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Image 3:

Cluster of buildings at Mullaghboy Road, Bellaghy. The site in question was located at the south eastern tip of that particular cluster. The requirement for a focal point was set aside by Mid Ulster Council's planning committee, who ought to be regarded as peers of NM&D Council. The minutes of Mid Ulster Council's planning committee dated 06th June 2017 record that it was resolved that application LA09/2017/0496/O "be approved based upon rounding off of a current straight line of development".

27. Whereas NM&D Council may argue that the aforementioned case has no bearing upon the outcome of applications in this district, we would contend that applications of this nature ought to be treated fairly and consistently. Mid Ulster Council's decision cannot be dismissed lightly or passed off as a "mistake" as so often occurs when similar decisions are cited to planning authorities in the north of Ireland and on balance we contend that the exercise of flexibility and pragmatism would easily justify the approval of this particular planning application.

4 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and add to a ribbon of

development which would therefore result in a detrimental change to further erode the rural character of the countryside.

28. It is stated that this proposal will result in a suburban style build up of development. However, cumulatively, this proposal will not increase the number of dwellings at this locus, given the previous approval on the site, and circumstances have not changed materially since that time (to justify the refusal of permission on the grounds of ribbon development and suburban-style build-up of development). In any case, if it is accepted that the proposal complies with the overall thrust and intent to Policies CTY 2a and CTY 8 of PPS 21, then this refusal reason will be overcome immediately.
29. In concluding, I trust that the Committee has been provided with sufficient information to justify the approval of this application. However, in the event the Committee requires any further information, please do not hesitate to contact this office.

Thanking you for your consideration in this matter,

Yours faithfully,



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

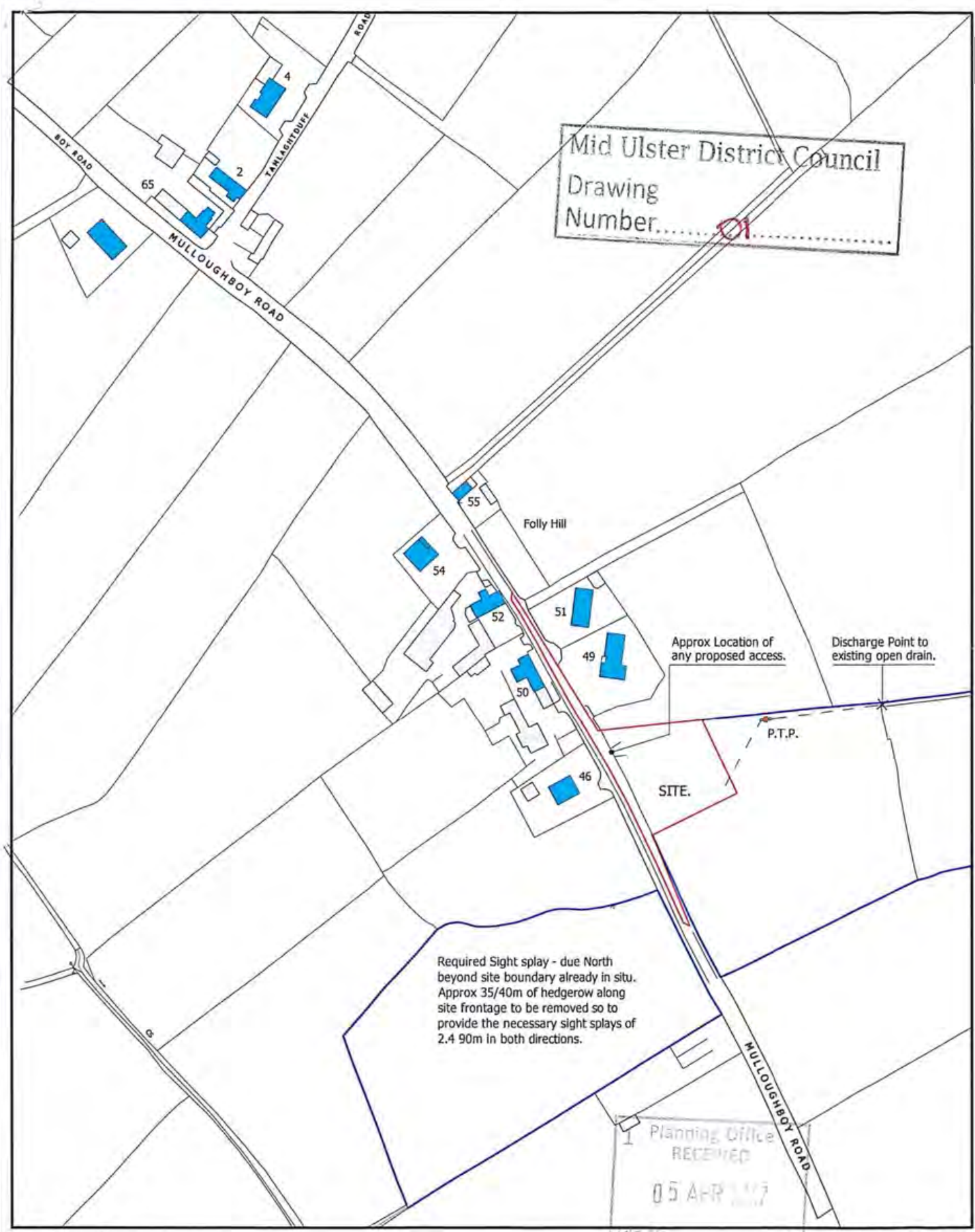
ANNEXES

- Appendix 1 Details of planning approval P/2013/0038/F
Appendix 2 Minutes of Mid Ulster Council meeting dated 06th June, insofar as they related to application LA09/2017/0496/O



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Mid Ulster District Council
 Drawing Number.....01.....

Approx Location of any proposed access.

Discharge Point to existing open drain.

P.T.P.

SITE.

Required Sight splay - due North beyond site boundary already in situ. Approx 35/40m of hedgerow along site frontage to be removed so to provide the necessary sight splays of 2.4 90m in both directions.

1 Planning Office RECEIVED
 05 APR 2017
 FILE NO.
 Mid Ulster District Council

O.S. Map Ref: 94-06 SE

Location Plan
 Scale 1:2500



Planners Ltd.

No 38 Airfield Road
 The Creagh,
 Toomebridge
 Co Antrim,
 BT41 3SQ

Mr Christopher Cassidy
 chris@cmlplanners.com
 Mr Brendan McMullan
 brendan@cmlplanners.com

Tel: 028 7963 2350

Client **Mr Gavin Breslin**

Project **Proposed Site For Dwelling & Domestic Garage
 40Mts S/East of No 49 Mullaghboy Road -
 Bellaghy - BT45 8JH.**

Drawing Title **Location Map:**

Scale/Sheet
 1:2500 @ A4

Date
 April 2017

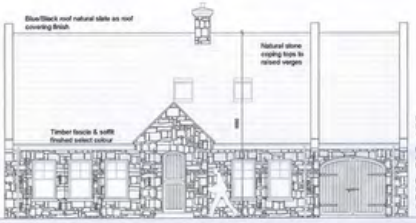
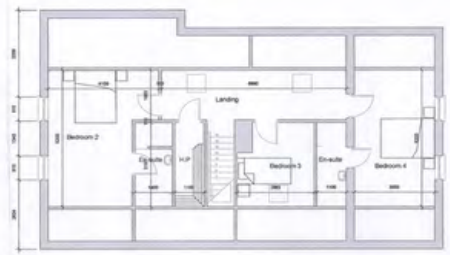
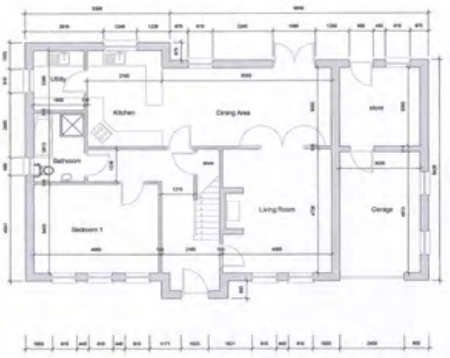
Job No.
 1386

Drawing no.
 L01

Revision
 A

Drawn By
 ByM

Proposed Plans, Elevations & Site Layout



Front Elevation
Scale 1:100

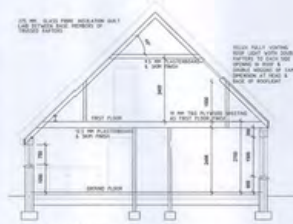


Side Elevation
Scale 1:100



Rear Elevation
Scale 1:100

- Schedule of Finishes**
- Bangor Blue slates or similar
 - Painted timber fascia
 - Cast aluminium rainwater goods
 - Natural Granite to be used on indicated areas
 - Hardwood stained windows
 - Hardwood doors with decorative timber surround
- Note: All dimension shown in metric



Section
Scale 1:100



Site Layout
Scale 1:500



Site Location Map
Scale 1:2500
Crown Copyright Licence No. 1956

Rev.	Revision	By	Date

Client: Mr. Colm McCormack

Drawing Title: Planning Drawings

Job Description: Proposed Erection of Infill Dwelling 30m South West of No.2 Station Road, Jonesborough, Co. Armagh

Area Planning Office RECEIVED - 8 JAN 2013

Drawing Number... [Redacted]

Proposed Plan, Elevations & Site Layout Plan

Drawn By: M.D.	Checked By: M.D.	Date: 20.12.2012	Scale: as shown
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ERES Ltd
European Renewable Energy Solutions

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FILE REF	DRAWING No	REVISION
ERES-201	PL-01	

Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 6 June 2017 in Council Offices, Ballyronan Road, Magherafelt

Members Present

Councillor Mallaghan, Chair

Councillors Bateson, Bell, Clarke, Cuthbertson, Gildernew, Glasgow (8.48pm), Kearney, McAleer, McEldowney, McKinney, McPeake, Mullen, Reid, Robinson, J Shiels

Officers in Attendance

Dr Boomer, Planning Manager
Mr Bowman, Head of Development Management
Ms Doyle, Senior Planning Officer
Mr Marrion, Senior Planning Officer
Ms McCullagh, Senior Planning Officer
Ms McEvoy, Head of Development Plan & Enforcement
Ms McKearney, Senior Planning Officer
Ms Mullen, Council Solicitor
Miss Thompson, Committee Services Officer

Others in Attendance

Applicant Speakers

LA09/2017/0496/O	Mr Cassidy
LA09/2017/0354/O	Ms Curtin
I/2014/0074/F	Mr Ryan
	Ms Fowley
	Mr Ross
I/2014/0246/F	Mr Ryan
	Ms Fowley
	Mr Ross
LA09/2016/1279/F	Mr Ross
Consultation response to LA09/2016/0232/F	Ms Stevens

The meeting commenced at 7.04 pm

P070/17 Apologies

None.

P071/17 Declarations of Interest

The Chair reminded members of their responsibility with regard to declarations of interest.

The Planning Manager referred to the upcoming RTP1 awards taking place in London in which it had been agreed at Council that the Chair and Vice Chair of Council would attend along with the Chair of the Planning Committee and the Planning Manager.

Matters for Decision

P073/17 Planning Applications for Determination

The Chair drew Members attention to the undernoted planning applications for determination, he advised of a change to the order of the agenda as requested by the agent for the application. The Chair stated that as there were circumstances for the requested change it would be accommodated on this occasion but advised agents that this would not be tolerated as a normal practice going forward.

LA09/2017/0496/O Dwelling and domestic garage/store at approximately 40m SE of 49 Mullaghboy Road, Bellaghy for Gavin Breslin

Ms Doyle (SPO) presented a report on planning application LA09/2017/0496/O advising that it was recommended for refusal.

The Chair advised the committee that a request to speak on the application had been received and invited Mr Cassidy to address the committee.

Mr Cassidy advised that this application was submitted under Policy CTY2a (cluster) and meets all criteria of that policy.

Mr Cassidy referred to the officer's report which stated that the application is not associated with a local focal point and stated that there is an equestrian centre located opposite the application site thereby fulfilling this requirement. The case officer's report also stated that the proposal was not bounded on at least two sides and Mr Cassidy referred to aerial photography which showed development on north and west of site.

Councillor Clarke asked if cluster had to be on one side of road.

The Planning Manager advised that policy states there should be a suitable degree of enclosure and bounding on at least two sides with other development in the cluster. The Planning Manager felt that the proposed site was not that enclosed with a ribbon on one side of the road and an emerging ribbon on the other side but that this application could be developed based on rounding off. The Planning Manager questioned whether the application would make any obvious change to the neighbouring area stating that this would be a matter for Member's judgement.

Proposed by Councillor McKinney
Seconded by Councillor Clarke and

Resolved That planning application LA09/2017/0496/O be approved based on rounding off of current straight line of development. Conditions to be

attached in relation to access, planting and landscaping with a ridge height of 6m to be imposed.

I/2014/0393/F 3 Pairs of semi-detached dwellings and 2 detached dwellings at 11 Killeenan Road, Cookstown for JDC Joinery

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor J Shiels
Seconded by Councillor McPeake and

Resolved That planning application I/2014/0393/F be approved subject to conditions as per the officer's report.

LA09/2015/0523/F Retrospective application for retention of car park and pedestrian access via underground road tunnel in association with the Jungle NI, approximately 80m SE of 60 Desertmartin Road, Moneymore for Mr Robert Carmichael

Site meeting to be arranged in respect of this application as agreed earlier in meeting.

LA09/2015/1075/O Dwelling and garage 76m NE of 27 Tobermore Road, Draperstown for Teresa McNally

Ms Doyle (SPO) presented a report on planning application LA09/2015/1075/O advising that it was recommended for refusal.

Proposed by Councillor Cuthbertson
Seconded by Councillor McPeake and

Resolved That planning application LA09/2015/1075/O be refused on grounds stated in the officer's report.

LA09/2015/1215/F 24 dwellings at lands N of 21 Magherafelt Road and N of 15 and 40 Fairlee Heights, Moneymore for A N Property

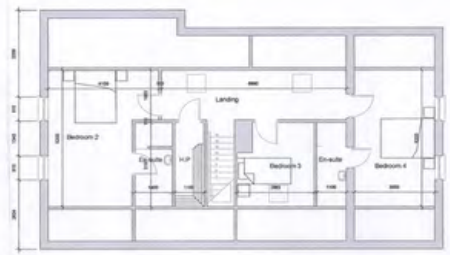
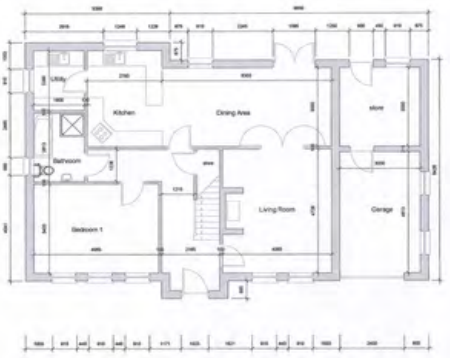
Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Bell
Seconded by Councillor J Shiels and

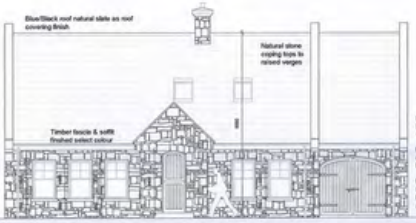
Resolved That planning application LA09/2015/1215/F be approved subject to conditions as per the officer's report.

LA09/2016/0652/O Apartment block at 10-12 Park Road, Dungannon for Bullock Bros.

Application listed for approval subject to conditions as per the officer's report.



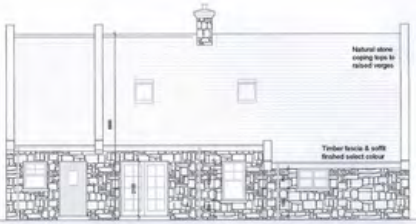
Site Layout
Scale 1:500



Front Elevation
Scale 1:100



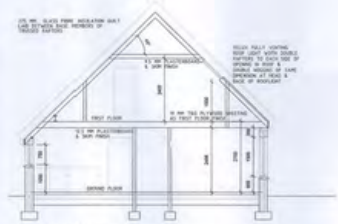
Side Elevation
Scale 1:100



Rear Elevation
Scale 1:100

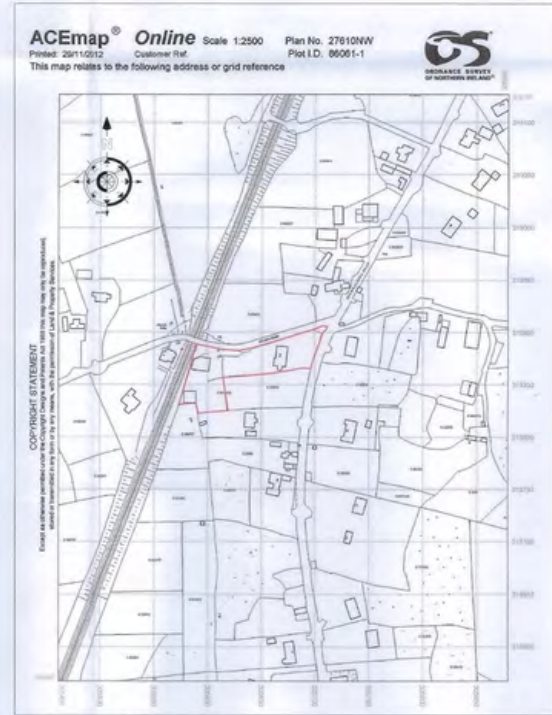


Side Elevation
Scale 1:100



Section
Scale 1:100

- Schedule of Finishes**
- Bangor Blue slates or similar
 - Painted timber fascia
 - Cast aluminium rainwater goods
 - Natural Granite to be used on indicated areas
 - Hardwood stained windows
 - Hardwood doors with decorative timber surround
- Note: All dimension shown in metric



Site Location Map
Scale 1:2500
Crown Copyright Licence No. 1956

Rev.	Revision	By	Date

Client: Mr. Colm McCormack

Drawing Title: Planning Drawings

Job Description: Proposed Erection of Infill Dwelling 30m South West of No.2 Station Road, Jonesborough, Co. Armagh

Drawing Number... **DOE**

Area Planning Office RECEIVED - 8 JAN 2018

Title: Proposed Plan, Elevations & Site Layout Plan

Drawn By: M.D	Checked By: M.D	Date: 20.12.2012	Scale: as shown
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Tel: 028 3020 9130
E-MAIL: benmccormack@erestov.com

FILE REF	DRAWING No	REVISION
ERES-201	PL-01	

ITEM NO	32			
APPLIC NO	LA07/2017/0582/O	Outline	DATE VALID	4/14/17
COUNCIL OPINION	REFUSAL			
APPLICANT	Mrs Roisin Hanlon Archways Lodge Drive Belper Derbyshire DE56 2TP		AGENT	O'Callaghan Planning Unit 1 10 Monaghan Court Monaghan Street Newry BT35 6BH 02830835700

LOCATION Lands adjacent and south west of 30 Ballymoyer Road
Newtownhamilton

PROPOSAL Site for dwelling and garage

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

- 1 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not constitute a gap within an otherwise substantial and continuously built up frontage and would add to ribbon development along the Ballymoyer Road.
- 2 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and add to a ribbon of development which would therefore result in a detrimental change to the rural character of the countryside.
- 3 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.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2017/0582/O

Date Received: 14.04.2017

Proposal: The proposal seeks Outline Permission for a site for dwelling and garage. (Infill)

Location: Lands adjacent and south west of 30 Ballymoyer Road, Newtownhamilton.

Site Characteristics & Area Characteristics:

The site includes an agricultural field which rises towards the northwest and abuts the public road. Adjacent is a small laneway with a further agricultural field and on the other side is the curtilage of No. 30. The area is rural in character where agriculture is the most dominant land use activity.

Site History:

P/1978/0501

Proposed Erection of Replacement Bungalow

Appeal Dismissed: 22.05.1979

Planning Policies & Material Considerations:

Banbridge Newry and Mourne Area Plan 2015.

Strategic Planning Policy Statement for Northern Ireland

Planning Policy Statement 21

Planning Policy Statement 3 / DCAN 15.

Building on Tradition

Consultations:

Transport NI – Request for agent to show all sightlines in red. Minimum sightline of 2.4m x 80m required. This information has not been requested due to issues with the principle of development

NI Water – No objections

Objections & Representations

1 neighbour notified on 04.05.2017 and the application was advertised on 03.05.2017. No objections or representations were received.

Consideration and Assessment:

The site lies within the Rural Area as designated in the Banbridge Newry and Mourne Area Plan 2015. There are no 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 makes an exception for an infill site to accommodate up to 2 dwellings if in accordance with policy CTY8. The policy requires the proposed development to be within an otherwise substantial and continuously built up frontage. For the purposes of this application, the buildings relied upon for the continuously built up frontage are located on both sides of the McCrory Road which subsequently represents a break in the frontage and therefore the proposed 'frontage' is in fact 2 frontages, separated by the McCrory Road. This position has been confirmed in similar PAC appeals including 2016/A016 and 2014/A0241.

As the proposal is not considered a small gap within an otherwise substantial and continuously built up frontage, it does not meet the exception in CTY8 and instead is an extension of ribbon development.

Additionally there are no over-riding reasons why this dwelling essential at this location. As a result the application fails to meet the policy criteria for CTY1 and CTY8.

The proposed siting is consistent with the policy requirements of CTY13 however with regard to CTY 14 it would add to a ribbon of development and result in suburban style build-up when viewed with the existing and approved buildings to the North East of the site. The proposal is contrary to policy CTY14.

Sewage arrangements are minimal at Outline however a condition could be added to ensure Consent to Discharge is obtained before work commences. The proposal is in general compliance with CTY16.

PPS3 – Access, Movement & Parking & DCAN15 – Vehicular Access Standards

Transport NI has requested an amended plan showing the sightlines within the red line and splays of 2.4x80. This information has not been requested due to the ineligibility of the principle of development. As the adjoining land is outlined in blue (applicant's control / ownership) it is considered likely that these splays are achievable.

Recommendation: Refusal**Refusal Reasons:**

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not constitute a gap within an otherwise substantial and continuously built up frontage and would add to ribbon development along the Ballymoyer Road.

2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and add to a ribbon of development which would therefore result in a detrimental change to the rural character of the countryside.

3. 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.

Case Officer:**Authorised Officer:**

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

08th August 2017

Dear Sir / Madam,

Ref: LA07/2017/0582/O
Lands adjacent and south west of 30 Ballymoyer Road, Newtownhamilton
Site for dwelling and garage

1. I refer to the above mentioned planning application, which has been recommended for refusal for three particular reasons. The case is to be presented to your Committee on 16th August.
2. On behalf of the applicant, we would ask the Committee to take this submission into consideration. Specifically, we ask the Committee to overturn the planning department's recommendation to refuse permission. In so doing, we have hereby set out a series of rational planning grounds, each of which would strongly support the approval of this planning application. It is our belief that the planning department's recommendation to refuse permission has been based upon a strict interpretation and analysis of the relevant planning policies, whereas in the exercise of flexibility would have ensured a different outcome.
3. Furthermore, it has always been a principle of planning practice that an applicant does not need to adhere to one planning policy in its entirety to achieve planning permission. An application can succeed due to a combination of factors, and this includes situations whereby an applicant meets the majority of individual planning policies' requirements but does not comply fully with all the requirements of any one individual planning policy. This is the concept of objective, and balanced, decision-making.
4. The justification for the approval of this application is that this proposal involves the development of a small gap site sufficient only to accommodate up to a maximum of



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two houses and it is located within an otherwise substantial and continuously built up frontage. There has been no indication that the proposal has failed to respect the existing development pattern along the frontage in terms of size, scale, siting and plot size and the proposal meets the other planning and environmental requirements referred to in PPS 21, in particular Policy CTY 8 which states that

For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

We submit that the proposal is consistent with the aforementioned definition.

5. The planning department has indicated this proposal is not in keeping with the relevant policy, because it considers the "frontage" is actually split into two separate frontages (it has argued that the frontage in question occurs to either side of the junction of Ballymoyer Road and McCrorys Road – this is said to represent a break and the Council therefore argues that there are in fact two frontages). Our position is that this proposal does involve development along a single frontage as is required in the relevant planning policy. The planning department feel their position is consistent with planning appeal decisions 2016/A016 and 2014/A0241.
6. We note a typographical error in the council's planning report. We are therefore unable to offer a definitive comment upon one of the aforementioned appeals however we believe we have identified the case in question and are in a position to comment upon it. In the event that we have not identified the right case we would be grateful for an opportunity to make further comment in this respect.
7. Before analysing the relevance of the planning appeal decisions in question, we would draw the Committee's attention to the justification and amplification to Policy CTY 8:

For the purposes of this policy a road frontage includes a footpath or private lane. A 'ribbon' does not necessarily have to be served by individual accesses nor have a continuous or uniform building line. Buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked.



8. Since it is recognised that buildings with gaps between them, or those which are sited back, staggered or at angles can still represent ribbon development, these typologies must apply also to the description of an existing “ribbon”, within which it is possible to “infill a small gap”. It is *Wednesbury* unreasonable to cite concerns of ribbon development in this case, i.e. asserting that the development along the same line will create ribbon development, but not to accept that there is scope for “infill” development within this existing line of buildings.
9. We find that the policy in question does not address the issue of split frontages at all: within PPS 21 there is no indication as to when a judgement will be required to be exercised (as to whether there is one or more frontages) – ensuring that the proposal is not actually contrary to policy in the first instance. However, at a 90 degree bend on a road, it is logical that one would recognise the existence of separate frontages. In such a scenario, it would be futile to argue development was concentrated along a single frontage. In other cases, natural features, such as hills, slopes or woodlands could possibly divide a stretch of road into two different frontages. While PPS 21 did not address the earlier mentioned scenario, it did address the issue of woodland forming a break in a short ribbon, through its surrogate Building on Tradition (BoT).

4.5.0 There will also be some circumstances where it may not be considered appropriate under the policy to fill these gap sites as they are judged to offer an important visual break in the developed appearance of the local area.

4.5.1 As a general rule of thumb, gap sites within a continuous built up frontage exceeding the local average plot width may be considered to constitute an important visual break. Sites may also be considered to constitute an important visual break depending on local circumstances. For example, if the gap frames a viewpoint or provides an important setting for the amenity and character of the established dwellings.

10. BoT clearly acknowledges that there will be “some” circumstances where it is not appropriate to fill a gap, particularly where these are “judged to offer an important visual break in the developed appearance of the local area”.
11. In this case, it is necessary to look at the status of McCrorys Road, in attempting to ascertain whether or not it affords relief between developments to either side of its intersection with Ballymoyer Road.
12. It is clear that the Council was not concerned that the lane leading to 34 Ballymoyer Road constitutes a break in the frontage. We concur, since the lane is but a single track and there are buildings in close proximity to its road edge. Visually, it appears not to be a significant feature in the landscape and it does not offer any form of visual relief from the developments to its eastern or western sides. This approach would appear to be consistent with the visual analysis set out in BoT, the supplementary design guide attached to PPS 21, and referred to in Appendix 1 to this submission.
13. Given the approach taken in assessing whether or not the aforementioned laneway represents a break in the frontage, the same approach ought to apply to McCrory's Road. It should be added that the aforementioned laneway is approximately 5.3 metres wide, while McCrory's Road is approx. 5.47 metres wide.



14. When travelling south, past the application site, due to the extensive roadside vegetation and the strong rural character, there is little awareness or perception of a public road breaking up this frontage and visually separating development to the south west from development to the north east.



15. When travelling north east, towards the application site, there is little perception or awareness of McCrory's Road. Furthermore, there is no perception or awareness of any break between the farm buildings in the centre of the picture and the building adjacent to the application site. Clearly, there is a transient, sequential, awareness of linear and road frontage development at this locus, and this development pattern is entirely consistent with the opportunity for infill development provided for in Policy CTY 8 of PPS 21.



16. In this particular context, the space between the farm complex and the hedge on the opposite side of McCrory's Road is so limited that the overriding impression is that this

farm complex shares the same frontage as the lands to the immediate north / north east.

17. Given the horizontal and vertical alignment of this part of Ballymoyer Road, and the transient, sequential awareness of road frontage development thereon, it is impossible to view this in a context of one frontage terminating and another one beginning.



18. This image illustrates the laneway leading to No. 34 Ballymoyer Road. Since the planning department has no concerns that this laneway represents a visual or physical break in the frontage, or the dividing point between two frontages, it is necessary to try and understand what the difference in the two features is, visually and physically (we contend there is negligible physical / visual difference, and we submit that neither feature can be interpreted as marking a point where one particular frontage begins and another ends).



19. Travelling south west, approaching the application site, the laneway serving No. 34 Ballymoyer Road is of limited visibility. It certainly is not of such significance that it services as a notional division between any individual frontages. As can be seen from this image, the impression given, when travelling along this part of Ballymoyer Road, is of a single, straight, frontage, as distinct from a number of individual frontages.
20. It is clear that the planning department was content not to place any emphasis upon the existence of a laneway serving No. 34, for the purposes of defining one or more frontages, and in that respect we find it unreasonable that no attempt was made to appraise the actual characteristics of McCrory's Road (to determine whether it was of such magnitude as to demarcate the division between two individual frontages). We feel that had such an assessment been undertaken, the planning department would have arrived at the inescapable conclusions that there was no difference between the laneway or McCrory's Road, and that neither feature was sufficient to demarcate any visual perception of a break in this overall frontage. It would thus have been appreciated that as one travels north east or south west along this section of Ballymoyer Road, there is a sequential and transient awareness of road frontage development. This is the critical factor in the assessment as to whether or not there is an opportunity to infill any gaps therein.

