



June 15th, 2017

**Notice Of Meeting**

You are invited to attend the Planning Committee Meeting to be held on **Wednesday, 21st June 2017 at 10:00 am** in **Boardroom, District Council Offices, Monaghan Row, Newry.**

The Members of the Planning Committee are:-

**Chair: Councillor G Craig**

**Vice Chair: Councillor K Loughran**

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

# Agenda

1.0 Apologies.

2.0 Declarations of Interest.

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## *Minutes for Adoption*

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3.0 Minutes of Planning Committee Meeting held on Wednesday 24 May 2017. (To follow).

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## *For Discussion/Decision*

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4.0 Addendum list - planning applications with no representations received and no requests for speaking rights. (Attached).

 *Addendum list - 21-06-2017.pdf*

*Page 1*

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## *Development Management - Planning Applications for determination*

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5.0 LA07/2015/0714/F - Mr and Mrs Byrne - proposed farm dwelling - 180m NW of existing farm buildings adjoining 28 Ballyclander Road, Downpatrick. (Case Officer report attached).

Rec: REFUSAL

- A request for speaking rights has been received from Brigin Byrne, Applicant & Agent, in support of the application. **(Submission attached)**.

 *LA07-2015-0714-F Mr and Mrs Byrne.pdf*

*Page 3*

 *Item 5 - submission of support (Mr & Mrs Byrne).pdf*

*Page 11*

6.0 LA07/2016/0185/F - Joyce Graham - Proposed dwelling and garage in substitution of Planning Approval R/2011/0001/F (located at Old Belfast Road, Saintfield) for a dwelling on a farm under Policy CTY10 - 70m south east of 1 Rowallane Close Saintfield. (Case Officer report attached).

Rec: REFUSAL

- A request for speaking rights has been received from Gerry Tumelty, Agent and Andy Stephens in support of the application. **(2 submissions attached)**.

 *LA07-2016-0185-F Joyce Graham.pdf* *Page 12*

 *Item 6 - submission of support (Joyce Graham).pdf* *Page 19*

 *Item 6 -additional supporting statement from A Stephens (J Graham).pdf* *Page 23*

## **7.0 LA07/2016/1421/0 - Mr M Galloway - dwelling and garage - south of No. 80 St. Patrick's Road, Raholp, Downpatrick. (Case Officer report attached).**

Rec: REFUSAL

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


 *LA07-2016-1421-O - Mr M Galloway.pdf* *Page 32*


 *Item 7 - submission of support (Mr M Galloway).pdf* *Page 36*

## **8.0 LA07/2016/1442/0 - Mr & Mrs Joseph Doran - replacement dwelling and double garage - 64a Tannaghmore Road, Loughinisland. (Case Officer report attached).**

Rec: REFUSAL

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

 *LA07-2016-1442-F - Mr and Mrs Joseph Doran.pdf* *Page 41*


 *Item 8 - submission of support (Mr & Mrs J Doran).pdf* *Page 46*

## **9.0 LA07/2017/0131/0 - Mr & Mrs McKeown - dwelling on a farm under PP CTY10 of PPS 21 - opposite 67 and adjacent to 62 Rocks Chapel Road, Crossgar. (Case Officer report attached).**

Rec: REFUSAL

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

 *LA07-2017-0131-O - Mr and Mrs McKeown.pdf* *Page 52*

 *Item 9 - submission of support (Mr & Mrs McKeown).pdf* *Page 58*

**10.0 LA07/2016/0821/F - C Canning - change of house type to that previously approved under R/2012/0323/F (further amended plan received: clarification re: finishes and levels) - 24 Ringhaddy Road, Killinchy. (Case Officer report attached).**

Rec: APPROVAL

- A request for speaking rights has been received from The Steering Committee for Concerned Ringhaddy Area Residents objecting to the application. **(Submission attached).**
- A request for speaking rights has been received from Andy Stephens, agent, in support of the application. **(Submission attached).**

<a href="#">LA07-2016-0821-F C Canning.pdf</a>	Page 63
<a href="#">Item 10 - submission of objection (C Canning).pdf</a>	Page 69
<a href="#">Item 10 - submission of support (C Canning).pdf</a>	Page 71
<a href="#">Item 10 - powerpoint presentation from objectors.pdf</a>	Page 99

**11.0 LA07/2016/0895/F - Mr & Mrs Barry McCartan - erection of farm dwelling and detached garage - adjacent to and south-east of 72 Bannanstown Road, Castlewellan. (Case Officer report attached).**

Rec: REFUSAL

- A request for speaking rights has been received from Marcus Bingham, Agent, in support of the application. **(Submission attached).**

<a href="#">LA07-2016-0895-F Mr and Mrs Barry McCartan.pdf</a>	Page 112
<a href="#">Item 11 - submission of support (Mr &amp; Mrs Barry McCartan).pdf</a>	Page 118

**12.0 LA07/2016/1196/F - McGrady Contracts - residential development comprising a total of 34 units (30 No semi-detached dwellings (15 No pairs), 1 No detached dwelling, and 1 terrace of 3 dwellings), including associated site works, ancillary developments and landscaping, on lands to the south east of Mountain View (off Burrenwood Road), Castlewellan. (Case Officer report attached).**

Rec: APPROVAL

- Addendum list



**13.0 LA07/2016/1284/F - Michael Braniff - extension to the existing caravan park for static and touring pitches, new shower/amenity building and associated landscaping/amenity areas, at Coney Island Caravan Park, Ardglass. (Case Officer report attached).**

Rec: APPROVAL

- Addendum list

LA07-2016-1284-F Michael Braniff.pdf

Page 128

**14.0 LA07/2016/1537/0 - P & T Miskelly - erection of two detached dwelling houses and associated works - site adjacent to 35 Darragh Cross Road, Darragh Cross, Downpatrick. (Case Officer report attached).**

Rec: REFUSAL

- A request for speaking rights has been received from Kieran Dempsey, Architect, in support of the application. (Submission attached).

LA07-2016-1537-O P & T Kelly.pdf

Page 133

Item 14 - submission of support (P & T Miskelly).pdf

Page 142

**15.0 LA07/2016/1542/F - Alan Morgan - proposed barn conversion with extension to provide a 3 bedroom dwelling (amended plans) - 50m East of 141 Newcastle Road, Drumee, Castlewellan. (Case Officer report attached).**

Rec: REFUSAL

- Addendum list

LA07-2016-1542-F - Alan Morgan.pdf

Page 145

**16.0 LA07/2017/0033/0 - John Tumelty - erection of a single dwelling and garage - between 18 and 20 Commons Road and 24 Commons Road, Ballykinler. (Case Officer report attached).**

Rec: REFUSAL

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

📄 *LA07-2017-0033-O - John Tumelty.pdf*

*Page 156*

📄 *Item 16 - submission of support (J Tumelty).pdf*

*Page 160*

**17.0 LA07/2017/0111/F - Ballynahinch Community Centre - replacement of existing all weather pitch & 3 metre chain link fence to new muga pitch with associated drainage works. The erection of new 3 metre high sports fence, 5 metre high sports fence at roadside, with 2 number access gates. Location: Ballynahinch Community Centre, 55 Windmill Street, Ballynahinch. (Case Officer report attached).**

Rec: APPROVAL

- Addendum list

📄 *LA07-2017-0111-F - Ballynahinch Community Centre.pdf*

*Page 163*

**18.0 LA07/2017/0175/F - Owen Miskelly - proposed change of design and new garage block to dwelling previously approved under ref: R/2005/1517/RM with development having commenced (amended site address) - 250m South East of No. 19 Nutgrove Road, Annadorn, Downpatrick. (Case Officer report attached).**

Rec: REFUSAL

- A member of the Planning Committee has previously asked for a full presentation on this application.

📄 *LA07-2017-0175-F - Owen Miskelly.pdf*

*Page 167*

**19.0 LA07/2017/0240/F - Father B Brown - conversion of stone building to dwelling with extensions - 110m SE of No. 29 Ballymaginthy Road, Castlewellan. (Case Officer report attached).**

Rec: REFUSAL

- A member of the Planning Committee has previously asked for a full presentation

on this application.

[LA07-2017-0240-F - Father B Brown.pdf](#)

Page 175

**20.0 LA07/2017/0634/F - Newry, Mourne and Down District Council - replacement of existing all weather pitch, to new synthetic pitch with associated drainage works, including the erection of new 3 metre high sports fence, 4.2 metre high sports fence behind goals, with 2 number pedestrian gates 1 number vehicular access gates, on lands at Saintfield Hockey Club, Comber Street, Saintfield. (Case Officer report attached).**

Rec: APPROVAL

- Addendum list

[LA07-2017-0634-F NMDDC.pdf](#)

Page 179

**21.0 R/2014/0657/F - Bluebuild Developments Ltd - residential development comprising 11 no. dwellings (10 semi-detached and 1 bungalow) - The Mourne Observer, The Roundabout, Castlewellan Road, Newcastle and Lands Adjacent No 10 Burren Park. (Case Officer report attached).**

Rec: APPROVAL

- Addendum list

[R-2014-0657-F - Bluebuild Developments.pdf](#)

Page 183

**22.0 LA07/2015/0144/F - Frank Newell - Erection of dwelling for guest house accommodation (with demolition of existing dwelling at No. 338 Newry Road) with access via existing laneway to No. 338 Newry Road - Approximately 130m south/south-west of no 338 Newry Road, Kilkeel. (Case Officer report attached).**

Rec: REFUSAL

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

[LA07-2015-0144-F - Frank Newell.pdf](#)

Page 194

[Item 22 - submission of support \(Frank Newell\).pdf](#)

Page 205

**23.0 LA07/2015/0345/F - Crossmaglen Rangers GAC - proposed terracing for spectators & floodlighting of sports field - rear of 7 Dundalk Road, Crossmaglen. (Case Officer report attached).**

Rec: APPROVAL

- Addendum list

📄 *LA07-2015-0345-F Crossmaglen Rangers.pdf*

Page 211

**24.0 LA07/2015/0402/F - O'Hagan Construction Ltd - proposed erection of a dwelling - opp and 25m E of No. 16 Chancellors Hall, Chancellors Road, Newry. (Case Officer report attached).**

Rec: REFUSAL

- A request for speaking rights has been received from Richard O'Toole, Planning Consultant, and Mr Glyn Mitchell in support of the application. **(Submission attached).**

📄 *LA07-2015-0402-F Glyn Mitchell.pdf*

Page 216

📄 *Item 24 - submission of support (O'Hagan Construction).pdf*

Page 223

**25.0 LA07/2015/1123/LBC - Quayside Properties Ltd. - demolition of remaining parts of buildings for health and safety reasons - 2-3 Sugarhouse Quay, Lisdrumgullion, Newry. (Case Officer report attached).**

Rec: REFUSAL

- A member of the Planning Committee has previously asked for a full presentation on this application.

📄 *LA07-2015-1123-LBC Quayside Properties.pdf*

Page 228

**26.0 LA07/2016/0325/F - L Jay Properties - erection of 18 number dwellings consisting of 4 No. single storey detached and 12 No. 2 storey semi-detached dwellings and associated siteworks - Site adjacent to and north of number 42 Carquillan, Hilltown, Newry, BT34 5UG. (Case Officer report attached).**

Rec: APPROVAL

- A request for speaking rights has been received from Shereen Lyness-Feenan

and/or Andy McGivern, local residents, objecting to the application. **(Submission attached)**.

- A request for speaking rights has been received from Colin Stewart, Architect, in support of the application. **(Submission attached)**.

📄 *LA07-2016-0325-F L Jay Properties.pdf* *Page 235*

📄 *Item 26 - submission of objection (L Jay Properties).pdf* *Page 246*

📄 *Item 26 - submission of support (L Jay Properties).pdf* *Page 248*

## **27.0 LA07/2016/1568/0 - David Downey - site for "off-site" replacement dwelling - immediately opposite and west of 75 Foughiletra Road, Meigh, Newry. (Case Officer report attached).**

Rec: REFUSAL

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

📄 *LA07-2016-1568-O - David Downey.pdf* *Page 249*

📄 *Item 27 - submission of support (David Downey).pdf* *Page 255*

## **28.0 LA07/2016/1694/0 - Bernard Hannaway - site for replacement dwelling with detached garage - 90m SE of 53 Ballintemple Road, Newry. (Case Officer report attached).**

Rec: REFUSAL

- Addendum list

📄 *LA07-2016-1694-O - Bernard Hannaway.pdf* *Page 260*

## **29.0 LA07/2017/0117/0 - Martin and Christina McCullough - erection of one and half storey dwelling and detached domestic double garage - approx 60m SE of No. 29 Convent Road, Cabra. (Case Officer report attached).**

Rec: REFUSAL

- Letters of support for the application have been received from Colin McGrath MLA and Councillor John Trainor.
- A request for speaking rights has been received from Cormac McKay, agent, in support of the application. **(Submission to be circulated under separate**

cover).

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

[LA07-2017-0117-O - Martin & Christina McCullagh.pdf](#)

Page 264

**30.0 LA07/2017/0172/F - SCS - Renewal of Extant Planning Approval Ref. P/2011/0340/F for residential development of 14 units (of social housing) with new access road from St Clare's Avenue - Lindsay's Hill Approx. 60 Metres South East of 53-55 North Street, Newry, BT34 1DD. (Case Officer report attached).**

Rec: APPROVAL

- Addendum list

[LA07-2017-0172-F - SCS.pdf](#)

Page 268

**31.0 LA07/2017/0490/F - Sean Matthews - erection of dwelling and garage due to special circumstances - land to the rear and 25m east of No. 20 Leitrim Road, Hilltown. (Case Officer report attached).**

Rec: REFUSAL

- Addendum list

[LA07-2017-0490-F - Sean Matthews.pdf](#)

Page 276

**32.0 P/2011/0802/F - Mr K Agnew - Erection of wind turbine with a tower height of 40 metres and a rotor diameter of 29 metres (extending to a total height of 56 metres to tip) with a maximum output not exceeding 225kW, associated transformer / control room building (at 230 metres to north-west of turbine, connected by underground cable), site works and access provision. Access via existing agricultural laneway, off Drummond Road, from a point 50 metres west of No. 6 Drummond Road with extended section to ser**

Rec: REFUSAL

- A member of the Planning Committee has previously asked for a full presentation on this application.

**33.0 P/2011/1034/LBC - Ms J Hughes - retention of rear extension and alterations (with internal modifications) to existing listed public house to include off-licence sales (with separate access to rear) and new toilets on ground floor; keg store, kitchen and ancillary storage in basement; conversion of first floor to provide liveable accommodation; external smoking area at ground floor level; internal and external circulation including disabled access provision; and with demolition of existing rear out-shot. app**

Rec: REFUSAL

- A request for speaking rights has been received from Barry Owens, Consulting, in support of the application.