Comments Upon PAC Decisions Cited in Council's Planning Report

21. At the outset, it must be emphasised that the Council frequently cites the fact that it is not legally bound or mandated to follow suit with regard to PAC decisions. Responses of

this nature are typically pointed out when faced with requests to observe similar “precedents”. We respect that this is a two-way process, and that many applicants and agents are like minded. However, in this instance, we submit that the appeals cited by the planning department do not stand squarely on all fours with this proposal. We contend that the appeals were determined in their own evidential context and by different, individual, planning appeal commissioners.

2016/A0160 - The appeal of John McIlveen, at 14 Ballycreely Road, Comber

22. We contend that case was materially different from this proposal for the following reasons:
- The road that dissected the two frontages had two lanes with road markings; and
 - Development was strung out along the road, to either side of a 90 degree bend in the road – the proposal was not located in a straight line with the other buildings on the “frontage”.



23. This image shows the position of the appeal site (approximate position outlined in yellow). It can be seen that the site is located on the outside of a bend in the road, and that two distinct frontages diverge, from the junction of Ballycreely Road and Ballybeen Road. Since that proposal is not comparable with the subject application, the appeal determination in question ought to have no bearing upon the outcome of this planning application.



24. It can be seen that the appeal proposal in question was located at the junction of where two roads met. Visually, the junction appears open, and it is noteworthy that the dwellings start to “turn” the corner, and address Ballybeen Road, in the centre of the picture. These traits are indicative of development that addresses a different frontage to the development to either side, on Ballycreely Road. Such an arrangement clearly reflects the existence of a punctuation in a particular frontage, and the demarcation between one frontage and another. In contrast, there is no visual demarcation at Ballymoyer Road / McCrory’s Road.

2014/A0241 – The appeal of Lawrence McVeigh, at 54 Battleford Road, Armagh



This image illustrates the demarcation of two separate frontages and the situation is not comparable to the subject site, therefore the appeal decision ought to have no bearing upon the outcome of this application.



This image illustrates the open nature of the junction between the main Battleford Road and the minor Battleford Road. The perception of a stop or a break is emphasised through the orientation of No. 84 (orientated towards the minor road as it is).

25. It is clear that No. 84 was orientated to face onto the minor road with a sense of purpose. While there is no suggestion that it does not contribute to the built up appearance on the main Battleford Road frontage, it is evident that the characteristics of this site and this intersection are markedly different than those exhibited at the intersection of Ballymoyer Road and McCrory's Road. Consequently, the determination of that appeal ought to have absolutely no bearing upon the outcome of this planning application.



26. This image further illustrates the difference between the subject site and the appeal at Battleford Road, Armagh. The Battleford Road junction is characterised by one dwelling orientated directly onto the minor road, road markings, bollards and road signage. Visually, there is no comparison between the two scenarios and the appeal decision cited by the planning authority ought not to lead to the conclusion that the Ballymoyer Road proposal ought to be refused.

OTHER RELEVANT CONSIDERATIONS

27. In asserting that the correct approach to be taken in this instance is not to accept the planning department's view that Croy's Road represents a dividing line between two frontages, we would draw the Committee's attention to planning approval P/2013/0038/F. This related to an "infill" dwelling at Station Road, Jonesborough. This "infill" site was located to one side of a frontage that contained a railway bridge.



Image illustrating a railway bridge, dividing the eastern and western parts of a frontage in the vicinity of 2 Station Road, Jonesborough. This arrangement was deemed acceptable by the local planning authority. It may be argued that this decision was taken by the Department of the Environment, however the fact remains that the decision was taken in the same planning policy context as the subject proposal, and no differentiation ought to be made.



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28. We have recently encountered a similar issue in the Armagh area. Permission was granted (LA08/2017/0384/O) for a dwelling in a gap site, in a situation where the frontage was punctuated by a minor laneway. In that case, it was accepted that the laneway in question was not so significant as to constitute a break in the development. We see nothing inconsistent in NM&D Council's analysis with respect to the access to No. 34 Ballymoyer Road in this instance, but we are compelled to point out that the Council has failed to show how it differentiated between McCrory's Road and the access to 34 Ballymoyer Road in determining that one broke the frontage whereas the other did not. In these circumstances, the rationale behind the decision to refuse this application is not sound. Our alternative methodology is to assess the site in its true context, and to decide in these individual circumstances whether the existence of McCrory's Road is so significant as to punctuate the frontage. We contend it is not, and there remains a transient, sequential awareness of road frontage development along

- this straight section of Ballymoyer Road that is consistent with the definition proffered in Policy CTY 8 of PPS 21.
29. Perhaps the Council might argue that these situations are not directly comparable with the subject site, in the same way we have argued that the planning department's appeal decisions cited do not actually relate to this proposal. However, whichever way one looks at this, an objective assessment is required to determine whether there are one or multiple frontages at the Ballymoyer Road site. We submit that there is but a single frontage, given the horizontal and vertical alignment of Ballymoyer Road, the fact that all development faces towards Ballymoyer Road (and not an adjacent road, whether it is minor or otherwise), and given the visual insignificance of the "junction" in question (and the extent to which it is overgrown, which is such that there is no perception, visually or otherwise, of an actual break in the line of buildings fronting onto Ballymoyer Road in the immediate environs of this site). On that basis, we respectfully request the planning committee to approve this application.
30. We trust that the case in support of the proposal has been laid out in full, however in the event that the Council requires any additional information, please do not hesitate to contact this office.

Yours Faithfully,



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



RTPI
Chartered Town Planner



APPENDIX 1 - BUILDING ON TRADITION – EXAMPLES ILLUSTRATING APPROPRIATE INFILL OPPORTUNITIES

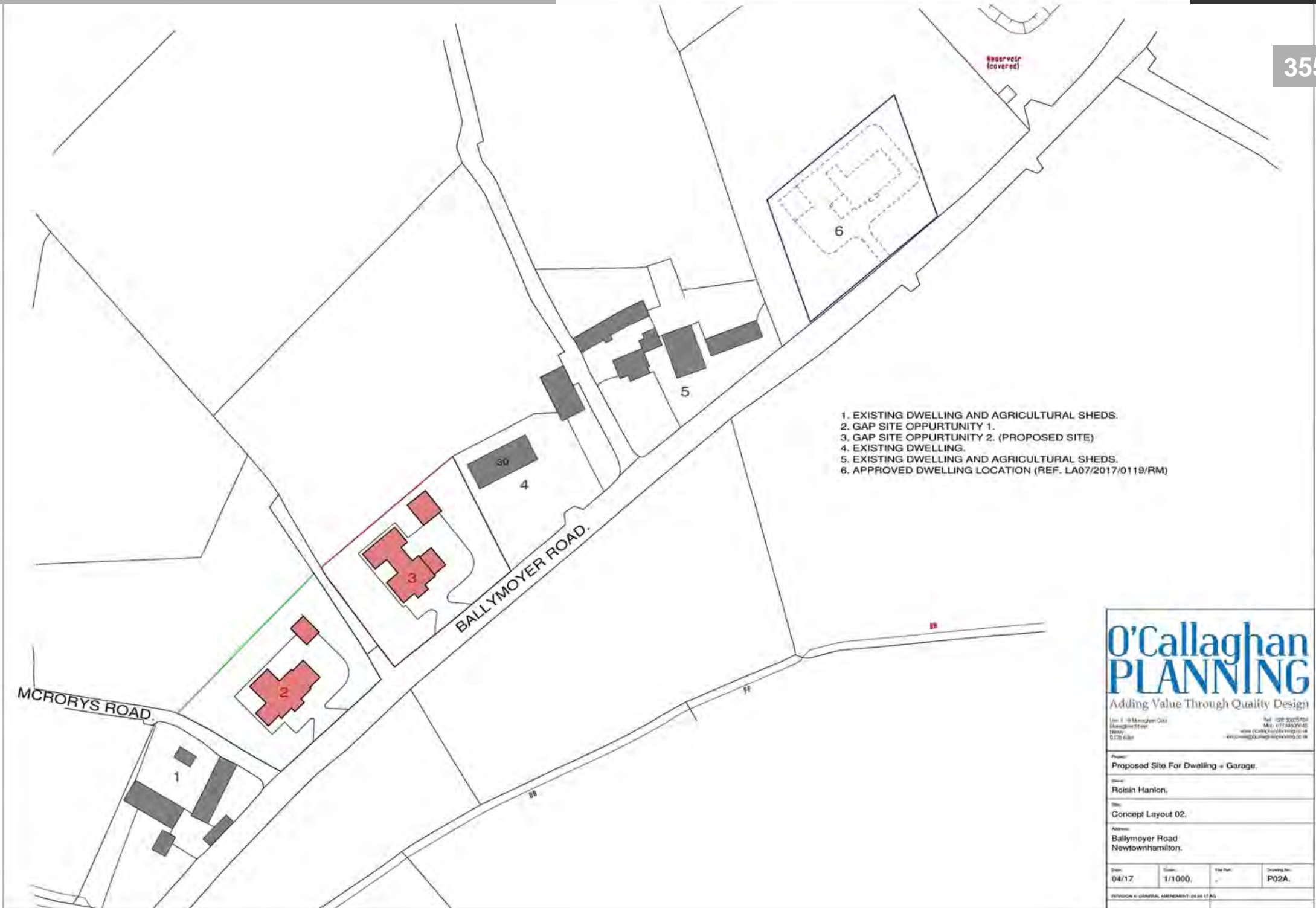


Complex linear ribbon

This example, taken from Building on Tradition, shows the south eastern example (coloured blue) located beside a road / lane – applying the planning department's logic, this lane would be regarded as a barrier and thus the site would not actually have qualified for a new dwelling.



Example 2 – taken from Building on Tradition: The arrows point to lanes or breaks in the frontages. Clearly, the intention behind PPS 21 was not to exclude frontages with minor breaks or punctuations, given the scenario is held up as an example of what an infill opportunity actually is.



- 1. EXISTING DWELLING AND AGRICULTURAL SHEDS.
- 2. GAP SITE OPPURTUNITY 1.
- 3. GAP SITE OPPURTUNITY 2. (PROPOSED SITE)
- 4. EXISTING DWELLING.
- 5. EXISTING DWELLING AND AGRICULTURAL SHEDS.
- 6. APPROVED DWELLING LOCATION (REF. LA07/2017/0119/RM)

O'Callaghan PLANNING
 Adding Value Through Quality Design

Unit 1 - 18 Monaghan Court
 Ballymore Street
 Ballymore
 D12 6J6 Tel: 027 2205704
 M: 077 4437045
 www.o'callaghanplanning.ie
 info@o'callaghanplanning.ie

Project:
Proposed Site For Dwelling + Garage.

Client:
Roisin Hanlon.

Title:
Concept Layout 02.

Address:
**Ballymoyer Road
 Newtownhamilton.**

Date: 04/17	Scale: 1/1000.	TAD Ref: -	Drawing No.:
			P02A.

DIVISION 4 - GENERAL AMENDMENT (S. 62 (1) AG)

ITEM NO	33			
APPLIC NO	LA07/2017/0621/O	Outline	DATE VALID	4/25/17
COUNCIL OPINION	REFUSAL			
APPLICANT	Patrick Treanor 10A Newtown Road Newtowncloghogue BT35 6NN		AGENT	O'Callaghan Planning Unit 1 10 Monaghan Court Monaghan Street Newry BT35 6BH
				02830835700/

LOCATION 80 metres west of 10a Newtown Road
Newtowncloghogue

PROPOSAL Site for dwelling and garage

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

- 1 The proposal is contrary to the 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 SPPS and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along the Newtown Road.
- 3 The proposal is contrary to the SPPS and Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that:
 - the cluster is not associated with a focal point and or located at a cross-roads;
 - the proposed site is not bounded on at least two sides with other development in the cluster;
 - the dwelling can not be absorbed into the existing cluster through rounding off and consolidation and will visually intrude into the open countryside.
- 4 The proposal is contrary to the SPPS 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.
- 5 The proposal is contrary to the 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;
 - the (building) would, if permitted add to a ribbon of development; and would therefore result in a detrimental change to (further erode) the rural character of the countryside.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2017/0621/F

Date Received: 25 April 2017

Proposal: Site for dwelling and garage

Location: 80 metres west of 10a Newtown Road Newtowncloghogue

The site is located within the countryside and An Area Outstanding Natural Beauty as defined in the Banbridge, Newry and Mourne Area Plan 2015.

Site History:

P/2012/0646/O- site for dwelling- refusal

- CTY 1, CTY 8, CTY 13- lacks boundaries and enclosure, CTY 14- add ribbon and result in suburban style build up, CTY 6 and CTY 2a- no focal point/crossroads, bounded 2 sides, rounding off and visual intrusion.

Objections & Representations

No. of neighbours notified=8

No representations received= 0

Advertise expiry= 26.05.2017

Consultations

TransportNI

NIW

Consideration and Assessment:

The proposal was submitted accompanied by a planning statement outlining the proposal considered under Policy CTY 2a.

Policy CTY 2a states, Planning permission will be granted for a dwelling at an existing cluster of development subject to all the criteria being met. For the purposes of defining a cluster the PAC has stated a cluster can be defined by the first three criteria listed within CTY 2a.

The proposal lies outside a farm and consists of four or more buildings when you exclude ancillary buildings such as garages and outbuildings. The site can be said to cluster with 4 or more buildings as required by the policy.

The cluster of development when travelling along the Newtown Road in either direction appears as a visual entity in the landscape.

In relation to criteria 3, the cluster must be associated with a focal point such as a social/community building/facility, or is located at a cross-roads. For the purposes of the policy the cluster is not located at a cross roads or associated with a focal point.

The site is bounded on one side by 10B. The site is not bounded on two sides as the approved curtilage of 10A lies beyond the eastern boundary of the application site.

The development site cannot be absorbed into the existing cluster through rounding off as it would extend the cluster of development and would leave the cluster open to further development. The proposal is considered to alter the existing character through the addition of an existing ribbon style of development. The proposal will provide a stronger visual link to the ribbon and will create an additional frontage the Newtown Road.

The proposal in my opinion fails to meet criteria 3, 4 & 5.

The applicant has also applied for a new dwelling on the site on the basis that the applicant's personal circumstances under CTY 6.

Having read the history and the information provided and discussed the particular circumstances of the case the applicant has not provided 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. The applicant has a modest side dwelling with a modest size curtilage capable of providing an alternative solution through the addition of an extension or annex attached to the dwelling. The applicant has not demonstrated why other alternative solutions are not practical to meet the site specific need.

It is felt that a dwelling appropriately conditioned would meet the criteria set out in CTY 13.

The proposal would result in a suburban style build up when viewed with the existing buildings and add to a ribbon of development along the Newtown Road. The proposal is contrary to CTY 14.

Recommendation:

Refusal

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

The proposal is contrary to the SPPS and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along the Newtown Road.

The proposal is contrary to the SPPS and Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that:

- the cluster is not associated with a focal point and or located at a cross-roads;
- the proposed site is not bounded on at least two sides with other development in the cluster;
- the dwelling cannot be absorbed into the existing cluster through rounding off and consolidation and will visually intrude into the open countryside.

The proposal is contrary to the SPPS 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.

The proposal is contrary to the 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;
- the (building) would, if permitted add to a ribbon of development;

and would therefore result in a detrimental change to (further erode) the rural character of the countryside.

.....

.....

PLANNING (NI) ORDER 1991
APPLICATIONS FOR PLANNING PERMISSION

ITEM NO	3			
APPLIC NO	LA07/2016/0226/F	Full	DATE VALID	2/15/16
COUNCIL OPINION	APPROVAL			
APPLICANT	Mr Mark Devlin C/O Agent		AGENT	Like Architects 34 Bedford Street Belfast BT1 5JG 028 90 222800
LOCATION	Lands adjacent and south east of Nos 16 & 19 Lisbeg Park Lismore Dundalk Crossmaglen (extending to the rear of and adjacent to Nos 61 & 63 Dundalk Road Crossmaglen)			
PROPOSAL	Erection of residential development comprising of 19 dwellings			
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	
	35	2	0	
			Addresses	Signatures
			0	0
			Addresses	Signatures
			0	0



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Committee Application

Application Reference: LA07/2016/0226/F

Date Received: 15.02.16

Proposal: Erection of residential development comprising of 19 dwellings

Location: Lands adjacent and south east of Nos 16 & 19 Lisbeg Park Lismore, Crossmaglen (extending to the rear of and adjacent to Nos 61 & 63 Dundalk Road, Crossmaglen)

Site Characteristics & Area Characteristics:

Site is located within the development limits of Crossmaglen situated to the SW of the settlement. The site is adjacent to the existing housing development of Lisbeg Park, Lismore and Lismore Park as well as detached properties of 61 and 63 all of which comprise of a mix of house types and finishes.

Site History:

P/2011/0280/F - Erection of residential development comprising 2 No. dwellings with associated parking provision and ancillary works (with access via Lisbeg Park and road layout approved under File Ref. P/2007/0058/F (Phase 1 for 19 No. dwellings)). Application being considered in conjunction with that for further 2No. dwellings, under File Ref. P/2009/0502/F (Phase 2), to provide a total of 22No. dwellings via Lisbeg Park. Lands adjacent and south-east of nos 16 & 19 Lisbeg Park Lismore Dundalk Road Crossmaglen (and adjacent and west/south-west of no. 63 Dundalk Road). Approve 26.07.11

P/2009/0502/F - Erection of residential development, comprising 2 No. dwellings, with associated parking provision and ancillary works (with access via Lisbeg Park and road layout approved as part of full application for 19No. dwellings, under File Ref. P/2007/0058/F). Lands adjacent and south-east of Nos 16 and 19 Lisbeg Park Lismore Dundalk Road Crossmaglen (and adjacent and west/south-west of No. 63 Dundalk Road). Approved 25.07.11 (Land immediately adjacent and SE)

P/2007/0058/F Erection of residential development comprising 19 No. dwellings with associated parking provision and ancillary works (with single (single storey) dwelling adjacent to No. 63 Dundalk Road to be accessed via private laneway shared with that to Nos 61 & 63 Dundalk Road and remaining dwellings to be accessed via Lisbeg Park) Lands adjacent and south-east of Nos 16 & 19 Lisbeg Park, Lismore, Dundalk Road, Crossmaglen (extending to the rear of and adjacent to Nos 61 & 63 Dundalk Road). Approved 27.05.11 (Application Site)

Planning Policies & Material Considerations:

Banbridge/ Newry and Mourne Area Plan 2016: Site is inside the development limits of Crossmaglen, majority of land zoned for housing (CM07) with ground to SW of No. 63 unzoned

Planning History: The principle of residential development has been established at the site for 19 dwellings through the grant of planning permission for P/2007/0058/F approved 27.05.11 (expiring 27.05.16). The current application was submitted 15.02.16 prior to expiry of this application, with the current application effectively a renewal of this permission

PPS3, DCAN 15 and Parking Standards: Transport NI in comments dated 26.05.16 have no objection, each dwelling has adequate in curtilage parking for 2 vehicles

SPPS, PPS7 (QD1), DCAN 8 and Creating Places

Since the grant of the previous planning application at the site the publication of the SPPS is now a material consideration. However as there is no significant change to the policy requirements for housing in settlements following publication of the SPPS which is arguably less prescriptive, the retained policy of PPS7 will be given substantial weight in determining the principle of the proposal in accordance with paragraph 1.12 of the SPPS.

The proposed development comprises of semi-detached and terraced housing (mixed house types), with one detached property which is accessed separately from an existing access to the NE. The layout is generally reflective of original approvals at this location and is respective of the surrounding context of Lisbeg Park, Lismore and Lismore Park.

There are no identified features of archaeological or built heritage at this location. The proposed dwellings have been allocated adequate private amenity space, there is no public amenity space included in the scheme however the majority of dwellings will have a footway link to a gated area to the NE of the site to allow access to an existing play park and area of open space (this is located approximately 150m NE). The site is bounded by natural vegetation along the SW, NW and NE boundaries, proposals submitted show landscaped areas however to ensure protection of existing and proposed landscaped areas a condition should be added to the decision notice.

The site is located within the development limits of Crossmaglen and is within walking distance of local neighbour facilities, proposals also include footway linkages

into the existing footpath network allowing ease of movement, adequate parking has been allocated to the proposed housing with overall design of the development supporting existing form, materials and detailing.

The detached property is self-contained and set apart from the remainder of the development with access from a separate entrance from Dundalk Road, the proposed bungalow is located on a relatively large plot and is reflective of development immediately adjacent at 61 and 63.

The position of the proposed dwellings will not adversely affect the amenity of nearest neighbours. The position of houses allow for informal surveillance to deter crime and promote personal safety. Overall proposals fulfil the criteria of QD1 of PPS7.

PPS12 (PCP1, PCP2 and HS4)

Although the application is that of 19 dwellings as part of larger residential scheme of a total of 23 dwellings on a 0.37 ha site (See also LA07/2016/0227/F and LA07/2016/0228/F) density levels are lower than that of Lismore (2 ha/ 86 dwellings gives 0.02) and Lismore Park (1.22ha/40 dwellings is 0.03) and thus will not contribute to town cramming or overdevelopment of the site.

Design and layout of dwellings as part of an overall layout is similar to what was originally approved, the design of dwellings remains unchanged from previous and is generally reflective of built form in this particular area. Whilst the site has not been previously developed it is contained within the settlement limit of Crossmaglen with part of the site zoned for housing within the area plan. The location for such development is promoted within an existing settlement with access to local facilities. The proposed development along with the remaining 4 dwellings proposed under applications LA07/2016/0227/F and LA07/2016/0228/F offer a variety of types and sizes.

HS2 (Social Housing)

When the original applications were approved at this location (P/2007/0058/F, P/2009/0502/F and P/2011/0280/F) provision had to be made within the scheme to facilitate 18 social housing units. Whilst there was no letter of commitment put forward by the applicant, at the time a letter of interest was provided from the Fold Housing Association with applications approved accordingly with conditions relating to the provision of social housing.

Since the publication of the area plan there is no social housing need requiring plan intervention in Crossmaglen (See Paragraph on Social Housing of Volume 3 page 45) and thus this appears no longer to be a requirement in the area. Despite this the Housing Executive in their consultation dated 28.11.16 have advised of a projected housing need for 2020 of 10 social units this could be potentially accommodated through future land zoning within Crossmaglen.

Given that there was previously a requirement to facilitate 18 social rented houses as part of the scheme and as a renewal application this condition could simply be repeated. However as the Housing Executive requirements are much less than the

original provision made within the former planning application it is unreasonable to seek the original number of social rented units within this scheme. As a future social housing requirement this could be accommodated through future land zonings and housing opportunities within the area

The Planning Authority has outlined this to the agent and as a compromise following negotiation has agreed to a minimum of 3 social rented units to be made available within the scheme.

Consultations:

Housing Executive (28.11.16) - Identified a housing need to 2020 of 10 social housing units

NED (29.11.16) - Onus on the planner to complete a bio-diversity checklist

Transport NI (26.05.16 and 07.12.16) - No objection. Having considered the matters raised in the letter of objection Transport NI has nothing further to add to comments dated 26th May 2016.

Environmental Health (11.11.16) – Objections reviewed and refer to previous response 27.04.16. No objection in principle provided proposals are connected to public sewerage.

NIW (25.04.16) – Generic response (No objections raised)

NIEA (03.05.16):

Water Management – Content subject to conditions

Housing Executive (28.11.16) - Identified a housing need to 2020 of 10 social housing units

Objections & Representations

44 Neighbours Notified

Advertised 22.02.16

37 Objections received and 2 letters of support (Dundalk Road and No. 57 Dundalk Road)

1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 19 Lisbeg Park

Issues Raised:

- Object to any access being gained through Lisbeg Park
- Lisbeg is a cul-de-sac which already has limited parking
- Intensification of traffic, impact on safety and well-being, increased traffic danger to children and vehicle congestion

- Problem with sewerage and increase in vermin to area
- Devaluation of properties
- Other ways to gain access

Consideration of Issues:

- Transport NI in their consultation response dated 11.05.16 and 7.12.16 have raised no objections in relation to roads issues raised by objectors
- The applicant has indicated that foul sewerage will be dealt with through the main sewer. NIW in their consultation dated 25.04.16 advise that waste water treatment facilities are available at Crossmaglen WWTW to serve this proposal.
- Devaluation of properties is not a planning matter
- Increased vermin in the area - Environmental Health have been made aware of letters of objections that raise such concerns, however this is outside the remit of the Planning Authority

Consideration and Assessment:

Objections submitted have been fully considered and consultees have raised no concerns in respect of these.

The principle of residential development has been established by land zoning for this location but also the planning history associated with this site is a material consideration. Proposals set out are similar in form to what was previously approved at this location under planning reference P/2007/0058/F (P/2011/0280/F and P/2009/0502/F). Overall proposals meet the requirements of planning policy and for this reason it is recommended to approve the application.

Recommendation: Approval

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. Of the 19 No. dwellings hereby permitted, a minimum of 3 No. residential units shall be provided for social rented housing and shall only be managed and maintained by the Housing Executive or a housing association which is registered and regulated by the Department of Social Development (DSD) as social housing provider. Prior to occupation of the development, the developer shall inform the Planning Authority in writing which dwellings will be provided as social rented housing.

Reason: To meet an identified social rented housing need in this area.

3. Street layout and planning conditions relating to Transport NI requirements (Conditions 3, 4, 5, 6, 7, 8, 9, 10, 11 of P/2007/0058/F) shall be in accordance with approval issued under P/2007/0058/F

Reason: In the interests of road safety

4. No development should take place on-site until the method of sewage disposal has been agreed in writing with the Planning Authority and agreed by Northern Ireland Water (NIW) or a Consent to discharge has been granted under the terms of the Water (NI) Order 1999.

Reason: To ensure a practical solution to sewage disposal is possible at this site.

5. Development shall not begin until drainage works have been carried out in accordance with details to be submitted to and approved in writing by the Planning Authority.

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

6. During the first available planting season after the occupation of the first dwelling, or as otherwise agreed in writing with the Planning Authority, hard and soft landscaping works shall be carried out in accordance with the approved details indicated in Drawing No. 2 bearing the date stamp 15th February 2016.

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

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

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

8. If any retained tree is removed, uprooted or destroyed or dies within 3 years from the date of the occupation of the building for its permitted use another tree or trees shall be planted at the same place and that / those trees shall be of such size and species and shall be planted at such time as may be specified by the Planning Authority

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

9. No dwellings shall be occupied until such times as a landscape management and maintenance plan has been submitted to and approved by the Planning Authority setting out the period of the plan, long-term objectives, management

responsibilities, performance measures and maintenance schedules for all areas of open space and planting, other than small, privately owned domestic gardens (except for trees or other vegetation retained in the public interest). The landscape management plan shall be carried out as approved.

Reason: To ensure the successful establishment and long term maintenance of landscaping within and at the development in the interests of visual and residential amenity.

Case Officer:

Authorised Officer:

Photos:



NW looking SE (Lisbeg Park)



Lisbeg Park (NW boundary and proposed entrance to site)



16 Lisbeg Park (NW boundary and proposed entrance to site)



19 Lisbeg Park (NW boundary and proposed entrance to site)



Application Site (NW looking SE)



Lismore (NW looking SE)



Lismore (NW looking SE)



Lisbeg Park



N looking S



N looking S (Play Park Adjacent and N of site)



Boundary of No 63 (S looking N) (Detached House to be sited SW of 63)



Entrance of No 63 (Site to SW)



Entrance of No 63



Boundary of No.63 looking N/ NW/NE



Boundary of No.63 looking N/ NW/NE



No. 63 (Proposed housing to rear)



No. 63 (Proposed site to SW/NW)



Access to Nos 61 and 63 (Detached dwelling to be sited adjacent to 63)

ITEM NO 4

APPLIC NO LA07/2016/0227/F **Full** **DATE VALID** 2/16/16

COUNCIL OPINION **APPROVAL**

APPLICANT Mr Mark Devlin **AGENT** Like Architects 34
Bedford Street
Belfast
BT1 5JG

NA

LOCATION Lands adjacent and south east of Nos 16 and 19 Lisbeg Park
Lismore Dundalk
Crossnaglen (and adjacent and west/south of 63 Dundalk Road)

PROPOSAL Erection of residential development, comprising 2no dwellings with associated parking provision and ancillary works (with access via Lisbeg Park and road layout proposed in conjunction, application for 19no dwellings, under file Ref. P/2007/0058/F)

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



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Committee Application

Application Reference: LA07/2016/0227/F

Date Received: 16.02.16

Proposal: Erection of residential development, comprising 2no dwellings with associated parking provision and ancillary works (with access via Lisbeg Park and road layout proposed in conjunction, application for 19no dwellings, under file Ref. P/2007/0058/F)

Location: Lands adjacent and south east of Nos 16 and 19 Lisbeg Park, Lismore, Dundalk, Crossmaglen (and adjacent and west/south of 63 Dundalk Road)

Site Characteristics & Area Characteristics:

Site is located within the development limits of Crossmaglen situated to the SW of the settlement and accessed from the Dundalk Road via Lisbeg Park which is part of an existing housing development of Lisbeg Park, Lismore and Lismore Park that comprise of a mix of house types and finishes.