P-2011-1034-LBC - J Hughes.pdf

Page 285

**34.0 P/2011/1038/F - Ms Jackie Hughes - Retention of rear extension and alterations (with internal modifications) to existing public house to include off-licence sales (with separate access to rear) and new toilets on ground floor; keg store, kitchen and ancillary storage in basement; conversion of first floor to provide liveable accommodation; external smoking area at ground floor level; internal and external circulation including disabled access provision; and with demolition of existing rear out-shot. Applica**

Rec: REFUSAL

- A request for speaking rights has been received from Barry Owens, Consulting, in support of the application. **(Submission attached).**
- A request for speaking rights has been received from DEA Councillor Barra O'Muirei. **(Submission attached).**

P-2011-1038-F - Ms Jackie Hughes.pdf

Page 288

Items 33 and 34 - submission of support (J Hughes).pdf

Page 292

Item 34 - statement of support from Cllr. O'Muirei (J Hughes).pdf

Page 293

**35.0 P/2010/0968/F - Seamus Donnelly - Change of use of building from storage to class A1: shops (to include retention of**

**amendments to building approved under planning ref: P/2005/2425/F) - 236 Dublin Road, Newry. (Case Officer report attached).**

Rec: REFUSAL

- Addendum list

[P-2010-0968-F Seamus Donnelly.pdf](#)

Page 294

**36.0 P/2013/0581/F - Seamus Donnelly - Day Spa and hair salon - Unit 4 Donnellys Service Station, 236 Dublin Road, Newry. (Case Officer report attached).**

Rec: REFUSAL

- Addendum list

[P-2013-0581-F - Seamus Donnelly.pdf](#)

Page 299

**37.0 P/2012/0712/F - Brendan Carragher - extension to tyre depot - 24 New Road, Silverbridge, Newry. (Case Officer report attached).**

Rec: REFUSAL

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

[P-2012-0712-F - Brendan Carragher.pdf](#)

Page 304

[Item 37 - submission of support \(Brendan Carragher\).pdf](#)

Page 311

**38.0 P/2012/0921/F - Bernadette Heaney - I No. 100kw wind turbine with a hub height of 30m (amended plans) - 220 m SE of 26 Shaughan Road, Newtownhamilton. (Case Officer report attached).**

Rec: REFUSAL

- Addendum list

[P-2012-0921-F Bernadette Heaney.pdf](#)

Page 331

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*For Discussion*



**39.0 The Planning (Environmental Impact Assessment) Regulations (NI) 2017. (Attached). (Summary response from Mr A McKay to follow).**

[📄 The Planning \(Environmental Impact Assessment\) Regulations.pdf](#)

Page 336

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*For Noting*

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**40.0 May 2017 Planning Committee Performance Report. (Attached).**

[📄 21 June Committee report.pdf](#)

Page 380

**41.0 Record of Meetings between Planning Officers and public representatives. (Attached).**

[📄 MAY 2017 Planning Committee Performance Report.pdf](#)

Page 381

**42.0 March 2017 Appeals and Decisions. (Attached).**

[📄 May 2017 Appeals and Decisions.pdf](#)

Page 385

**43.0 Newry, Mourne and Down Local Development Plan: Draft Timetable. (Attached).**

[📄 Planning Report June'17 re Draft LDP Timetable.pdf](#)

Page 435

**44.0 Newry, Mourne and Down Local Development Plan: Options for undertaking the LDP Sustainability Appraisal, incorporating Strategic Environmental Assessment. (Attached).**

[📄 Planning Report June'17 re LDP SA-SEA.pdf](#)

Page 447

# Invitees

Cllr Terry Andrews	<a href="mailto:terry.andrews@nmandd.org">terry.andrews@nmandd.org</a>
Cllr Naomi Bailie	<a href="mailto:naomi.bailie@nmandd.org">naomi.bailie@nmandd.org</a>
Cllr Patrick Brown	<a href="mailto:patrick.brown@nmandd.org">patrick.brown@nmandd.org</a>
Cllr Robert Burgess	<a href="mailto:robert.burgess@nmandd.org">robert.burgess@nmandd.org</a>
Cllr Stephen Burns	<a href="mailto:stephen.burns@nmandd.org">stephen.burns@nmandd.org</a>
Cllr Pete Byrne	<a href="mailto:pete.byrne@nmandd.org">pete.byrne@nmandd.org</a>
Cllr Michael Carr	<a href="mailto:michael.carr@nmandd.org">michael.carr@nmandd.org</a>
Cllr charlie casey	<a href="mailto:charlie.casey@nmandd.org">charlie.casey@nmandd.org</a>
Cllr William Clarke	<a href="mailto:william.clarke@nmandd.org">william.clarke@nmandd.org</a>
Cllr Garth Craig	<a href="mailto:garth.craig@nmandd.org">garth.craig@nmandd.org</a>
Cllr Dermot Curran	<a href="mailto:dermot.curran@nmandd.org">dermot.curran@nmandd.org</a>
Ms Alice Curran	<a href="mailto:alice.curran@nmandd.org">alice.curran@nmandd.org</a>
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Ms Louise Dillon	<a href="mailto:louise.dillon@nmandd.org">louise.dillon@nmandd.org</a>
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Cllr Gillian Fitzpatrick	<a href="mailto:gillian.fitzpatrick@nmandd.org">gillian.fitzpatrick@nmandd.org</a>
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Cllr Valerie Harte	<a href="mailto:valerie.harte@nmandd.org">valerie.harte@nmandd.org</a>
Cllr Harry Harvey	<a href="mailto:harry.harvey@nmandd.org">harry.harvey@nmandd.org</a>
Cllr Terry Hearty	<a href="mailto:terry.hearty@nmandd.org">terry.hearty@nmandd.org</a>
Cllr David Hyland	<a href="mailto:david.hyland@nmandd.org">david.hyland@nmandd.org</a>
Cllr Liz Kimmins	<a href="mailto:liz.kimmins@nmandd.org">liz.kimmins@nmandd.org</a>
Cllr Mickey Larkin	<a href="mailto:micky.larkin@nmandd.org">micky.larkin@nmandd.org</a>
Cllr Kate Loughran	<a href="mailto:kate.loughran@nmandd.org">kate.loughran@nmandd.org</a>
Cllr Jill Macauley	<a href="mailto:jill.macauley@nmandd.org">jill.macauley@nmandd.org</a>
Cllr Kevin Mc Ateer	<a href="mailto:kevin.mcateer@nmandd.org">kevin.mcateer@nmandd.org</a>
Colette McAteer	<a href="mailto:colette.mcateer@nmandd.org">colette.mcateer@nmandd.org</a>
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Cllr Oksana McMahon	<a href="mailto:oksana.mcmahon@nmandd.org">oksana.mcmahon@nmandd.org</a>
Cllr Andrew McMurray	<a href="mailto:andrew.mcmurray@nmandd.org">andrew.mcmurray@nmandd.org</a>
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Ms Carmel Morgan	<a href="mailto:carmel.morgan@nmandd.org">carmel.morgan@nmandd.org</a>
Cllr Roisin Mulgrew	<a href="mailto:roisin.mulgrew@nmandd.org">roisin.mulgrew@nmandd.org</a>
Cllr Mark Murnin	<a href="mailto:mark.murnin@nmandd.org">mark.murnin@nmandd.org</a>
Mrs Aisling Murray	<a href="mailto:aisling.murray@nmandd.org">aisling.murray@nmandd.org</a>
Cllr Barra O Muiri	<a href="mailto:barra.omuiri@nmandd.org">barra.omuiri@nmandd.org</a>
Cllr Pol O'Gribin	<a href="mailto:pol.ogribin@nmandd.org">pol.ogribin@nmandd.org</a>
Mr Canice O'Rourke	<a href="mailto:canice.orourke@downdc.gov.uk">canice.orourke@downdc.gov.uk</a>
Cllr Brian Quinn	<a href="mailto:brian.quinn@nmandd.org">brian.quinn@nmandd.org</a>

Cllr Henry Reilly	<a href="mailto:henry.reilly@nmandd.org">henry.reilly@nmandd.org</a>
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Cllr Gareth Sharvin	<a href="mailto:gareth.sharvin@nmandd.org">gareth.sharvin@nmandd.org</a>
Cllr Gary Stokes	<a href="mailto:gary.stokes@nmandd.org">gary.stokes@nmandd.org</a>
Sarah Taggart	<a href="mailto:sarah-louise.taggart@nmandd.org">sarah-louise.taggart@nmandd.org</a>
Cllr David Taylor	<a href="mailto:david.taylor@nmandd.org">david.taylor@nmandd.org</a>
Caroline Taylor	<a href="mailto:Caroline.Taylor@downdc.gov.uk">Caroline.Taylor@downdc.gov.uk</a>
Cllr Jarlath Tinnelly	<a href="mailto:jarlath.tinnelly@nmandd.org">jarlath.tinnelly@nmandd.org</a>
Cllr John Trainor	<a href="mailto:john.trainor@nmandd.org">john.trainor@nmandd.org</a>
Cllr William Walker	<a href="mailto:william.walker@nmandd.org">william.walker@nmandd.org</a>
Adam Wilkinson	<a href="mailto:adam.wilkinson@nmandd.org">adam.wilkinson@nmandd.org</a>

## Item 4 – Addendum List

### Addendum list - planning applications with no representations received or requests for speaking rights – Planning Committee Meeting on Wednesday 21 June 2017

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

- **Item 12 - LA07/2016/1196/F** - McGrady Contracts - residential development comprising a total of 34 units (30 No semi-detached dwellings (15 No pairs), 1 No detached dwelling, and 1 terrace of 3 dwellings), including associated site works, ancillary developments and landscaping, on lands to the south east of Mountain View (off Burrenwood Road), Castlewellan. **APPROVAL**
- **Item 13 - LA07/2016/1284/F** - Michael Braniff - extension to the existing caravan park for static and touring pitches, new shower/amenity building and associated landscaping/amenity areas, at Coney Island Caravan Park, Ardglass. **APPROVAL**
- **Item 15 - LA07/2016/1542/F** - Alan Morgan - proposed barn conversion with extension to provide a 3 bedroom dwelling (amended plans) - 50m East of 141 Newcastle Road, Drumee, Castlewellan. **REFUSAL**
- **Item 17 - LA07/2017/0111/F** - Ballynahinch Community Centre - replacement of existing all weather pitch & 3 metre chain link fence to new muga pitch with associated drainage works. The erection of new 3 metre high sports fence, 5 metre high sports fence at roadside, with 2 number access gates. Location: Ballynahinch Community Centre, 55 Windmill Street, Ballynahinch. **APPROVAL**
- **Item 20 - LA07/2017/0634/F** - Newry, Mourne and Down District Council - replacement of existing all weather pitch, to new synthetic pitch with associated drainage works, including the erection of new 3 metre high sports fence, 4.2 metre high sports fence behind goals, with 2 number pedestrian gates 1 number vehicular access gates, on lands at Saintfield Hockey Club, Comber Street, Saintfield. **APPROVAL**
- **Item 21 - R/2014/0657/F** - Bluebuild Developments Ltd - residential development comprising 11 no. dwellings (10 semi-detached and 1 bungalow) - The Mourne Observer, The Roundabout, Castlewellan Road, Newcastle and Lands Adjacent No 10 Burren Park. **APPROVAL**
- **Item 23 - LA07/2015/0345/F** - Crossmaglen Rangers GAC - proposed terracing for spectators & floodlighting of sports field - rear of 7 Dundalk Road, Crossmaglen. **APPROVAL**
- **Item 28 - LA07/2016/1694/0** - Bernard Hannaway - site for replacement dwelling with detached garage - 90m SE of 53 Ballintemple Road, Newry. **REFUSAL**
- **Item 30 - LA07/2017/0172/F** - SCS - Renewal of Extant Planning Approval Ref. P/2011/0340/F for residential development of 14 units (of social housing)

- with new access road from St Clare's Avenue - Lindsay's Hill Approx. 60 Metres South East of 53-55 North Street, Newry, BT34 1DD. **APPROVAL**
- **Item 31 - LA07/2017/0490/F** - Sean Matthews - erection of dwelling and garage due to special circumstances - land to the rear and 25m east of No. 20 Leitrim Road, Hilltown. **REFUSAL**
  - **Item 35 - P/2010/0968/F** - Seamus Donnelly - Change of use of building from storage to class A1: shops (to include retention of amendments to building approved under planning ref: P/2005/2425/F) - 236 Dublin Road, Newry. **REFUSAL**
  - **Item 36 - P/2013/0581/F** - Seamus Donnelly - Day Spa and hair salon - Unit 4 Donnelly's Service Station, 236 Dublin Road, Newry. **REFUSAL**
  - **Item 38 - P/2012/0921/F** - Bernadette Heaney - 1 No. 100kw wind turbine with a hub height of 30m (amended plans) - 220 m SE of 26 Shaughan Road, Newtownhamilton. **REFUSAL**

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

<b>ITEM NO</b>	<b>4</b>			
<b>APPLIC NO</b>	LA07/2015/0714/F	Full	<b>DATE VALID</b>	30/07/2015
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>			
<b>APPLICANT</b>	Mr and Mrs Byrne 28 Ballyclander Road Downpatrick BT30 7DZ	<b>AGENT</b>	Brigin Byrne 21 Guinness Road Ballynahinch BT24 8QN NA	
<b>LOCATION</b>	180m north west of existing farm buildings adjoining 28 Ballyclander Road Downpatrick BT30 7DZ			
<b>PROPOSAL</b>	Proposed farm dwelling and garage			
<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>
	0	0	0	0
			<b>Addresses</b>	<b>Signatures</b>
			0	0 0 0

- 1 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm.
- 2 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.





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**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2015/0714/F

**Date Received:** 30<sup>th</sup> July 2015

**Proposal:** Proposed farm dwelling and garage

**Location:** The site is located approximately 4km to the southeast of Downpatrick in the open countryside. The site address is 180m NW of existing farm buildings adjoining 28 Ballyclander Road, Downpatrick



**Site Characteristics & Area Characteristics:**  
Characteristics of Site

The site is located approximately 4km to the southeast of Downpatrick. The site is cut out of an agricultural field located approximately 180m to the northwest from the

existing farm buildings at no 28 Ballyclander Road, Downpatrick. The site is currently in agricultural use and is undefined along the northern and eastern boundaries. The southern and western boundaries are defined by a 2m high thorn hedge. Ballyclander Road is located to the west of the site.

There is a large mature tree located along the southern boundary of the site. The site slopes steeply upward from south to north.

### Characteristics of Area

The area is characterised by open undulating countryside with sparsely located dwellings and farms. The site is surrounded by agricultural land in every direction.

### **Site History:**

There is no history specific to this site. A farm dwelling was granted in 1974 on the farm under R/1974/0151.

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

I have assessed the proposal against the following relevant policies:

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

### **Development Plan – The Ards and Down Area Plan 2015**

The site is located within the open countryside and outside any defined settlement area. There is an archaeological site located approximately 200m to the northeast of the site.

### **Consultations:**

<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
Statutory	DARDNI	No objections
Statutory	Transport NI	No objections
Statutory	NI Water	No objections



Statutory	NIEA – WMU	No objections
Advice and Guidance	Environmental health	No objections

### **Objections & Representations**

No neighbours were notified as there are no neighbouring properties.

The application was advertised on 30<sup>th</sup> July 2015

### **Consideration and Assessment:**

NB. The gable window to bedroom 4 and ground floor utility room window is missing from the floor plans.

The proposal is an application for full planning permission for a dwelling on a farm. The key policy to be considered is PPS21.

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

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

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

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

The applicant has stated in the P1C forms that no development opportunities or dwellings have been sold off since November 2008. A search on EPIC has not revealed any other planning applications in connections with the business ID, nor any other developments being sold off. The assessor is satisfied that criteria (b) has been met.

Criteria (c ) states that the proposed dwelling is to be visually linked or sited to cluster with an established group of buildings, and where practical access to the dwelling should be obtained from an existing lane.

The proposed dwelling would be located approximately 180m the northwest of the existing farm cluster. There are no existing farm buildings in close proximity to the site. It is not considered that the dwelling would cluster with an established group of buildings on the farm.

With regards to visual link, there are limited views of the main farm cluster due to the varied topography of the surrounding area and its position down a long lane accessed from Ballyclander Road. There are views of the proposed site when approaching along Ballyclander Road from the south; however it is not possible to view the site and the existing farm buildings together from this position due to the thick hedges lining Ballyclander Road. When approaching along Ballyclander Road from the north, it is not possible to view the main farm buildings due to the hill and high hedges. The proposal involves the replanting of hedges along the western boundary of the site to create visibility splays, however it is not considered that a visual link could be established between the proposed dwelling and the farm buildings due to the topography of the surrounding land and limited views of the farm from Ballyclander Road.

It is considered that a 2 storey farm dwelling would become visible when approaching the site from the north, however, without being able to view the main farm buildings in conjunction. The only way to view the site and the main farm together was to climb the verge and look over the hedge which defines the western boundary of the site. The proposed dwelling does not utilise the existing laneway to the farm but proposes a new access onto Ballyclander Road. This proposed access would be located in the southwest corner of the site, approximately 190m to the north of the existing access lane leading to the farm.



(View approaching from the south)



(View approaching from the north)

The existing farm can be viewed from the top of the existing access lane onto Ballyclander Road, however views of the proposed site would be screened by a hill from this position. Views of the site would only become available further north along Ballyclander Road, at which point, views of the existing farm would not be available.

The applicant has provided 2 examples of previous approvals for farm dwellings which are considered similar to the proposal. I will address these cases below:

#### R/2009/0355/F

In this case there were exceptional circumstances noted by the case officer. The main farm dwelling was a listed building and clustering with the buildings had the potential to impact its setting. The site and the farm buildings could be visually read together from the Milltown Road, and the site was accessed from an existing lane. The land to the north of the farm buildings was considered too prominent, whilst the proposed site allowed for better integration. The case officer noted that in approving the application that 'this was a unique case with circumstances that are distinguishable'.

#### LA07/2015/0405/RM

Again, this case was exceptional in that there were no farm buildings on the farm holding. The principle of the dwelling was found acceptable and the site complied with CTY13 (a-f), CTY14, and CTY16.

With regards to the application being assessed, there are no such circumstances. The application fails to meet criteria (c) as it fails to cluster or visually link with existing farm buildings.

### CTY13

The site is located at bottom of two hills which slope down to the site from the north and south. The hill to the rear would provide a suitable back drop when approaching from the north, whilst the existing hedging would provide suitable screening from view when approaching from the south. There is a large mature tree along the southern boundary which would provide screening of the site along with the 2 existing natural boundaries. There are limited long views of the site due to the undulating topography of the surrounding area and I am content that the proposed dwelling would not appear prominent and would integrate suitably into the landscape. The proposed design is considered acceptable for the area, however the proposal is contrary to criteria (g) of CTY 13 as it fails to cluster or visually link with the farm building.

### CTY14

It is not considered that the proposed dwelling would be unduly prominent due to its position on lower ground. The dwelling would not result in a sub-urban style build up or add to a ribbon of development. The proposal complies with CTY14.

### CTY16

NIEA Water Management Unit has been consulted and is content with the proposal with informatives.