Site History:

P/2011/0280/F - Erection of residential development comprising 2 No. dwellings with associated parking provision and ancillary works (with access via Lisbeg Park and road layout approved under File Ref. P/2007/0058/F (Phase 1 for 19 No. dwellings)). Application being considered in conjunction with that for further 2No. dwellings, under File Ref. P/2009/0502/F (Phase 2), to provide a total of 22No. dwellings via Lisbeg Park. Lands adjacent and south-east of nos 16 & 19 Lisbeg Park Lismore Dundalk Road Crossmaglen (and adjacent and west/south-west of no. 63 Dundalk Road). Approve 26.07.11

P/2009/0502/F - Erection of residential development, comprising 2 No. dwellings, with associated parking provision and ancillary works (with access via Lisbeg Park and road layout approved as part of full application for 19No. dwellings, under File Ref. P/2007/0058/F). Lands adjacent and south-east of Nos 16 and 19 Lisbeg Park Lismore Dundalk Road Crossmaglen (and adjacent and west/south-west of No. 63 Dundalk Road). Approved 25.07.11 (Land immediately adjacent and SE). (Application Site)

P/2007/0058/F Erection of residential development comprising 19 No. dwellings with associated parking provision and ancillary works (with single (single storey) dwelling adjacent to No. 63 Dundalk Road to be accessed via private laneway shared with that to Nos 61 & 63 Dundalk Road and remaining dwellings to be accessed via Lisbeg Park) Lands adjacent and south-east of Nos 16 & 19 Lisbeg Park, Lismore, Dundalk Road, Crossmaglen (extending to the rear of and adjacent to Nos 61 & 63 Dundalk Road). Approved 27.05.11

Planning Policies & Material Considerations:

Banbridge/ Newry and Mourne Area Plan 2016 - Site is inside the development limits of Crossmaglen on land zoned for housing (CM07 – Committed housing)

Planning History: The principle of residential development has been established at the site for two dwellings through the grant of planning permission for P/2009/0502/F approved 25.07.11 (expiring 25.07.16). The current application was submitted 16.02.16 prior to expiry of this application, with the current application effectively a renewal of this permission

PPS3, DCAN15 and Parking Standards: Transport NI in comments dated 26.05.16 have no objection, each dwelling has adequate in curtilage parking for 2 vehicles

SPPS, PPS7 (QD1), DCAN 8 and Creating Places

Since the grant of the previous planning application at the site the publication of the SPPS is now a material consideration. However as there is no significant change to the policy requirements for housing in settlements following publication of the SPPS which is arguably less prescriptive, the retained policy of PPS7 will be given substantial weight in determining the principle of the proposal in accordance with paragraph 1.12 of the SPPS.

The proposed development comprises of semi-detached properties as part of a much larger residential scheme (See also LA07/2016/0226/F and LA07/2016/0228/F) with dwelling types and layout generally reflective of original approvals at this location but is also respectful of the surrounding context of Lisbeg Park, Lismore and Lismore Park.

There are no identified features of archaeological or built heritage at this location. The proposed dwellings have been allocated adequate private amenity space, there is no public amenity space included in the wider scheme however the proposed dwellings will have a footway link to a gated area to the NE of the site to allow access to an existing play park and area of open space (this is located approximately 150m NE).

There is an existing vegetative field boundary to the rear of the site, proposals submitted show landscaped areas however to ensure protection of existing and proposed landscaped areas a condition should be added to the decision notice.

The site is located within the development limits of Crossmaglen and is within walking distance of local neighbour facilities, proposals also include footway linkages into the existing footpath network allowing ease of movement, adequate parking has

been allocated to the proposed housing with overall design of the development supporting existing form, materials and detailing.

The position of the proposed dwellings will not adversely affect the amenity of existing nearest neighbours, the gable of the proposed dwelling has a separation of approximately 17.5m away from a proposed new dwelling applied for under planning application LA07/2016/0226/F. The semi-detached dwellings have a hall window at 1st floor given the separation distance as well as the window located within a non-habitual room is less intrusive. The position of houses allow for informal surveillance to deter crime and promote personal safety. Overall proposals fulfil the criteria of QD1 of PPS7.

PPS12 (PCP1, PCP2 and HS4)

Although the application is that of two dwellings as part of larger residential scheme of 23 dwellings on a 0.37 ha site (See also LA07/2016/0226/F and LA07/2016/0228/F) density levels are lower than that of Lismore (2 ha/ 86 dwellings gives 0.02) and Lismore Park (1.22ha/40 dwellings is 0.03) and thus will not contribute to town cramming or overdevelopment of the site.

Design and layout of dwellings as part of the overall larger scheme is similar to what was originally approved, the design of dwellings remain unchanged from previous and is generally reflective of built form in this particular area.

Whilst the site has not been previously developed it has nevertheless been zoned for housing within the area plan as a committed housing site promoting development within an existing settlement with access to local facilities. The two dwellings along with the remaining 21 proposed under applications LA07/2016/0226/F and LA07/2016/0228/F offer a variety of types and sizes.

HS2 (Social Housing)

When the original applications were approved at this location (P/2007/0058/F, P/2009/0502/F and P/2011/0280/F) provision had to be made within the scheme to facilitate 18 social housing units. Whilst there was no letter of commitment put forward by the applicant, at the time a letter of interest was provided from the Fold Housing Association with applications approved accordingly with conditions relating to the provision of social housing.

Since the publication of the area plan there is no social housing need requiring plan intervention in Crossmaglen (See Paragraph on Social Housing of Volume 3 page 45) and thus this appears no longer to be a requirement in the area. Despite this the Housing Executive in their consultation dated 28.11.16 have advised of a projected housing need for 2020 of 10 social units although this could potentially be accommodated through future land zoning within Crossmaglen.

Given that there was previously a requirement to facilitate 18 social rented houses as part of the scheme and as a renewal application this condition could simply be repeated. However as the Housing Executive requirements are much less than the original provision made within the former planning application it is unreasonable to seek the original number of social rented units within this scheme. As a future social

housing requirement this could be accommodated through future land zonings and housing opportunities within the area

The Planning Authority has outlined this to the agent and as a compromise following negotiation has agreed to a minimum of 3 social rented units to be made available within the larger scheme (LA07/2017/0226/F) to which this application is associated.

Consultations:

Transport NI (26.05.16 and 07.12.16) - No objection street layout to be in accordance with previous approval. Having considered the matters raised in the letter of objection Transport NI has nothing further to add to comments dated 26th May 2016.

NED (29.11.16) – Onus on the planner to complete a biodiversity checklist

NIEA (28.04.16) - Content subject to conditions

Environmental Health (27.04.16 and 09.11.16) - No objection

NIW (25.04.16) – Generic response

Objections & Representations

4 Neighbours Notified

Advertised 22.02.16

17 Objections received and 2 letters of support (57 Dundalk Road and Dundalk Road)

1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 15, 16, 17, 19 Lisbeg Park and Email from Ms Martin of No. 19

Issues Raised:

- Object to any access being gained through Lisbeg Park
- Lisbeg is a cul-de-sac which already has limited parking
- Intensification of traffic, impact on safety and well-being, increased traffic danger to children and vehicle congestion
- Problem with sewerage and increase in vermin to area
- Devaluation of properties
- Other ways to gain access

Consideration of Issues:

- Transport NI in their consultation response dated 11.05.16 have raised no objections in relation to roads issues raised by objectors

- The applicant has indicated that foul sewerage will be dealt with through the main sewer. NIW in their consultation dated 25.04.16 advise that waste water treatment facilities are available at Crossmaglen WWTW to serve this proposal.
- Devaluation of properties is not a planning matter
- Increased vermin in the area - Environmental Health have been made aware of letters of objections that raise such concerns, however this is outside the remit of the Planning Authority

Consideration and Assessment:

Objections submitted have been fully considered and consultees have raised no concerns in respect of these.

The principle of residential development has been established by land zoning for this location but also the planning history associated with this site is also a material consideration. Proposals set out are similar in form to what was previously approved at this location under planning reference P/2009/0502/F (P/2007/0058/F and P/2011/0280/F). Overall proposals meet the requirements of planning policy and for this reason it is recommended to approve the application.

Recommendation: Approval

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. Street layout and planning conditions relating to Transport NI requirements (Conditions 3, 4, 5, 6, 7 of P/2009/0502/F) shall be in accordance with approval issued under P/2009/00502/F

Reason: In the interests of road safety

3. No development should take place on-site until the method of sewage disposal has been agreed in writing with the Planning Authority and agreed by Northern Ireland Water (NIW) or a Consent to discharge has been granted under the terms of the Water (NI) Order 1999.

Reason: To ensure a practical solution to sewage disposal is possible at this site.

4. Development shall not begin until drainage works have been carried out in accordance with details to be submitted to and approved in writing by the Planning Authority.

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

5. During the first available planting season after the occupation of the first dwelling, or as otherwise agreed in writing with the Planning Authority, hard and soft landscaping works shall be carried out in accordance with the approved details indicated in Drawing No. 2 bearing the date stamp 15th February 2016.

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

6. 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 Planning Authority, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless the Planning Authority gives its written consent to any variation.

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

7. If any retained tree is removed, uprooted or destroyed or dies within 3 years from the date of the occupation of the building for its permitted use another tree or trees shall be planted at the same place and that / those trees shall be of such size and species and shall be planted at such time as may be specified by the Planning Authority

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

8. No dwellings shall be occupied until such times as a landscape management and maintenance plan has been submitted to and approved by the Planning Authority setting out the period of the plan, long-term objectives, management responsibilities, performance measures and maintenance schedules for all areas of open space and planting, other than small, privately owned domestic gardens (except for trees or other vegetation retained in the public interest). The landscape management plan shall be carried out as approved.

Reason: To ensure the successful establishment and long term maintenance of landscaping within and at the development in the interests of visual and residential amenity.

Case Officer:

Authorised Officer:

Photos:



NW looking SE (Lisbeg Park)



Lisbeg Park (NW boundary and proposed entrance to site)



16 Lisbeg Park (NW boundary and proposed entrance to site)



19 Lisbeg Park (NW boundary and proposed entrance to site)



Application Site (NW looking SE)



Lismore (NW looking SE)



Lismore (NW looking SE)



Lisbeg Park



N looking S



N looking S (Play Park Adjacent and N of site)



Boundary of No 63 (S looking N)



Entrance of No 63 (Site to SW)



Entrance of No 63



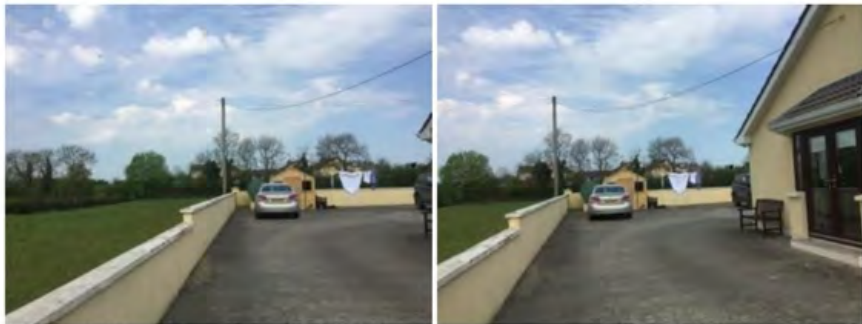
Boundary of No.63 looking N/ NW/NE



Boundary of No.63 looking N/ NW/NE



No. 63 (Proposed housing to rear)



No. 63 (Proposed site to NW)



Access to Nos 61 and 63

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

ITEM NO	5			
APPLIC NO	LA07/2016/0228/F	Full	DATE VALID	2/16/16
COUNCIL OPINION	APPROVAL			
APPLICANT	Mr Mark Devlin	AGENT	Like Architects 34 Bedford Street Belfast BT1 5JG NA	
LOCATION	Lands adjacent and south east of Nos 16 and 19 Lisbeg Park Lismore Dundalk Crossnaglen (and adjacent and west/south of 63 Dundalk Road)			
PROPOSAL	Erection of residential development, comprising 2no dwellings with associated parking provision and ancillary works (with access via Lisbeg Park and road layout proposed in conjunction, application for 19no dwellings, under file Ref. P/2007/0058/F)			
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions
	0	0	0	0
	Addresses Signatures			
	0	0	0	0



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Committee Application

Application Reference: LA07/2016/0228/F

Date Received: 16.02.2016

Proposal: Erection of residential development, comprising 2 no dwellings with associated parking provision and ancillary works (with access via Lisbeg Park and road layout proposed in conjunction, application for 19 no dwellings, under file Ref. P/2007/0058/F)

Location: Lands adjacent and south east of Nos 16 and 19 Lisbeg Park, Lismore Dundalk, Crossmaglen (and adjacent and west/south of 63 Dundalk Road)

Site Characteristics & Area Characteristics:

Site is located within the development limits of Crossmaglen situated to the SW of the settlement and accessed from the Dundalk Road via Lisbeg Park which is part of an existing housing development of Lisbeg Park, Lismore and Lismore Park that comprise of a mix of house types and finishes.

Site History:

P/2011/0280/F - Erection of residential development comprising 2 No. dwellings with associated parking provision and ancillary works (with access via Lisbeg Park and road layout approved under File Ref. P/2007/0058/F (Phase 1 for 19 No. dwellings)). Application being considered in conjunction with that for further 2No. dwellings, under File Ref. P/2009/0502/F (Phase 2), to provide a total of 22No. dwellings via Lisbeg Park. Lands adjacent and south-east of nos 16 & 19 Lisbeg Park Lismore Dundalk Road Crossmaglen (and adjacent and west/south-west of no. 63 Dundalk Road). Approve 26.07.11 (Application Site)

P/2009/0502/F - Erection of residential development, comprising 2 No. dwellings, with associated parking provision and ancillary works (with access via Lisbeg Park and road layout approved as part of full application for 19No. dwellings, under File Ref. P/2007/0058/F). Lands adjacent and south-east of Nos 16 and 19 Lisbeg Park Lismore Dundalk Road Crossmaglen (and adjacent and west/south-west of No. 63 Dundalk Road). Approved 25.07.11 (Land immediately adjacent and SE)

P/2007/0058/F Erection of residential development comprising 19 No. dwellings with associated parking provision and ancillary works (with single (single storey) dwelling adjacent to No. 63 Dundalk Road to be accessed via private laneway shared with that to Nos 61 & 63 Dundalk Road and remaining dwellings to be accessed via Lisbeg Park) Lands adjacent and south-east of Nos 16 & 19 Lisbeg Park, Lismore, Dundalk Road, Crossmaglen (extending to the rear of and adjacent to Nos 61 & 63 Dundalk Road). Approved 27.05.11

Planning Policies & Material Considerations:

Banbridge/ Newry and Mourne Area Plan 2016 - Site is inside the development limits of Crossmaglen on land zoned for housing (CM07 – Committed housing)

Planning History: The principle of residential development has been established at the site for two dwellings through the grant of planning permission for P/2011/0280/F approved 26.07.11 (expiring 26.07.16). The current application was submitted 16.02.16 prior to expiry of this application, with the current application effectively a renewal of this permission

PPS3, DCAN 15 and Parking Standards: Transport NI in comments dated 11.05.16 have no objection, each dwelling has adequate in curtilage parking for 2 vehicles

SPPS, PPS7 (QD1), DCAN8 and Creating Places

Since the grant of the previous planning application at the site the publication of the SPPS is now a material consideration. However as there is no significant change to the policy requirements for housing in settlements following publication of the SPPS which is arguably less prescriptive, the retained policy of PPS7 will be given substantial weight in determining the principle of the proposal in accordance with paragraph 1.12 of the SPPS.

The proposed development comprises of semi-detached properties as part of a much larger residential scheme (See also LA07/2016/0227/F and LA07/2016/0226/F) with dwelling types and layout generally reflective of original approvals at this location but is also respectful of the surrounding context of Lisbeg Park, Lismore and Lismore Park.

There are no identified features of archaeological or built heritage at this location. The proposed dwellings have been allocated adequate private amenity space, there is however no public amenity space included in the wider scheme however the proposed dwellings will have a footway link to a gated area to the NE of the site to allow access to an existing play park and area of open space (this is located approximately 150m NE). There is an existing vegetative field boundary to the rear of the site, proposals submitted show landscaped areas however to ensure protection of existing and proposed landscaped areas a condition should be added to the decision notice.

The site is located within the development limits of Crossmaglen and is within walking distance of local neighbour facilities, proposals also include footway linkages into the existing footpath network allowing ease of movement, adequate parking has

been allocated to the proposed housing with overall design of the development supporting existing form, materials and detailing.

The position of the proposed dwellings will not adversely affect the amenity of nearest neighbours. The position of houses allow for informal surveillance to deter crime and promote personal safety. Overall proposals fulfil the criteria of QD1 of PPS7.

PPS12 (PCP1, PCP2 and HS4)

Although the application is that of two dwellings as part of larger residential scheme of 23 dwellings on a 0.37 ha site (See also LA07/2016/0226/F and LA07/2016/0227/F) density levels are lower than that of Lismore (2 ha/ 86 dwellings gives 0.02) and Lismore Park (1.22ha/40 dwellings is 0.03) and thus will not contribute to town cramming or overdevelopment of the site.

Design and layout of dwellings as part of an overall layout is similar to what was originally approved, the design of dwellings remains unchanged from previous and is generally reflective of built form in this particular area. Whilst the site has not been previously developed it has nevertheless been zoned for housing within the area plan as a committed housing site promoting development within an existing settlement with access to local facilities. The two dwellings along with the remaining 21 proposed under applications LA07/2016/0226/F and LA07/2016/0227/F offer a variety of types and sizes.

HS2 (Social Housing)

When the original applications were approved at this location (P/2007/0058/F, P/2009/0502/F and P/2011/0280/F) provision had to be made within the scheme to facilitate 18 social housing units. Whilst there was no letter of commitment put forward by the applicant, at the time a letter of interest was provided from the Fold Housing Association with applications approved accordingly with conditions relating to the provision of social housing.

Since the publication of the area plan there is no social housing need requiring plan intervention in Crossmaglen (See Paragraph on Social Housing of Volume 3 page 45) and thus this appears no longer to be a requirement in the area. Despite this the Housing Executive in their consultation dated 28.11.16 have advised of a projected housing need for 2020 of 10 social units although this could potentially be accommodated through future land zoning within Crossmaglen.

Given that there was previously a requirement to facilitate 18 social rented houses as part of the scheme and as a renewal application this condition could simply be repeated. However as the Housing Executive requirements are much less than the original provision made within the former planning application it is unreasonable to seek the original number of social rented units within this scheme. As a future social housing requirement this could be accommodated through future land zonings and housing opportunities within the area

The Planning Authority has outlined this to the agent and as a compromise following negotiation has agreed to a minimum of 3 social rented units to be made available within the larger scheme (LA07/2017/0226/F) to which this application is associated.

Consultations:

Transport NI (11.05.08 and 07.12.16) – No objection street layout to be in accordance with previous approval. Having considered the matters raised in the letter of objection Transport NI has nothing further to add to comments dated 26th May 2016.

Environmental Health (25.04.16) – No objection

NIW (25.04.16) – Generic response

NED (29.11.16) – Onus is on the planner to complete a biodiversity checklist

NIEA (28.04.16) – Content subject to conditions

Housing Executive (28.11.16) - Identified a housing need to 2020 of 10 social housing units

Objections & Representations

17 Neighbours Notified

Advertised 22.02.16

17 Objections received

1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 15, 16, 17, 19 Lisbeg Park and email from Ms Martin of No. 19

Issues Raised:

- Object to any access being gained through Lisbeg Park
- Lisbeg is a cul-de-sac which already has limited parking
- Intensification of traffic, impact on safety and well-being, increased traffic danger to children and vehicle congestion
- Problem with sewerage and increase in vermin to area
- Devaluation of properties
- Other ways to gain access

Consideration of Issues:

- Transport NI in their consultation response dated 11.05.16 have raised no objections in relation to roads issues raised by objectors
- The applicant has indicated that foul sewerage will be dealt with through the main sewer. NIW in their consultation dated 25.04.16 advise that waste water

treatment facilities are available at Crossmaglen WWTW to serve this proposal.

- Devaluation of properties is not a planning matter
- Increased vermin in the area - Environmental Health have been made aware of letters of objections that raise such concerns, however this is outside the remit of the Planning Authority

Consideration and Assessment:

Objections submitted have been fully considered and consultees have raised no concerns in respect of these.

The principle of residential development has been established by land zoning for this location but also the planning history associated with this site is also a material consideration. Proposals set out are similar in form to what was previously approved at this location under planning reference P/2011/0280/F (P/2007/0058/F and P/2009/0502/F). Overall proposals meet the requirements of planning policy and for this reason it is recommended to approve the application.

Recommendation: Approval

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. Street layout and planning conditions relating to Transport NI requirements (Conditions 2, 3, 4, 5 and 6 of P/2011/0280/F) shall be in accordance with approval issued under P/2011/0280/F

Reason: In the interests of road safety

3. No development should take place on-site until the method of sewage disposal has been agreed in writing with the Planning Authority and agreed by Northern Ireland Water (NIW) or a Consent to discharge has been granted under the terms of the Water (NI) Order 1999.

Reason: To ensure a practical solution to sewage disposal is possible at this site.

4. Development shall not begin until drainage works have been carried out in accordance with details to be submitted to and approved in writing by the Planning Authority.

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

5. During the first available planting season after the occupation of the first dwelling, or as otherwise agreed in writing with the Planning Authority, hard and soft landscaping works shall be carried out in accordance with the approved details indicated in Drawing No. 2 bearing the date stamp 15th February 2016.

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

6. 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 Planning Authority, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless the Planning Authority gives its written consent to any variation.

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

7. If any retained tree is removed, uprooted or destroyed or dies within 3 years from the date of the occupation of the building for its permitted use another tree or trees shall be planted at the same place and that / those trees shall be of such size and species and shall be planted at such time as may be specified by the Planning Authority

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

8. No dwellings shall be occupied until such times as a landscape management and maintenance plan has been submitted to and approved by the Planning Authority setting out the period of the plan, long-term objectives, management responsibilities, performance measures and maintenance schedules for all areas of open space and planting, other than small, privately owned domestic gardens (except for trees or other vegetation retained in the public interest). The landscape management plan shall be carried out as approved.

Reason: To ensure the successful establishment and long term maintenance of landscaping within and at the development in the interests of visual and residential amenity.

Case Officer:

Authorised Officer:

Photos:



NW looking SE (Lisbeg Park)



Lisbeg Park (NW boundary and proposed entrance to site)



16 Lisbeg Park (NW boundary and proposed entrance to site)



19 Lisbeg Park (NW boundary and proposed entrance to site)



Application Site (NW looking SE)



Lismore (NW looking SE)



Lismore (NW looking SE)



Lisbeg Park



N looking S



N looking S (Play Park Adjacent and N of site)



Boundary of No 63 (S looking N)



Entrance of No 63 (Site to SW)



Entrance of No 63



Boundary of No.63 looking N/ NW/NE



Boundary of No.63 looking N/ NW/NE



No. 63 (Proposed housing to rear)



No. 63 (Proposed site to NW)



Access to Nos 61 and 63

ITEM NO	7			
APPLIC NO	LA07/2016/0527/F	Full	DATE VALID	4/18/16
COUNCIL OPINION	REFUSAL			
APPLICANT	Joan Henderson 14 Greenpark Road Rostrevor Newry BT34 3EY	AGENT	Newline Architects 48 Main Street Castledawson BT45 8AB	
			NA	
LOCATION	200m south east of 21 Levallyreagh Road Rostrevor Newry BT34 3DW			
PROPOSAL	Change of house type from previously approved application P/2010/1299/F			
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions
	0	0	0	0
			Addresses Signatures	Addresses Signatures
			0 0	0 0
1	The proposal is contrary to Policy CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside and paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland (SPPS), in that the previous planning permission on this site has lapsed and there is now no dwelling to replace, the overall size of the proposed replacement dwelling would have a visual impact significantly greater than the original building, and the design of the replacement dwelling is not of a high quality appropriate to its rural setting.			
2	The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed building would be a prominent feature in the landscape, the proposed 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 the proposed building fails to blend with existing natural features which provide a backdrop, 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 building would, if permitted, be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside.			
4	The proposal is contrary to paragraph 6.187 of the Strategic Planning Policy Statement for Northern Ireland and Policy NH6 of Planning Policy Statement 2, Natural Heritage, in that the site lies in a designated Area of Outstanding Natural Beauty and the development is of an inappropriate design, size and scale for the locality and is out of keeping with local architectural styles and patterns and the special character of the Mourne and Slieve Croob AONB.			



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2016/0527/F

Date Received: 18th April 2016

Proposal: Change of house type from previously approved application P/2010/1299/F

Location: 200m South East of 21 Levallyreagh Road, Rostrevor, Newry, BT34 3DW.
The site is located 1 mile NW of Rostrevor.

Site Characteristics & Area Characteristics:

The site is a relatively square agricultural field which slopes from east to west towards the Levallyreagh Road. It has one internal boundary of trees running perpendicular to the road from the entrance halfway across the field. It contained a former dwelling which has now been demolished. While the ground in this area appears to have been disturbed, there was no evidence of foundations for a new dwelling on the site that was approved under application P/2010/1299/F.





The site is located in a rural area 1 mile NW of Rostrevor. It is outside settlement limits on the Banbridge, Newry and Mourne Area Plan 2015 and within the Mourne and Slieve Croob Area of Outstanding Natural Beauty. The main land uses in the area are agriculture and residential.

Site History:

Planning permission was granted for erection of a replacement dwelling and garage under application P/2010/1299/F on 6th April 2011, subject to 8 conditions. Condition 1 was a standard 5-year time limit for commencement of development. Conditions 2 and 3 were pre-commencement conditions. Condition 2 required the demolition of the dwelling to be replaced prior to the construction of the new dwelling. Condition 3 required that the vehicular access, including visibility splays and forward sight line, be provided prior to the commencement of any other works or development. This permission would have lapsed on 6th April 2016 unless all pre-commencement conditions had been complied with and development was commenced before this date.

The current application LA07/2016/0527/F for a change of house type was made on 18th April 2016, after the previous permission's end-date. Therefore evidence was requested to demonstrate that the previous permission remained live. Following a series of letters and emails, it was agreed that a CLUD application should be made for a formal determination on whether development had commenced. The change of house type application was held pending the outcome of the CLUD application.

The CLUD application LA07/2017/0053/LDE was refused on 14th July 2017 as it was not demonstrated that condition 3 (requiring the provision of the access and visibility splays prior to the commencement of development) had been complied with. This means there is no live approval on the site to 'trade' for the amended house type. As the previous dwelling has now been demolished, there is no building to replace under policy CTY3.

Planning Policies & Material Considerations:

- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Banbridge, Newry & Mourne Area Plan 2015
- PPS2 – Natural Heritage
- PPS3 – Access, Movement & Parking
- DCAN15 – Vehicular Access Standards
- PPS15 – Planning and Flood Risk
- PPS21 – Sustainable Development in the Countryside
- Building on Tradition Sustainable Design Guide

Consultations:

Roads Service – No objections subject to standard conditions regarding provision of access and gradient.

NI Water – Standard informatives.

Rivers Agency – Standard informatives.

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

Objections & Representations

One neighbouring property was notified of the proposal on 9th May 2016 and the application was advertised in local newspapers on 13th May 2016. No third party objections or representations were received.

Consideration and Assessment:

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is currently within the remit of the Banbridge / Newry & Mourne Area Plan 2015 as the new council has not yet adopted a local development plan. The site is located outside settlement limits on the above Plan, and is unzoned. It is within the Mournes and Slieve Croob Area of Outstanding Natural Beauty. 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.

As there is no significant change to the policy requirements for replacement dwellings following the publication of the SPPS and it is arguably less prescriptive, the retained policy of PPS21 will be given substantial weight in determining the principle of the proposal in accordance with paragraph 1.12 of the SPPS. Policy CTY1 states that a range of types of development are acceptable in principle in the countryside. This includes replacement dwellings if they are in accordance with Policy CTY3.

It was determined under the CLUD application LA07/2017/0053/LDE that the previous permission had lapsed before the submission of the current application for change of house type as the pre-commencement condition relating to access has not been complied with. Some evidence was submitted to show that the existing

dwelling was demolished in October 2015 in compliance with Condition 2. An existing stream was culverted at this time to provide access to the site and part of the foundation for the new dwelling and test holes were dug. An invoice for these works dated 20th November 2015 was provided. It is noted that Building Control has no record of foundation inspections on the site. Based on the evidence submitted, it seems likely on the balance of probability that trenches were excavated within the approved time limit, notwithstanding the fact that there is now no evidence of this work on the ground. **However, the works would not have been lawful unless the other pre-commencement condition relating to access had been complied with.**

It is acknowledged that an access has been created at some expense including the culverting of the roadside watercourse. However, the access is not in the approved position and the visibility splays have not been provided as required under Condition 3. The agent has argued that the splays were provided and the hedge has now grown back due to lack of maintenance. This is not credible. The access is in the wrong place and only a very small section of roadside hedge was removed, not the extent required to create the approved visibility splays. They have also been blocked by a fence. There has been no hedge removal to the south where there is a bend in the road. The original hedge plants of some maturity clearly remain and their presence creates a road safety issue for any users of the access such as construction vehicles (see photos below). The access and visibility splays were not provided as approved and on this basis, Condition 3 has not been complied with. Since the pre-commencement condition relating to access has not been complied with, any other works undertaken to demonstrate commencement were unlawful and are now immaterial as the permission has lapsed.



Northern visibility splay blocked by fencing and whin bushes



Original hedge to south remains, showing visibility splay was never created

Consideration has also been given to the amended house type. The dwelling previously approved was traditional in scale and design with simple rural forms and external finishes. The ridge height was 7m. The current proposal is for a much more ornate house with an L-shaped plan form incorporating a circular stone tower, several double storey projections and a double storey window at the staircase. The highest part of the roof is 7.9m. No external finishes have been indicated on the drawing. The overall size of the new dwelling (a total of 348m² floorspace) is considered excessive for this site. It would not meet the policy tests of CTY3, CTY13 and CTY14 as it would be unduly prominent when viewed from Levallyreagh Road and its visual impact would be significantly greater than the original building which was to be replaced (or indeed the approved dwelling, permission for which has lapsed). The design of the building is poor and it reads as a collection of unrelated design features. The existing natural screenings of the site would not be sufficient to satisfactorily integrate the scale of dwelling proposed. It would rely on new landscaping and would not blend with its backdrop of rising land due to its overall size. The scale of the proposal is not sympathetic to the special character of the Mourne and Slieve Croob Area of Outstanding Natural Beauty and of this particular rural locality where there are few buildings of this scale. The design does not respect local architectural styles and patterns, but introduces non-traditional features such as the round tower, two storey projections and two storey windows. It is therefore contrary to policy NH6 of PPS2. It is not designed in accordance with the advice for replacement dwellings on pages 90 - 101 of the Building on Tradition Sustainable Design Guide.

There are no concerns regarding the proposed access arrangement under PPS3 provided it is built in the right place and at an acceptable gradient. Rivers Agency provided advice regarding culverting of the river across the entrance³, though they had previously consented to a section of culvert at this location. Therefore there are no concerns under PPS15.

In summary, the evidence presented has not demonstrated that planning approval P/2010/1299/F has been lawfully implemented. It has now lapsed and cannot be 'traded' for an amended house type. There is now no dwelling on the site to replace, so the new proposal for a dwelling would not meet the requirements of policy CTY3, and following on from this, CTY1. The design of the proposed dwelling is unacceptable under policies CTY3, CTY13, CTY14 and NH6.

Recommendation: Refusal

Refusal Reasons:

1. The proposal is contrary to Policy CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside and paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland (SPPS), in that the previous planning permission on this site has lapsed and there is now no dwelling to replace, the overall size of the proposed replacement dwelling would have a visual impact significantly greater than the original building, and the design of the replacement dwelling is not of a high quality appropriate to its rural setting.
2. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed building would be a prominent feature in the landscape, the proposed 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 the proposed building fails to blend with existing natural features which provide a backdrop, 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 building would, if permitted, be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside.
4. The proposal is contrary to paragraph 6.187 of the Strategic Planning Policy Statement for Northern Ireland and Policy NH6 of Planning Policy Statement 2, Natural Heritage, in that the site lies in a designated Area of Outstanding Natural Beauty and the development is of an inappropriate design, size and scale for the locality and is out of keeping with local architectural styles and patterns and the special character of the Mourne and Slieve Croob AONB.

Case Officer Signature:

Date:

Appointed Officer Signature:

Date:

ITEM NO 9
APPLIC NO LA07/2016/0748/O Outline **DATE VALID** 6/7/16
COUNCIL OPINION REFUSAL
APPLICANT Mr Andrew Henry And Miss Jemma Clarke 90 Drumalt Road Cullyhanna Newry BT35 0QB
AGENT Cornett Design Associates Ltd 4 Hartford Place The Mall Armagh BT61 9BJ 02837523330

LOCATION 150m North of 81 Dundalk Road Newtownhamilton Newry BT35 0PR

PROPOSAL Erection of dwelling and detached garage

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

- 1 The proposal is contrary to Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
- 2 The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) in that the proposed new building is not visually linked or sited to cluster with an established group of buildings on the farm and does not merit being considered as an exceptional case in that evidence submitted by a competent independent authority does not justify an alternative site and no verifiable plans to expand the farm business to justify an alternative site have been provided to the Planning Department.
- 3 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 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 the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm, and therefore would not visually integrate into the surrounding landscape.
- 4 The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, be unduly prominent in the landscape, would result in a suburban style build-up of development when viewed with existing buildings, would not respect the traditional pattern of settlement exhibited in the are and would therefore result in a detrimental change to the rural character of the countryside.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2016/0748/O

Date Received: 07 June 2016

Proposal: Erection of Dwelling and Detached Garage

Location: The site address is given as 150m North of 81 Dundalk Road, Newtownhamilton. It lies outside the development limits of Newtownhamilton and is approximately 13 kilometres SW of Newry.

Site Characteristics & Area Characteristics:

The site forms part of larger agricultural fields and has a road frontage to Dundalk Road along the eastern boundary. Access is provided via an agricultural gate from Dundalk Road. The application site is irregular in shape with the long, rectangular portion to the north gradually rising as you travelling south and the land within the southern portion of the site falling in level as you travel south. The western boundary of the site is defined by high, mature hedging, with a portion of the eastern and northern boundaries formed for the southern portion of the site by hedging.

The surrounding area is rural in character. The closest residential dwelling sits approx. 96 metres NW of the application site on the western side of Dundalk Road (No. 85). There are residential properties and farm buildings further south of the site.

Site History:

There is no relevant site history

Planning Policies & Material Considerations:

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

Consultations:

Consultations were issued to Transport NI, NI Water and DAERA.

- Transport NI – No objection (23/12/2016).
- NI Water – No objection, generic response (20/06/2016).

- DAERA – The farm business has been in existence for more than 6 years and single farm payment is claimed (20/06/2016).

Objections & Representations

There was one neighbour notification issued for this proposal. The application was advertised in the local press on 13th June 2016. There were no representations received.

Consideration and Assessment:

Principle of Development

CTY 10 Dwellings on Farms – permission will be granted where (a) the farm business has been active for over 6 years and (b) no development opportunities have been sold from the farm holding in the last 10 years and (c) the new building is visually linked to or sited to cluster with an established group of buildings on the farm, 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 groups.

DAERA has confirmed that there has been an active farm business for over 6 years. I am satisfied that the farm is active and established for the purpose for CTY 10 criteria a. A planning history search shows that no other sites have been approved for dwellings on the farm. The only concern is whether the proposal complies with Criteria c of CTY 10 in terms of grouping with the established group of buildings on the farm or if the proposal falls in the exceptional circumstances category and demonstrable evidence justifies this.

The farm business is registered to 108 Dundalk Road, Newtownhamilton on which sits a two storey farm dwelling and associated out buildings. There are farm sheds on the north side of Dundalk Road (opposite 108 Dundalk Road). A second parcel of land belonging to the farm hold is at Drumalt Road, approximately 0.76km NE from the registered farm business address, identified as Parcel 11 on the submitted farm maps, which has a dwelling and sheds adjacent to the east.

This application proposes a farm dwelling on a third parcel of land along Dundalk Road where there are no established farm buildings to visually link or cluster with. As outlined above, Criteria (c) of Policy CTY 10 detailed that under exceptional circumstances consideration will be given to an alternative site on the farm provided there are no other sites available at another group of buildings on the farm or out-farm and where there are demonstrable health and safety reasons or verifiable plans to expand the farm business at the existing building group(s).

In an attempt to justify this proposal as an exceptional case, a Health and Safety Audit prepared by MG Safety Services LTD. on behalf of the client was submitted to the Planning Department as well as written correspondence from the agent outlining why the building could not be sited to cluster / visually link with the existing farm buildings. The health and safety audit outlined the general hazards most common to farms and also specified hazards relating to the land surrounding the established

farm buildings at 108 Dundalk Road and at Drumalt Road. Specific issues and hazards raised relating to the existing farm include:

- the use of existing accesses would risk contact with machinery and animals;
- the poor surface conditions of existing accesses;
- the opening and closing of gates that segregate livestock to allow vehicular access;
- the applicants partner is not familiar with dangers and hazards on farms neither would their children;
- risk of inhalation and fire from fumes;
- the spillage of fuel;
- the presence of a river which is susceptible to flooding
- the absence of security fencing and lockable gates and
- the erection of anti-climb fencing around farm is not practicable or economically viable.

Further, it was outlined in correspondence from the agent that *"the land at 108 Dundalk Road and in particular parcels 1, 2, 3 and 10 are unsuitable due to the easy access to the farm yard and buildings which are used daily for farming and heavy machinery, including slurry tanks and pits, there is also safety aspects for the animals and with this veterinary inspections"*. The agent also stated that land within Parcel 11 on the farm maps, is rocky in nature and is too small and restrictive in access to site a dwelling.

While the potential hazards and dangers associated with a running farm are extremely important to consider, it is noted that the hazards as outlined in the submitted audit report are not solely specific to this farm and are aspects experienced by every operational farm across Northern Ireland and it is anticipated that farmers implement measures and standard practices to adhere to the health and safety legislation and guidance as outlined by the Health and Safety Executive of Northern Ireland to reduce potential risks to those living and working on farms. The farm dwelling policy as outline by CTY 10 is clear that new dwellings are to be sited to cluster or visually link with the existing farm building and it is considered measures can be put in place to deal with the hazards specified as is the case with all new dwellings on farms. It is not considered justifiable to permit the proposal as outlined by this application on health and safety grounds which are relevant and overcome on all other farms.

To address the 75 metre setback of new farm buildings to dwellings as cited in the audit report, it must be clarified that this is only a recommendation and is implemented to protect properties surrounding the farm which are not associated with it, this is not the case for this proposal.

The Planning Department met with the applicant on site and had discussed an alternative site for the proposed farm dwelling on land south of the registered farm building farm dwelling at 108 Dundalk Road which would fulfil the criteria of CTY 10 in that a new dwelling could both cluster with the established farm dwelling and farm buildings on the southern side of the road and visually link with the established farm sheds on the northern side of the road when viewed from the Dundalk Road to the west. It was suggested that a new dwelling at this location could use the existing

access to the west (rear) of the existing farm dwelling, however the applicant explained the farm dwelling was currently occupied by a relative and they currently access land to the south / south-east of the dwelling through the field to the west of the farm dwelling. The applicant stated that using this existing access could present difficulties in obtaining a mortgage; however the Planning Department explained to the applicant that this was not a planning consideration. It is noted that the existing farm dwelling is served by two accesses, one to the east (front of the dwelling) and one to the west (rear of the dwelling). It is considered that the use of the existing access to reach the alternative site selected by Planning Department is not impracticable or unachievable. The audit report further specifies that a river runs along the western boundary of the farm presenting safety concerns, there is substantial distance (approx. 85 metres) between the river and the alternative site suggested by the Planning Department and measures can be put in place to secure access to this river.

The P1C form provided with this application detailed that the application site selected for the dwelling would be farmed solely by the applicant in the future and this is where the applicant hopes to expand the farm. Further, it was detailed that it was considered a waste of resources by the applicant to invest in the existing farm buildings and the development of a dwelling on the site selected would lead to new farm buildings being created here to run the farm in an economical manner. No evidence to demonstrate any future expansion of the farm business such as valid planning permission, building control approvals or contractual obligations to supply farm produce as outlined by section 5.42 of policy CTY 10 has been submitted to the Planning Department to support these reasons for siting a dwelling away from the established farm buildings. The applicant was advised that new farm buildings at the chosen site may need a planning permission.

It is considered the proposal fails to meet criteria (c) of policy CTY10 and is therefore unacceptable in principle as development in the countryside under policy CTY1. It is contrary to the equivalent policy in the SPPS (paragraph 6.73).

Integration and Design

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

With regard to integration, a new dwelling on the site would be viewed from Dundalk Road and due to the topography within the site would be prominent particularly when travelling north along Dundalk Road on approach to the site. While there is significant hedging defining the site boundary presently along Dundalk Road, approx. 65 metres of the length of this hedge will have to be removed to enable the required site lines to be achieved. Further a new boundary is required to define the southern boundary of the application site. It is considered that the site will lack mature boundaries and will be relying on new landscaping for integration which would take a significant time to mature and until then there would be no adequate form of enclosure resulting in an adverse impact on the local views. As previously stated, it is not visually linked or sited to cluster with an established group of buildings on the farm. The planning department have been provided with an indicative house design

and layout however no definitive detailed design for consideration at outline state, however the proposal fails on criteria (a), (b), (c), (f) and (g) of Policy CTY 13.

It is considered the proposed building would be unduly prominent in the landscape as discussed above. It would create an impression of suburban-style build-up in the area when viewed with the surrounding dwellings to the south and north-west. It is not in keeping with the desired settlement pattern for the area of clustered farm groups, but instead represents a one-off development in the countryside. As no ancillary works are proposed under this outline application, it is difficult to assess the application under criteria (e), but the application is contrary to the other four criteria of policy CTY14, and also policy CTY8.

Access

Transport NI were consulted on this application. They requested further details regarding forward sight distance and sight lines. Following re-consultation on receipt of an amended drawing, Transport NI provided an RS1 form to be attached to any outline approval.

Amenity

There is sufficient separation distance from the neighbouring dwelling that a new dwelling would not adversely affect existing residential amenity at No. 85 and No. 81.

In summary, the proposal is contrary to policies CTY1, CTY10, CTY13 and CTY14 of PPS21 and paragraph 6.73 of the SPPS. We consider that this application fails to satisfy all the criteria of CTY 10 as evidence from a competent and independent authority was not sufficient in justifying a dwelling away from established farm buildings and no evidence relating to the proposed future expansion of the farm business has been provided.

This application is therefore recommended for refusal.

Recommendation:

Refusal

Refusal Reasons/ Conditions:

1. The proposal is contrary to Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) in that the proposed new building is not visually linked or sited to cluster with an established group of buildings on the farm and does not merit being considered as an exceptional case in that evidence submitted by a competent independent authority does not justify an alternative site and no verifiable plans to expand the farm business to justify an alternative site have been provided to the Planning Department.

3. 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 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 the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm, and therefore would not visually integrate into the surrounding landscape.

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

Case Officer Signature:
Date:
Appointed Officer Signature:
Date:

RE: Speaking Rights - Item 36 LA07/2016/0748/0 - 150M N of 81 Dundalk Road, Newtownhamilton

The points I will be discussing are as follows,

- current site
- alternative sites
- health and safety issues
- applicants needs
- future development of farm

Regards

Alastair Parke

On behalf of Cornett Design Associates

Cornett Design Associates
4 Hartford Place
The Mall
Armagh
BT61 9BJ

Tel: 028 37 523330

Fax: 028 37 528808

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ITEM NO 17
APPLIC NO LA07/2016/1483/F Full **DATE VALID** 11/3/16
COUNCIL OPINION REFUSAL
APPLICANT Mr Michael McConville 19 **AGENT** Henry Marshall Brown
 Carrickrovaddy Road Architectural Partnership 10
 Jerrettspass Union Street
 Newry Cookstown
 BT34 1SN BT80 8NN
 028 86763515

LOCATION Land approx. 100m NW of 16 Carrickrovaddy Road
 Jerrettspass
 Newry
 BT34 1SN

PROPOSAL Proposed free range poultry shed with 2no feed bins and a standby generator building
 (poultry shed to contain 16,000 free range hens laying eggs)

REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions
	4	0	0	0

Addresses Signatures Addresses Signatures

- 1 The proposal is contrary to the Strategic Planning Policy Statement and Policy CTY12 of Planning Policy Statement 21 in that
 - it is not appropriate to this location due to the unacceptable character and scale of the development;
 - the development, if permitted, would not visually integrate into the local landscape without the provision of additional landscaping;
 - the proposal is sited away from the existing farm buildings and it has not been demonstrated that there are no alternative sites available at another group of buildings on the holding and
 - that health and safety reasons exist to justify an alternative site away from the existing farm buildings;
 - that the alternative site away is essential for the efficient functioning of the business.

- 2 The proposal is contrary to the Strategic Planning Policy Statement and Policy CTY13 and Policy CTY14 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;
 - the proposed building fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop;
 - the impact of ancillary works would damage rural character; and therefore would not visually integrate into the surrounding landscape and would result in a detrimental change to the rural character of the countryside.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2016/1483/F

Date Received: 03.11.16

Proposal: Proposed free range poultry shed with 2no feed bins and a standby generator building (poultry shed to contain 16,000 free range hens laying eggs)

Location: Land approx. 100m NW of 16 Carrickrovaddy Road, Jerrettspass

Site Characteristics & Area Characteristics:

Site comprises of small portion of a much larger elevated and roadside agricultural field fronting onto Carrickrovaddy Road.

Site History:

No planning history

Planning Policies & Material Considerations:

Banbridge/ Newry and Mourne Area Plan 2015

PPS3, DCAN 15 and Parking Standards: Transport NI comments dated 22.11.16 have no objections

PPS6: No impact to built heritage or archaeological interests

PPS15: Rivers Agency in comments dated 12.01.17 have raised no objections

SPPS and PPS21 (CTY12, CTY13 and CTY14)

Active and Established Agricultural holding:

DAERA in their consultation response dated 14.12.16 advise that the farm business has been in existence for more than 6 years and single farm payments have been made within the last year indicating that the farm is active and established at this location.

Necessary for the efficient operation of the holding

In correspondence from the agent dated 3rd November 2016 he advises that the poultry shed represents a major economic investment for the applicant which is essential for the long term survival of the existing holding, diversification of this type will support the farm income and ensure long term survival.

Sited beside existing farm buildings on the holding

Mr Mc Cornville's holding is registered to No. 19 Carrickovaddy Road which comprises of an existing farm dwelling and agricultural buildings. The proposed site is located approximately 200m NW away from the farm buildings and is not visually linked or grouped with them. The policy is very specific with regard to new buildings in that they 'must be sited beside the existing farm' to which this proposal fails to adhere.

The agent has set out in correspondence (dated 21.04.17, 16.03.17 and 03.11.16) justification for an alternative site elsewhere on the holding stating that there are no suitable buildings within the holding built to meet specifications required, land immediately beside existing farm buildings is unsuitable as it cannot meet 'maximum' density levels for 16000 birds (2000 birds per hectare British Egg Industry Council 21.04.17/ 2500 birds per ha Ulster Farmers Union 16.03.17) and in the interests of biosecurity the separation of poultry units from other farm activities negates risk of disease to flock.

Despite the justification provided above it has not been adequately demonstrated that there are no alternative sites available at another group of buildings on the holding, nor has there been any health and safety reasons outlined to justify an alternative site away from the existing farm buildings. Proposals are not deemed exceptional, do not meet the requirements of planning policy and a poultry shed could be located beside the existing farm buildings meeting the requirements of planning policy

Character and Scale appropriate to Location

The proposed shed is of typical character and scale of poultry houses located in the countryside.

Integration/ Landscaping

The site is located on elevated land with long distant views from Jockeys Brae, Knockduff Road and Tandragee Road from these vantage points the site would not fulfil the criteria of CTY 13 due to the prominent and open nature of the site. It is difficult to envisage how a poultry shed including ancillary works or even in the case of a modest dwelling could be adequately integrated when it is located on such an open and exposed site with no degree of enclosure or screening.

The proposed poultry shed will be located mid frontage of a much larger roadside agricultural field with no means of separation of the site from surrounding ground. This portion of the site has only one existing vegetative boundary along the frontage

which will be entirely removed to accommodate visibility splays along with ancillary works to provide access/ hard standing along with the formation of a level platform to facilitate development will require extensive site works and thus the open and prominent nature of the site will be clearly amplified and exposed when viewed from the Carrickvaddy Road in either direction.

The poultry shed proposed for this site cannot be adequately integrated as it will sit higher than the roadside boundary and will require substantial landscaping in order to be adequately integrated. Any new build at this location will appear dominant in the local landscape and will cause an adverse visual impact and an unacceptable change in rural character of this area.

Adverse Impact on Natural Built Heritage

HED Monuments have raised no objections in their consultation dated 29.06.17

Impact to Amenity

Objections have been received from neighbours at Nos.14 Carrickvaddy Road and Brilliant Red Limited of 10 Carrickvaddy Road these properties are sited approximately 120 – 197m away from the proposed poultry house, properties 15, 16 and 17 are located much closer (80-100m) and no issues have been raised by these occupiers. Environmental Health has considered the objections but has raised no concern with regard to impact to amenity. The proposed location of the poultry house will not cause adverse impact to the amenity of nearest neighbours through loss of light, privacy etc.

Consultations:

NIEA (17.02.17) - No objections raised

Rivers (12.01.17) - No objection

DAERA (14.12.16) - Farm business i.d for more than 6 years and single farm payments within last year

Environmental Health (13.12.16) - Non objection in principle

Transport NI (22.11.16) - No objection

HED (29.06.17) - Content

Objections & Representations

13 Neighbours notified

Advertised November 2016

4 letters received from 2 Objectors

Issues:

- Smell
- Dust
- Noise
- Vermin
- Road Infrastructure
- Viability of project
- Free range definition
- Request for notification for speaking rights

Consideration of Issues:

Environmental Health have considered objections and have raised no concerns with regard to smell, dust, noise, vermin etc. nor have they raised any general concerns with regard to impact to amenity. Transport NI have also raised no concerns with regard to road infrastructure.

In terms of viability of the project or indeed the free range definition this is outside the remit of the planning authority to comment.

With regard to request of speaking rights the objectors/ objectors representative will be notified should the application be presented before committee.

Consideration and Assessment:

Objections have been fully considered. Proposals fail to meet the requirements of planning policy for the reasons set out above and is recommended for refusal

Recommendation:

Refusal

Refusal Reasons:

1. The proposal is contrary to the Strategic Planning Policy Statement and Policy CTY12 of Planning Policy Statement 21 in that

- it is not appropriate to this location due to the unacceptable character and scale of the development;

- the development, if permitted, would not visually integrate into the local landscape without the provision of additional landscaping;

- the proposal is sited away from the existing farm buildings

and it has not been demonstrated that there are no alternative sites available at another group of buildings on the holding and

- that health and safety reasons exist to justify an alternative site away from the existing farm buildings;

- that the alternative site away is essential for the efficient functioning of the business.
2. The proposal is contrary to the Strategic Planning Policy Statement and Policy CTY13 and Policy CTY14 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;
 - the proposed building fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop
 - the impact of ancillary works would damage rural character;

and therefore would not visually integrate into the surrounding landscape and would result in a detrimental change to the rural character of the countryside.

Case Officer

Authorised Officer

Photographs



19th July 2017

Our Ref: 15173

Your Ref: LA07/2016/1483/F

Re: Proposed Free Range Poultry Shed with 2No. Feed Bins and a Standby Generator Building at Land Approx. 100m N.W. of 16, Carrickrovaddy Road, Jerrettspass, Newry, BT34 1SN, for Mr. Michael McConville. (Poultry Shed to Contain 16,000 Free Range Egg Laying Hens)

As Agents on the scheme we wish to make the following points in support of the Application and challenge the Council's recommendation for refusal.

INTRODUCTION

- The Applicant is relatively young and is married with a young family.
- He works out part time but runs the Family Farm with his father on a part time basis. The Farm is a mixture of livestock and arable.
- This scheme would secure the future viability of the farm and would allow our client to work the farm full time bringing financial security to his family.
- The decision to apply for Planning Permission and avail of the opportunity to construct this poultry shed was not taken lightly as it represents a major investment of over 400K.
- Our client has also applied for funding under Tier 2 of the Farm Business Improvement Scheme and only requires Planning Approval to avail of 40% funding.

THE SCHEME

- Our client is seeking to build a 16,000 bird Free Range Poultry Shed – this is really the smallest shed constructed as a modern Poultry Unit. Under The British Egg Industry Council's Code of Practice this size of flock will require access to 20 acres of land i.e. a maximum stocking density of 2,000 birds/Ha

SITE SELECTION

- Our client's farm land is split by the public road with the Farm Building set on one side with the smaller block of land (approx. 16 acres). This area is obviously too small to erect a 16,000 bird unit.
- The application site is the only other available site on the family's land and is set in a natural valley albeit in a fairly large field.



Architectural EPC Energy Assessors

Directors: Adrian Brown MCIAT, Philip Marshall

Henry Marshall Brown Architectural Partnership is the trading name of Henry Marshall Brown Limited.

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BT80 BNN

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Registered in Northern Ireland No. NI 57065

PLANNING MEETING

- A very constructive meeting was held on 5th April 2017 with Andrew Davidson and Patricia Manley and the main concerns seemed to be site selection (away from main Farm) and integration. Following this meeting additional supporting Documentation was submitted (copies attached) including a letter from Bowler Eggs, extracts from different Welfare Standards/Codes of Practice and Maps highlighting available land areas which dictated site selection. During the meeting Andrew suggested he would visit the site and I understand this took place in June.

REFUSAL REASONS

- A lengthy list of Refusal reasons has been given under CTY12 and CTY13/14 but basically boils down to:
 - 1) Being sited away from the Farm Group
 - 2) The proposed Building does not integrate and will be visually obtrusive.

CONCLUSION

In my opinion we have covered both Refusal Reasons with all documents and additional Drawings submitted and all Statutory Consultees have no issues with the Scheme.

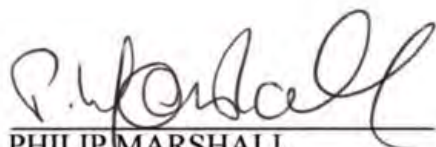
Substantial screen planting has been shown on the road frontage, along the access laneway and also on the SW boundary to the closest 3rd party Dwelling.

I would also like to say that recently we have had 2 very similar applications approved by this Council. Both were sited away from the Farm Group on fairly open sites.

The Ref Nos. are: LA07/2015/0473/F and LA07/2016/0780/F.

It would be nice to have some consistency from the Council on these Agricultural Applications.

In conclusion may I suggest that a site visit may alleviate some concerns the Committee Members may have although this will delay the issue of a Decision Notice and perhaps the opportunity to benefit of Tier 2 Grant Funding.



PHILIP MARSHALL

For Henry Marshall Brown Ltd.

Encs.






LEGEND

-  3rd Party Dwelling
-  100m Buffer zone around 3rd party dwellings
-  75m Buffer zone around Financially connected dwellings
-  Financially connected dwelling
-  Land Ownership

Revision:		plan of the time of publication. Land & Property Services cannot however accept	
Client:	MR. MICHAEL McCONVILLE		
Scheme:	PROPOSED FREE RANGE POULTRY SHED AT LAND 100M N.W. OF OF 16, CARRICKROVADDY ROAD, JERRETTSPASS, NEWRY, BT34 1SN. AREA EDGED RED - 0.99Ha		
Drawing:	SITE JUSTIFICATION - Buffer Zones		
Scale:	1:2500 @ A3	Date:	March 2017
Dwg No:	15173-06	Drawn By:	MM
Henry Marshall Brown Architectural Partnership is the trading name for Henry Marshall Brown Limited Registered in Northern Ireland N 5980		henry marshall brown architectural partnership 10, Union Street, COOKSTOWN, BT80 8NN Tel. no: 028 8676 3515 Fax no: 028 8676 6658 Email: info@hmbarchitecture.co.uk	





LEGEND  Site beside existing sheds has a total area of 6.0Ha – a min of 8.0Ha range is required plus the shed area – INADEQUATE RANGE AREA  Proposed Site has a total area of 15.74Ha – which is almost twice what is required.	Revision:	
	Client:	MR. MICHAEL McCONVILLE
	Scheme:	PROPOSED FREE RANGE POULTRY SHED AT LAND 100M N.W. OF OF 16, CARRICKROVADY ROAD, JERRETTSPASS, NEWRY, BT34 1SN. AREA EDGED RED – 0.99Ha
	Drawing:	SITE JUSTIFICATION – Range Areas
	Scale:	1:2500 @ A3
Dwg No:	15173-07	Drawn By: MM
<small>Henry Marshall Brown Architectural Partnership is the trading name for Henry Marshall Brown Limited Registered in Northern Ireland N 5095</small>		henry marshall brown architectural partnership 10, Union Street, COOKSTOWN, BT80 8NN Tel. no: 028 8676 3515 Fax no: 028 8676 6658 Email: info@hmbarchitecture.co.uk 

Code of Practice for Lion eggs

The British Egg Industry Council



ANNEX J LAYING HEN WELFARE STANDARDS

1.0 ENRICHED CAGE PRODUCTION

Enriched caged birds must be kept in accordance with The Welfare of Farmed Animals (England) Regulations 2007 (S.I. 2007 No. 2078) (similar legislation made in Wales, Scotland and Northern Ireland), made in implementation of Council Directive 1999/74/EC laying down minimum standards for the protection of laying hens (or any amendment thereto).