It is recommended to refuse this application.

### **Recommendation:**

Refusal

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

The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new

building is visually linked or sited to cluster with an established group of buildings on the farm.

The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.



**Re: LA07/2015/0714/F - Farm Dwelling Ballyclander Road - Item 5 on the agenda**

To whom it may concern;

I note that you have acknowledged my wish to speak at next week's Planning Council Meeting (21st June 2017) in relation to the above application. The content of my speech shall include;

- Background to the case
- Visual linkage
- Integration of the new dwelling into the existing landscape
- Securing Mortgages for new build farm dwellings
- Demonstration of exceptional circumstances through our completed H&S Report, Structural Report & Farm Expansion Report.
- Relevant precedence

I will also email through a power point presentation, no later than Monday morning (19th June 2017), which I intend to present to Council while delivering my speech.

Thanks also for notification of the Councillors who attend the site visit.

Regards

Brigin

<b>ITEM NO</b>	<b>6</b>			
<b>APPLIC NO</b>	LA07/2016/0185/F	Full	<b>DATE VALID</b>	09/02/2016
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>			
<b>APPLICANT</b>	Joyce Graham 55 Peartree Road Saintfield BT24 7JY		<b>AGENT</b>	Tumelty Planning Services 11 Ballyalton Park Ardmeen Downpatrick BT30 7BT  NA

**LOCATION** 70m south east of 1 Rowallane Close  
Saintfield

**PROPOSAL** Proposed dwelling and garage in substitution of Planning Approval R/2011/0001/F (located at Old Belfast Road, Saintfield) for a dwelling on a farm under Policy CTY10 (Amended Siting and Plans)

<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>		<b>SUP Letters</b>		<b>OBJ Petitions</b>		<b>SUP Petitions</b>	
	7	0	0	0	Addresses	Signatures	Addresses	Signatures
					0	0	0	0

- 1 The proposal is contrary to SPPS and Policies CTY1 and CTY 10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that a farm dwelling was granted using this farm holding under planning reference R/2011/0001/F on the 01.05.2012 and Planning Permission Granted under CTY10 will only be forthcoming once every 10 years.
- 2 The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the design of the proposed building is inappropriate for the site and its locality.
- 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.
- 4 The proposal is contrary to Policy CTY15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that: The development would if permitted mar the distinction between the defined settlement limit of Saintfield and the surrounding countryside.



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**Newry, Mourne  
and Down**  
District Council

<b>Application Reference:</b>	<b>LA07/2016/0185/F</b>
<b>Date Received:</b>	<b>09.02.2016</b>
<b>Proposal:</b>	<b>Proposed dwelling and garage in substitution of Planning Approval R/2011/0001/F (located at Old Belfast Road, Saintfield) for a dwelling on a farm under Policy CTY10</b>
<b>Location:</b>	<b>70m south east of 1 Rowallane Close Saintfield</b>

### **Reconsideration**

The application has been further considered following referral to the Councils Planning Committee on 21.12.2016 where it was withdrawn for further consideration prior to being presented to Committee.

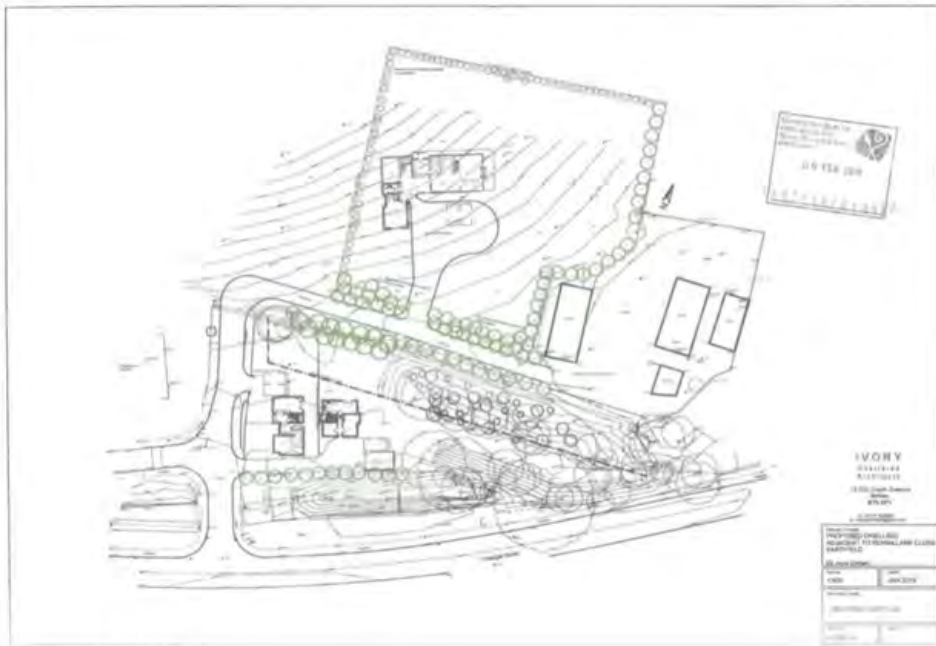
The proposal seeks revocation of permission R/2011/0001/F which was approved on 12 June 2012 and expires 11 June 2017 for a farm dwelling at Old Belfast Road Saintfield.

A meeting was held with the applicant and agent at the request of Jim Shannon MP on the 20 February 2017.

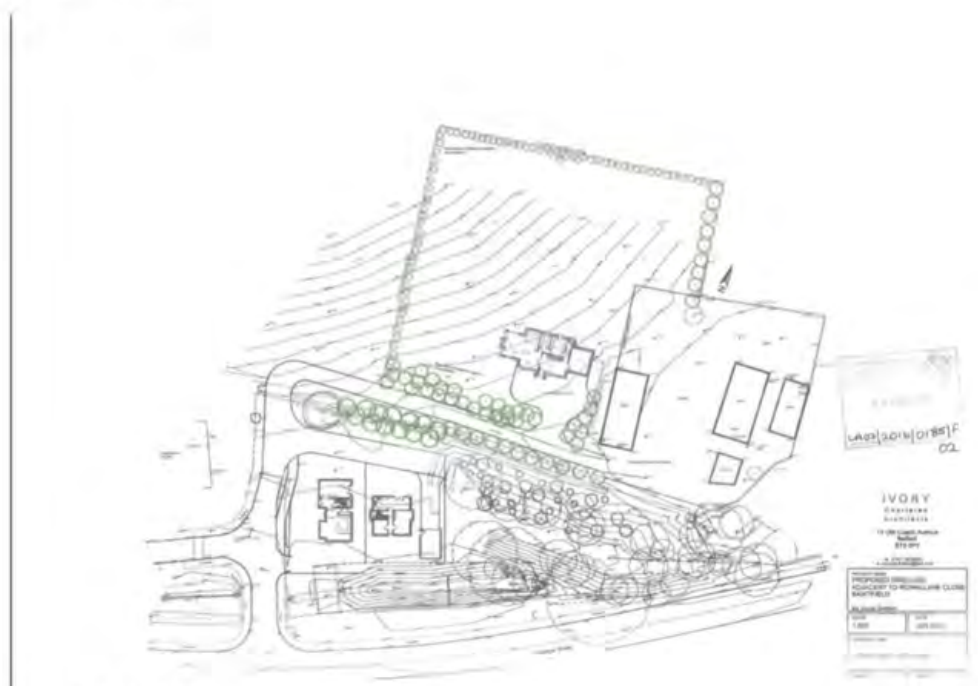
The applicant was advised that following clarification with DAERA, that the issue of the activity of the farm business was accepted. However concerns were raised regarding the siting of the proposed dwelling which was considered too remote from the main farm group of buildings to satisfy the visual linkage/clustering requirement of policy. The unacceptability of the proposed design was also raised as well as TNI comments on the acceptability of the proposed access.

Amended drawings were received on the 06 March 2017, following the meeting, showing a revised siting closer to the main farm buildings and an amended house type. Re NN was carried out as a number of objections had been received to the proposal.





Original siting



Amended siting



Original house type



Amended house type

These design and siting amendments were deemed acceptable.

Since the initial site inspection and the office meeting referred to above the situation on site has changed in that the buildings on the farm holding being relied on to visually link and/or cluster have been demolished, bar one building which remains standing.

The following photographs of the site taken on the 3 May 2017 highlight what remains by way of buildings on the site. It is evident there is one singular building left on the farm holding.

The agent was asked to clarify the position on site with regard to the demolition which had taken place, the agent responded by saying that the buildings were demolished due to the presence of asbestos in the roofing and which had been removed by specialist contractors. The agent indicated it was planned to construct new farm buildings on site. It is noted that concrete foundations have been put in place, presumably for a shed, as there are steel supports present. No planning application has been submitted for such to date.







Policy requires the proposal to be assessed against PPS21 CTY10.

Criterion a) is not being disputed in that the farm business is currently active and established and weight is being placed on the previous approval.

Criterion b) it would appear that no development opportunities have been sold off from the farm holding.

Criterion c) that the proposed dwelling visually link or site to cluster with an established group of buildings on the farm and where practicable access to the dwelling should be obtained from an existing lane.

It is obvious that there are no longer a group of farm buildings on the farm holding, but one building, the proposal therefore offends this element of policy. Similarly the proposal does not utilise an existing lane access but proposes to use a residential road serving Rowallane Close, which is within the settlement limits of Saintfield.

TNI have responded in terms of the acceptability of the access and advise they would have concerns about farm traffic using this access which is considered unacceptable. The access off Rowallane Close should be designed to accommodate the proposed dwelling only.

In terms of CTY15 Marring of the Settlement limit of Saintfield, it is considered that given the low level of visibility of the site from the Saintfield Road towards the settlement limit, I would not consider the site to mar the settlement limit to the detriment of rural character.

Given the above the application is being refused based on offending PPS21 CTY10 (c) in that there are not a group of established buildings on the farm holding with which to visually link/cluster with, also access is not taken from an existing lane.

The Planning Office would not therefore be recommending that this is a suitable site with which to revoke the original permission for. The permission at the Old Belfast Road site remains extant should the applicant wish to avail of his/her farm dwelling.

**Signed** .....

.....

## Planning Committee Schedule of 21<sup>st</sup> June 2017

Planning reference: **LA07/2016/0185/F**

Proposal: **Proposed dwelling and garage in substitution of Planning Approval R/2011/0001/F (Located at Old Belfast Road, Saintfield for a dwelling on a farm under Policy CTY10 (Amended Siting and Plans)**

Applicant: **Joyce Graham**

Location **70m south of 1 Rowallane Close, Saintfield**

Recommendation: **Refusal**

**This proposal was withdrawn from the Planning committee meeting of 21st December 2016 and at a resulting meeting attended by Mr J Shannon MP the Planning Department dispensed with some of the above reasons and it was agreed to submit revised house design and positioning to address the concerns of the Planning Officers, these revisions were submitted within a couple of days and it has to be said this practice is dismayed when it saw this proposal re-presented to committee with the same reasons for refusal without any contact from the Planning Department**

### Reasons

**1 The proposal is contrary to SPPS and Policies CTY1 and CTY 10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that a farm dwelling was granted using this farm holding under planning reference R/2011/0001/F on the 01.05.2012 and Planning Permission Granted under CTY10 will only be forthcoming once every 10 years.**

**2 The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the design of the proposed building is inappropriate for the site and its locality.**

**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.**

**4 The proposal is contrary to Policy CTY15 of Planning Policy Statement 21, Sustainable**

**Development in the Countryside in that: The development would if permitted mar the distinction between the defined settlement limit of Saintfield and the surrounding countryside.**

### **Site Description**

The proposed dwelling is located to cluster with a group of farm buildings which exist on the active farm holding

### **Planning Policies & Considerations**

PPS 21

SPPS

PPS3

Ards & Down Area Plan 2015

DCAN 15

### **Assessment of reason for Refusal**

#### **1**

This reason for refusal is flawed as the chosen site is located adjacent to farm buildings in this active farm and while reference is made to the grant of an approval for a dwelling under Policy CTY10 under application ref:

R/2011/0001/F as the description of this proposal states the applicant wishes to substitute that approval which was granted to her late husband and as she stated in her pre-application discussion she is willing to revoke that approval which is due to lapse on 6<sup>th</sup> June 2017. **(Please Note this date has now passed so the proposal would be assessed based only on Policy CTY10 and potential revocation would not be necessary)**

If permission were to be granted for this application she has no intention of building the original approval under R/2011/0001/F and hence her reason for making this application in February of 2016 some 17 months prior to the original approval lapsing

Mrs Graham is prepared to revoke the original approval in substitution for the current application which meets the requirements of the constraints associated with Policy CTY10

## **2**

The design of the dwelling is typical of a modern two story dwelling providing suitable accommodation for modern living requirements and incorporating modern design features while having vertical emphasis on the windows and introducing glazing to avail of more natural light to the main living quarters. The design is not inappropriate as the majority of the buildings in the vicinity of the application site are two storeys in nature and the proposed design has differing roof line heights.

The proposed location of the new dwelling is as stated by the planning officer would only have glimpsing views when viewed from the critical viewpoint on the Crossgar Road as it is screened by mature trees and dense hedgerows and existing buildings.

The proposal is located some 20-30m maximum from the farm buildings.

## **3**

The building would not be unduly prominent in the landscape as it is located to the rear of existing buildings and large mature trees (in excess of 30m – 35m in height) as stated in planning officer's report.

The proposed dwelling will not be able to be viewed from the critical viewpoint on the Crossgar Road and the applicant is prepared to reduce the ground level around the site further but it has to be argued the building will not be prominent due to its location and it must be contended that the existing landscape offer an unusual degree of screening and integration which general is not available on most sites and it is contended that a proposed site must not be hidden out of view rather it must integrate which this building does with no detriment from critical viewpoints.

## **4**

It must be contended that the farm buildings are located adjacent to the development limits and as the Planning Department have accepted that the business is active as required by policy and that the buildings were and have always been part of the active holding.

It has to be contended that the location of the farm building have a greater bearing on the location of any proposed building on the farm and while it is the applicants intention to build this dwelling which will be occupied by her son who is an active member of the farm business.



### **Overview**

The application is made in the name of the farm owner however the dwelling is intended to be occupied by her son who is involved in the day to day running of the farm enterprise.

The main issues of concern in relation to construction of a dwelling on the farm are met by this proposal

The business is active and SFP are made

The building clusters with a group of buildings on the farm being located less than 30m from the existing buildings and in a location which allows for expansion of the farm buildings when required.

Access is via an existing laneway which has served the existing farm buildings for many years, while Transport NI have stated No Objections they have concerns in relation to farm traffic it must be stated that farm machinery have used this laneway for many years and the proposal is for a dwelling which will generate vehicular traffic not farm traffic.

My client is prepared to meet with Traffic Ni in an attempt to resolve any issues of concern.

The proposed plot size measures a modest 60m square

The proposal is cut into the rising land to the west

### **Conclusion**

We would respectfully ask the Planning Committee to overturn this recommendation and grant Planning Permission for the dwelling on this suitable site and to revoke the approval which expires within 6 months.

Item 6 – LA07/2016/0185/F – Joyce Graham

Dear Anthony

We discussed this application in passing on 5/05/2017, as you are aware I'm also undertaking work for Joyce Graham.

Although I'm not the agent on this particular application I have an understanding of the situation from my discussions with the applicant and yourself. Joyce has asked that I provide some comments for consideration.

I believe the application had been recommended for refusal in January and that a deferral took place and a meeting was facilitated by Jim Shannon MP along with the applicant and Annette McAlarney.

The applicant provided details relating to her husband's demise and the farming credentials which are not in dispute. It is noted that since this office meeting that the previous application R/2011/0001/F is now time expired and has not been implemented. This is good as we both know the length of time it takes for revocation!

On that basis the first reason for refusal is overcome and a simple site visit would confirm same. This expired permission would be a material consideration to outweigh any compliance with the letter of policy. In other words the applicant is not obtaining multiple farm dwellings.

The policy as we are both aware does not require siting at the main farm group just that there are two buildings. Again there are no specifics in relation to use, size or design. I believe since our discussion you have been furnished with information relating to the repair and maintenance of the buildings at Rowallane Close. The reasons presented accept that there is a farm group.

The remaining issues relate to integration, rural character and the settlement limits. In this respect I note the revised design in March 2017 following some discussions in December.

A settlement development limit (SDL) is partly to promote and partly to contain development. In drawing this cognisance should have been had of the existing farm group and its proximity to the SDL. Any development is read against this agricultural backdrop.

In any case I attach the following 5 examples (3 up against the SDL for Loughinisland and 2 up against Raholp) in the district where the approach to this matter has been notably different. On that basis there would be an administrative fairness point which would clearly arise.

I note the pro-forma 3<sup>rd</sup> party objections and that the red line provides the option to re-look at the siting, which I will discuss with the applicants.


For all those reasons this is a resolvable case and I would seek that you consider the points I have made and allow this matter to be revisited. You know that I will not permit things to linger, so there is no risk of significant delay.