Birds must not be induced to moult.

2.0 FREE RANGE PRODUCTION

Free range birds must be kept in accordance with The Welfare of Farmed Animals (England) Regulations 2007 (S.I. 2007 No. 2078) (similar legislation made in Wales, Scotland and Northern Ireland), made in implementation of Council Directive 1999/74/EC laying down minimum standards for the protection of laying hens (or any amendment thereto).

All units must comply with The Welfare of Farmed Animals (England) Regulations 2007 (S.I. 2007 No. 2078) (similar legislation made in Wales, Scotland and Northern Ireland).

2.1 REPLACEMENT PULLETS

All replacement pullets destined for free range must be reared from day-old on litter and not from caged systems; access to perches should be provided wherever practical.

2.2 FLOCK SIZE / COLONY SIZE

Adequate levels of management must be provided to the flock/colony size. Houses and ranging areas must be divided as appropriate. The maximum flock size is 16,000 birds. Where the flock size is more than 6,000 birds it must be divided into colonies. The maximum colony size is 4,000 birds.

2.3 MAXIMUM PERMISSIBLE STOCKING DENSITY WITHIN THE HOUSE AREA (INCLUDING EXTERNAL VERANDA AREAS THAT IMMEDIATELY ABUTT THE HOUSE)

The maximum stocking density is 9 birds/m² of useable area.

2.4 PERCHES

Perches must comply with The Welfare of Farmed Animals (England) Regulations 2007 (S.I. 2007 No. 2078), and relevant legislation made in Wales, Scotland and Northern Ireland. Perch space provided per bird may include the alighting rail immediately in front of the nest box.

Perches must have no sharp edges and be of non-slip material.

Perches can be incorporated into a slatted floor. (Not applicable in Scotland and Northern Ireland).

Perches must not be mounted above the litter and must be positioned to prevent fouling of any bird below.

2.5 FLOOR TYPES

Timber or plastic floors are permissible.

Wire floors must be overlaid or underlaid with timber slats 30cm. apart; slats to have no sharp edges.

The capacity of the pit below the floor must adequately accommodate the manure produced by 1 full flock of birds unless belts or scrapers are incorporated into the system.

2.6 SCRATCHING AREA

Provision must be made for the birds to be able to dust bathe, having unrestricted access to a litter scratching area during the bird's light hours. This must equate to a minimum of 33% of total floor area available to the birds. This litter scratching area can be either incorporated into the house area or provided under a covered weather proofed veranda attached to the external walls of the building.

The litter must be kept dry and friable and maintained at a minimum depth of at least 5cm. To assist in maintaining good litter management, the stock keeper must have access to the DEFRA booklet Poultry Litter Management (PB1739, 1994, <http://adlib.everysite.co.uk/resources/000/251/080/PB1739.pdf>)

2.7 FEEDING SPACE

Linear feeders providing 10cm. per bird (or 5cm. of linear length with access to both sides of the trough), or 4cm. of circular, feeding space must be provided for each bird.

In multi-tier systems, feeding space must be provided at more than 1 tier level.

2.8 DRINKING SPACE

The allocation of drinkers must not be less than 1 bell drinker per 100 birds, or 1 nipple (or cup) per 10 birds. All drinkers must be spaced evenly along the house.

In multi-tier systems, drinkers must be provided at more than 1 tier level.

2.9 NEST BOXES

Individual nest boxes must provide not less than 1 box per 5 birds.

Communal boxes must provide not less than 1m² of nesting area per 120 birds.

Nest boxes must be provided with a floor substrate which encourages nesting behaviour.

2.10 POP-HOLES

Where practicable, pop-holes should be distributed evenly around the building.

Each pop-hole must be a minimum of 2m. long by 45cm. high, but if necessary to ensure the structural safety of the building the pop-hole may contain a stanchion.

Sufficient pop-holes must be available to provide the equivalent of 1 pop-hole to 600 birds.

Sufficient pop-holes in a building must be opened before 09.00 hours and must be left open so as to provide access to the land area for a daily minimum of 8 hours, or to dusk. Except when this is precluded by inclement weather conditions, or in the case of temporary restrictions imposed by veterinary authorities, all pop-holes should normally be open.

Birds should have full access to the range as soon as practicably possible. The aim should be to allow access at 19 weeks of age and access must be allowed no later than 21 weeks of age.

2.11 LAND AREA

Stocking density of the land must not exceed 2,000 birds/hectare over the flock's life.

Ground rotation should be practised where it is considered necessary for disease or pasture management.

The areas around the house must be well drained in order to avoid poaching.

Land used for arable cropping shall not be regarded as acceptable vegetation and shall be excluded from calculations for stocking density.

Where the birds are provided with a ranging area more than 150 metres from the nearest pop-hole of the building (up to a maximum of 350 metres), a sufficient number of shelters as required by Annex II.1.d of Commission Regulation (EC) No. 589/2008 (or any amendments thereto) (referred to in Article 4(1)(3)(b)(ii) of Directive 1999/74/EC) are to be provided. A minimum of 4 shelters per hectare to be evenly distributed throughout the ranging area, at a minimum of 8m² per 1,000 birds.

Land area allocated to a flock may not be shared by an adjacent flock.

Outdoor shaded areas are required if there are no external verandas and recommended as an extra facility if verandas exist.

2.12 MOULT

Birds must not be induced to moult.

3.0 ORGANIC SYSTEMS

Organic systems must comply with all the requirements of Section 2 of this annex. In addition, such systems must satisfy the requirements of organic certification bodies, plus the relevant legislation of a stocking density of 6 birds/m², with a maximum flock size of 3,000 birds.

4.0 BARN SYSTEMS

Barn birds must be kept in accordance with The Welfare of Farmed Animals (England) Regulations 2007 (S.I. 2007 No. 2078) (similar legislation made in Wales, Scotland and Northern Ireland), made in implementation of Council Directive 1999/74/EC laying down minimum standards for the protection of laying hens (or any amendment thereto).

All units must comply with The Welfare of Farmed Animals (England) Regulations 2007 (S.I. 2007 No. 2078) (similar legislation made in Wales, Scotland and Northern Ireland).

4.1 REPLACEMENT PULLETS

All replacement pullets destined for Barn systems must be reared from day-old on litter and not from caged systems; access to perches should be provided wherever practical.

4.2 FLOCK SIZE / COLONY SIZE

Adequate levels of management must be provided appropriate to the flock/colony size. Houses must be divided as appropriate. The maximum flock size is 32,000 birds. Where the flock size is more than 6,000 birds it must be divided into colonies. The maximum colony size is 4,000 birds.

4.3 MAXIMUM PERMISSIBLE STOCKING DENSITY WITHIN THE HOUSE AREA (INCLUDING EXTERNAL VERANDA AREAS THAT IMMEDIATELY ABUTT THE HOUSE)

The maximum stocking density is 9 birds/m² of useable area.

4.4 PERCHES

Perches must comply with The Welfare of Farmed Animals (England) Regulations 2007 (S.I. 2007 No. 2078), and relevant legislation made in Wales, Scotland and Northern Ireland. Perch space provided per bird may include the alighting rail immediately in front of the nest box.

Perches must have no sharp edges and be of non-slip material.

Perches can be incorporated into a slatted floor. (Not applicable in Scotland and Northern Ireland).

Perches must not be mounted above the litter and must be positioned to prevent fouling of any bird below.



Our Ref: 047-FS-NIEP-AF

12th April 2017

Mr M McConville
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BT34 1SN

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Willowpit Lane
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Dear Michael

I refer to messages exchanged with Philip Marshall and comment below on our current market position and sector criteria we have to conform to.

There are a number of reasons why a Free Range Unit would be sited in a particular area and I write to confirm the following points covered –

- At the moment our primary objective is sourcing units that can house 16,000 birds. This gives the farmer producer some economies of scale, tends to lower build costs per bird and allows us to pick up more eggs on our collections.
- The current permitted stocking density on the range area is 800 birds to an acre therefore 16,000 birds require a range area of 20 acres. To a large degree positioning a unit depends upon having access to the full range where, under current regulations, the furthest point must not be more than 350 meters from the unit.
- Sites are assessed and agreed with DAERA.
- Adhering to strict biosecurity measures is a key element of maintaining the health and welfare of the birds – this is significantly easier if the poultry house is completely self-contained as it helps avoid cross contamination by vehicles and staff / other callers.
- All of our units comply with Ministry, Lion Code and Freedom Food (RSPCA) legislation which means they meet the highest standards relating to bird welfare / accommodation etc. The producer must meet such criteria to avoid losing the Free Range status of the flock and therefore substantial income.

If you have any queries please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read "Mick Thomas", written over a light blue horizontal line.

Mick Thomas
Financial Analyst
Bowler Eggs

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RSPCA welfare standards for

LAYING HENS



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The range

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The RSPCA welfare standards for laying hens can be applied to barn or free-range systems. The following standards relate to range, where provided.

Management

R 1.0 A Range Management Plan, incorporating the standards in the range section, must be developed, implemented and annually updated.

i The Range Management Plan (R 1.0) is intended to help establish a focus on range quality and management as well as helping to show how the range standards are being met. As a guide, the following should be included:

- general details about the range – total available area, number of birds, stocking density
- map – total range area, location of shade/shelters, natural cover, enrichment, rotated areas
- protective overhead shade/shelter – type (natural/artificial), amount
- natural cover – type, amount (expected area if not fully grown)
- enrichment areas for dustbathing/perching/foraging – type, number, management
- range use – e.g. shelters/enrichment rotation
- strategy for heavily worn and poached areas
- strategy to minimise build up of parasites/disease
- details of any planned rotation of range areas
- details of management of the area directly outside the popholes
- procedure before new flock is placed – plan for heavily contaminated areas
- general comments – observations of range use and any future plans.

R 1.1 Laying hens kept in free-range systems must have continuous daytime access to the range.

R 1.2 * Where birds are intended to be kept for free-range purposes, they must be given access to the range:

- a) within 3 weeks of entering the house at the latest (also see R 3.1)
- b) in any case from 21 weeks of age at the latest.

i Evidence strongly suggests that early access to the range can increase ranging behaviours and decrease the risk of injurious feather pecking. It is therefore strongly recommended to introduce birds to the range area as soon as possible after arrival at the laying hen unit.

A possible way of achieving this, while allowing the hens to get used to using the nest boxes inside in the morning, is to allow access outside in the afternoon to begin with. Also, a gradual approach to help the birds acclimatise before access to the range is given could involve allowing access to a veranda (where present) first, or using a temporary mesh over the popholes in the first few days to allow daylight and natural ventilation in to the house.

R 1.3 Where buildings are converted from barn to free-range when birds are older than 21 weeks, access to the range must be delayed until a new flock is placed (see R 1.2).

R 1.4 The range area must be actively managed in order to:

- a) encourage birds outside, away from the popholes and to use the area fully
- b) prevent and/or manage heavily poached/muddy/worn areas
- c) minimise any build up of parasites or disease.

- i** The aims of active management of the range are to encourage bird use as they can be fearful of exposed areas, help to maintain vegetation quality (including the area under shelters/cover/enrichment) and offer protection and shelter. Ways of satisfying R 1.4 may include:
- provision of natural cover such as trees, bushes and hedgerows
 - provision of a variety of types of both natural and artificial shade/shelters
 - appropriate distribution of shade/shelter and natural cover depending on the behaviour of the individual flock and distance hens are comfortable travelling between sources of overhead cover
 - provision of a 'corridor' of shade/shelter and natural cover to encourage birds onto the range
 - provision of artificial shade/shelters within the first 20m from the house and gradual moving of some further into the range
 - provision of well-managed areas of enrichment and variation, which may include suitable feed crops, herbs, trees and fruit bushes
 - provision of well-managed designated areas with additional facilities for dustbathing, perching and foraging, such as brushings from trees and covered sand areas
 - provision of good vegetation cover as close to the house as possible
 - practice of paddock rotation to promote range quality
 - restricted access to muddy/poached/worn areas to allow re-growth of vegetation
 - drainage improvements to prevent poached areas developing
 - particular attention being paid to the area immediately outside the popholes and up to about 30m from the popholes
 - surface tilling of the land to help remove worm eggs
 - introduction of other species such as llamas and alpacas where appropriate, which can help to encourage birds outside and protect against predators
 - situating popholes on more than one side of the house, which can be of particular importance in units with central nest boxes
 - provision of wind breaks, which may combine with provision of natural cover and shade/shelter
 - regular inspections of the range, which are necessary for effective management and can also be a good opportunity to help lead the birds out to different areas.

- i** European egg marketing regulations (EC 589/2008) require the range to be mainly covered with vegetation, but do not permit range areas to be used for other purposes, except for orchards, woodlands and livestock grazing. As such, arable cropping should not be regarded as acceptable vegetation on the range and shall be excluded from calculations for stocking density, except where plots of such crops are planted specifically to provide effective and appropriate shade/shelter and/or enrichment for birds on the range.

The range

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- R 1.5** The area directly outside the popholes must:
- not be allowed to remain in a muddy condition or with standing water
 - be maintained with short vegetation and/or,
 - covered with a draining material.

i Management of draining material and/or short vegetation outside popholes, an area which can be heavily used, is particularly important in helping to control worms, by exposure of droppings to ultraviolet sunlight and preventing puddles from which the birds can drink contaminated water.

Examples of draining material, which can also help to clean birds' feet, include stones, bark, slats/mesh, which do not have the potential to damage or trap the birds' feet. The relevant distance from the popholes in which to maintain this area will depend on the individual unit, but as a guide should be at least 3m.

Evidence also suggests that good vegetation cover outside the popholes can help to encourage hens out on to the range. This should be taken into careful consideration when managing the pophole area and natural vegetation cover should be in place as close as possible to the house.

Appropriate drainage from the roof and amount of overhang should also be considered, as well as the use of verandas/wintergardens. In addition, shade/shelter, natural cover and range enrichment should be distributed throughout the range in a way to help attract birds away from the popholes and to use the whole of the outside area.

- R 1.6** The perimeter of the range must be within 350m from the house.

i To help to maintain the correct number of birds housed inside in each colony, the range area should be divided between different colonies of birds to at least a 50m distance from the house.

i Due consideration should be given to how the shape of the range could affect how evenly the hens use the total range area. For example, access to a wide, rather than narrow, range area may help to manage range quality directly outside the popholes. As a guide, housing should not be any closer than 50m to the range boundaries on more than two sides of the house.

- R 1.7** Where there is a risk of build up of parasites or disease on free-range land, rotational grazing or other disease control measures must be applied.

- R 1.8** Action must be taken as necessary to address areas with heavily contaminated soil before new birds arrive.

- R 1.9** A plan for regular worming must be drawn up within the Veterinary Health and Welfare Plan (VHWP) (see H 1.1) and carried out on the basis of previous experience, results of regular monitoring and discussion with the attending veterinarian.

i Birds can become infected by picking up worm eggs, which thrive in warm, moist conditions and can be a particular problem in spring and summer, from grass, soil or faeces. Worming should be carried out as regularly as necessary to avoid subsequent build-up and to help break the cycle of infection. Worm burdens should be regularly monitored by examination of faeces, culled birds, or worm egg counts on bulk faeces.

Shade/shelter

- R 2.1** Shade/shelter must:
- be provided at an area of at least 8m² per 1,000 birds
 - be available at all times from when the hens first have access to the range
 - offer adequate protection from inclement weather and overhead predators
 - be available from a distance of no more than 20m from the popholes
 - be distributed appropriately to encourage full range use
 - be of sound construction, secure and not pose any welfare risks, including injury, to the birds.

i Calculation of overhead shade/shelter area referred to in R 2.1 is based on the actual amount of cover provided underneath. For example, hedgerows may be included if they can provide shade at all times of day and there is enough room underneath for hen access. Where trees are deciduous or immature, supplementary shelters will need to be provided during the period in which they cannot provide sufficient cover. Trailers and simple constructions of four downward posts with a solid roof can provide acceptable forms of artificial shelter providing they can satisfy all the requirements of R 2.1.

Popholes

- R 3.1 *** Popholes must be opened, unless bad weather or veterinary advice dictates otherwise;
- no later than 12pm for birds aged under 21 weeks
 - no later than 9am for birds aged 21 weeks and older.
- R 3.1.1 *** Popholes must be closed:
- no earlier than at the time at which artificial lights are being turned off inside the house for birds aged under 21 weeks
 - at dusk for birds aged 21 weeks and older.

i If it is necessary to restrict access to the range while the birds are learning to use the nest boxes inside, R 3.1 a) applies and producers should aim to make the opening time gradually earlier as the birds approach 21 weeks, when R 3.1 b) applies.

Allowing hens access to the range before the onset of lay rather than once they are in lay has been shown to increase ranging behaviour.

- R 3.2** Each pophole must be at least 45cm high and 2m wide to allow the passage of more than one hen at a time.
- R 3.3** There must be at least 1 pophole per 800 birds, except where popholes are wider than 2m in which case the total length of available popholes may be used in calculations of pophole requirements for a house.

The range

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- R 3.4** Where the visual contact between hen and popholes is impeded in any way (for example where access from inside the house is up an incline) pophole height must be increased in order that sight of the range is never obstructed by other hens.

i Where necessary, the height increase required by R 3.4 can be attained with mesh or similar material which allows more light to enter the house. Where the pophole height is above ground level, ramps should be provided to aid birds entering and leaving the house.

- R 3.5** The arrangement of popholes must be such that they are evenly distributed along the line of access to ensure that all hens have ready access to the range.

- R 3.6** For flocks/colonies of birds with 1,200 birds or fewer, the following applies (for flocks of 1,201 birds and above, see R 3.2 and R 3.3):

- a) there must be a minimum of 2 popholes
- b) popholes must be at least 50cm wide and 45cm high
- c)

Number of birds	Minimum total pophole length (metres)
Up to 300 birds	1.0
301 to 600 bird	1.5
601 to 900 birds	2.0
901 to 1,200 birds	2.5

- R 3.7** Where verandas are attached to the side of the house, the popholes on both the house and the veranda must be of the size and ratio stated in R 3.2, R 3.3 and R 3.6.

i The distribution of popholes may be staggered to maintain the thermal environment inside the house.

- R 3.8** The maximum distance travelled by a hen to reach the nearest pophole onto the range must not exceed 20m.

- R 3.9 *** No wire, electric or otherwise, is permitted under the popholes.

Stocking density

- R 4.1 *** For birds aged 21 weeks and older, stocking density must not exceed:

- a) 2,000 hens per hectare over the life of the flock
- b) 2,500 hens per hectare at any one time.

i The maximum stocking density over the life of the flock (R 4.1 a)) should relate to the total amount of range available to the birds. Access to some of this area can be temporarily restricted in order to rest the land to help maintain the quality of the range, as long as R 4.1 b) is never exceeded. Some producers may require a larger overall range area (and hence a lower stocking density over the life of the flock) in order to manage and rotate range areas effectively. This should be carefully considered including factors such as local weather and land conditions.

R 4.2 * For birds aged under 21 weeks the range area must provide at least 1m² per bird at all times.

- **i** Producers should note that European egg marketing regulations (EC 589/2008) apply once eggs are being marketed as free-range.

• **Natural cover and enrichment**

R 5.1 * Natural cover must be present in the form of existing or newly planted trees/shrubs/other at an area equal to at least 5% of the total range area (this may include natural cover meeting the requirements of R 2.1):

- a) if stocking at over 1,000 and up to 2,000 hens/ha over the life of the flock
- b) from 1st October 2014 for all flocks.

- **i** Research and experience shows that natural cover, particularly trees, can help encourage birds to use the range, which in turn can help in range quality management. Natural cover may include trees, shrubs and semi-permanent vegetation that can easily be established and removed, such as artichoke and kale. A well-managed range should include a variety of different types of natural cover and areas of interest for hens. Wide open spaces should be avoided, and moveable artificial shelters, enriched areas (see R 4.3) and newly planted areas should be positioned to help achieve an appropriate distribution of elements to encourage birds out to all areas of the range.

The requirements of R 4.2 differ to those of R 2.1 in that 'natural cover' focuses on enrichment of the range, while 'shade and shelter' must offer actual overhead protection at all times. For any newly planted natural cover, the area that the vegetation is expected to cover when mature will be taken into account for calculating compliance. For example, when mature, trees may cover an average area of 3m x 3m.

R 5.2 If stocking at over 1,000 and up to 2,000 hens/ha over the life of the flock, additional facilities, or designated existing natural elements, must be provided for dustbathing/perching/foraging or a combination of these behaviours:

- a) in at least 1 area per 2,000 birds
- b) in a total of at least 2 areas.

R 5.2.1 * For all flocks from 1st October 2014 additional facilities, or designated existing natural elements, must be provided for dustbathing/perching/foraging or a combination of these behaviours (up to 30th September 2014 see R 5.2 for requirements):

- a) in at least 1 area per 2,000 birds
- b) in a total of at least 2 areas.

- **i** Well managed and positioned brushings from trees, perches and designated covered sand areas are examples of facilities which can help to provide extra opportunity for hens to carry out dustbathing, perching and foraging (see R 5.2) and can help to encourage the whole range area to be used.

Biosecurity

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- i** Consideration should be given to the potential disease risk posed by wild birds, for example, when choosing where to site a new unit.

Wintergardens/verandas which allow access to natural light and fresh air, can be beneficial particularly in the eventuality that access to the range is restricted on veterinary or legal advice.



ITEM NO	20			
APPLIC NO	LA07/2017/0049/F	Full	DATE VALID	1/13/17
COUNCIL OPINION	REFUSAL			
APPLICANT	Mr & Mrs McGivern Ingleside 5 Windsor Avenue Newry BT34 1EQ	AGENT	Colin Dalton (Gray Design LTD) 5 Edward Street Newry BT35 6AN 028 3025 1885	
LOCATION	Ingleside 5 Windsor Avenue Newry BT34 1EG			
PROPOSAL	Proposed garage with home office and gym.			
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions
	0	0	0	0
			Addresses	Signatures
			0	0 0 0

- 1 The proposal is contrary to the designation NY104 of the Banbridge, Newry and Mourne Area Plan 2015, paragraph 6.21 of the Strategic Planning Policy Statement for Northern Ireland (SPPS,) Policy ATC2 of the Addendum to Planning Policy Statement 6: Areas of Townscape Character, in that the proposed building does not respect the built form of the area, does not make a positive contribution to the townscape and fails to maintain or enhance the overall character of this Area of Townscape Character.
- 2 The proposal is contrary to Para 1.13 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) and the Addendum to Planning Policy Statement 7: Residential Extensions and Alterations Policy EXT1 in that:
 - (a) the scale, massing, design and external materials are not sympathetic with the built form would detract from the character of the surrounding area;
 - (c) the proposal would result in an unacceptable loss of trees and landscape features which contribute significantly to the local environmental quality



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference:

LA07/2017/0049/F

Date Received:

04/07/2016

Proposal:

Proposed garage with home office and gym

Location:

Ingleside, 5 Windsor Avenue, Newry, BT34 1EG

Site Characteristics & Area Characteristics:

Located along Windsor Avenue, in an exclusively residential area, the site comprises a relatively sized road side plot enclosed by a 3m high wall and mature roadside foliage and comprising a chalet style dwelling built into the sloping hillside, which includes a lower level garage built into the design. To the front, there is an existing landscaped garden with steeply winding driveway access. The plot sits between No.7, a single storey dwelling to the north, and No. 3 to the South, an established nursing home, with the shared southern boundary formed by steel fencing and a collection of mature trees which extend to the roadside. The area is characterised by mature plot sizes which benefit from mature roadside vegetation. There are a number of listed buildings in the vicinity, including Glebe House, a grade B listed former rectory, located further south of No.5.

Site History:

P/2010/0180/F: Erection of extension to the rear of dwelling with minor alteration and refurbishment works, permission granted

Planning Policies & Material Considerations:

- Strategic Planning Policy Statement (SPPS)
- Banbridge / Newry and Mourne Area Plan 2015 (BNMAP)
- PPS 6 'Planning, Archaeology and Heritage'
- Addendum to PPS6 'Areas of Townscape Character'
- Addendum to PPS 7 'Residential Extensions and Alterations'

Consultations:HED: Historic Buildings:

Considers that the proposal satisfies Policy BH11 (Development affecting the Setting of a Listed Building) of Planning Policy Statement 6 – Planning, Archaeology and the Built Heritage as it has no greater demonstrable harm on the Listed Building. (Subject to conditions attached)

HED: Historic Monuments:

On the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements

Transport NI:

no response required given domestic use i.e.no proposed intensification of existing access.

Objections & Representations

- 8 Neighbour notified issued 30/01/2016 (statutory expiry 13/02/2017)
- Application advertised in 3 press publications (statutory publication expiry 17/02/2017)
- 0 objections or responses have been received.

Consideration and Assessment:

This application seeks full permission for the development of a garage with home office and gym within the curtilage of an existing dwelling.

Section 45 of the Planning Act (NI) 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 subject site is located within the settlement limits of Newry (NY01) and is also within Windsor Hill designated Area of Townscape Character (NY104) as identified by the BNMAP 2015. In addition, the site is in proximity to a designated archaeological site and monument (Soutterain, historical reference DOW046:048.)

Historic Environment Division having considered the information provided is content that the proposal (subject to conditions) would meet the policy requirements of PPS6 in terms of policy BH11 and the archaeology requirements.

Para 6.21 of the SPPS in addition to Policy ATC2 of the Addendum to PPS6 stipulate that new development in an ATC should only be permitted where it would maintain or enhance the overall character of the area and respect its built form. In addition, policy EXT1 of the addendum to PPS7 sets out the criteria which must be met for all residential extensions and alterations which includes garages.

Windsor Hill ATC comprises many large houses of varying architectural styles, which benefit from mature landscaped plots which are important to the setting of the individual houses and character of the area as a whole. This proposal comprises the development of a garage with home office and gym sited in the south western area of the curtilage, close to the roadside and forward of the existing building line. In

terms of siting, this does not respect the existing settlement pattern of the area. In addition, policy EXT1 seeks to avoid garages being sited wholly in front gardens or those which extend in front of the established building line, as they can over-dominate the front of the property and detract from the street scene, which I feel would be the case in this context.

Both Policies EXT1 and ATC2 seeks to protect landscape features which contribute to the distinctive character of the area and encourage their integration in a suitable manner into the layout of development. This proposed siting proposed would involve the removal of mature road side trees and established foliage which I feel would be a significant loss to the character of this area.

As outlined by policy EXT1, garages should be subordinate in scale and similar in style to the existing property, taking account of the local character and level of visibility of the building from surrounding views. The design proposed includes a split level building, built into the site's contours, which measures 11m in length by 7.5m in width, with a height of 8.25m from finished floor level to its highest point. Proposed finishes are to match those of the existing dwelling, including dashed painted rendered walls, non-profiled roof slates and uPVC window frames and rainwater goods. Given the existing and proposed boundary arrangement, the proposed building is not expected to unduly affect the privacy or amenity of neighbouring residents. In addition, sufficient space would remain within the curtilage of the property for recreational and domestic purposes, including parking.

Whilst the scale of the building is subordinate to the existing dwelling, given the siting proposed, the building would sit at a ridge level of approximately 28m at its highest point, some 10m higher than the road level. Whilst the existing wall and proposed landscaping to the south would help to screen the building when travelling along Windsor Avenue, the development, in my opinion would over-dominate the front of this plot and detract from the character of the existing street scene.

The agent was made aware of the initial concerns in respect of policies EXT1 and ATC2. A justification for the need was returned, which include the restrictions of this site to accommodate the building in an alternative location. Given that the fundamental concerns are in relation to siting and the restrictive nature of the site, amended drawings were not requested. Considering this, together with the fact that an existing (albeit) smaller garage exists, together with the above assessment, I am of the opinion that the proposal is inappropriate in the context of this site and would in my opinion detract from the character of this ATC and does not respect the existing built form. Were this development to be approved, it could set a precedent for similar road side development in the area.

Recommendation: Refusal

Reasons for refusal

1. The proposal is contrary to the designation NY104 of the Banbridge, Newry and Mourne Area Plan 2015, paragraph 6.21 of the Strategic Planning Policy Statement for Northern Ireland (SPPS,) Policy ATC2 of the Addendum to Planning Policy Statement 6: Areas of Townscape Character, in that the proposed building does not respect the built form of the area, does not make a positive contribution to the townscape and fails to maintain or enhance the overall character of this Area of Townscape Character.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and the Addendum to Planning Policy Statement 7: Residential Extensions and Alterations Policy EXT1 in that:
 - (a) the siting and massing are not sympathetic with the built form would detract from the character of the surrounding area;
 - (b) the proposal would result in an unacceptable loss of trees and landscape features which contribute significantly to the local environmental quality

Case Officer Signature:**Date:****Appointed Officer Signature:****Date:**



GRAY DESIGN LIMITED

Architecture Interior Design Project Management

445

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

Proposed garage with home office and gym

7th August 2017

Ref. GD2999

Your Ref. LA07/2017/0049/F

Dear Sir / Madam,

We understand that the above application is to be presented with the opinion to refuse on the grounds of

1 *The proposal is contrary to the designation NY104 of the Banbridge, Newry and Mourne Area Plan 2015, paragraph 6.21 of the Strategic Planning Policy Statement for Northern Ireland (SPPS,) Policy ATC2 of the Addendum to Planning Policy Statement 6: Areas of Townscape Character, in that the proposed building does not respect the built form of the area, does not make a positive contribution to the townscape and fails to maintain or enhance the overall character of this Area of Townscape Character.*

2 *The proposal is contrary to Para 1.13 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) and the Addendum to Planning Policy Statement 7: Residential Extensions and Alterations Policy EXT1 in that:*

(a) the scale, massing, design and external materials are not sympathetic

(b) with the built form would detract from the character of the

(c) surrounding area;

(d) the proposal would result in an unacceptable loss of trees and landscape

(e) features which

contribute significantly to the local environmental quality.