Thanks in advance of your assistance

Best regards

*Andy Stephens*

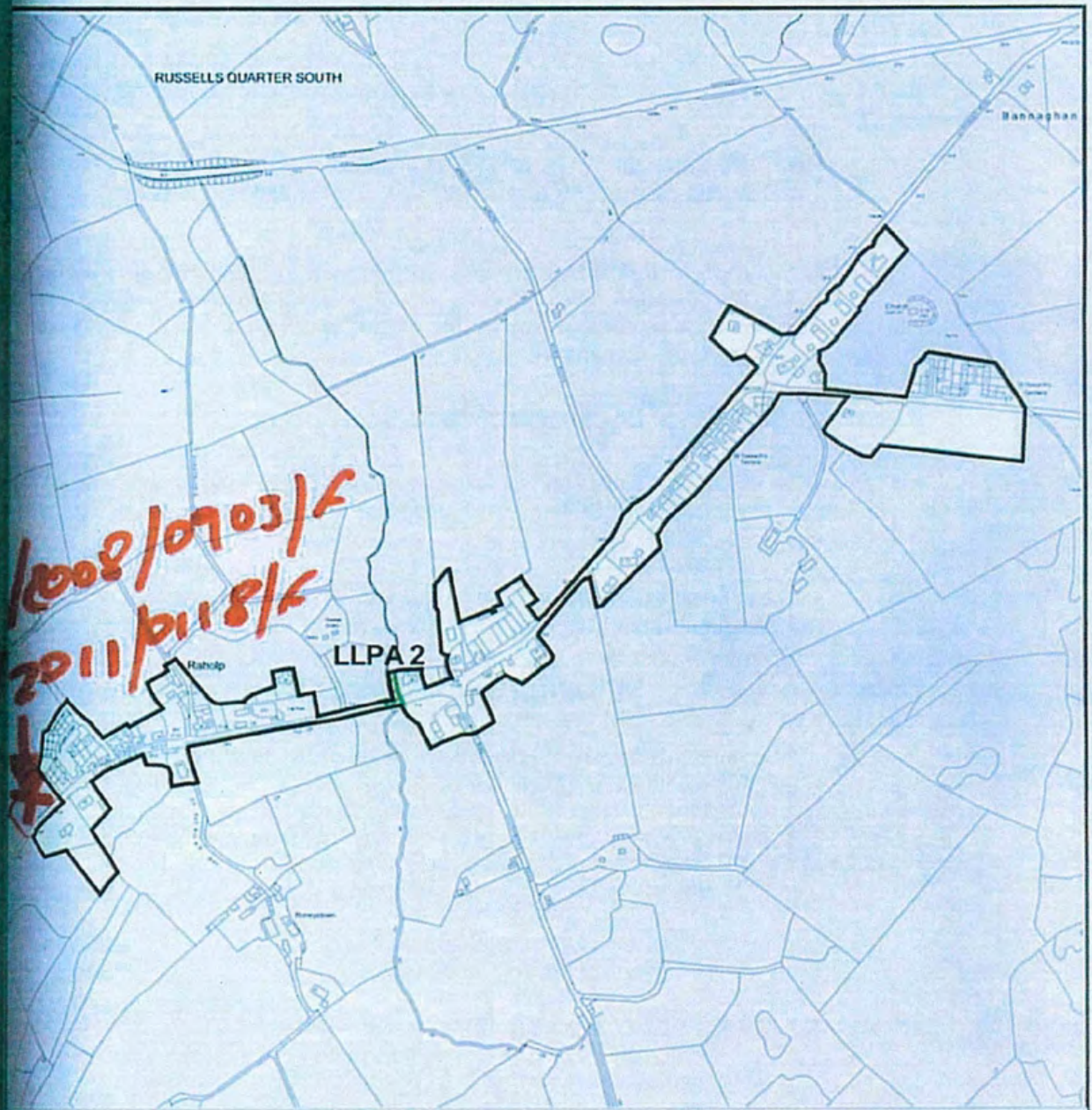
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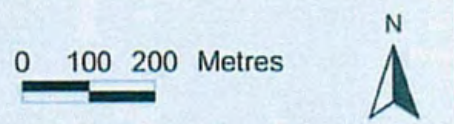




Ards and Down Area Plan 2015 - Draft Plan

Map No. 72 - Raholp

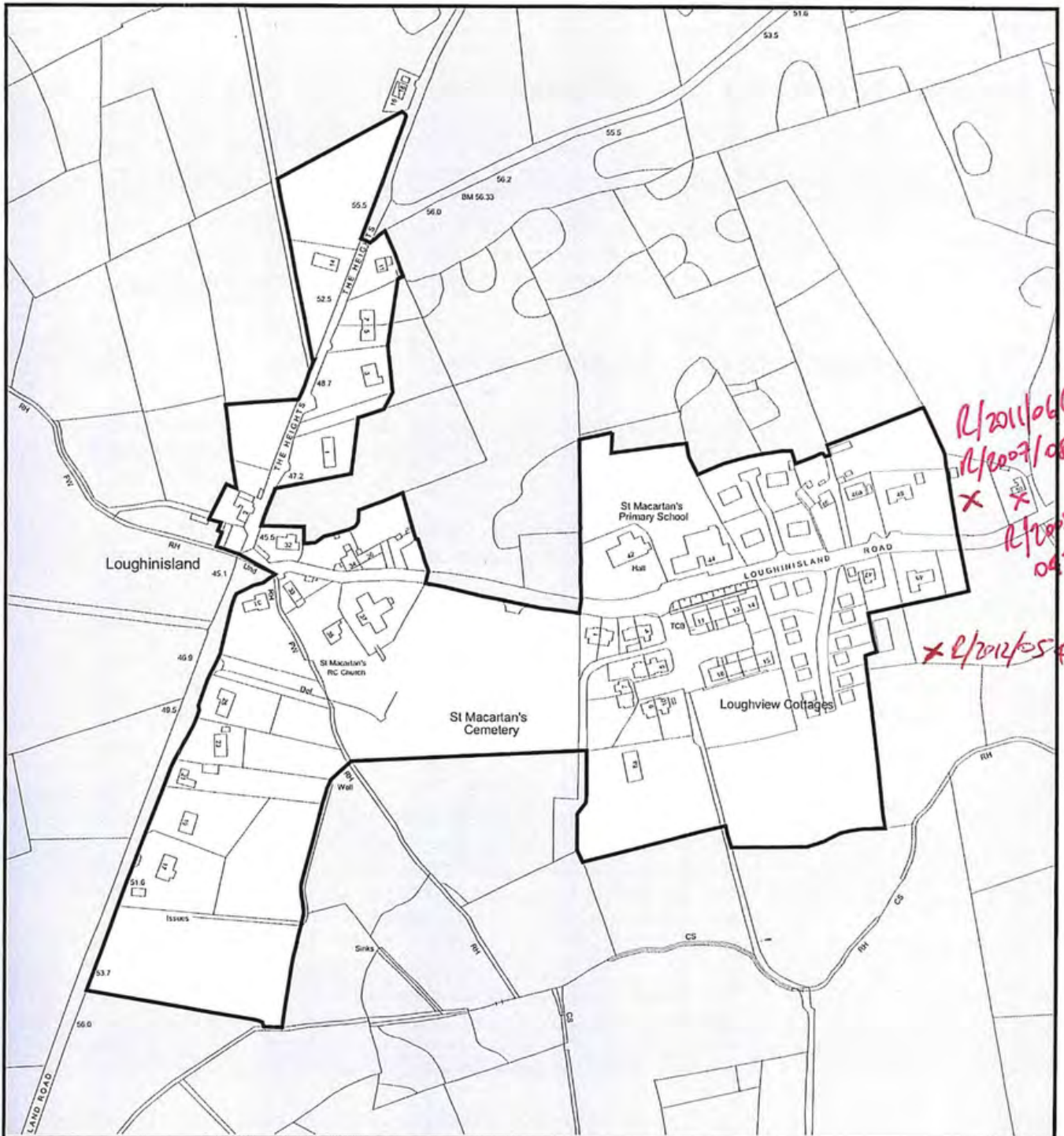
-  Settlement Limit
-  Local Landscape Policy Area (see Appendix Map No. 185)



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Ards and Down Area Plan 2015 - Draft Plan

Map No. 70 - Loughinisland

 Settlement Limit

0 50 100 Metres




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ACEmap® Online Scale 1:1250 Plan No. 22405SW  
Printed: 04/09/2011 Customer Ref. Plot I.D. 71380-1

This map relates to the following address or grid reference

50, LOUGHINISLAND ROAD, TIEVENADARRAGH, DOWNPATRICK, BT30 8PZ, 185294310



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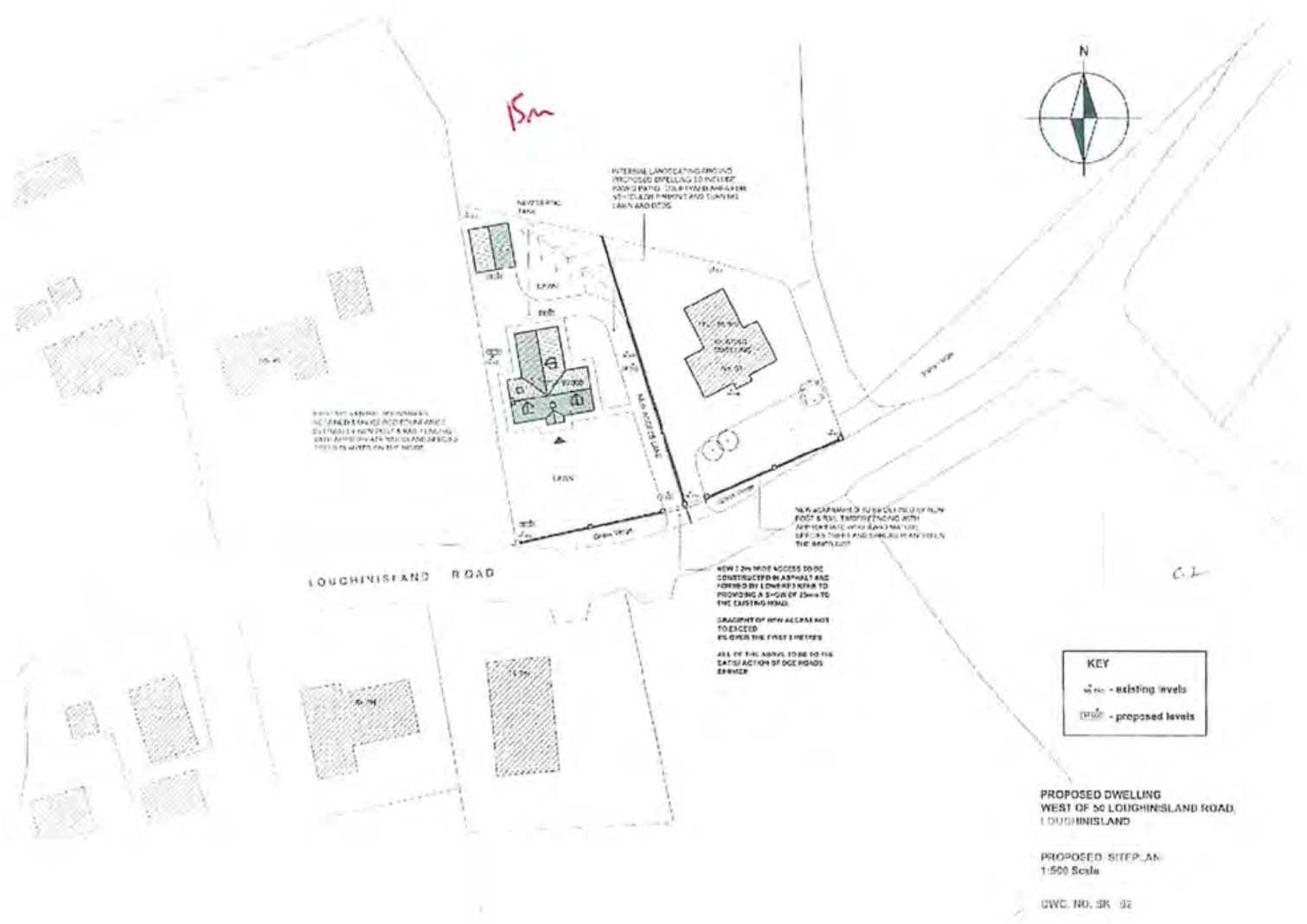
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1/1/2007  
 2/2007/0807/0 → white  
 12/2005/0479/F → Replacement.

50m

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ACEmap®

Online

Scale 1:2500

Plan No. 22405SW

Printed: 23/02/2011

Customer Ref.

Plot I.D. 207912

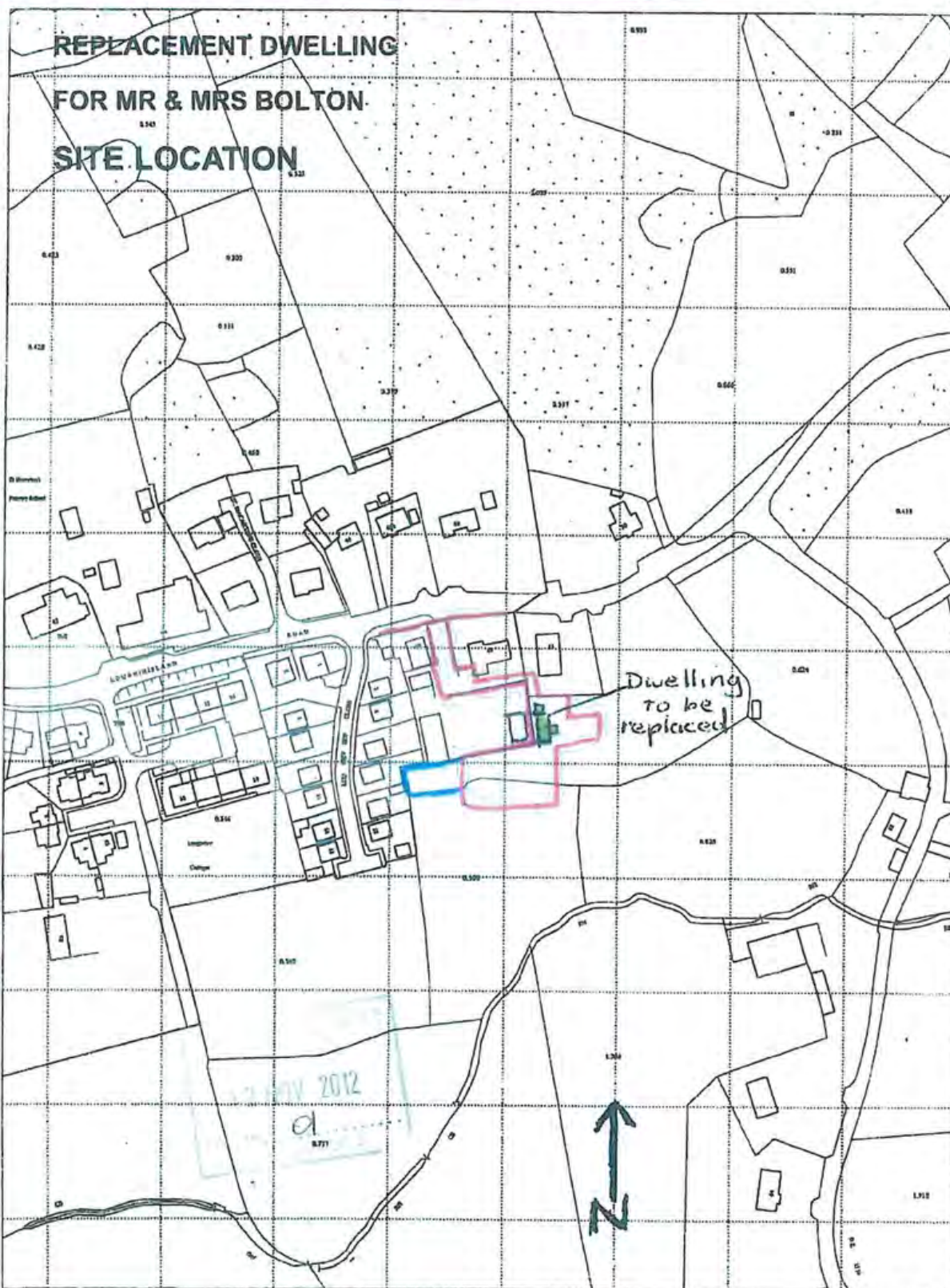
This map relates to the following address or grid reference

49 LOUGHINISLAND ROAD, DOWNPATRICK, TIEVENADARRAGH, BT30 8PZ



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EXISTING SITE PLAN  
1-500



PROPOSED SITE PLAN  
1-500

LEVELS KEY:

- Existing Levels
- Proposed Levels

PLANS (SCHEDULE) Area and Volume Schedule to be prepared from the following data

NO.	NO.	PLAN	AREA	VOLUME	REMARKS
1	1	EXISTING	10000	10000	EXISTING AREA
2	2	PROPOSED	10000	10000	PROPOSED AREA
3	3	PROPOSED	10000	10000	PROPOSED AREA
4	4	PROPOSED	10000	10000	PROPOSED AREA
5	5	PROPOSED	10000	10000	PROPOSED AREA
6	6	PROPOSED	10000	10000	PROPOSED AREA
7	7	PROPOSED	10000	10000	PROPOSED AREA
8	8	PROPOSED	10000	10000	PROPOSED AREA
9	9	PROPOSED	10000	10000	PROPOSED AREA
10	10	PROPOSED	10000	10000	PROPOSED AREA
11	11	PROPOSED	10000	10000	PROPOSED AREA
12	12	PROPOSED	10000	10000	PROPOSED AREA
13	13	PROPOSED	10000	10000	PROPOSED AREA
14	14	PROPOSED	10000	10000	PROPOSED AREA
15	15	PROPOSED	10000	10000	PROPOSED AREA
16	16	PROPOSED	10000	10000	PROPOSED AREA
17	17	PROPOSED	10000	10000	PROPOSED AREA
18	18	PROPOSED	10000	10000	PROPOSED AREA
19	19	PROPOSED	10000	10000	PROPOSED AREA
20	20	PROPOSED	10000	10000	PROPOSED AREA

PROPOSED PLAN NO.	1-500
PROPOSED PLAN NO.	2-500
EXISTING & PROPOSED WELLS PLAN	PL-24 1:500

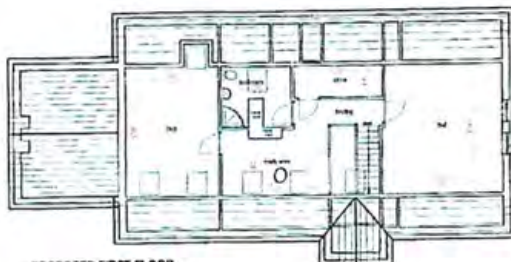


PROPOSED FRONT ELEVATION

Blue lines are profile and not  
 primary window or door positions  
 as indicated by dashed lines.  
 Elevating water level above  
 ground level is not shown.  
 Elevating water level above  
 ground level is not shown.