NEWRY

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BELFAST

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WARRENPOINT

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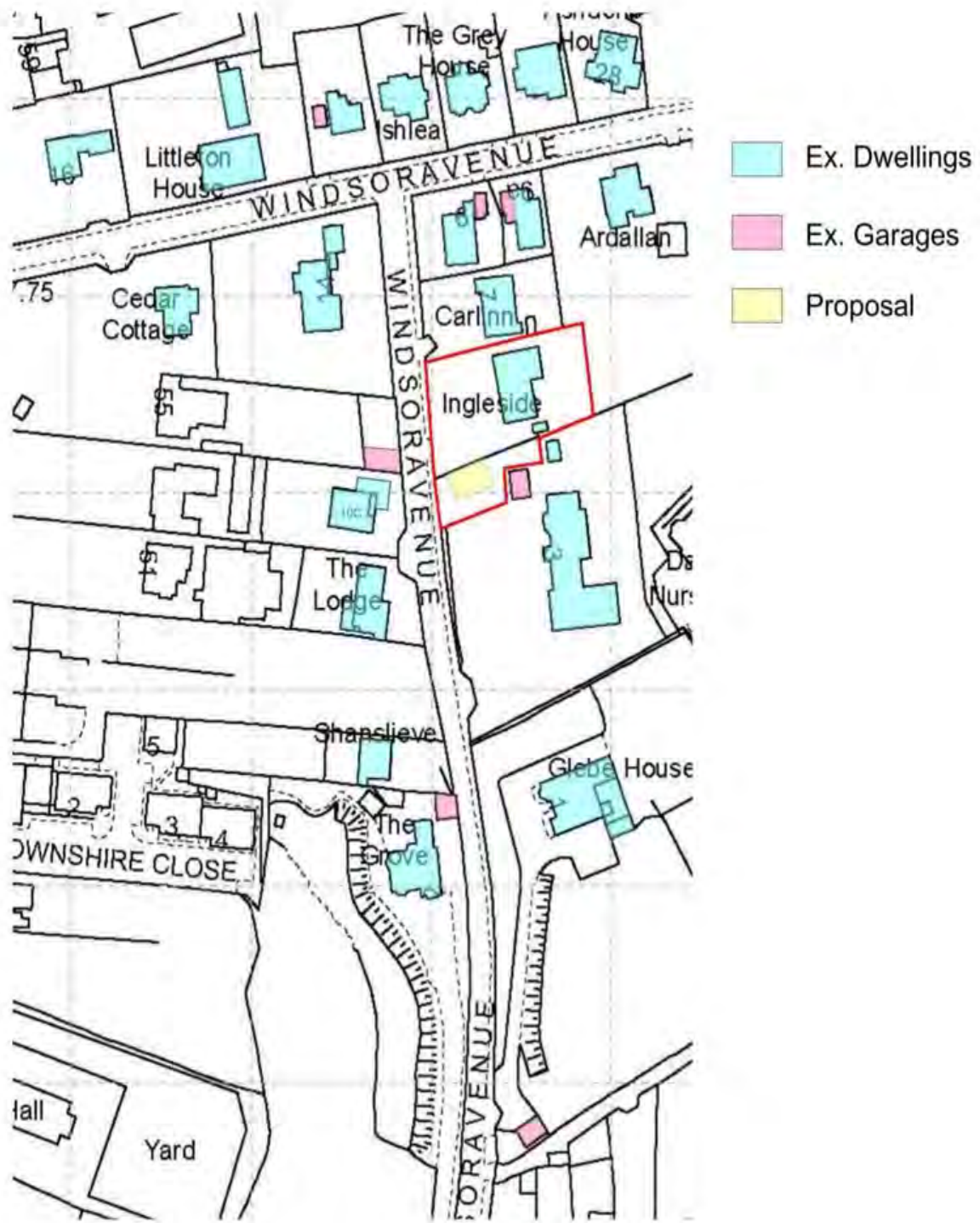
We would request that the Planning Service afford us speaking rights at the meeting on the 16th of August 2017 and provide the following additional information in support of our application;

Regarding point 1 – the case officer stated the following in the report “.....the development of a garage with home office and gym sited in the south western area of the curtilage, close to the roadside and forward of the existing building line. In terms of siting, this does not respect the existing settlement pattern of the area. In addition, policy EXT1 seeks to avoid garages being sited wholly in front gardens or those which extend in front of the established building line, as they can over-dominate the front of the property and detract from the street scene, which I feel would be the case in this context.”

We would be of the opinion that the proposal is not forward of the building line as there is no continuous building line on Windsor Avenue, see the sketch on the next page, clearly showing the development along Windsor Avenue steps in and out along the road frontage. Therefore we feel it does respect the existing settlement

In fact there are 4Nr garages located to the front of dwellings on Windsor Avenue (shown in pink) including one directly across from the proposal on the road edge.

When the applicant purchased this property some years ago it was in bad disrepair they applicant at great expense refurbished the property to retain the original character and intends to construct the garage with the same high attention to detail.



The dwelling opposite the application site has recently constructed an extension to the front of the dwelling (LA07/2015/0191/F) – this extension is located closer to the road edge than our current proposal and is currently being used as a commercial beauty salon.



In the case officers report it is agreed that the proposal is subordinate to the existing dwelling but it is noted that the ridge level would sit approximately at 28M at its highest point – to clarify on our section the 28M level is the os datum in relation to sea level, our garage has a proposed ridge level (l from Windsor Avenue of approx. 4.9M, this is considerably lower than the dwelling and almost 3.3M below the neighbouring garage to the rear. As can be seen from the sketch below the existing 3.4M high stone wall conceals the split level construction. See below existing and proposed street elevations / existing and proposed sections.

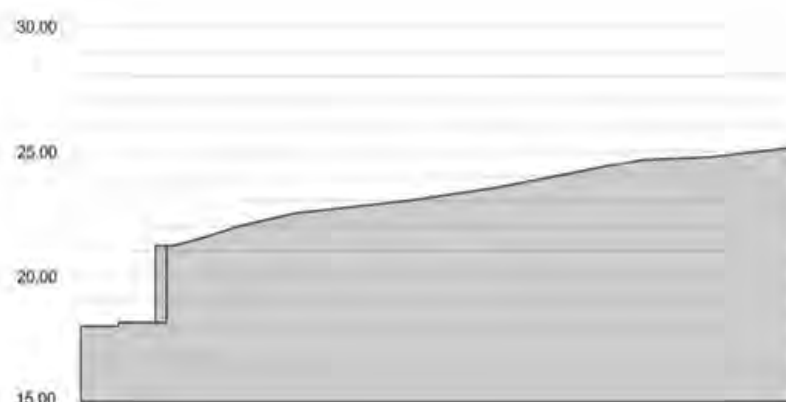


FRONT ELEVATION FROM WINDSOR AVE

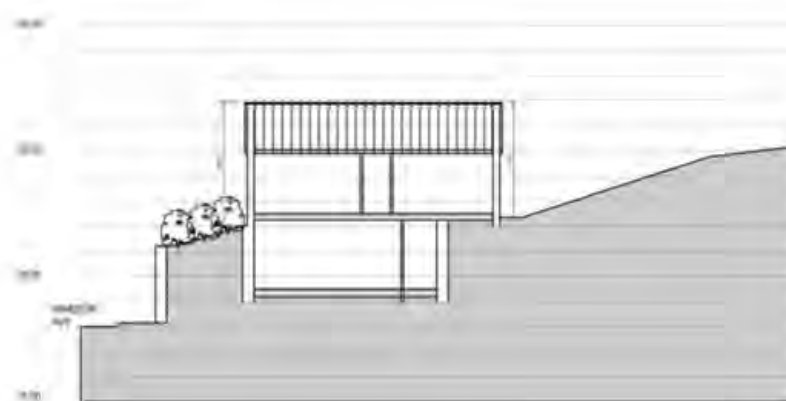


FRONT ELEVATION FROM WINDSOR AVE





SECTION AA



SECTION AA

As was noted in the case officer's report it was confirmed that there is no other location available on the site for this garage, however there is reference to an existing garage – we would like to confirm that the existing "garage" is 2.1 x 3.8 room– which is used as a store.

The case officer reports that it is the opinion that this will over-dominate the site and has also recommended refusal due to loss of landscaping and trees. The proposed location for the garage is currently overgrown with dead shrubs and very poor mix of vegetation including some dangerous trees which the applicant has been advised to have to be felled – this area is currently very overgrown and impossible to maintain. It is the intention of the applicant to remove all these shrubs / trees – these works are to proceed irrespective of the outcome of this application. Below are some photographs taken of the overgrown area.





Justification.

Currently (as can be seen from the photos below) the driveway to the dwelling is very steep and can only be approached from the South due to the 334deg turn which is impossible to manoeuvre when approached from the North. Currently the owners are required to reverse back down the steep drive and onto the main road as there is no turning area available at the dwelling. Visitors coming to the house are required to park on Windsor Avenue – this has created both a problem for visitors and the applicants childminder who is the children's grandparents - currently the children have to run down the driveway onto the main road to get in and out of the car.

As can be seen from the drawings we propose to create a garage that allows cars to park in and also creates a turning area at the bottom of the driveway.

In the winters due to the frosty weather the applicant is forced to park both cars on the main road as there is no area (as we are proposing) at the bottom of the driveway.

Windsor Avenue for anyone that is familiar with the areas is a short cut from the Belfast road to the Rathfriland road and is very busy at most times of the day .

One of the primary reasons for this application is to create a **SAFER** entrance for the applicants and also a SAFER area off the main road for visitors to park and enter and exit in forward gear.





Conclusion

The applicant has spoken to the neighbours who are more than happy to have this entire area tidied up as it is also causing issues with vegetation overgrowing onto their property.

As was mentioned in the case officer's report, we were not afforded the opportunity to submit further or revised drawings and hope the information contained in this report clarifies the issues raised.

And finally we are happy to take on-board any further comments the councillors or department have regarding the application and also if any revision are required to the application.

Yours Faithfully



Colin Dalton

For and on behalf of GRAY DESIGN LTD

ITEM NO	26		
APPLIC NO	LA07/2017/0375/O	Outline	DATE VALID 3/8/17
COUNCIL OPINION	REFUSAL		
APPLICANT	Mr Declan Kearney 11 Adavoyle Road Drumintee Newry BT35 8JJ	AGENT	M. P. Toale & Associates 116 Dromintee Road Newry BT35 8SW 028 3088 8574
LOCATION	30m West of 34 Station Road Adavoyle Killeavy Newry		
PROPOSAL	Farm Dwelling and Garage		
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions SUP Petitions
	0	0	0 0
			Addresses Signatures Addresses Signatures
			0 0 0 0

- 1 The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland 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.
- 2 The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along Station Road.
- 3 The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm, and therefore would not visually integrate into the surrounding landscape.
- 4 The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted, result in a suburban style build-up of development when viewed with existing and approved buildings and add to a ribbon of development which would therefore result in a detrimental change to further erode the rural character of the countryside.
- 5 The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and policy NH6 of Planning Policy Statement 2: Natural Heritage in that the siting of the proposal is unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.



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agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2017/0375/O

Date Received: 08.03.2017

Proposal: The applicant seeks Outline Permission for the erection of a farm dwelling and garage.

Location: 30m West of 34 Station Road, Adavoyle, Killeavy, Newry. South Armagh Countryside / AONB

Site Characteristics & Area Characteristics:

The site as defined is red is rectangular in shape and takes in the eastern portion of a larger agricultural field. The site abuts the public road and sits opposite the farm buildings and adjacent a 2 storey dwelling.

Site History:

N/A

Planning Policies & Material Considerations:

Banbridge Newry and Mourne Area Plan 2015
Strategic Planning Policy Statement for Northern Ireland
Planning Policy Statement 21
Planning Policy Statement 3 / DCAN 15
Planning Policy Statement 2
Building on Tradition

Consultations:

NI Water – Generic Response
Transport NI – No objections subject to compliance with attached RS1 from.
DARDNI – DARD number has been in existence for at least 6 years and SFP has been claimed in this period.

Objections & Representations

2 neighbours notified on 07.04.2017 and application advertised on 22.03.2017. No objections or representations received.

Consideration and Assessment:

The site lies within the AONB/Rural Area as designated in the Banbridge Newry and Mourne Area Plan 2015. There are no specific objections to the proposal with regard to the Area Plan.

PPS3 – Access, Movement & Parking & DCAN15 – Vehicular Access

Transport NI has confirmed they have no objections to the proposal with regard to the above policy criteria subject to compliance with the attached conditions.

PPS21 – Sustainable Development in the Countryside

Policy CTY1 restricts new development in the countryside, but makes an exception for farm dwellings which are acceptable if in accordance with policy CTY10. DARD NI has confirmed the Business ID submitted with the application has been in existence for more than 6 years and has claimed subsidies during this period. This satisfies the requirements of CTY 10 (a).

A solicitor's letter has confirmed there has been no development opportunities sold off or disposed from the farm holding. This satisfies the requirements of part (b) of policy CTY10.

The agent along with his submission submitted a solicitor's letter confirming the applicant does not own No.34 (dwelling adjacent the site). The proposed siting of the dwelling is across the road from the farm buildings and therefore not clustered with the buildings on the farm. This is reinforced by paragraph 5.41 of CTY10 where it notes that the proposed dwelling should read as being visually interlinked with the buildings, with little appreciation of any physical separation distance. This position is confirmed by PAC Appeal Ref 2016/A0009 where a similar arrangement was proposed and subsequently dismissed for this reason (among others). In the absence of demonstrable health and safety reasons or verifiable plans to expand the business the proposal is contrary to (c) of CTY10.

As the proposal does not meet the exception in CTY 10 in full and with no overriding reasons why this development is essential, the proposal is contrary to policy CTY1.

The SPPS reemphasises the need for the development to integrate and respect the rural character of the area.

The proposal is also contrary to (g) of CTY13 as the proposal is for a farm dwelling which is not visually linked or cluster with an established group of buildings on the farm. As the proposal will add to a ribbon of development and contribute to suburban style build up when viewed with existing buildings it is also contrary to CTY8 and CTY14.

Any approval notice would contain a negative condition for the applicant to provide the Council with the consent to discharge before work commences. The proposal is in general compliance with CTY16.

Planning Policy Statement 2: Natural Heritage

Policy NH6 of Planning Policy Statement 2 is applicable as the application is located within the Ring of Gullion AONB. Due to the issues discussed above relating to ribbon development, build-up and the failure to cluster with buildings on the farm it is considered that the siting of the proposal is unsympathetic to the special character of the AONB in general and of the particular locality. The proposal is contrary to policy NH6 of PPS2.

Recommendation:

Refusal

Reasons:

1. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that 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 for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along Station Road.
3. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm, and therefore would not visually integrate into the surrounding landscape.
4. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted, result in a suburban style build-up of development when viewed with existing and approved buildings and add to a ribbon of development which would therefore result in a detrimental change to further erode the rural character of the countryside.
5. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and policy NH6 of Planning Policy Statement 2: Natural Heritage in that the siting of the proposal is unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.

Case Officer:

Authorised Officer:



M. P. TOALE & ASSOCIATES

Architectural Consultants & Surveyors.



Architecture & Surveying Institute
Northern Ireland Region

Your Ref; LA07/2017/0375/O

8TH August 2017

Ref. Erection of Dwelling 30M West of 34 Station Road, Adavoyle,
Killeavy, Newry.

Enclosed find submission for consideration at the Planning Committee meeting on
Wednesday 16th August 2017

Yours Sincerely

.....*M. Toale*.....

Democratic Services Department,
Newry / Mourne & Down District Council,
O'Hagan House,
Monaghan Row,
Newry.

116 Dromintee Road, Newry Co. Down. BT358SW

Tel: 02830 888574 Fax: 02830 888574

Michael Toale A.S.I. I.C.I.O.B.

Paul Toale B.S.c. Eng. I.C.I.O.B

M. P. TOALE & ASSOCIATES

Architectural Consultants & Surveyors.

Date 7th August 2017

SUBMISSION FOR CONSIDERATION OF PLANNING COMMITTEE ON 16th Aug 2017

It has been established that the applicant fulfills the requirements of Planning Policy CTY10 and qualifies for a dwelling on his farm.

We would wish to make the following submission in response to the Planning Officers recommendations.

1. The site was chosen after careful consideration of other options on the farm. Plan 1, clearly shows that the site is within close proximity to the other farm buildings, visually linked and sited to cluster with those buildings (see circle enclosing this group)
2. The site is located in a natural hollow with limited approach views. The only clear view of the proposal is from the western approach as shown on Plan 2. This view is from a small hill section of the station Road and this hill also serves to screen the site from the busy nearby Adavoyle Road. The site is obscured from the eastern approach by the existing buildings and trees see Plan 3
3. Plan 1 also shows that the proposal does not contribute to ribbon development. The open gap to the east will remain as existing and with 150m approx. of the applicants open farmland to the west there is no significant increase in ribbon than already exists.

In summary a modest dwelling at this location with appropriate Design and Siting Conditions can be accommodated without compromise of the relevant Planning Legislation

Signed 

116 Dromintee Road, Newry Co. Down, BT358SW

Tel: 02830 888574 Fax: 02830 888574

Michael Toale A.S.I. I.C.I.O.B.

Paul Toale B.S.c. Eng. I.C.I.O.B

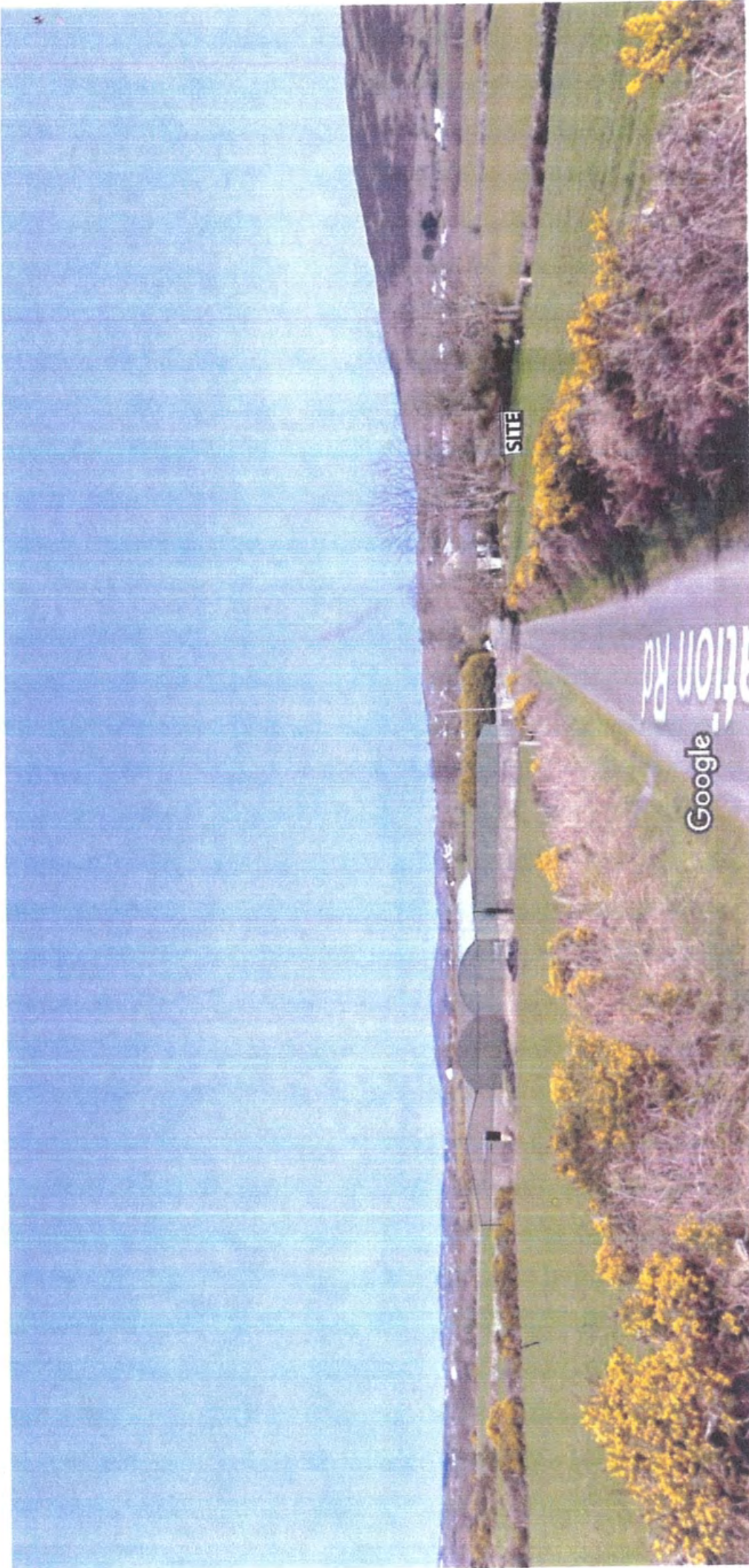
**PROPOSED SITE FOR DWELLING AT STATION ROAD,
ADAVOYLE, KILLEAVY NEWRY.**



Map data ©2017 Google

PLAN 1

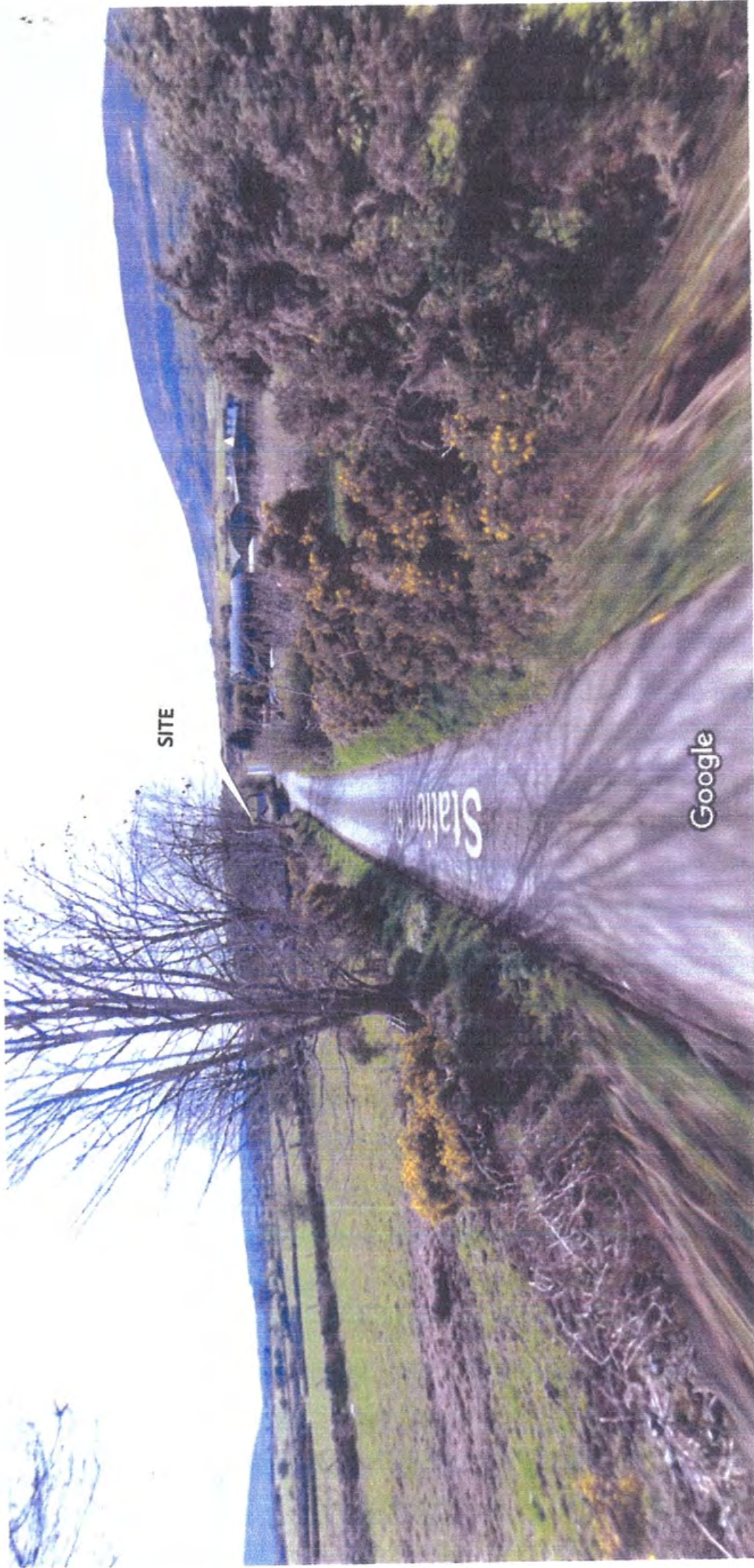
PROPOSED SITE FOR DWELLING AT STATION ROAD,
ADAVOYLE, KILLEAVY NEWRY.



APPROACH FROM WEST

PLAN 2

**PROPOSED SITE FOR DWELLING AT STATION ROAD
ADAVOYLE KILLEAVY NEWRY**



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APPROACH FROM EAST

PLAN 3

ITEM NO	35		
APPLIC NO	LA07/2017/0644/F	Full	DATE VALID 4/28/17
COUNCIL OPINION	REFUSAL		
APPLICANT	Mr C McKeown 16 Lisgarvagh Lislea Newry BT35 9JZ	AGENT	MRL Architects MRL House 56 Armagh Road Newry BT35 6DN 028 3025 3755
LOCATION	70m NE of 23 Lissaraw Road Camlough BT35 7HL		
PROPOSAL	Erection of dwelling (Change of house type, amended site access and garage from that previously approved under planning application ref. P/2006/0809/RM) (amended description)		
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions SUP Petitions
	0	0	0 0
			Addresses Signatures Addresses Signatures
			0 0 0 0

1

The proposal is contrary to the 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.



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**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2017/0644/F

Date Received: 02.05.2017

Proposal: Erection of dwelling (Change of house type, amended site access and garage from that previously approved under planning application ref. P/2006/0809/RM) (amended description)

Location: 70m NE of 23 Lissaraw Road Camlough BT35 7HL

The site is located within the countryside as defined in the Banbridge, Newry and Mourne Area Plan 2015.

At the time of my inspection there was evidence of foundations and a sub structure having been constructed within the site. Although not clear this would appear to represent a garage type layout as it was to the side of the application site.

Site History:

P/2006/0809/RM- Erection of 1 ½ storey dwelling with attached garage- approval- 1st Aug 07

Objections & Representations

No. of neighbours notified=4

No representations received= 0

Advertise expiry= 8th Aug 2017

Consultations

TransportNI- no objections

NIW- statutory

Consideration and Assessment:

The applicant is seeking an amended house type on a site in which planning permission has expired. The onus is on the agent/applicant to demonstrate that development of the previously approved dwelling had commenced prior to the expiry

of that decision, 1st Aug 2009. As there was a pre-commencement condition attached to the previous approval the onus was also on the agent/applicant to demonstrate compliance with this condition. The agent has simply stated the access and splays have been provided. From the aerial it not clear that the pre-commencement condition had been complied with within the require timeframe. The agent provided a record of building control inspections for the commencement/foundations of the garage dating back to the 1st May 2009. Having reviewing the previous approval P/2006/0809/RM, it would appear that the elevations/floorplans do not correlate with the block plan, both of which are referred to on the decision notice. The garage foundations are within the previously approved curtilage of the dwelling.

As the agent/applicant has not confirmed that the development as approved under P/2006/0809/RM, commenced within the stipulated timeframe, the Planning Department would consider that the permission has lapsed.

No justification has been provided for a new dwelling on the site in line with the prevailing policy. The proposal is therefore considered contrary to PPS 21 CTY1.

The proposed house is to be 1 ½ storey with a ridge height of 7.5 metres above FFL with a single storey detached garage to the side and rear. The proposed dwelling will not be a prominent feature in the landscape and this is ensured by the natural boundaries and the surrounding development. The plans show very little proposed landscaping with the boundaries of the site and access to be defined by timber post and wire fencing with white thorn hedgerow planted to the rear of same. The design of the dwelling is in my opinion appropriate of the site and its locality. The dwelling is of a similar design to that previously approved and in keeping with character of the area.

The proposal includes an amendment to the access, bringing the entrance closer to no. 23. TransportNI have been consulted with regards to the amendment and have returned with no objection. The dwelling and associated works including the access will not cause a detrimental change to, or further erode the rural character of the surrounding area.

Recommendation:

Refusal- CTY 1

.....

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.....

.....

40212 - Plnng 170809 - PROPOSED DWELLING, 70M NE OF LISSERAW ROAD, CAMLOUGH - planning ref. LA07/2017/0644/F -SPEAKING RIGHTS

TO WHOM IT MAY CONCERN

40212 - Plnng 170809 - PROPOSED DWELLING, 70M NE OF LISSERAW ROAD, CAMLOUGH - planning ref. LA07/2017/0644/F -SPEAKING RIGHTS (Item 35 on the agenda)

Further to our request for speaking rights in support of the above application at the Council meeting on the 16th August 2017, please note the following written submission on the issues we are intending to speak on:

This application is for a change of house type from that previously approved under Planning application ref. P/2006/0809/RM and we wish to speak on the issues relating to the Reserved Matters conditions (re access and provision of foundations) being met prior to expiry of the Approval of Reserved Matters.

Regards,

John Harkness BA(Hons) Arch Dip Arch ARB
Architect

(T) +44 (0) 28 302 53755

(W) www.milliganresidelarkin.com

(A) 56 Armagh Road, Newry, Co. Down, BT 35 6DN



MILLIGAN RESIDE LARKIN LTD.
chartered architects

RIBA 

arb

RIAI 

ITEM NO	36			
APPLIC NO	LA07/2017/0952/O	Outline	DATE VALID	6/20/17
COUNCIL OPINION	REFUSAL			
APPLICANT	Sean Og Hoey 10 Edenvally Jonesborough Newry BT35 8GT		AGENT	Architectural Design Service 20 Upper Burren Road Burren Warrenpoint BT34 3PT 07725917253

LOCATION Between 20 and 22 Molly Road
Foughillotra Jonesborough Newry

PROPOSAL Erection of infill dwelling and detached garage

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

- 1 The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
- 2 The proposal is contrary to 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 further erode the rural character of the countryside.
- 3 The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is no existing gap within an otherwise substantial and continuously built up frontage along Molly Road.



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agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2017/0952/O

Date Received: 21.06.2017

Proposal: Erection of infill dwelling and detached garage

Location: Between 20 and 22 Molly Road Foughillotra Jonesborough Newry

The site lies between no. 20 and no. 22. No. 20 has a frontage and access onto Molly Road. The access arrangements to the site no's 20, 22 and 26 all share one large entrance onto the Molly Road. The site is quite overgrown and set on a gradient. Both no's 22 and 26 are set well below the adjacent road level. There are a number of mature trees within the application site. The boundary with no. 20 and no. 22 is defined by post and wire fencing.

The site is located within the countryside and An Area of Outstanding Natural Beauty as defined in the Banbridge, Newry and Mourne Area Plan 2015.

Site History:

P/2000/2086/O- replacement dwelling- approval- 13/4/2001

P/1997/0530/O- replacement dwelling- approval-

Objections & Representations

No. of neighbours notified=11

No representations received= 0

Advertise expiry= 20.07.2017

Consultations

TransportNI- no objections

NIW- statutory

Consideration and Assessment:

The site is located within the countryside context therefore the provisions of PPS 21 will apply to this case. The application has been submitted for a dwelling on an infill site. It was noted on that a footprint to no. 24 was annotated on the site location plan. At the time of inspection there was no development within the site that resembled a dwelling. Having spoken with the agent he confirmed that the footprint was of a dwelling previously replaced and is no longer within the site.

The application will be assessed against Policies CTY 1, 8, 13 & 14.

An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. The application site is positioned between no.20 and two entrances leading to properties no. 22 and no. 26. Having viewed the application site on the grounds, no. 20 has a frontage to Molly Road however no. 22 and no. 26 do not have frontages, only entrances onto their laneways. For the purposes of the policy the site is not a small gap positioned within a line of 3 or more buildings along a road frontage as required by the policy. It is felt that a dwelling appropriately conditioned would meet the criteria set out in CTY 13.

The proposal would result in a suburban style build up when viewed with the existing buildings. The proposal is contrary to CTY 14.

Recommendation:

Refusal

.....

.....

Newry, Mourne & Down District Council – July 2017

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1. Live Applications

MONTH 2017/18	NEW APPLICATIONS	LIVE APPLICATIONS	LIVE APPLICATIONS OVER 12 MONTHS
April	129	1,075	293
May	149	1,058	281
June	149	976	263
July	135	957	250

2. Live Applications by length of time in system

Month 2017/18	Under 6 months	Between 6 and 12 months	Between 12 and 18 months	Between 18 and 24 months	Over 24 months	Total
April	590	192	77	72	144	1,075
May	585	192	76	65	140	1,058
June	550	163	78	55	130	976
July	535	172	73	45	132	957

3. Live applications per Case Officer

Month 2017/18	Average number of Applications per Case Officer
April	67
May	62
June	58
July	50

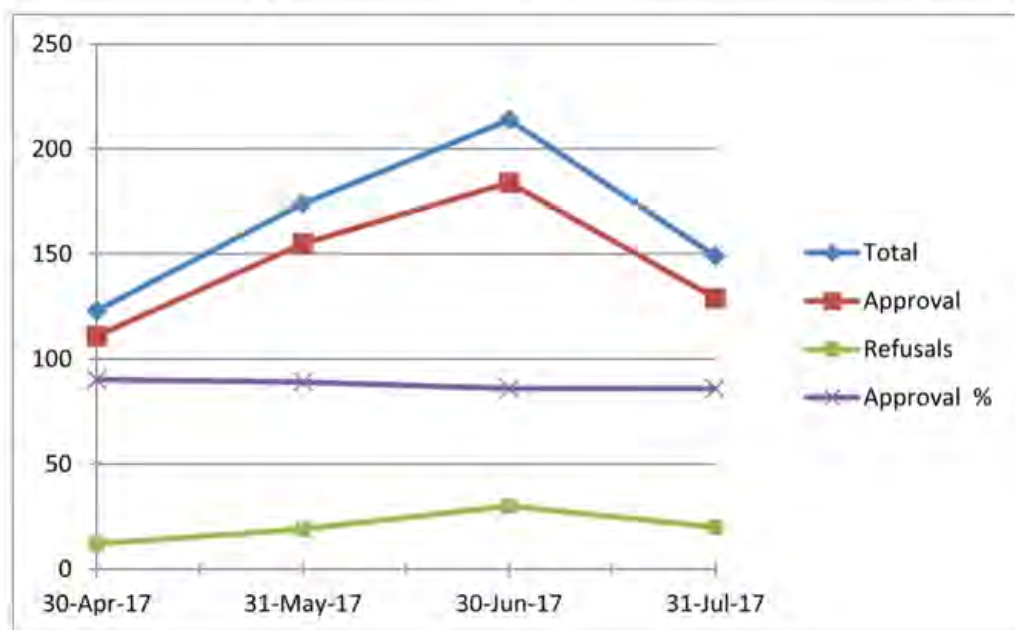
Newry, Mourne & Down District Council – July 2017

4. Decisions issued per month

Month 2017/18	Number of Decisions Issued	Number of Decisions Issued under delegated authority
April	123	104
May	174	148
June	214	170
July	149	124

5. Decisions Issued YTD

Month 2017/18	Number of Decisions Issued (cumulative)	Breakdown of Decisions	
April	123	Approvals (111)	90%
		Refusals (12)	10%
May	297	Approvals (266)	90%
		Refusals (31)	10%
June	511	Approvals (450)	88%
		Refusals (61)	12%
July	660	Approvals (579)	88%
		Refusals (81)	12%



Newry, Mourne & Down District Council – July 2017

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6. Enforcement Live cases

Month 2017/18	<=1yr	1-2 yrs	2-3 yrs	3-4 yrs	4-5 yrs	5+yrs	Total
April	292	126	95	87	55	83	738
May	286	137	89	91	53	85	741
June	295	138	91	93	53	88	758
July	311	142	89	88	61	88	779

7. Planning Committee

Month	Number of Applications presented to Committee	Number of Applications Determined by Committee	Number of Applications Withdrawn/ Deferred for future meeting
26 April 2017	26	19	7
24 May 2017	39	28	11
21 June 2017	34	18	16
19 July 2017	32	20	12
Totals	131	85	46

8. Appeals

Planning Appeal Commission Decisions issued during July 2017

Area	Number of current appeals	Number of decisions issued	Number of decisions Allowed	Number of decisions Dismissed	Other decisions
Newry & Mourne	21	5	0	2	1 allowed in part 2 Withdrawn
Down	11	1	0	1	-
TOTAL	32	6	0	3	3

Statutory targets monthly update - up to June 2017 (unvalidated management information)

Newry, Mourne and Down

	Major applications (target of 30 weeks)				Local applications (target of 15 weeks)				Cases concluded (target of 39 weeks)			
	Number received	Number decided/withdrawn ¹	Average processing time ²	% of cases processed within 30 weeks	Number received	Number decided/withdrawn ¹	Average processing time ²	% of cases processed within 15 weeks	Number opened	Number brought to conclusion ³	"70%" conclusion time ³	% of cases concluded within 39 weeks
April	0	1	91.8	0.0%	127	113	19.0	38.9%	37	20	64.2	60.0%
May	1	2	110.4	0.0%	148	157	18.0	43.9%	32	46	61.1	56.5%
June	2	2	73.2	0.0%	121	204	19.3	41.7%	32	20	59.7	55.0%
July	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
August	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
September	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
October	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
November	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
December	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
January	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
February	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
March	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
Year to date	3	5	92.6	0.0%	396	474	18.8	41.8%	101	86	61.1	57.0%

Source: NI Planning Portal

Note

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

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

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

Current Appeals

477

AUTHORITY **Newry, Mourne and Down**

ITEM NO	1	PAC Ref:	2016/A0005
Planning Ref:	P/2014/0303/O	DEA	The Mournes
APPELLANT LOCATION	Michael Horner Adjacent To And North Of 36 Belmont Road Kilkeel		
PROPOSAL	^{Newry} Erection of Infill Dwelling and Detached Garage		

APPEAL TYPE	Plg Refusal; permissions	Date Appeal Lodged	05/04/2016
Appeal Procedure			
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	2	PAC Ref:	2016/A0041
Planning Ref:	P/2014/0853/F	DEA	Crollieve
APPELLANT LOCATION	S Meade To The Immediate North And East Of 16 Rostrevor Road Hilltown.		
PROPOSAL	Retention of two light industrial units, erection of three light industrial units.		

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

Current Appeals

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ITEM NO	3	PAC Ref:	2016/A0135
Planning Ref:	P/2014/0649/O	DEA	The Mournes
APPELLANT	Mr Joseph Walls		
LOCATION	60 Metres East Of No.20 Sandbank Road Hilltown County Down BT34 5XU		
PROPOSAL	Site for Farm Dwelling (amended address)		

APPEAL TYPE	Plg Refusal: permissions		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	13/10/2016
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	4	PAC Ref:	2016/A0148
Planning Ref:	LA07/2015/0877/F	DEA	The Mournes
APPELLANT	Mr Diarmid Sloan		
LOCATION	10 Tullybrannigan Brae Newcastle BT33 0DG		
PROPOSAL	Roof space conversion, replacement roof and 2 storey extension		

APPEAL TYPE	Plg Refusal: permissions		
Appeal Procedure	Written Reps	Date Appeal Lodged	01/11/2016
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

479

ITEM NO	5		
Planning Ref:	LA07/2015/1244/F	PAC Ref:	2016/A0166
APPELLANT	Barney Mackin	DEA	Crotlieve
LOCATION	19.3m North-East Of No27B Derrycraw Road Derrycraw		
PROPOSAL	^{Newly} Erection of farm dwelling and garage		
APPEAL TYPE	Plg Refusal; permissions		
Appeal Procedure	Written Reps with Site Visit	Date Appeal Lodged	30/11/2016
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	6		
Planning Ref:	LA07/2016/1041/C	PAC Ref:	2016/A0172
APPELLANT	Joseph O'Hare	DEA	Crotlieve
LOCATION	Lands North Of And Adjacent To 53 Mayo Road Mayobridge		
PROPOSAL	^{Newly} Dwelling and domestic garage on gap/infill site (amended address)		
APPEAL TYPE	Plg Refusal; permissions		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	05/12/2016
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

480

ITEM NO	7	PAC Ref:	2016/A0185
Planning Ref:	LA07/2016/0381/C	DEA	Crotlieve
APPELLANT	Mr Matt Burns		
LOCATION	Opposite No. 107 Kilbroney Road Rostrevor		
PROPOSAL	Proposed farm retirement dwelling		
APPEAL TYPE	Plg Refusal; permissions		
Appeal Procedure	Written Reps with Site Visit	Date Appeal Lodged	15/12/2016
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	8	PAC Ref:	2016/A0192
Planning Ref:	LA07/2016/0802/C	DEA	Crotlieve
APPELLANT	Darren O'Hagan		
LOCATION	60m NE Of 11a New Line Road Hilltown		
PROPOSAL	^{Newrv} Site for dwelling and detached garage		
APPEAL TYPE	Plg Refusal: permissions		
Appeal Procedure		Date Appeal Lodged	30/12/2016
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

481

ITEM NO 9
Planning Ref: LA07/2016/0510/C **PAC Ref:** 2016/A0204
APPELLANT Robert Laurence Annett **DEA** The Mournes
LOCATION Adjacent And West Of 60 Corcreaghan Road
 Kilkeel
 RT34 4SI
PROPOSAL Dwelling on a farm

APPEAL TYPE Plg Refusal; permissions
Appeal Procedure Written Reps **Date Appeal Lodged** 23/01/2017
Date of Hearing
Date Statement of Case Due for Hearing
Date Statement of Case Due - Written Representation
Date of Site Visit

ITEM NO 10
Planning Ref: LA07/2016/0826/C **PAC Ref:** 2016/A0211
APPELLANT Kevin Donaghy **DEA** Slieve Gullion
LOCATION Lands To The West And Rear Of Nos 22 And 24 Ballynabee Road
 Maghernahely
 Bessbrook
PROPOSAL Proposed erection of detached dwelling and garage

APPEAL TYPE Plg Refusal; permissions
Appeal Procedure Written Reps **Date Appeal Lodged** 02/02/2017
Date of Hearing
Date Statement of Case Due for Hearing
Date Statement of Case Due - Written Representation
Date of Site Visit

Current Appeals

482

ITEM NO	11		
Planning Ref:	LA07/2015/0647/C	PAC Ref:	2016/A0214
APPELLANT LOCATION	PR Jennings 15m North Of 39 Listooder Road Crossgar	DEA	Rowallane
PROPOSAL	Erection of farm dwelling (additional information received)		
APPEAL TYPE	Plg Refusal: permissions		
Appeal Procedure		Date Appeal Lodged	10/02/2017
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	12		
Planning Ref:	LA07/2016/0365/C	PAC Ref:	2016/A0224
APPELLANT LOCATION	Mr And Mrs McCluskey Lands Between 1 Brae Road And 212 Belfast Road Ballynahinch	DEA	Rowallane
PROPOSAL	2no proposed dwelling houses		
APPEAL TYPE	Plg Refusal: permissions		
Appeal Procedure		Date Appeal Lodged	27/02/2017
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

483

ITEM NO	13	PAC Ref:	2016/A0226
Planning Ref:	LA07/2016/0477/F	DEA	Slieve Gullion
APPELLANT	Mr Caolan Quinn		
LOCATION	50m South-east Of No 106 Carrickgallogly Road Carrickgallogly		
PROPOSAL	^{Belleek} Erection of dwelling		

APPEAL TYPE	Plg Refusal: permissions	Date Appeal Lodged	28/02/2017
Appeal Procedure			
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	14	PAC Ref:	2016//E0005
Planning Ref:	P/2015/0147/LDP	DEA	Newry
APPELLANT	Mr Gabriel McEvoy		
LOCATION	14m South West Of No 255 Dublin Road Killeen		
PROPOSAL	^{Newry} Erection of agricultural building and associated hardstanding area, including removal of existing stone wall to provide access from existing agricultural yard.		

APPEAL TYPE	Plg Refusal: permissions	Date Appeal Lodged	02/05/2017
Appeal Procedure			
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

484

ITEM NO	15		
Planning Ref:	LA07/2015/0166/L	PAC Ref:	2016-E0045
APPELLANT	Mr Ronald Sloan	DEA	The Mournes
LOCATION	29 Leitrim Road Kilkeel		
PROPOSAL	A Certificate of Lawfulness confirming that the construction of the works undertaken were lawful under planning reference P/2009/0663/F and P/2009/1484/F, and therefore constitute a material start to the dwelling approved under reference P/2009/0663/F.		
APPEAL TYPE	Plg Refusal: permissions		
Appeal Procedure		Date Appeal Lodged	24/01/2017
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	16		
Planning Ref:	LA07/2016/1212/C	PAC Ref:	2017/0061
APPELLANT	Thomas Grant	DEA	Crotlieve
LOCATION	Adjacent & Immediately South Of 20 Ryan Road Mayobridge		
PROPOSAL	Newly Replacement dwelling on farm (Amended site Address)		
APPEAL TYPE	Plg Refusal: permissions		
Appeal Procedure		Date Appeal Lodged	06/07/2017
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

485

ITEM NO	17		
Planning Ref:	LA07/2015/0429/F	PAC Ref:	2017/A0002
APPELLANT	Rory And Kerri Farrell	DEA	Crotlieve
LOCATION	Site 11 The Avenue Rurren		
PROPOSAL	New two storey house with attached garage and associated external works		
APPEAL TYPE	Plg Refusal: permissions		
Appeal Procedure		Date Appeal Lodged	04/04/2017
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	18		
Planning Ref:	LA07/2016/0150/C	PAC Ref:	2017/A0016
APPELLANT	Alan & Ronald Davidson	DEA	Crotlieve
LOCATION	Adjacent And Immediately South Of No.17 Ardaragh Road Newry Co. Down BT34 1NY		
PROPOSAL	Erection of managers dwelling and domestic garage		
APPEAL TYPE	Plg Refusal: permissions		
Appeal Procedure		Date Appeal Lodged	21/04/2017
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

486

ITEM NO	19	PAC Ref:	2017/A0020
Planning Ref:	LA07/2015/0093/F	DEA	Slieve Croob
APPELLANT	Maurice Walsh		
LOCATION	14A Belfast Road Dundrum Newcastle		
PROPOSAL	Change of use of existing shed from light industrial for storage and distribution associated with oyster/mussel farming. (retrospective)		

APPEAL TYPE	Plg Refusal: permissions	Date Appeal Lodged	28/04/2017
Appeal Procedure			
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	20	PAC Ref:	2017/A0026
Planning Ref:	LA07/2016/1147/C	DEA	Rowallane
APPELLANT	Noel Ross		
LOCATION	Between 1 Drumgiven Road And 37 Creevyargon Road Ballynahinch		
PROPOSAL	Infill site for 2 dwellings and associated domestic garages.		

APPEAL TYPE	Plg Refusal: permissions	Date Appeal Lodged	08/05/2017
Appeal Procedure			
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

487

ITEM NO	21		
Planning Ref:	LA07/2016/0736/F	PAC Ref:	2017/A0027
APPELLANT	Mr Noel Ritchie	DEA	Slieve Croob
LOCATION	To The Rear 102 Drumsnade Road Drumaness		
PROPOSAL	RT24 RNI Retrospective application for retention of timber frame domestic dwelling on site of storage shed		

APPEAL TYPE	Plg Refusal: permissions		
Appeal Procedure		Date Appeal Lodged	09/05/2017
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	22		
Planning Ref:	LA07/2015/0946/F	PAC Ref:	2017/A0028
APPELLANT	Mark Rice	DEA	Newry
LOCATION	Lands Adjacent And North Of No.46 Lower Foughill Road Jonesborough Armagh.		
PROPOSAL	Proposed retention and extension of existing prefabricated structure to create farm dwelling. (amended description)		

APPEAL TYPE	Plg Refusal: permissions		
Appeal Procedure	Written Reps with Site Visit	Date Appeal Lodged	10/05/2017
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

488

ITEM NO	23	PAC Ref:	2017/A0030
Planning Ref:	LA07/2016/0557/F	DEA	Slieve Gullion
APPELLANT LOCATION	Mr And Mrs Oliver Reavey 85 Newtown Road Camlough		
PROPOSAL	Newry Retention of dwelling as constructed previously approved under planning ref P/2015/0186/RM		
APPEAL TYPE	Plg Refusal: permissions		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	15/05/2017
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	24	PAC Ref:	2017A0030
Planning Ref:	LA07/2016/0557/F	DEA	Slieve Gullion
APPELLANT LOCATION	Mr And Mrs Oliver Reavey 85 Newtown Road Camlough		
PROPOSAL	Newry		
APPEAL TYPE	Plg Refusal: permissions		
Appeal Procedure		Date Appeal Lodged	15/05/2017
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

489

ITEM NO	25	PAC Ref:	2017/A0033
Planning Ref:	LA07/2017/0092/F	DEA	The Mournes
APPELLANT	Mr Fintan McMullan		
LOCATION	16 Mourne View Avenue Newcastle		
PROPOSAL	Newcastle Extension to front of dwelling (Retrospective)		

APPEAL TYPE	Plg Refusal: permissions	Date Appeal Lodged	22/05/2017
Appeal Procedure			
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	26	PAC Ref:	2017/A0044
Planning Ref:	LA07/2016/1323/F	DEA	The Mournes
APPELLANT	Cathal Sloan		
LOCATION	14 Sandy Brae Attical Kilkeel		
PROPOSAL	Partial conversion of existing domestic garage to provide ancillary residential accommodation.		

APPEAL TYPE	Plg Refusal: permissions	Date Appeal Lodged	08/06/2017
Appeal Procedure	Informal Hearing		
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

490

ITEM NO	27		
Planning Ref:	LA07/2016/0762/C	PAC Ref:	2017/A0045
APPELLANT	Mr G Sharvin	DEA	Downpatrick
LOCATION	Lands 10m West Of 89 Killard Road Ballyhornan		
PROPOSAL	Downpatrick Proposed one and half storey bungalow and detached garage (Amended Site Location)		

APPEAL TYPE	Plg Refusal: permissions		
Appeal Procedure		Date Appeal Lodged	08/06/2017
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	28		
Planning Ref:	LA07/2017/0199/F	PAC Ref:	2017/A0047
APPELLANT	Paul Burke	DEA	Downpatrick
LOCATION	12 Marshallstown Ballynoe Road		
PROPOSAL	Downpatrick Retention of portion of existing domestic store as replacement for substandard aged domestic stores		

APPEAL TYPE	Plg Refusal: permissions		
Appeal Procedure		Date Appeal Lodged	08/06/2017
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

491

ITEM NO	29	PAC Ref:	2017/A0058
Planning Ref:	P/2015/0067/O	DEA	Slieve Gullion
APPELLANT	Mrs M McKnight		
LOCATION	40m South Of 4 Molly Road Lower Jonesborough		
PROPOSAL	Dwelling and garage		

APPEAL TYPE	Plg Refusal: permissions	Date Appeal Lodged	21/06/2017
Appeal Procedure			
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	30	PAC Ref:	2017/A0071/F
Planning Ref:	LA07/2017/0077/F	DEA	Crotlieve
APPELLANT	Gary O'Hare		
LOCATION	Lands Between No. 20B And No. 22 Derrycraw Road Newry		
PROPOSAL	RT34 1RG Construction of 2 No. new detached 1 1/2 storey infill dwellings with detached double garages, associated site works and new access to public road.		
APPEAL TYPE	Plg Refusal: permissions	Date Appeal Lodged	24/07/2017
Appeal Procedure			
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

492

ITEM NO	31		
Planning Ref:	LA07/2015/1381/F	PAC Ref:	2017-A0076
APPELLANT	Mr And Mrs E Kerr	DEA	Slieve Croob
LOCATION	154a Downpatrick Road Teconnaught Rallvnahinch		
PROPOSAL	Conversion and extension of existing stone building to form dwelling plus detached garage and associated site works		

APPEAL TYPE	Plg Refusal: permissions		
Appeal Procedure		Date Appeal Lodged	27/07/2017
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	32		
Planning Ref:	LA07/2016/1296/C	PAC Ref:	2017/A009
APPELLANT	Mr And Mrs John Curran	DEA	Slieve Croob
LOCATION	Opposite 2 And 4 Magheralone Road Drumaness Rallvnahinch		
PROPOSAL	Proposed 1No. dwelling and garage with associated site works		

APPEAL TYPE	Plg Refusal: permissions		
Appeal Procedure		Date Appeal Lodged	11/04/2017
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			



Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
F: 028 9031 2536
E: info@pacni.gov.uk

Appeal Reference:	2016/A0225
Appeal by:	Paul and Diane Kelly
Appeal against:	Refusal of Outline Planning Permission
Proposed Development:	1 Infill 1.5 storey dwelling and garage
Location:	25m south of 162 Tandragee Road, Jerrettspass, Newry
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2015/1317/O
Procedure:	Written Representations and Accompanied Site Visit on 30 th June 2017
Decision by:	Commissioner Helen Fitzsimons 18 th July 2017

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether the proposed development is acceptable in principle the countryside and if it would integrate into the surrounding landscape.
3. The appeal site lies outwith any settlement or designation as defined by the Banbridge Newry and Mourne Area Plan 2015. There are no plans or policies in the plan relevant to the appeal. Planning Policy Statement 21 'Sustainable Development in the Countryside '(PPS 21) is material to this appeal.
4. Policy CTY 1 of PPS 21 states that there are a range of types of developments which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. It goes on to say that other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement.
5. One of the stated exceptions in Policy CTY 1 of PPS 21 is a dwelling in accordance with Policy CTY 8 'Ribbon Development'. Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. However, it also includes the exception that 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 will be permitted provided such development respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other

planning and environmental requirements. For the purposes of this policy the definition of a substantial and continuously built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear. A road frontage building is one where there is no physical demarcation separating it from the road.

6. Policy CTY 14 'Rural Character' of PPS 21 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to or further erode the rural character of an area. A new building will be unacceptable where (d) it creates or adds to a ribbon of development (see Policy CTY 8).
7. The appeal site forms part of a roadside field. Adjacent to its northern boundary is a dwelling and garage (No 162). Immediately south is a dwelling the curtilage of which is defined by a fence, which is situated behind a strip of land that bounds the Tandragee Road (No 144). This dwelling is not a road frontage building given its physical demarcation from the road. A roadside commercial building is located immediately south of No 144 Tandragee Road. The gap between the buildings at No 162 Tandragee Road and this commercial building is some 188m. This is not a small gap and consequently those buildings are not a line of 3 or more buildings along a road frontage. The proposed development would offend the requirements of Policies CTY 8 and CTY 14 (d) of PPS 21.
8. Access is proposed from a minor road to the west. I am not persuaded that improvements to this part of the road network as a result of the proposed access arrangements are sufficient to outweigh the requirements of Policy CTY 8 and CTY 14 of PPS 21.
9. As there is no substantial and continuously built up frontage of a line of 3 or more buildings along the road in this location the proposed development is not an exception set out within Policy CTY 8 of PPS 21 and it would create a ribbon of development when seen with the existing buildings. I was given no evidence on any overriding reasons why the proposed development is essential in this rural location and could not be located in a settlement. It is therefore not acceptable in principle in the countryside and fails Policy CTY 1 of PPS 21. The Planning Authority has sustained its first, second and fourth reasons for refusal.
10. Policy CTY 13 of PPS 21 'Integration and Design of Buildings in the Countryside' states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and is of an appropriate design. A new building will be unacceptable in seven stated circumstances. One such circumstance is (b) that the site lacks long established boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape. The southern and western boundaries of the appeal site are vegetated whilst that to the west is defined by a post and wire fence. The land rises to the west and provides a backdrop against which the proposed dwelling would be seen. Given both the surrounding landform and existing vegetation I disagree with the Planning Authority that a suitable degree of enclosure could not be provided, and that the proposed development would fail to integrate into the surrounding landscape. The Planning Authority has not sustained its third reason for refusal based on Policy CTY 13 of PPS 21.

11. However, as I have concluded that the Planning Authority's first, second and third reasons for refusals are sustained the appeal must fail.

This decision is based on the 1:2500 scale site location plan.

COMMISSIONER HELEN FITZSIMONS

2016/A0225**List of Documents**

Planning Authority: -
Appellant: -

PA1 Written Statement
A1 Written Statement

Attendances

Planning Authority

Mr. G Murtagh

Appellant:

Ms D Kelly
Mr K Sherry
Mrs O Hagan



Appeal Decision

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Appeal Reference:	2016/E0032
Appeal by:	Michelle McGivern
Appeal against:	Refusal in part of a Certificate of Lawfulness of Existing Use or Development
Development:	Dwelling, associated curtilage and site works
Location:	26A Greenan Lough Road, Newry (on lands associated with 26 Greenan Lough Road)
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2016/0396/LDE
Procedure:	Written representation and Commissioner Site Visit on 3 March 2017
Decision by:	Commissioner Rosemary Daly dated 6 July 2017

Decision

1. The appeal is allowed, in part, and a Certificate of Lawfulness of Existing Used or Development is attached.

Reasons

2. The main issue in this appeal relates to whether the Council's modified description of development accurately describes the lawful development on the site.
3. A Certificate of Lawfulness of Existing Use or Development (CLEUD) is a statement specifying what was lawful at a particular date. An application for a CLEUD was submitted to the Council on 22 March 2016. The description of existing use and development on the site was for an "*existing dwelling associated curtilage and site works*". On the 28 October 2016 the Council issued a CLEUD. It certified that sufficient evidence had been submitted to show that development relating to a "*dwelling of temporary construction within the curtilage of an existing dwelling*" as specified in the first schedule of the certificate was lawful.
4. The appellant referred to Article 11(4) of the Planning (General Development Procedure) Order (Northern Ireland) 2015. This article states the Council may by notice in writing require the applicant to provide such further information as may be specified to enable it to deal with the application. The Council facilitated opportunities for the appellant to provide information which included references to case law to consider the lawfulness of the development on the site. Upon consideration of such evidence the Council proceeded to modify the description of the lawful development on the site.