PROPOSED SIDE ELEVATION



PROPOSED FIRST FLOOR



PROPOSED GROUND FLOOR



PROPOSED REAR ELEVATION



PROPOSED SIDE ELEVATION

**HEALTH & SAFETY**  
 The contractor is fully aware that any work on the site is subject to the Health & Safety (Construction) Regulations 2007 and other relevant legislation or standards. It is the contractor's responsibility to ensure that the site is safe for construction work and to comply with the Health & Safety (Construction) Regulations 2007. The contractor shall ensure that all work on the site is carried out in accordance with the Health & Safety (Construction) Regulations 2007 and other relevant legislation or standards. The contractor shall ensure that all work on the site is carried out in accordance with the Health & Safety (Construction) Regulations 2007 and other relevant legislation or standards. The contractor shall ensure that all work on the site is carried out in accordance with the Health & Safety (Construction) Regulations 2007 and other relevant legislation or standards.

**CONTRACT NOTES - IMPORTANT!**  
 Client, Contractor and Designer assume the project is built in accordance to the approved planning and building control drawings and approval notices, submitted for the construction of planning approval and compliance with building regulations for the proposed residential building. All drawings and specifications are subject to the approval of the Local Authority. All drawings and specifications are subject to the approval of the Local Authority. All drawings and specifications are subject to the approval of the Local Authority. All drawings and specifications are subject to the approval of the Local Authority.

Project:	PROPOSED DWELLING, LOUGHNISLAND RD, LOUGHNISLAND		
Drawing:	PROPOSED PLANS / ELEVATIONS		
Drawing no:	PL-02	Scale:	1-100
Date:	NOV.12	Ref:	

<b>ITEM NO</b>	<b>12</b>			
<b>APPLIC NO</b>	LA07/2016/1421/O	Outline	<b>DATE VALID</b>	25/10/2016
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>			
<b>APPLICANT</b>	Mr M Galloway 3 Ballytristan Road Downpatrick BT30 7JW		<b>AGENT</b>	Tumelty Planning Services 11 Ballyalton Park Ardmeen Downpatrick BT30 7BT 07768057822
<b>LOCATION</b>	South west of 80 St Patrick's Road Downpatrick BT30 7JW			
<b>PROPOSAL</b>	Proposed dwelling and garage			
<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>
	0	0	0	0
			<b>Addresses</b>	<b>Signatures</b>
			0	0
			<b>Addresses</b>	<b>Signatures</b>
			0	0

- The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and criteria (a) of Policy QD1 of Planning Policy Statement 7 in that, the development, if permitted, would not respect the surrounding context and is inappropriate to the character of the area, due to the size of the site.





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**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2016/1421/O

**Date Received:** 25th October 2017

**Proposal:** Dwelling and Garage

**Location:** South of No.80 St. Patricks Road, Raholp, Downpatrick

**Site Characteristics & Area Characteristics:**

The site is located along St Patricks Road Raholp, and is comprised of a small (14m frontage and 27m deep) parcel of land immediately adjacent to No 80 St Patricks Road Raholp which is a chalet bungalow which immediately abuts the public road.

The site is defined along the roadside and to the SW by mature vegetation, while that to the NE and NW is currently undefined. of garden area associated within and to the rear of No 4 Castle Place.

The site tends to fall away slightly to the SW.

To the rear of the site, there exists a detached chalet bungalow No. 82 St Patricks Road.

The site is located within the settlement limits of Raholp as defined by the Ards and Down Area Plan 2015. The development within the settlement limit is notably linear with several road frontage dwellings immediately opposite the site at St Tassach's Terrace and St Patricks Road.

**Site History:**

Previous history on this site

LA07/2016/0183/O – Dwelling and Garage to rear of No 80 and adjacent 82 St Patricks Road Downpatrick – Approved 26.08.2016

R/2009/0838/F – Demolition of 2 dwelling and provision of 10 dwellings at 80-82 St Patricks Road, Raholp – Withdrawn 20.06.2014

**Planning Policies & Material Considerations:**

In assessment of this proposal regard shall be given to the Strategic Planning Policy Statement (SPPS), Ards and Down Area Plan 2015, PPS 6 and 7, Creating Places



(Guidance Document), in addition, to the history and any other material consideration.

The application was advertised in the local press on 09.11.16

### **Consultations:**

In assessment of the proposal consultations were carried out with Transport NI, Northern Ireland Water (NIW), NIEA, Historical Environment Division (NED).

No objections have been received

The following neighbours were notified of the proposal on 14.11.16

- 1, 2, 3, 4 St Tassach's Terrace
- 75a, 77, 77a, 80 and 82 St Patricks Road
- 

### **Objections & Representations**

No letters of objection or representations have been received.

### **Consideration and Assessment:**

The site is located within the settlement limits of Raholp and the proposal seeks to establish the principle of a dwelling at this location.

The settlement of Raholp is defined by linear development along the road frontage. It is considered to be separated into two distinct areas of character. St Tassach's Terrace is comprised of a mix of semi-detached single storey and two- storey dwellings, positioned in small plots, which read as a small development. These dwellings are then separated from those dwellings north of Bannaghan Road, which are comprised of large detached single storey dwellings located within large plots.

It is considered that the site is associated with those dwellings Nos. 75a to 81 St Patricks Road.

Policy QD1 of PPS7 provides the policy context and states that all proposals for residential development will be expected to conform to criteria (a) – (i). Given the small nature of the site, it is considered that its development would not be in keeping with the surrounding context of large detached dwelling positioned within large plots, with which it is associated. On the basis of this, it is considered that the proposal fails to comply with criteria (A) of Policy QD1 and is therefore recommended for refusal on this basis.

**Recommendation:** Refusal

**Refusal Reason:**

The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and criteria (a) of Policy QD1 of Planning Policy Statement 7 in that, the development, if permitted, would not respect the surrounding context and is inappropriate to the character of the area, due to the size of the site.

Signed .....

Date .....

Signed .....

Date .....

## Planning Committee Schedule of 21st June 2017

Planning reference: **LA07/2016/1421/F**

Proposal: **Dwelling and garage**

Applicant: **Mr M Galloway**

Location: **South West of 80 St Patricks Road Downpatrick**

Recommendation: **Refusal**

### Reasons

#### 1

The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and criteria (a) of Policy QD1 of Planning Policy Statement 7 in that, the development, if permitted, would not respect the surrounding context and is inappropriate to the character of the area, due to the size of the site.

### Site Description

The site is located at St Patricks Road Raholp, south west of No 80 which is a dwelling and garage adjacent to the public road.

The site is defined along the roadside and to the South west by mature vegetation, while that to the other boundaries are currently undefined.

The site is generally flat set back from the road.

To the rear of the site, exists a detached dwelling No. 82 St Patricks Road.

The site is located within the settlement limits of **Raholp** as defined by the Ards and Down Area Plan 2015.

The development within the settlement limit is generally linear with road frontage dwellings opposite the site at St Tassach's Terrace.

### Planning Policies & Considerations

SPPS

PPS6

PPS7

Ards & Down Area Plan 2015

DCAN 15

### **Assessment of reason for Refusal**

The proposed site is located within the development limits of **Raholp** and the proposed site comprises 1/3 of the site frontage which is divided up into 3 portions as follows with.

- 1** The access to existing dwelling No82 and approved building site to the rear of the overall site located to the Northern portion of the frontage.
- 2** Existing dwelling and garage No 80 in the centre of the frontage.
- 3** The current application site to the South which comprises the remainder of the frontage of the Small Settlement on the Eastern side of St Patricks Road.

This can be seen clearer from attached Map 1:2500 (extract from Spatial Ni maps) and aerial photo (extracted from Google Earth 2017).

The 1:500 scale photo (extracted from Spatial NI) shows the application site outlined in Red with the existing dwelling and garage outlined in Yellow and the existing entrance that services No82 and an approved dwelling to the south west of No82.

The size of the site is proportionate to the existing and approved development on this portion of land within the development limits and is greater in size than established sites at St Tassach's Terrace.

### **Overview**

The proposed site is within the development limits and is similar in proportions to the existing and approved development on this area within the designated Small Development as defined in the Ards & Down Area Plan and with no objections from statutory consultees nor objections from neighbours.

It is argued that it is in compliance with policy QD1 of PPS7 as the site is similar in size to the surrounding area and should benefit from the grant of a planning approval.

### **Conclusion**

We would respectfully ask the Planning Committee to overturn this recommendation and grant Planning Permission for the dwelling and garage as applied for on this site which is clearly compliant with policy QD1 of PPS 7.



**Map 1**



**1.2500 Site Location Map**



**Photo 1**



**Raholp Aerial Photo**

## Photo 2



**1.500 Photo**

**Application site outlined in Red**

**Adjacent site outlined in Yellow**



<b>ITEM NO</b>	<b>13</b>			
<b>APPLIC NO</b>	LA07/2016/1442/F	Full	<b>DATE VALID</b>	28/10/2016
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>			
<b>APPLICANT</b>	Mr and Mrs Joseph Doran 22 Backaderry Road Ballyward Castlewellan BT31 9SL		<b>AGENT</b>	Tumelty Planning Services 11 Ballyalton Park Ardmeen Downpatrick BT30 7BT 07768057822
<b>LOCATION</b>	64a Tannaghmore Road Loughinisland BT24 8NU			
<b>PROPOSAL</b>	Replacement Dwelling and Double Garage			
<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>
	0	0	0	0
			<b>Addresses</b>	<b>Signatures</b>
			0	0
			<b>Addresses</b>	<b>Signatures</b>
			0	0

- 1 The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed replacement dwelling is not sited within the established curtilage of the existing dwelling and it has not been shown that the alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits.
- 2 The proposal is contrary to the Strategic Planning Policy Statement (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.



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**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2016/1442/O

**Date Received:** 28<sup>th</sup> October 2016

**Proposal:** Replacement Dwelling

**Location:** 64a Tannaghmore Road, Loughinisland

**Site Characteristics & Area Characteristics:**



The site is accessed from an existing lane from both Newline Road and Tannaghmore Road. It contains a single storey dwelling located at No 64a Tannaghmore Road, Loughinisland. The dwelling is finished with roughcast render with green coloured timber window frames and doors. The roof is finished with grey roof slates and there are 2No. chimneys located on the ridge line. There is a small extension / store projecting from the western elevation.

The dwelling has a small curtilage with a sloping garden to the south of the site. To the north of the dwelling is a parking area / laneway that runs past the dwelling. There is a gate leading from the site onto a disused laneway. The site is bound by a mature hedge along the northern edge of the site. The southern boundary is defined by a post and wire fence. The eastern boundary is defined by a post and wire fence. The western boundary is defined by a post and wire fence and a mature hedge.



There is a small river / burn running north to south along the western boundary of the site.

The area is characterised by undulating countryside, with large areas of woodland and agricultural land. There are several rural dwellings and farms dispersed throughout the area.

### **Site History:**

Previous history on the site includes

LA07/2015/1232/O – Replacement Dwelling @ 64a Tannaghmore Road – Approved 23.05.16

LA07/2015/1234/O – replacement Dwelling @ 64 Tannaghmore Road – Approved 26.04.16

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

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

The application was advertised initially in the local press on 16.11.2016

The following neighbours were notified of the proposal on 10.11.16

- 58, 58a, 62, 64, 64a Tannaghmore Road, Loughinisland.

### **Consultations:**

In assessment of the proposal consultations were carried out with

Transport NI – No objections

NIEA – Water Management Unit No objections informative apply; NED - No objections but highlight that the building on site may have bat roost potential.

Northern Ireland Water (NIW) – no objections informatives apply

Historic Environment Division, no objections have been presented.

### **Objections & Representations**

No objections or representations have been received.

### **Consideration and Assessment:**

The proposal seeks full planning permission for the erection of a replacement dwelling and double garage. It is noted that the previous approval on site LA07/2015/1232/O, established the principle of a replacement dwelling, however, it conditioned the siting of the dwelling within the existing curtilage.

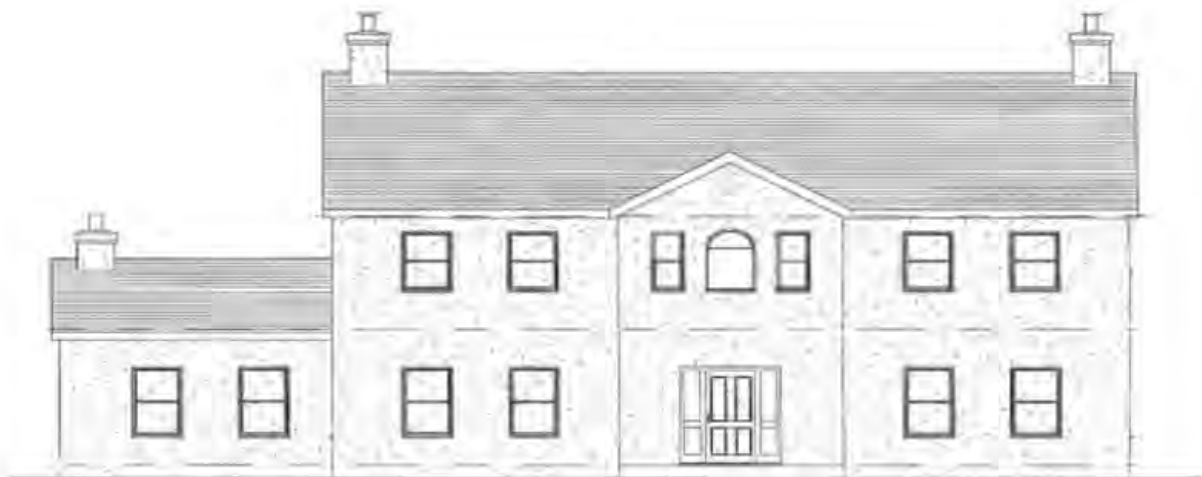
The Planning Act (Northern Ireland) 2015 requires the Planning Authority, in dealing with an application, to have regard to the local development plan, so far as material to the application, and to any other material considerations. The Ards and Down Area Plan 2015 (ADAP) operates as the local development plan for the area where the application site is located. The ADAP places the application building within the rural area. The ADAP contains no material policies for the type of development proposed. There are, however, relevant regional policies which are discussed below.

The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will be in operation until the Council has adopted a Plan Strategy for the area. During this transitional period it states that Councils will apply existing policy contained within retained documents together with the SPPS. Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) is one of the retained documents. Policy CTY 1 of PPS21 lists types of development which are in principle acceptable in the countryside. It states that other types of development will be permitted only where there are overriding reasons why is essential. One of the types of development listed in Policy CTY1 is replacement dwellings in accordance with Policy CTY 3.

The Strategic Planning Policy Statement (SPPS) states 'that provision should be made for the replacement of existing dwellings where the building to be replaced exhibits the essential characteristics of a dwelling and as minimum all external structural walls are substantially intact. Replacement dwellings must be located within the curtilage of the existing dwelling where practicable, or at an alternative position nearby where there are demonstrable benefits in doing so. Replacement dwellings must not have a visual impact significantly greater than the existing building'. Planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and a minimum all external structural walls are substantially intact. Policy CTY 3 reiterates these criteria.