5. Section 169 (4) of the Planning Act (Northern Ireland) 2011 states that "*if, on an application under this section, the Council is provided with information satisfying it of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the Council or a description substituted by it, the Council must issue a certificate to that effect; and in any other case it must refuse the application*". The Council accepted the building on the site was a dwelling but considered the description of development should be modified to be described as a "dwelling of temporary construction". Furthermore the Council also considered the dwelling has no "associated curtilage" as it shares the curtilage of the dwelling at 26 Greenan Lough Road and is not separate from that property. The CLEUD was issued taking account of these modifications to certify what the Council consider to be the lawful development on the site.
6. Section 250 of the Planning Act (NI) 2011 provides a definition for a 'building' and states that it includes any structure or erection. There is no dispute that the structure on the site is a building the product of operational development. Furthermore the undisputed evidence before me is that by virtue of the length of time, over 5 years, the building is immune from enforcement action and that the building to which the CLEUD relates is a dwelling. It is not necessary to rely on case law presented by the appellant to determine what constitutes a dwelling. The area of dispute relating to the CLEUD is the modified description which refers to a dwelling of "*temporary construction*" and "*within the curtilage of an existing property*". In assessing these matters the appellant and Council both provided specific references to case law and other appeal decisions. I have taken these into account in making my consideration of the matters described on the CLEUD.
7. References to appeal decisions were presented by both the Council and appellant. None of these decisions relate to subject matter of this appeal in determining if development on the site is lawful or whether such development has been correctly described. Each of the appeal cases assessed the specific attributes of the respective building on each site. I have not been persuaded by either the appellant or the Council that the development on the appeal site sits on all fours with any of the other referred appeal cases. These appeal cases have limited weight in my assessment of whether the modification of the description of the use or operations on the site is correctly described on the CLEUD. With exception to the enforcement case 2009/E067, which dealt with matters relating to immunity from enforcement action, the other cases referred to by the parties consider the matter of what constitutes a replacement opportunity for a dwelling in the countryside in the context of the stipulations of the prevailing planning policy. Compliance with planning policy is not a matter to be determined in this appeal. The issue to be determined is whether the modification of the description of development reflects the development on the site.
8. In deciding whether it was necessary to modify the description of development to include reference to a "dwelling of temporary construction" I consider the following to be relevant:
 - The dwelling on the site resembles in appearance a prefabricated chalet.
 - The external appearance of the dwelling includes cream dash, black felt roof covering and white PVC windows The thinly render exterior walls,

- felted roof and general appearance of the dwelling is similar to that seen and used on many portable buildings.
- In accordance with the submitted plans the footprint of the dwelling is some 103.25 square metres (13.445 metres by 7.680 metres) and accommodates three bedrooms, bathroom, hallway, utility, kitchen and living room. The ridge height of the dwelling is 3.85 metres. The dwelling also has a separate front and rear door. The size and layout of the accommodation would be more than would normally be found in a caravan or a mobile home.
 - To accommodate the dwelling on the site, the land has been cut into and excavated and hardcore has been laid. A stone wall has been erected around the perimeter of the dwelling and provides a retaining feature in respect of the rising land to the rear of the property.
 - The appellant stated the appeal site was cleared in May 2009, hard core was laid on the site in June/July 2009, construction of a timber frame was put in place on the site in August/Sept 2009 and the second fix internally took place in October 2009, and other internal fixtures, such as bathrooms, tiles were put in around January 2010.
 - Copies of original invoices were provided relating to the erection of the dwelling on the appeal site, these invoices are consistent with the period of middle of 2009 until early part of 2010 and related to external and internal fittings for the building including sewer pipes, bathroom fittings and tiles, grout and adhesive.
 - Photographic evidence was provided relating to the preparation of the site to accommodate the building but no photographic evidence or other persuasive evidence to demonstrate how the building was erected or placed on the site.
 - The erection of the dwelling on the site involved the preparation of the ground, placement or erection of the dwelling, connection of the dwelling to water, sewage and electricity supply and internally fitting out the dwelling. This all was carried out over a period of around 6 months.
 - Connection to the existing septic tank, relating to 26 Greenan Lough Road, on the site also adds to the works undertaken to accommodate the dwelling on the site.
 - The single storey dwelling is fixed to the ground and has low rise steps and a ramp leading to the front door. A narrow path leads around the dwelling and services including manhole and pipes are in place. The appeal site has been modified to accommodate the dwelling and such works are representative of more than just placing a building on the site.
9. Much of the external work, relating to the excavation and preparation of the site, creation and placement of ramp and steps to the front door would apply to any mobile unit. However, given the nature and extent of the work to construct and fit out the building, the time required for the complete operation, the building's size, internal layout, external appearance, its lack of mobility and the length of time the building has been on the site, some 8 years, I consider that the building is a permanent feature in the countryside. For these reasons the building on the site is no more of a temporary construction than the existing dwelling and out building at 26 Greenan Lough Road. Accordingly I do not find it necessary to modify the description of lawful development to take account of its appearance, design and type of materials used in the construction of the building on the site.

10. The building is sited within the curtilage of the property at 26 Greenan Lough Road and shares access, servicing and parking space with this dwelling. To carry out my site inspection I had to use the access and private amenity/parking space within the curtilage of the property at 26 Greenan Lough Road. The small path around the side and rear of the building functions with the use of the appeal dwelling on the site. However I do not consider this area to be exclusive only to the use of the appeal property especially given concrete steps which are in place to the side of the appeal dwelling and allow access from the curtilage of 26 Greenan Lough up to and alongside the land at the rear of both properties. Whilst the red line shown on the submitted 1:1250 scale location plan illustrates the extent of the appeal site on the ground the site overlaps part of the curtilage relating to dwelling at 26 Greenan Lough Road. The area around the dwelling does not represent an area of enclosed space. Both dwellings share the same septic tank. This would indicate that the curtilage is communal between both the properties. On this basis I do not accept the building on the site has an associated curtilage exclusive from that of the property at 26 Greenan Road. Taking account of the information before me and evidence of what I saw at the appeal site I consider the Council's amended description relating to this aspect of the development to be accurate and reasonably reflects the development on the site.
11. In conclusion, as already noted above Section 169(4) of the Planning Act (NI) 2011 allows for a description to be modified or substituted by the Council. Taking account of the evidence presented I consider the description of the development should be modified to state 'Dwelling within the curtilage of an existing dwelling'. Accordingly the appeal is allowed in part and the CLEUD is modified accordingly.

COMMISSIONER ROSEMARY DALY

List of Documents

Planning Authority:-	"A" Statement of Case and Appendices
	"A1" Comments
Appellant:-	"B" Statement of Case and Appendices, HQ Building Design and Planning Consultants
	"B1" Comments

PLANNING ACT (NORTHERN IRELAND) 2011: SECTION 169

CERTIFICATE OF LAWFULNESS OF PROPOSED USE OR DEVELOPMENT

The Planning Appeals Commission hereby certifies that on 22 March 2016 the matter described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate was lawful within the meaning of section 169 of the Planning Act 2011, for the following reason:

The dwelling within the curtilage of the property at 26 Greenan Lough has been on the site for more than 5 years. In accordance with Section 132 (1) of the Planning (Northern Ireland) Act no enforcement action can be taken in respect of it.

Signed

COMMISSIONER ROSEMARY DALY
6 July 2017

FIRST SCHEDULE

Dwelling within the curtilage of an existing dwelling. As shown by drawings: site location plan scale 1:1250; existing site plan scale 1:500; existing floor plan scale 1:50; and elevation drawing scale 1:100 all received by the Newry, Mourne and Down District Council dated 22 March 2016.

SECOND SCHEDULE

26a Greenan Lough Road, Newry (on lands associated with 26 Greenan Lough Road)

Notes:

- (1) This certificate is issued solely for the purpose of section 169 of the Planning Act 2011.
- (2) It certifies that the matter described in the First Schedule taking place on the land described in the Second Schedule would have been lawful on the specified date and, thus, would not have been 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 matter described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plans. Any matter which is materially different from that described or which relates to other land may render the owner and occupier liable to enforcement action.



Appeal Decision

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Appeal Reference:	2016/A0238.
Appeal by:	Mr & Mrs Samuel Duke.
Appeal against:	The refusal of full planning permission.
Proposal:	Extension to existing curtilage of dwelling. Retention of an existing pigeon loft and construction of an additional pigeon loft.
Location:	19 Inishbeg, Killyleagh Downpatrick BT30 9TR.
Authority:	Newry, Mourne and Down District Council.
Authority's Reference:	LA07/2016/0561/F.
Procedure:	Written Representations and Accompanied Site Visit on 28 th June 2017.
Decision by:	Commissioner Damien Hannon dated 7 th July 2017.

Decision

1. The appeal is dismissed in respect of the retention of the existing pigeon loft, construction of an additional pigeon loft and the extension to the existing curtilage of the dwelling as illustrated by the hatched area in the attached drawing PAC 1.
2. The appeal is allowed in respect of the extension to the curtilage of the dwelling as illustrated by the cross-hatched area in the attached drawing PAC 1.

Reasons

3. The main issues in this appeal are whether the extension of the curtilage of the dwelling is acceptable in principle and the impact of the development on the amenity of surrounding residents.
4. The Ards and Down Area Plan 2015 (ADAP) is the statutory development plan relevant to the appeal site. The part of the appeal site comprising the original curtilage of No. 19 is located within the settlement limit of Killyleagh. The appeal development relates to the extension of the curtilage of No. 19 Inishbeg beyond the edge of the defined settlement limit and into the countryside as designated in the ADAP. The ADAP offers no specific policies relating to the extension of a residential curtilage or proposals for pigeon loft development in the countryside.

5. Paragraph 2.3 of the Strategic Planning Policy for Northern Ireland - Planning for Sustainable Development – September 2015 (SPPS) addresses the issue of residential amenity and states that the planning system is concerned with whether a proposal would unacceptably affect amenities and the existing use of land and buildings that ought to be protected in the public interest. This provision of the SPPS is therefore material to consideration of the appeal proposal. Other relevant policy context in respect of residential development in the countryside, including the extension of a residential curtilage into the countryside, is provided by the retained Planning Policy Statement 21 - Sustainable Development in the Countryside (PPS 21).
6. Policy CTY 1 of PPS 21 sets out a range of types of development which in principle are considered to be acceptable in the countryside. One such type of development is an extension to a dwelling house where this is in accordance with the Addendum to PPS7 – Residential Extensions and Alterations (The Addendum). The Addendum sets out the main considerations relevant to assessing proposals for residential extensions and alterations including proposals for outbuildings or other built development ancillary to a residential property. The extension of a residential curtilage and the construction of pigeon sheds is development to which the policies of the Addendum apply.
7. The extension of the residential curtilage has taken place in two phases and both parties agreed that the land comprising the first phase of this extension had become immune from enforcement action and is lawful. In this context I see no reason to withhold planning permission for this extension of the residential curtilage.
8. This appeal relates to a further extension of the residential curtilage to accommodate an existing and a proposed pigeon shed. Policy EXT 1 of the Addendum states that planning permission will be granted for a proposal to extend or alter a residential property where four criteria are met. The Council objected on the grounds that the proposal would unduly affect the amenity of neighbouring residents and thereby fail to meet criterion (b). The Council argued that the sheds would have a detrimental impact on the residential amenity of neighbouring properties in terms of noise, odour, nuisance, general disturbance and other associated negative impacts. However, while the sheds would lie within 8m of the boundary of the curtilage of neighbouring property, the Council presented no documentary or other persuasive evidence to substantiate its objections regarding noise or odour and, in this context, I judge them not to be sustained.
9. As a consequence of the sloping terrain, the existing shed has an under floor void of 700mm, reducing to level. The Proposed shed has no under floor void. The Council's Environmental Health Department recommended that the sheds be raised off the ground by approximately 1m to discourage vermin and facilitate cleaning. The appellant did not dispute that such a void would be warranted and in these circumstances I am persuaded that the sheds, due to their design, could attract vermin to the detriment of the residential amenity of neighbouring occupiers. The Council's objection on residential amenity grounds is well founded and the proposal to extend the residential curtilage to

accommodate two pigeon sheds fails to comply with criterion (b) of Policy EXT 1 and Paragraph 2.3 of the SPPS. The proposal does not therefore constitute an extension to a dwelling house in accordance with the Addendum to PPS7 and the Council's first reason for refusal is therefore sustained.

10. I conclude that the proposed development does not fall within the range of development types specified in Policy CTY 1 as acceptable in principle in the countryside. Policy CTY 1 goes on to state that other types of development in the countryside will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement. The appellant did not advance such a case and I conclude that the proposal attracts no support from Policy CTY 1.
11. Paragraph 5.0 of PPS 21 also states that the provisions of its policies will prevail unless there are other overriding policy or material considerations that outweigh them and justify a contrary decision. The appellant argued that as one phase of the curtilage extension was lawful, a precedent existed that could override policy objection and warrant approval of the second phase of the curtilage extension. However, as the evidential context pertaining to both phases differs, no precedent exists and I find no merit in the Appellant's argument in this respect. Consequently, I find the Council's objection to the proposal in principle to be upheld and its second reason for refusal based on Policy CTY 1 of PPS 21 is sustained.
12. Both the Council's reasons for refusal are sustained and determining in this case.

This decision is based on the following drawings received by the Council on 25th April 2016:-

1:1250 scale Location Plan numbered 01.

1:500 scale Plan numbered 02.

1:50 scale Proposed Pigeon Loft Plans and Elevations numbered 03 and amended to Existing Pigeon Loft by the appellant at the Accompanied Site Visit.

1:50 scale Proposed Pigeon Loft Plans and Elevations numbered 04.

COMMISSIONER DAMIEN HANNON

2016/A0213**Appearances**

Authority:-

Ciara Cunningham

Appellant:-

Sam Duke
Patricia Hamilton
Gerry Tumelty (Agent)**List of Documents**

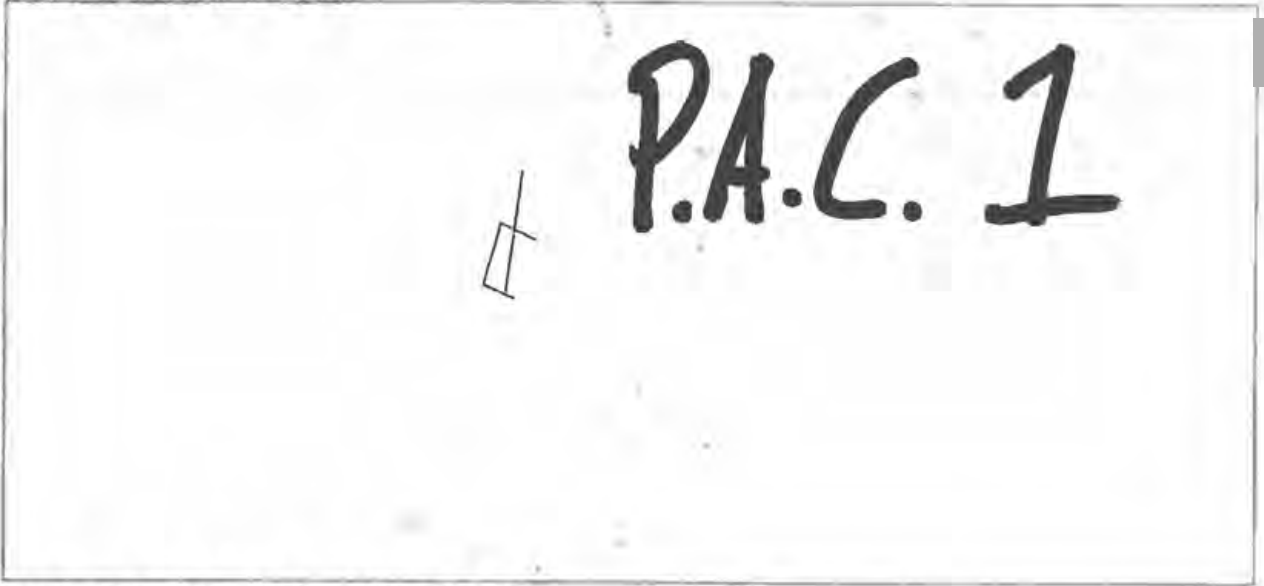
Authority:-

C1 Statement of Case

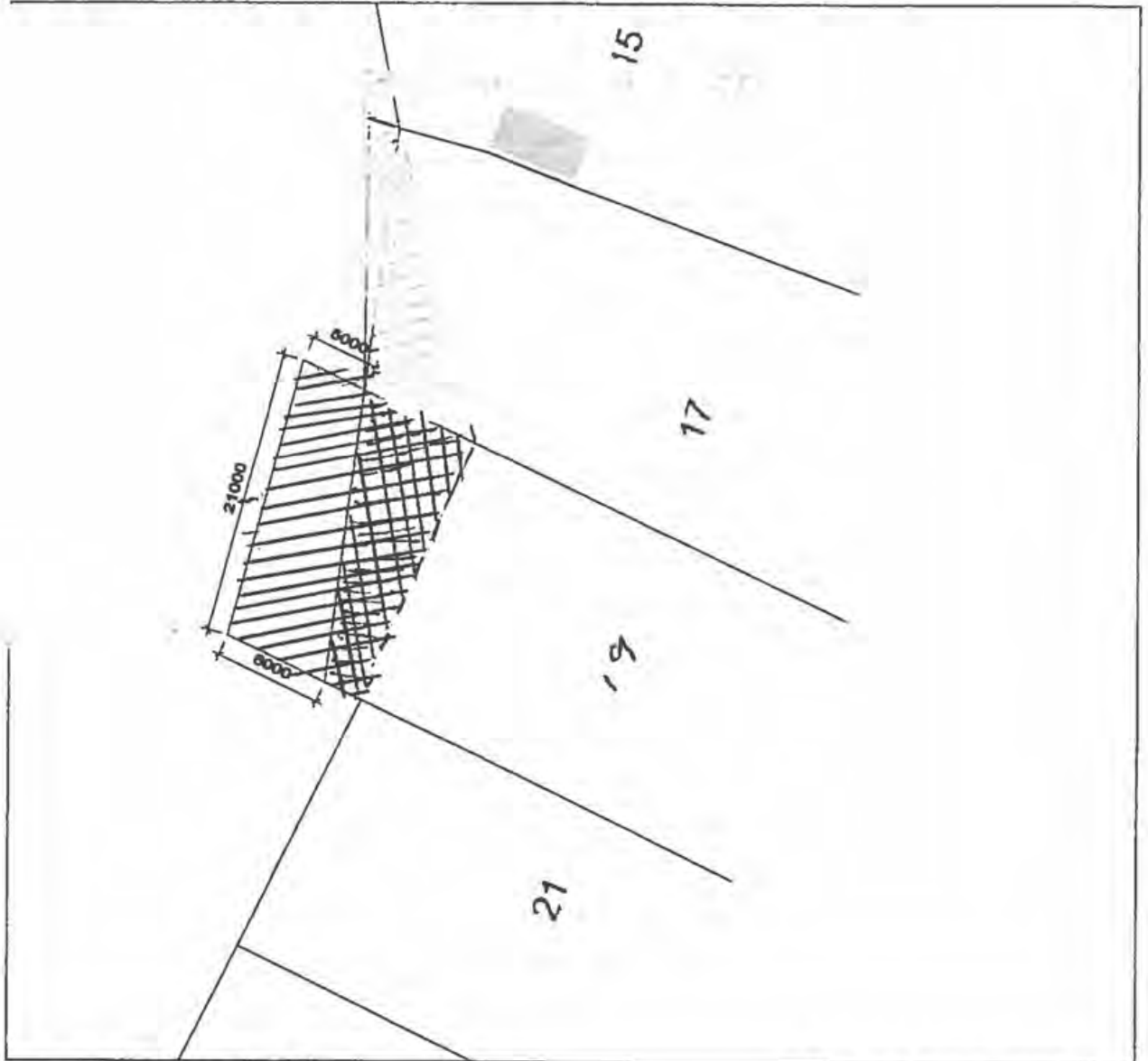
Appellant:-

A1 Statement of Case
A2 Rebuttal
A3 1:500 scale Lease Map submitted at the
Accompanied Site Visit.

MAP REFERRED TO:



LOCATION PLAN SCALE 1:2500



LEASE MAP SCALE 1:500

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Appeal Decision

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Appeal Reference:	2016/A0217
Appeal by:	Mrs Mary Carr
Appeal against:	The refusal of outline planning permission
Proposed Development:	Farm Dwelling
Location:	land to the rear and south of 6 Railway Road, Meigh, Killeavy, Newry
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2016/0732/O
Procedure:	Written representations and accompanied site visit on 15 June 2017
Decision by:	Commissioner Rosemary Daly, dated 10 July 2017

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal relate to the principle of a new dwelling in the countryside and the visual impact of the dwelling on the setting of the settlement of Meigh.
3. Section 6(4) of the Planning Act (Northern Ireland) 2011 requires that when making any determination regard must be had to the local development plan unless other material considerations indicate otherwise. In the Banbridge Newry and Mourne Area Plan 2015 the appeal site is located to the south and immediately outside the settlement limit of the village of Meigh. This area is also within the Ring of Gullion Area of Outstanding Natural Beauty. No objections were raised by the Council in respect of the development in the AONB. The plan provides no specific policy for the consideration of farm dwellings in the countryside or within the AONB.
4. The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) is material to all decisions on individual planning applications and appeals. The SPPS retains policies within existing planning policy documents until such times as a Plan Strategy for the whole of the Council area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS.

5. Paragraph 6.73 of the SPPS provides strategic policy for residential and non residential development in the countryside. In respect of dwellings on farms the policy is broadly consistent with the policies set out in Planning Policy Statement 21 Sustainable Development in the Countryside (PPS21).
6. Policy CTY1 of PPS21 sets out a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. One such example is a dwelling on a farm in accordance with policy CTY10. Additionally the head note of policy CTY1 also requires that proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety. One such planning and environmental consideration is the impact of the development on the setting of settlements as expressed by Policy CTY15.
7. Policy CTY10 states that planning permission will be granted for a dwelling on a farm where criteria (a), (b) and (c) are met. Formerly the appellant and her husband farmed a larger holding comprising two separate parts of land. One part of the holding was at Chapel Road, some 1.75 miles from Meigh and where the appellant currently lives. The second part of land holding relates to the land at Railway Road where the appeal site is located. When the appellant's husband passed away in 2000, the land relating to the farm holding at Chapel Road was passed on to the appellant's husband's nephew. The remaining land, some 8.73 hectares, at Railway Road and the appellant's dwelling at 74 Chapel Road remained within the farm holding and relates to the appellant's farm business 624338. There are no farm buildings on the land at Railway Road.
8. The Department of Agricultural and Rural Development (DARD) consultee response stated that the farm business has been in existence for more than 6 years and that Single Farm or other farm subsidies have been paid in the last 6 years. On the P1C form submitted with the planning application the appellant provided a DARD herd number 240804 and stated that the holding related to 8.73 hectares and approx 15 acres of silage (approx 3 cuts). The extent of the farm holding was indicated on the ground at the appeal site visit. The appellant also stated that no dwellings or development opportunities out with settlement limits have been sold off from the farm holding within 10 years of the date of the application. Accordingly the appeal proposal satisfies criterion (a) and criterion (b) of Policy CTY10.
9. Criterion (c) of Policy CTY10 requires that the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable access to the dwelling should be obtained from an existing lane. The appellant advised that there are no opportunities to site a dwelling beside her property at 74 Chapel Road. This was not disputed by the Council. Criterion (c) continues to say 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 where there are verifiable plans to expand the farm business at the existing building group(s). No verifiable plans were presented by the appellant to expand the farm business at the existing farm building group at Chapel Road.

10. The appellant's agent stated that Mrs Carr was now in her eighties and for her own personal safety reasons wishes to reside in a more built up area close to shops and amenities, Mrs Carr's home had been broken into six years ago and an attempted robbery took place two years ago. In a letter from Mrs Carr she also states that she may not always be able to drive and therefore she could walk to amenities and the new clinic. Paragraph 5.42 of the justification and amplification for policy CTY10 states where an alternative site is proposed under criterion (c) which is removed from existing buildings on the farm, the appellant will be required to submit appropriate and demonstrable evidence from a competent and independent authority to justify the siting. Such evidence was not presented by the appellant. The evidence relating to the appellant's personal safety provides some justification relating to her wish to relocate closer to the village but this does not of itself demonstrate a health and safety reason that falls within the exceptions for the consideration of an alternative site elsewhere on the farm. The appellant's wish to relocate closer to the village of Meigh, for her personal safety, could be met by relocating to a dwelling within the village. No persuasive evidence was presented to demonstrate that this would not be a possible option for the appellant. The health and safety reasons presented by the appellant do not merit the appeal proposal as an exception under criterion (c) of Policy CTY10. The appeal proposal does not meet this requirement of Policy CTY10.
11. The policy head note of CTY10 states that in such circumstances the proposed site must meet the requirements of CTY13 (a-f) and CTY14 and CTY16. No objections were raised by the Council in respect of Policy CTY14 and Policy CTY16. The failure of the appeal proposal to visually link or site to cluster with an established group of buildings on the farm, means the proposal also fails to meet criterion (g) of Policy CTY13 relating to the integration and design of buildings in the countryside of PPS21. Accordingly the Council's second reason for refusal relating to Policy CTY10 and third reason for refusal relating to Policy CTY13 are sustained.
12. Policy CTY15 relates to the setting of settlements and states that planning permission will be refused for a development that mars the distinction between a settlement and the surrounding countryside or otherwise results in Urban Sprawl. The appeal site is a large 'L' field that wraps along the south east side of the settlement limit of Meigh and the east side of the Railway Road. The appeal site has road frontage onto the Railway Road and is immediately south of a vacant plot, 6 Railway Road, that would appear at one time to have had a building on it. The design intent submitted as part of the design and access statement in support of the planning application indicated that the proposed dwelling would be sited on the land south of the site at 6 Railway Road and fronting onto the Railway Road. However at the appeal site visit the appellant's agent stated that it was now the intention to site the dwelling on the flat ground to the rear and east of the site at 6 Railway Road. The appellant also indicated that access to the site would run along the northern boundary of the road side part of the site and the existing entrance to the site would be used. The stone wall at the point of access would be set back. The necessary visibility splays of 2.4 metres by 60 metres would result in some of the road side hedge being removed. The removal of this hedge could be reinstated with the use of a planning condition. Whilst I note the appellant's intention now to site the dwelling to the rear and most northern part of the site, a dwelling sited along the Railway Road, would give rise to more road side development at this

location resulting in further urban sprawl, even when taking account of the replanting of the road side boundary.

13. The Council stated that a dwelling located on the part of the site to the rear and east of the site at 6 Railway Road, would be visible from the B113 Forkhill Road when approaching the settlement of Meigh. When viewed from this location the land is gently falling down towards the settlement. The lack of a defined boundary along the east side of the appeal site means that open views of a dwelling, even if restricted with a ridge height of 6 metres, on the site would be possible from this approach to Meigh. Whilst the settlement provides a backdrop to the site a dwelling on this part of the appeal site would give rise to appearance of further urban development that would mar the distinction between the edge of the settlement and the surrounding countryside. The proposal would give rise to urban sprawl and would extend the compact appearance of the settlement when viewed from B113 Forkhill Road. The Council's fourth reason for refusal relating to Policy CTY15 is sustained.
14. 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 settlement. I have taken account of the appellant's evidence in respect of her personal safety and her wish to live closer to Meigh. I have not been persuaded that these circumstances provide an overriding reason to justify another dwelling in this rural location that could not be located in a settlement. The Council's first reason for refusal relating to Policy CTY1 is sustained.
15. As I have found the Council's four reasons for refusal to be sustained the appeal is dismissed.

This decision relates to Site Location Plan Scale 1:2500 and Concept Statement Plan NTS dated Newry, Mourne and Down District Council received 24 May 2016.

COMMISSIONER ROSEMARY DALY

List of Appearances

Planning Authority:- Patricia Manely, Newry, Mourne and Down District Council

Appellant:- Mary Carr
Aidan Cole, Cole Partnership

List of Documents

Planning Authority:- "A" Newry, Mourne and Down District Council Statement of case and appendices

Appellant:- "B" Cole Partnership, Statement of Case and Appendices