In assessment of this initial test, it is considered that the proposal will not comply with the SPPS in that it is proposed to site the dwelling outside the existing curtilage of the site, thereby extending it further in the countryside. The applicant has not provided any evidence to demonstrate how the extension of the curtilage proposed would have landscape, heritage, access or amenity benefits.

In addition, the design of the proposal – a two storey dwelling, with a maximum ridge height of 7.9m, a frontage of 12.8m and a gable depth of 9m, is considered to be unacceptable in that it would, if permitted, create a significantly greater visual impact than the existing building as can be seen below.



On the basis of all of the above, it is concluded that the proposal is contrary to current policy and should therefore be refused for the following reasons listed below.

**Recommendation:** Refusal

**Refusal Reasons:**

1. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed replacement dwelling is not sited within the established curtilage of the existing dwelling and it has not been shown that the alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits.
2. The proposal is contrary to the Strategic Planning Policy Statement (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.

Signed .....

Date .....

Signed .....

Date .....

## Planning Committee Schedule of 21st Junel 2017

Planning reference: **LA07/2016/1442/F**

Proposal: **Replacement Dwelling and double garage**

Applicant: **Mr & Mrs Joseph Doran**

Location: **64a Tannaghmore Road, Loughinisland,BT24 8NU**

Recommendation: **Refusal**

### Reasons

#### 1

The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed replacement dwelling is not sited within the established curtilage of the existing dwelling and it has not been shown that the alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits.

#### 2

The proposal is contrary to the Strategic Planning Policy Statement (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.

### Site Description

The site is accessed from an existing lane from both Newline Road and Tannaghmore Road and consists of a single storey dwelling located at No 64a Tannaghmore Road, Loughinisland.

The dwelling is finished with roughcast render, roof is finished with grey roof slates and there are ridge line chimneys.

The dwelling has a small restrictive curtilage with a sloping garden to the south of the site. The site is bound by a mature hedge along the northern edge of the



site, southern & eastern boundary is defined by a post and wire fence as a form of stock proofing.

The general area is characterised by undulating drumlin countryside, with large areas of woodland and agricultural land. There are several one & a half and two storey rural dwellings located along the existing laneway and surrounding area. The proposed location is not visible from any of the surrounding roads which are critical viewpoints and are at a higher level than the site which is in a low lying meadow.

### **Planning Policies & Considerations**

PPS 21

SPPS

PPS3

Ards & Down Area Plan 2015

DCAN 15

### **Assessment of reason for Refusal**

#### **1**

It has been established by virtue of a previous outline planning approval (LA07/2015/1232/O) that that the subject dwelling has been accepted by the planning authority as a replacement dwelling and that approval restricted the position of the new dwelling to a very restrictive area around the area of the existing building to be replaced.

The applicant chose to submit a full application for a dwelling of a design to compliment the adjacent dwellings and to meet the needs of a modern living and they chose to place this proposed dwelling on the lower level of the site (approx. 1.8m -2m lower than the G/L of the existing dwelling).

The restrictive area of the existing curtilage around the old dwelling would result in a very small area of open space around any new dwelling to be replaced on the site. The chosen area is approx. 50m x 40 and is compliant with other application approve by the Planning department for sites in the countryside.

The applicant owns the adjacent field and wishes to construct a modern dwelling to meet their family's needs on a lower level (approx. 2m lower) and it would be their intention to erect boundary fence and carryout planting as indicated on the submitted plans.

## 2

It is argued by the planning department that the proposed dwelling will have a visual impact significantly greater than the existing dwelling, this has to be refuted as the proposed dwelling is similar in design to dwellings in the vicinity and will be on lower level of the site well below the existing ground level and will have no greater visual impact than the existing dwelling and the existing farm building which are located to the North West of the proposed site. The critical viewpoints in relation to this site are from the Newline Road and its junction with Tannaghmore Road, the views from these points are in a southerly direction to land and site at a lower level (some 500m away) with a backdrop of mature forests.

### **Overview**

The proposed dwelling on this remote site (500m from the nearest road) on a low lying site with the backdrop mature forest is acceptable in planning terms and is compliant with the planning policy and the location of the dwelling in the chosen portion of the site is compliant with the requirements of the Building Regulations which requires the availability of a circulation area around the dwelling for the access of a fire brigade.

A replacement dwelling of similar size was granted permission on an elevated site adjacent to the public road at The Heights Road Loughinisland thus setting precedent (See attached Photos).

It must be noted that the enlarged curtilage area is what would be acceptable as a normal site size for any other dwelling application.

### **Conclusion**

We would respectfully ask the Planning Committee to overturn this recommendation and grant Planning Permission for the dwelling and garage as applied for.



**Heights Replacement Dwelling Loughinisland**



**Photo during construction**



**Photo May 2017**





<b>ITEM NO</b>	<b>21</b>			
<b>APPLIC NO</b>	LA07/2017/0131/O	Outline	<b>DATE VALID</b>	30/01/2017
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>			
<b>APPLICANT</b>	Mr and Mrs McKeown 67 Rocks Chapel Road Crossgar Downpatrick BT30 9HN	<b>AGENT</b>	Tumelty Planning Services 11 Ballyalton Park Downpatrick BT30 7BT 07768057822	
<b>LOCATION</b>	Opposite no 67 and adjacent to 62 Rocks Chapel Road Crossgar BT30 9HN			
<b>PROPOSAL</b>	Proposed dwelling on a farm under planning policy CTY10 of Planning Policy Statement 21 (PPS21)			
<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>
	0	0	0	0
			<b>Addresses Signatures</b>	<b>Addresses Signatures</b>
			0	0 0 0

- 1 The proposal is contrary to the Strategic Planning Policy Statement (SPPS), 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, Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm.
- 3 The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks long established natural boundaries and would rely primarily on the use of new landscaping for integration, it would not, therefore, visually integrate into the surrounding landscape.
- 4 The proposal is contrary to the Strategic Planning Policy Statement (SPPS), Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling would, if permitted, be unduly prominent in the landscape and would be detrimental change to the rural character of the countryside.
- 5 The proposal is contrary to Strategic Planning Policy Statement (SPPS) and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the potential for the creation of infill development along Rocks Chapel Road.



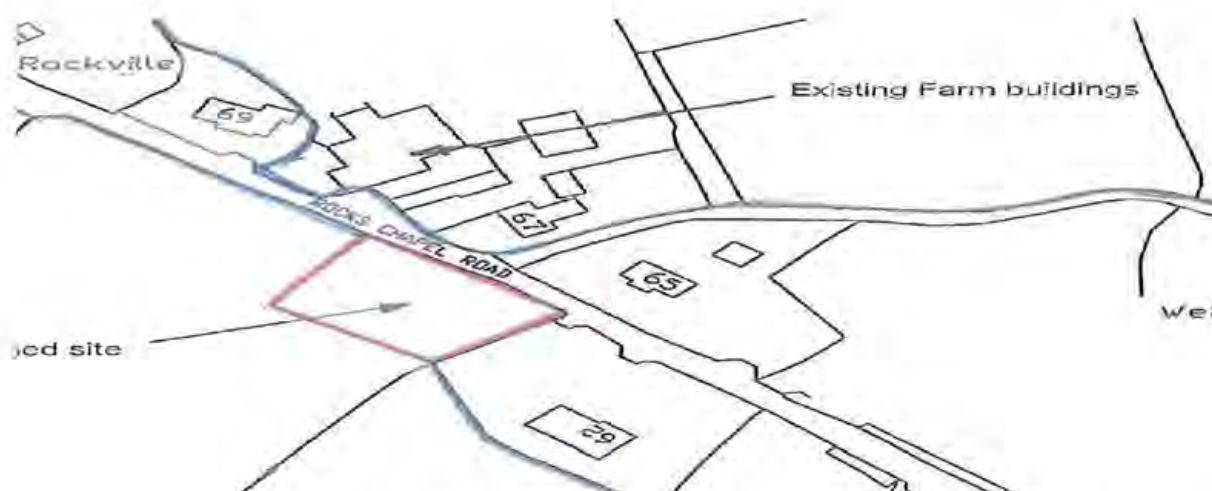
**Application Reference:** LA07/2017/0131/O

**Date Received:** 30<sup>th</sup> January 2017

**Proposal:** Dwelling on a farm

**Location:** Opposite 67 and adjacent to 62 Rocks Chapel Rd Crossgar

### Site Characteristics & Area Characteristics:



The site is located along Rocks Chapel Road, Crossgar, a rural road, which serves a number of detached dwellings and farm holdings. The site is comprised of relatively flat portion of land which is positioned immediately at the roadside and cut out of a large agricultural field, currently used for grazing. The site is defined at the roadside by a post and wire fence with stone wall and hedging. To the south-east the site is defined by a stone wall and post and wire fence, while the remaining boundaries are undefined. The site lies directly opposite the farm dwelling and out-buildings which are located at No 67 Rocks Chapel Road.

The land immediately surrounding the site is relatively flat and predominantly used for agriculture. There are a number of detached dwellings dispersed along Rocks Chapel Road, a variety of designs are present. The land opposite the site is heavily developed at the roadside with a ribbon of development evident, while on the southern side of Rocks Chapel Road, where the site is located, development is more sporadic with No 62 immediately

adjacent and set back from the road, a large gap is then present within the remaining field of which the site is cut.

**Site History:**

There is no history relevant to the site specifically.

An infill dwelling has been approved between Nos 58 and 62 Rocks Chapel Road see planning reference LA07/2016/0688/F.

**Planning Policies & Material Considerations:**

In assessment of the proposal regard shall be given to the RDS 2035, Strategic Planning Policy Statement, Planning Policy Statement 1, 3 and 21, DCAN 15, in addition to any other material consideration.

**Consultations:**

In assessment of the proposal a number of consultations were carried out with NIEA, Environmental Health, Utility Providers and Roads. No objections were received

**Objections & Representations**

The following neighbours were notified of the proposal on 02.01.2017

62 Rocks Chapel Road Crossgar

65 Rocks Chapel Road Crossgar

69 Rocks Chapel Road Crossgar

The proposal was advertised in the local press on 15.02.2017.

No objections or representations have been received.

**Consideration and Assessment:**

The Ards and Down Area Plan 2015 has identified the site as falling within the open countryside. The plan does not contain any policies or provisions relevant to the proposal. The relevant policy context is provided by Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21).



Policy CTY1 of PPS 21 states there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. One of these is the development of a dwelling on a farm in accordance with Policy CTY 10 which states that planning permission will be granted for a dwelling house on a farm where all of the following criteria can be met:

- (a) The farm business is currently active and has been established for at least 6 years;
- (b) No dwellings or development opportunities out-with settlement limits have been sold off from holding within 10 years of the date of the application
- (c) The new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:
  - Demonstrable health and safety reasons; or
  - Verifiable plans to expand the farm business at the existing building group (s)

It is noted that the farm on which the dwelling is proposed is registered to the applicant Raymond McKeown of 67 Rocks Chapel Road, Crossgar. The farm has a registered Business ID number 615270 and is comprised of approximately 40.78 hectares. In consideration of current policy, the Council consulted with Dept of Agriculture, Environment and Rural Affairs (DAERA) who confirmed that the farm business ID 615270 has been in existence for more than 6 years and has claimed subsidies in the past year. For the purposes of the policy, the business is considered to be active and established and thereby complies with criteria A.

A history check of the land included within the farm indicates that there do not appear to be any development opportunities sold off since November 2008. The proposal therefore complies satisfactorily with criteria B.

The proposed site is positioned opposite the farm dwelling and associated farm buildings, it is not considered therefore that the proposed dwelling, would, if approved, be visually linked and sited to cluster with an established group of buildings on the farm and therefore is not compliant with Criteria C of CTY 10.

Policy CTY10 also stipulates that proposals must also meet the requirements of CTY 13, 14 and 16. In doing so, it is considered that given the lack of boundaries to the north-west and south-west, a dwelling would not integrate successfully within surrounding landscape, as it

would rely primarily on the use of new landscaping for integration, the proposal is therefore contrary to CTY 13. Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of the area. A new building will be unacceptable where (a) – (e) occur. The development of the site would, be unduly prominent (conspicuous) due to the lack of established natural boundaries and the proposal is therefore also contrary to CTY 14.

During the site inspection, I met with the applicant Mr McKeown, who offered an alternative site, south west of the proposed site, just beyond the field within which the current site is proposed, a small parcel of land between field Nos. 4 and 6 as shown on the farm maps. This site would be accessed via an existing lane, and is considered to be satisfactory in terms of integration, given the existing boundary treatment. However, the site is removed from the farm buildings and would not be considered to visually link or site to cluster with established buildings on the farm. I queried the possibility of using the land to the rear of the farm buildings, but this was not looked favourably upon by the applicant.

**Recommendation:**

The application, as submitted, should therefore be refused on the basis that it does not comply with the SPPS, Policy CTY 1, 10, 13 and 14, in that the proposed dwelling is not sited to visually link or cluster with the established buildings on the farm and would, if permitted, lack integration and be prominent in the landscape due to the lack of established boundaries to the north-west and south-west. .

**Refusal Reason:**

1. The proposal is contrary to the Strategic Planning Policy Statement (SPPS), 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, Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm.

- 3. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks long established natural boundaries and would rely primarily on the use of new landscaping for integration, it would not, therefore, visually integrate into the surrounding landscape
  
- 4. The proposal is contrary to the Strategic Planning Policy Statement (SPPS). Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling would, if permitted, be unduly prominent in the landscape and would be detrimental change to the rural character of the countryside.

Signed .....

Date .....

Signed .....

Date .....

## **Planning Committee Schedule of 21st April 2017**

Planning reference: **LA07/2017/0131/O**

Proposal: **Proposed dwelling on a farm under planning policy CTY10 of Planning Policy Statement 21 (PPS21)**

Applicant: **Mr & Mrs McKeown**

Location **Opposite No 67 and adjacent to 62 Rocks Chapel Road, Crossgar**

Recommendation: **Refusal**

**This application was first presented to Planning Committee 26<sup>th</sup> April 2017 with four reasons for refusal and was withdrawn by the Planning Department on the morning of the meeting with no prior notice following the attendance of the applicant at that meeting and the reason stated was that a further reason for refusal required to be added. This results in the current presentation to Committee based now on 5 reasons for refusal as stated below.**

### **Reasons**

**1 The proposal is contrary to the Strategic Planning Policy Statement (SPPS), 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, Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm.**

**3 The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside; in that the proposed site lacks long established natural boundaries and would rely primarily on the use of new landscaping for integration, it would not, therefore, visually integrate into the surrounding**



landscape.

**4 The proposal is contrary to the Strategic Planning Policy Statement (SPPS), Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling would, if permitted, be unduly prominent in the landscape and would be detrimental change to the rural character of the countryside.**

**5 The proposal is contrary to Strategic Planning Policy Statement (SPPS) and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the potential for the creation of infill development along Rocks Chapel Road.**

### **Site Description**

The site is located along Rocks Chapel Road, Crossgar, a rural road, which runs from the village of Kilmore to Bells Hill

The site comprises a flat portion of land which is positioned immediately adjacent to the roadside and forms part of a large agricultural field which is part of the applicants holding. The site is defined at the roadside by a post and wire fence with stone wall and hedging while south- eastern boundary is defined by a stone wall and post and wire fence, the remaining boundaries are currently undefined.

The chosen site lies directly opposite the applicant's farm dwelling and out-buildings which are located at No 67 Rocks Chapel Road which is heavily developed as part of the applicant's farm yard with no available opportunity to locate a dwelling.

### **Planning Policies & Considerations**

PPS 21

SPPS

PPS3

Ards & Down Area Plan 2015

DCAN 15

### **Assessment of reason for Refusal**

**1**

The application site is submitted under policy CTY10 and as such it is considered necessary to be located in the Countryside and by this virtue it is compliant with Policy CTY1 of PPS 21 as no available opportunity for a dwelling on the farm is available elsewhere on the holding to the applicants which would comply with the policy.

It should be noted that the applicant has a preference for a site elsewhere on the holding and this has been indicated to the case officer during the site visit and is described as a small parcel of land between fields Nos 4 & 6 as per farm map, however as the officer states in the report to this Committee that while this site may offer integration due to existing boundary the site would not be considered to visually link or cluster with established buildings on the farm and is the reason the current site was chosen as it is considered to be more compliant with the requirements of the policy.

It is for these reasons that the current application is infect compliant with Policy CTY1.

**2**

The argument has to be made that the chosen site is the only available to the applicants which meets the criteria of clustering with an established group of buildings on the farm.

Having examined the possible opportunities of a site that was compliant with Policy CTY10, **Tumelty Planning Services** discussed all possible opportunities for compliance with the policy when we consulted with the clients; we examined the possibility of the applicants preferred choice of site between fields No 4 & 6 but this was disregarded as it was not considered compliant with the required clustering (this is confirmed in the officers report to this Committee) and we looked at the possibility of a suitable site to the rear of the existing farm house and outbuildings but while there may have been opportunist in this area I was informed that the applicant did not have control of the laneway adjacent to the farm house and it could only be used by them for the purpose of agricultural access and not to be used as an access to a potential building site. Having examined all options including a possible access through the main farm complex it was concluded that the only feasible site was on the portion of land on the opposite side of the road from the farmyard. This Consultancy is aware of sites that have been granted approval on available land across the road in other circumstances (R/2011/0360/RM- Bishops court Road, Downpatrick).

**3**



The opportunity to develop a site that is compliant with Policy CTY10 and avails of the only clustering opportunity on this holding should also be compliant with Policy CTY13 and should rely on established natural boundaries which this site does and while it will be necessary to construct new perimeter stock proof fencing and to carry out boundary treatment this is usual practice for sites and if the site was located elsewhere similar action would be required and as this is not a primary reason for refusal it can be wavered in preference for a site that clusters. The proposed site firstly meets the criteria of Policy CTY10) and in my opinion does visually integrate into the surroundings as it is located opposite the farm complex and is located on relatively flat land while the site avails of existing natural terrain and existing boundaries, the site also clusters with existing built form to the south east and also opposite.

While additional planting will be carried out by the developer it is to augment the siting and enhance the development of the proposed site.

#### 4

The proposal for a farm dwelling on the chosen site would be compliant with Policy CTY14 as contrary to the officers statement it would not be prominent in the landscape as it is situated to avail of the low lying lands which this site offers it will avail of integration and backdrop of the existing development in the area when viewed from the North East and by passing vehicular movement from the South Easterly direction. In relation to the argument that the proposed dwelling would “be unduly prominent in the landscape” should this be an issue of concern the Council can impose a height restriction and it would be suggested that a 6m restriction would be suffice in this situation.

The argument has to be that the site is not unduly prominent and would cause little or no change to the rural character.

#### 5

The argument that the proposal would result in the potential for the creation of infill development along Rocks Chapel is a presumption and is contrary to the spirit of the Planning policy in that **“Each planning application is considered on its own merits ”** (quote from recent planning appeal ref 2016/A0201 issued on 8<sup>th</sup> June 2017) and the appointed commissioner further states that **“the merits of any possible future planning application would be a matter in the first instance for the Planning Authority at that time”**

This reason for refusal is considering what may or may not happen in the future and is totally contrary to the spirit of the policy as no suitable site for the current proposal exists elsewhere on the holding.

#### Overview

The main issues of concern in relation to a dwelling on the farm under Policy CTY10 are met by this proposal.



The business is active and SFP are made criterion (a).  
No development opportunities have been sold of the holding Criterion (b).  
The building clusters with a group of buildings on the farm being located less than 30m from the existing buildings on the only available land which would allow for compliance with criterion (c) and while alternative locations have been suggested to the case officer on site these are flawed or are not an option to the Council or the developer.  
Access to the proposed site will be via a new access point in compliance with the positive comments of Transport NI engineer and no objections were received from any of the formal consultees.  
The potential for future development should not prevent the developer the opportunity to construct a dwelling under Policy CTY10 and each application must be considered on its own merits.

### **Conclusion**

We would respectfully ask the Planning Committee to overturn this recommendation and grant Planning Permission for the dwelling on the only land available that complies with the policy.  
My clients has expressed a willingness to discuss alternative site locations but as I have explained these locations are less compliant with the policy than the chosen site and it is for these reasons that this application was lodged and we would state the precedent for such development (as that quoted R/2011/0360/RM on Bishopscourt Road) exist.

<b>ITEM NO</b>	8			
<b>APPLIC NO</b>	LA07/2016/0821/F	<b>Full</b>	<b>DATE VALID</b>	20/06/2016
<b>COUNCIL OPINION</b>	<b>APPROVAL</b>			
<b>APPLICANT</b>	C Canning 22 Ringhaddy Road Killinchy BT23 6TU	<b>AGENT</b>	HR Jess Architecture Planning & Management 1 Jordanstown Road Newtownabbey Co Antrim BT37 0QD 028 9036 4615	
<b>LOCATION</b>	24 Ringhaddy Road Killinchy			
<b>PROPOSAL</b>	Change of House type to that previously approved under R/2012/0323/F. (Further amended plan received: clarification re: finishes and levels)			
<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>
	56	0	0	0
	<b>Addresses Signatures</b>		<b>Addresses Signatures</b>	
	0	0	0	0



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference: LA07/2016/0821/F**

**Date Received: June 2016.**

Proposal: Full planning permission is sought for a Change of House type to that previously approved under R/2012/0323/F, on lands at 24 Ringhaddy Road, Killinchy.

Applicant: Mr C Canning

**Location:**

The site is located in the countryside several mile north of Killyleagh in an AONB and Area of Constraint on Mineral Developments as identified in the Ards and Down Area Plan 2015. The site is also adjacent to Quarterland Bay and appears to be within/adjacent Strangford Lough Ramsar site, SPA, SAC, Marine Nature Reserve and ASSI. This Ringhaddy Road is a relatively narrow rural road which extends from the Ballymorrán Road and Killyleagh Road down to the shore and bay, whereby this area is largely characterised by agricultural lands although also comprises a number of roadside dwellings and holdings.

**Site Characteristics & Area Characteristics:**

The site is located towards the bottom end of Ringhaddy Road, adjacent to the shore (Quarterland Bay) and comprises a portion of land (field) adjacent to the dwelling of no.22 and its associated curtilage, buildings and lands, whereby development has commenced for the construction of a new dwelling, approved under application R/2012/0323/F.

The site for this dwelling is low lying, whereby the lands rise from the shore towards no.22. This site is accessed via the existing access serving no.24

**Site History:**

A history search has been carried out for the site and surrounds whereby it is noted there have been a number of applications within and adjacent to the site, however having account the nature of this proposal, the most relevant history observed



includes:

R/2012/0323- 70m north west of 22 Ringhaddy Road, Killinchy, New dwelling and double garage, Full, Approval, 12-02-14, Applicant: Mr Canning.

(This approved dwelling was located towards the lower lying portion of the field and comprised a single storey dwelling with detached double garage with store above. This dwelling shared the access point onto the Ringhaddy Road with no.22.

It is noted there was significant local opposition to this proposal while consultation was also undertaken with TNI, NIW, WMU, Rivers Agency, DAERA, PHB, PHM, and Natural Heritage)

### **Consultations:**

Having account the nature of this proposal (change of house type) and constraints of the site and area, consultations have been carried out with Rivers Agency, NIEA and Shared Environmental Services, who offer no objections in principle. A HRA screening exercise was also undertaken as part of this application.

The comments from the respective consultees are noted, and having account the nature of this application, namely, a Change of house type, to an extant permission, in the same location, it is not considered necessary to seek further information or comments from any other body to determine this application.

### **Objections & Representations**

Having account the red line of the application site, neighbour notification was carried out with several properties along Ringhaddy Road initially in June 2016, however further neighbour notification letters were issued again in Sept, Oct and Dec 2016 and again in Jan 2017, following receipt of amended plans and additional information. The application was also advertised in the local press in July 2016.

In excess of 50 objections have been received to date (08-02-17) from properties along Ringhaddy Road, Ballymorrán Road, Ringdufferin Road, Lusky Road, Quarterland Road, Rathcunningham Road, Whitecherry Road (killinchy), The Spires Grove (Killinchy), Donaldson Planning on behalf of Concerned Ringhaddy Area residents, the Concerned Ringhaddy Area Residents themselves, and also RSPB, whereby the main issues raised include:

- the dwelling proposed is substantially bigger in height, width, depth and footprint (scale, height, mass and intrusiveness) along with a unnecessarily large and inappropriate garage,
- the design is ill-proportioned with an incongruous mix of elements and is wholly inappropriate, and will destroy the very special and unique landscape of this sensitive location,
- the fenestration is out of keeping with the area,
- the quality of the information submitted is inadequate,
- the proposal is contrary to PPS2,
- the proposal is contrary to policies CTY13 and CTY14 of PPS21,
- request that NIEA are consulted,

- queries were raised regarding the timing of the application and period afforded to comment on it,
- the history of the site, namely the previously approved dwelling and associated opposition and complaints are referred to,
- 3D images have been provided.

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

**Policy- RDS, Ards & Down Plan 2015, SPPS, PPS2, PPS3, PPS6, PPS11, PPS15, PPS21 and supplementary guidance.**

As stated above the site is located in the countryside, thus PPS21 applies.

PPS21 sets out the planning policies for development in the countryside (any land lying outside of development limits as identified in development plans), whereby Policy CTY 1 sets out the 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.

It is clear from the history outlined above there is a previous extant Full permission for a new dwelling on this site (R/2012/0323), the details of which are set out above. As such it is considered the principle of a dwelling has already been accepted and established for this site in accordance with the provisions of PPS21, subject to conditions.

The purpose of this report is to consider the change of house type proposed and not to re-visit the principle of development.

As outlined above neighbour notification has been carried out on a number of occasions since this application was first received in June 2016.

The original scheme and change of house type (June 2016) comprised a part 1 and part 2 storey dwelling with several returns and projections, whereby the Planning Dept queried where the agent had based the design of this dwelling having account the context of the guidance document Building on Design and also existing character of the area.

In response to this query amended plans were received in Sept whereby the tower/turret feature was removed while the elevations and finishes were also amended. As such a further round of neighbour notification was undertaken in Sept to advise neighbours and interested parties of these changes and affording an opportunity to comment.

However further amended plans were then received in Oct reverting back to the original scheme, which required a further round of neighbour notifications to be undertaken.

Following the expiry of the neighbour notification period these amended plans from Oct were considered and had been recommended for Refusal in Nov, with a view to being presented to the Planning Committee in Dec 2016.

However a further set of amended plans were then received from the agent in Dec, again removing the tower/turret feature and amending the house type/elevations. Receipt of these amended plans required a further round of neighbour notification. Further amended site layout plans were then received in Dec and again in Jan regarding the levels of both the site and dwelling. These again required further rounds of neighbour notifications to be undertaken.

It is clear from the above how this application for a change of house type has been amended on a number of occasions over the period of 7 months. These amendments have caused delays in the processing of the case, and have also been frustrating for all parties involved including neighbours/interested parties who have received a number of letters, whereby a number of interested parties have taken the time to make representations on each set of amendments, however the Planning Dept has a duty to consider amended plans received.

This situation is unfortunate for all parties involved, however this report is now based on the most recent plans received including the site layout plan date stamped 18th Jan 2017 and detailed plans date stamped 19th Dec 2016. (The site location plan and garage details have remained unaltered and are date stamped 20th June 2016).

The dwelling (change of house type) now proposed will be part single storey and part 2 storey, and will again include a number of projections.

This change of house type will be sited in the same place as that previously approved, whereby part of this previously approved dwelling has been constructed. It is noted the single storey portion of the dwelling comprising the sitting, dining, kitchen, bathroom and bedroom 3 are the same as that previously approved.

The dwelling previously approved was single storey with simple form, although it is noted there are a mix of house types, sizes and designs in this area.

While it is acknowledged the dwelling now proposed is larger than that previously approved, it is considered the size including height and scale, and also design and appearance are acceptable in this sensitive rural location, the zonings of which are outlined above.

The house type now proposed has been simplified from an earlier version whereby the central tower/turret feature and also end upper floor projection have been removed. The finishes proposed include a black natural slate roof, white upvc windows, painted cladding walls and black RWG's.

As stated above the dwelling will be sited in the same place, whereby the access, driveway, garage, levels, garden area, extent of curtilage and boundary planting will all largely remain as previously approved.

(As outlined above the levels will remain as previously approved. It is noted from the levels and drawings of the previous approval parts of the site were to be dug out and levelled with a retaining wall and bank being provided along the rear of the dwelling and garage. This will again be replicated whereby the height of which can be conditioned if considered necessary).

As such it is considered these change of house type proposal, will not result in any significant increased or unacceptable impact on the character of this area or any



adjoining property, on this low lying site, and complies with the applicable policy context including policy CTY13 and CTY14 of PPS21, and also NH6 of PPS2 and the SPPS.

It is noted there is considerable opposition to this application, and with regards to the representations received, it is considered that while there may be ongoing complaints, this is not a justifiable reason to hold the progressing of this application. The design of the dwelling now proposed has been outlined and considered above. This application was submitted in June, whereby there is no current restriction in place as to what day or month any application can be submitted. The history of this site is noted, however this application only deals with this current proposal for a change of house type to that previously approved, whereby the principle of a dwelling has already been considered acceptable at this location.

Taking into account the above, Approval is recommended, subject to conditions. (Conditions to include: substitution of previous approval, removal of permitted development rights, planting, height of retaining wall, NIEA comments, while also having account the conditions attached to the previous approval (R/12/0323)).

**Recommendation: Approval.**

**LA07/2016/0821/F****Oral Submission****21 June 2017****With powerpoint presentation - from 123 Concerned Ringhaddy Area Residents**

69

We are speaking to you on behalf of 123 members of a campaign group which has been trying to protect this Ringhaddy area of Strangford Lough from excessive development by one developer over the last ten years. The group includes residents, locals, farmers and students. **We are inclusive** of all ages, gender, religion, race, classes and cultures.

The Ringhaddy/Quarterland area was previously one of the few unspoilt and undeveloped bays on the western coast of Strangford Lough. Sadly, that all changed over the last ten years when Ombudsman-proven '**maladministration**' by Planning Service, kick-started the development of these former green fields. Two major oversights by planners, ten years ago, laid the site open to incremental overdevelopment by a series of additional, damaging, discretionary approvals such as the one recommended today.

We appeal to Councillors to use your own judgement and discretion, to bring reason and common sense to bear on this out-of-control situation. Break the chain of environmental damage and refuse this application today.

#### *Slide 1 – Strangford view*

Strangford Lough is an incredibly beautiful place where locals, visitors, young and old, enjoy leisure activity and water sports and where visitors and tourists enjoy the scenery and the shoreline. But this environment is fragile and easily exploited.

#### *Slide 2 - AONB sign*

British, Irish and European legislation recognises the uniqueness of Strangford Lough by protecting it with some of the toughest laws available. Put any toxin into its waters and you will quickly feel their wrath. But most of this protection ends at the high-water mark and it is left only with the designation – **Area of Outstanding Natural Beauty**, to protect the shoreline and surrounding scenery. A designation which planners consistently appear to ignore.

#### *Slide 3 – Fragile Environment*

The natural environment needs protection from development because **planning legislation and practice has failed to protect the AONB**. It needs your support because it cannot defend itself.

#### *Slide 4 – Building Sites in the country*

Development, is a one-way street which is quickly rolled out across virgin fields and countryside,. **When scenery and the shoreline is scarred, it is scarred forever, because it never heals.**

Make no mistake – **this application is about 'Development'** and here is the proof:-

#### *Slide 5 – PROW -Trespassers Prosecuted Sign*

The planning applicant describes himself as a '**self-employed builder/developer**'. In 2011, he blocked and closed a **Public Right of Way** along the foreshore, which has been in existence for hundreds of years.

#### *Slide 6 –Keep Out Sign*

In **unsuccessfully** defending his actions, at a special Council meeting in October last year, his legal team told Councillors that he, "**sought to develop the land**" and that the right of way was "**blighting the development potential of the land**".

**What does this tell you about the likely future for this AONB?**

The public right of way was **affirmed by Council** and is now going to the High Court for final ratification - yet these fences and notices remain in place.

*Slide 7 – Before and After Development*

The history of these 10 acres of land since they were purchased by the applicant in 2003, is all about **Development** which has been unsuccessfully fought by locals, residents and farmers ever since that purchase. Almost all of the many planning applications have been approved, no matter what the arguments put forward by bodies such as the National Trust, the Green Party, Friends of the Earth, the Ulster Federation of Rambling Clubs and ourselves.

*Slide 8 – NIPSO Report*

The Northern Ireland Public Service Ombudsman, following a three-year investigation, produced a report in October, last year, **which cannot be shared with you, because of confidentiality restrictions**. It clearly stated that evidence was found of 'maladministration' by the Planners, which laid the area open to overdevelopment at 22 Ringhaddy Road. **Maladministration** for which the now re-named, Department for Infrastructure was told to apologise, in writing, to our Group, **but where the decisions were not to be changed due to the passage of time!**

*Slide 9 – Scenic view - Ringhaddy Road*

Excessive development brings noise and light pollution as well as visual disruption. When you made your site visit last month, did you hear the birdsong from Geese, Curlew, Redshank and Oyster Catchers? This is all **at risk** from increased human activity. Even a helicopter landed at 22 Ringhaddy Road recently – what does that do to the birdsong?

*Slide 10 – Development view – Ringhaddy Road*

The huge increase in height and size application for which approval is recommended, is to a 'farm dwelling' approved by the flawed planning legislation of PPS21, which allows almost anyone to be a farmer **yet does not insist that 'farm dwellings' are lived in by farmers.**

*Slide 11 – Existing partly built*

We ask councillors to consider what 'farming need' is helped or sustained by **more than doubling** the size and **value** of this partly built 'farm' dwelling?

*Slide 12 – proposed Farm Mansion*

This is an aerial view of the proposed enlargement. Is this an essential 'farm dwelling' or a **Mansion** in the country? Who will live in the **Mansion** when it is finished? **There is no farming restriction on its use. It can be sold to any one, at any time, for any price** – but what price is put on the environment it would be damaging?

*Slide 13 – Environmental Legacy – Strangford View*

The environment can be either defended or destroyed.

**We appeal to Councillors to use your own judgement and discretion, to bring reason and common sense to bear on this out-of-control situation. Break the chain of environmental damage and refuse this application today.**

Thank you

**5 Minutes**





### Democratic Services

Newry, Mourne & Down, District Council  
Downshire Civic Centre  
Downshire Estate  
Ardglass Road  
Downpatrick  
BT30 6GQ

14<sup>th</sup> June 2017

Dear Democratic Services

### Speaking Request for Item 8 - Planning Application Reference – LA07/2016/0821/F

Location – 22 Ringhaddy Road, Killinchy, BT23 6TU

### Change of House type to that previously approved under R/2012/0323/F. (Further amended plan received: clarification re: finishes and levels)

This submission seeks to **support** the policy interpretation of the professional officers in their recommendation to approve the above application at the Planning Committee Meeting of 21<sup>st</sup> June 2017.

This is the third time the application has been brought forward to Committee. It is apparent that there have been no material changes in policy or a change in professional opinion in the intervening months to justify any further delay or deferrals.

In this regard it is significant to note paragraph 17 of the revised Scheme of Delegation dated February 2017 states that: "*The Committee will generally only defer an application once*".

In this circumstance it is apparent that there have a two deferrals including the recent site visit.

It is important to highlight this position should the applicant wish to pursue a case of prejudice against members of the Planning Committee for the addition costs incurred, as a result of multiple deferrals being granted.

I also note that if members were **not present for the initial discussion/debate or did not attend the site visit** then they **cannot participate** in the discussion or vote when the application is presented to Committee.

#### **Schedule for 7/12/2016**

Initially the application was recommended for refusal, however an amended design was received and it was removed for from the schedule for further consideration.

#### **Schedule for 1/03/2017**

The application was presented on the addendum list with a recommendation to approve, but was removed at the request of Cllr Hanna for full consideration by the Planning Committee.

I note that Mr Andrew Ryan of Tughans in his letter of 1/03/2017, protests of the late inclusion of the application and the prejudice to his clients, as they did not request speaking rights.

However I can assure the Council that the Schedule was in the public domain on 17/02/2017, when I drew the applicant's attention to it being recommended as an approval.

Notwithstanding that Mr David Donaldson has been representing the objectors from the outset and it would be common practice to monitor Council Schedules and advise interested parties accordingly.



### **Schedule for 15/03/2017**

The application was re-presented with a recommendation to approve to the Planning Committee.

I note that Mr Ryan, spoke against the proposal on behalf of CRAR. Unfortunately there are no notes of his comments for consideration.

I would hope that Mr Ryan advised the Committee that despite threatening to Judicial Review the earlier decision (R/2012/0323/F) and sending a pre-action letter on 4/04/2014 no legal challenge ensued.

Therefore it can only be accepted that there was no legal basis for challenge. The previous decision is lawful and the applicant has a valid fallback position, which is the starting position for consideration.

Cllr Larking and Ruane voted to endorse the decision to approve, but the proposal was lost by 7 votes to 4. A counter proposal was then put forward by Cllr Hanna and seconded by Cllr McAteer to defer the application for a members site visit.

The member's site visit took place on Monday 22/05/2017 and Mr Pat Rooney and Ms Annette McAlarney were in attendance and addressed members questions and queries.

The application has now been returned to the Planning Committee with the same recommendation to approve.

### **Planning History & Legal Fallback**

The site benefits from a full planning consent under R/2012/0323/F, which is referenced in the proposal description.

The principle of a farm dwelling was deemed acceptable, as per the prevailing planning policies contained within PPS21 (CTY1 and CTY 10) and granted permission on 12/02/2014, subject to a number of conditions.

A detailed design was provided as part of this permission and deemed to acceptable as per policies CTY 13, CTY 14 and CTY 15. This planning approval is extant and does not become time expired until 12/02/2019. In any case it has lawfully commenced

It therefore represents a valid fallback position for the applicant, as indicated in our previous email dated 21/03/2017. The relevant legal judgement is *Zurich Assurance Ltd T/A Threadneedle Property investments v North Lincolnshire Council & Simons Developments Ltd*, which may be of assistance to the Council moving forward (It is attached again for convenience).

This judgement reinforces the Council's approach is the correct one and that only the changes to R/2012/0323/F are considered. Fallback scenarios are considered at paragraph 75, where it states that:

*"The prospect of the fall back position does not have to be probable or even have a high chance of occurring; it has to be only more than a mere **theoretical prospect**. Where the possibility of the fall back position happening is "very slight indeed", or merely "an outside chance".*

Therefore the approach of the objectors that this is a re-consideration of R/2012/0323/F is misplaced and incorrect. They chose not to judicially challenge it after having the benefit of legal input from Mr Ryan at the time and as per his pre-action letter sent to the DOE and the applicant's agent.





### **The Proposal**

The applicant commenced development within the specified timeframes and only Condition 2 & 4 sought to apply pre-development conditions to be discharged prior to commencement. These have both been discharged and no party has expressed a view to the contrary.

On that basis only the net differences are considered. The applicants permitted development rights were not removed on R/2012/0323/F.

Therefore the applicant can make a number of alterations to R/2012/0323/F without the need for planning consent at all and weight must be attached to that point, as per the *Mansi Principle*.

The changes proposed are not so significant to justify refusal when taking account of R/2012/0323/F and the nature and scale of alterations and the extent of the alterations that can be made without going through the statutory process.

The application site has not increased or altered and the siting is the same as that deemed acceptable under R/2012/0322/F. There are no significant alterations being proposed to the earlier consent.

On that basis the planning officer is entirely correct to only consider this as a change of house.

### **Conclusions**

Despite the proposal representing a change of house type the professional officers have consulted with Rivers Agency, NIEA and Shared Environmental Services, who offer no objections in principle.

A HRA screening exercise has been undertaken and the application has been screened out for any significant environmental effects.

There are no environmental impacts that could reasonably be argued when taking account of the legal fallback position and the lack of any increase in the site area.

It is significant that no 3<sup>rd</sup> party has argued there has been an error in the processing or determination.

The consideration and recommendation is a matter of planning judgement, which has clearly taken account of all of the material considerations and attached significant weight to the R/2012/0323/F, which remains a valid and legal fallback. The alterations when considered against that context are not significant.

We support the recommendation and would indicate that there are no reasons for continued delay as previously stated.

If you require anything further then please do not hesitate to contact me.

Yours sincerely

A handwritten signature in blue ink, appearing to read "AS", is written over a faint circular stamp.

**Andy Stephens**  
**BA Hons, MSc**  
**Planning Consultant**

**CC. Mr Chris Canning, Mr Hadleigh Jess**



Case No: CO/4764/2012

Neutral Citation Number: [2012] EWHC 3708 (Admin)

**IN THE HIGH COURT OF JUSTICE**  
**QUEEN'S BENCH DIVISION**  
**ADMINISTRATIVE COURT IN LEEDS**

Leeds Combined Court,  
1 Oxford Row, Leeds, LS1 3BG

Date: 20/12/2012

**Before:**

**MR JUSTICE HICKINBOTTOM**

**Between:**

**THE QUEEN on the application of**  
**ZURICH ASSURANCE LIMITED trading as**  
**THREADNEEDLE PROPERTY INVESTMENTS**

**Claimant**

**- and -**

**NORTH LINCOLNSHIRE COUNCIL**

**Defendant**

**- and -**

**SIMONS DEVELOPMENTS LIMITED**

**Interested**  
**Party**

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 -----  
**Paul G Tucker QC and Anthony Gill (instructed by Nabarro LLP) for the Claimant**  
**Vincent Fraser QC and Alan Evans (instructed by Legal Services Department,**  
**North Lincolnshire Council) for the Defendant**  
**Christopher Katkowski QC and Graeme Keen (instructed by Gordons LLP)**  
**for the Interested Party**

Hearing date: 17 December 2012

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 Judgment

**Mr Justice Hickinbottom:****Introduction**

1. The Claimant (“Zurich”) is the owner of the Foundry Shopping Centre, which lies within the primary shopping area in the centre of Scunthorpe, the largest town in North Lincolnshire. The shopping centre comprises 19,000 sq m of retail floorspace in 45 units.
2. The Interested Party (“Simons”) has an option to purchase the Trent Valley Garden Centre, Doncaster Road, Gunness (“the Site”), which is about 2.5 kilometres from Scunthorpe town centre.
3. On 26 March 2012, the Defendant (“the Council”), which is the relevant local planning authority, granted planning permission to Simons to demolish the garden centre and its associated structures, and construct a retail park with four retail units and associated access roads, car parking, servicing area and landscaping.
4. In this claim, issued on 8 May 2012, Zurich challenges that decision, with the permission of His Honour Judge Gosnell sitting as a judge of this court granted on 23 July 2012.
5. At the substantive hearing, Zurich was represented by Paul Tucker QC and Anthony Gill, the Council by Vincent Fraser QC and Alan Evans, and Simons by Christopher Katkowski QC and Graeme Keen.

**Factual Background**

6. The Site has been a garden centre since the mid-1980s: on 17 January 1985, planning permission was granted for a change of use of the land, and to erect appropriate buildings. That permission was subject to a condition (Condition 2) that limited the goods that could be sold to a prescribed list which, in general, excluded food and clothes. However:
  - i) full planning permission was granted on 3 April 1986 to retain a restaurant, lounge and patio area;
  - ii) outline planning permission was granted on 9 August 1990 to erect buildings to create a non-food retail warehouse park (although that was never implemented, and has of course long since lapsed); and
  - iii) there is significant evidence that the Site has in fact been used for very wide retail use – far wider than allowed by Condition 2 – for some considerable time (e.g. the Secretary of State’s decision letter of 9 August 1990 refers to the garden centre having “already some... 4,500 sq m of retail floorspace used for the sale of a wide range of goods”).
7. On 22 August 2011, Simons made a further application for planning permission for a new retail park on the Site, initially proposing six retail outlets, but later reduced to four namely one large unit (4,645 sq m) and three smaller units. Accompanying the application was a screening opinion dated 22 July 2011 under Regulation 4 of the Town and Country Planning (Environmental Impact Assessment) (England and

Wales) Regulations 1999 (SI 1999 No 293), to the effect that a full environmental impact assessment was unnecessary. The application was validated by the Council on 31 August 2011.

8. Two letters of objection were lodged by planning consultants representing Zurich (Indigo Planning Limited, "Indigo"). However, on 14 December 2011, the application was considered by the Council's Planning Committee, which resolved in favour of granting it subject to the completion of a satisfactory Section 106 planning obligation. The application was referred to the Secretary of State, who indicated that the matter would not be called-in for decision by him.
9. On 23 December 2011, a letter before claim was sent to the Council by an informal group of local businesses and residents opposed to the project, known as "Keep Scunthorpe Alive" ("KSA"), challenging the decision to grant permission; and further letters of objection were sent by Indigo. As a result, the Council's case officer (Mr David Wordsworth) prepared a further report for the committee which, rather than merely updating the earlier report to deal with the objections received, was a comprehensive report covering all of the ground again including the contents of the objections to which I have referred ("the Main Report") with an addendum of its own responding to two late, further letters of objection from Indigo and KSA ("the Addendum Report"). It is therefore unnecessary for me to consider the earlier report further.
10. On 7 March 2012, on the basis of the Main Report and the Addendum Report, the Council's Planning Committee reconsidered the application, and again resolved to grant permission subject to referral and a satisfactory Section 106 obligation, in the following terms:

**"Resolved** - (a) That the committee is mindful to grant permission for the development; (b) that the application be referred to the Secretary of State in accordance with statutory procedures to enable him to consider whether or not to intervene; (c) that in the event of the Secretary of State deciding not to intervene, the Head of Development Management be authorised to grant permission subject to the completion of a formal agreement under Section 106 of the Town and Country Planning Act 1990 providing for off-site highway improvements, Scunthorpe town centre protection, protected species translocation and maintenance and a contribution towards improving the existing footpaths in the vicinity of the site, and to the conditions contained in the report, and (c) [sic] that if the obligation is not completed by 7 June 2012, the Head of Development Management be authorised to refuse the application on the grounds of the adverse impact upon the vitality and viability of Scunthorpe town centre, adverse impact upon highway safety and levels of congestion within the locality, adverse impact upon protected species and their habitat, and non-compliance with Policy EC16 of PPS 4, policies T2 and T6 of the North Lincolnshire Local Plan, and policies C14, C25 and CS17 of the North Lincolnshire Core Strategy."



(The voting being equal on the above matter, ... the chairman used his second and casting vote in favour of the motion).”

That resolution very much followed the wording of the officer’s formal recommendation at pages 63-4 of the Main Report.

11. The Secretary of State did not call-in the decision. A Section 106 agreement was completed, and full planning permission granted, on 26 March 2012.
12. It was a condition of the grant of planning permission (Condition 38) that the first tenant of the large unit should be a retail company within the Marks and Spencer plc group of companies (“Marks & Spencer”). Marks & Spencer had had a 949 sq m shop in High Street, Scunthorpe from 1931 to early 2011 when it closed, commercial non-viability being given as the reason for closure.
13. It is that grant of planning permission on 26 March 2012 that Zurich now challenges.

### **Legal Principles**

14. This case hinges largely upon criticisms of the officer’s Main and Addendum Reports to the Council’s Planning Committee, seen in the light of national and local planning policy. The relevant legal principles relating to such reports and policy were agreed by the parties, and are uncontroversial.
15. Each local planning authority delegates its planning functions to a planning committee, which acts on the basis of information provided by case officers in the form of a report. Such a report usually also includes a recommendation as to how the application should be dealt with. With regard to such reports:
  - i) In the absence of contrary evidence, it is a reasonable inference that members of the planning committee follow the reasoning of the report, particularly where a recommendation is adopted.
  - ii) When challenged, such reports are not to be subjected to the same exegesis that might be appropriate for the interpretation of a statute: what is required is a fair reading of the report as a whole. Consequently:
 

“[A]n application for judicial review based on criticisms of the planning officer’s report will not normally begin to merit consideration unless the overall effect of the report significantly misleads the committee about material matters which thereafter are left uncorrected at the meeting of the planning committee before the relevant decision is taken” (Oxton Farms, Samuel Smiths Old Brewery (Tadcaster) v Selby District Council (18 April 1997) 1997 WL 1106106, per Judge LJ as he then was).
  - iii) In construing reports, it has to be borne in mind that they are addressed to a “knowledgeable readership”, including council members “who, by virtue of that membership, may be expected to have a substantial local and background knowledge” (R v Mendip District Council ex parte Fabre (2000) 80 P & CR

500, per Sullivan J as he then was). That background knowledge includes “a working knowledge of the statutory test” for determination of a planning application (Oxton Farms, per Pill LJ).

16. The principles relevant to the proper approach to national and local planning policy are equally uncontroversial:
- i) The interpretation of policy is a matter of law, not of planning judgment (Tesco Stores Ltd v Dundee City Council [2012] UKSC 13).
  - ii) National planning policy, and any relevant local plan or strategy, are material considerations; but local authorities need not follow such guidance or plan, if other material considerations outweigh them.
  - iii) Whereas what amounts to a material consideration is a matter of law, the weight to be given to such considerations is a question of planning judgment: the part any particular material consideration should play in the decision-making process, if any, is a matter entirely for the planning committee (Tesco Stores Ltd v Secretary of State for the Environment [1995] 1 WLR 759 at page 780 per Lord Hoffman).

#### **The Relevant National and Local Guidance**

17. At the relevant time, national planning policy was contained in Planning Policy Statement 4: Planning for Sustainable Economic Growth (“PPS4”), supplemented by Planning for Town Centres: Practice Guidance on Need, Impact and Sequential Approach (“the PPS4 Practice Guidance”), both published by the Secretary of State for Communities and Local Government. (For the sake of completeness, it should be said that PPS4 was replaced on 27 March 2012, i.e. the day after the relevant planning decision in this case. However, the National Planning Policy Framework, which replaced PPS4, has no relevance to this claim.)
18. PPS4 identifies the Government’s overreaching objective for a prosperous economy as “sustainable economic growth” (paragraph 9). To help achieve that, the Government’s more particular objectives for planning include building prosperous communities by improving the economic performance of towns, delivering more sustainable patterns of development, and promoting the vitality and viability of towns and other centres as important places for communities (including the focusing of new economic growth and development of main town centre uses in existing centres) (paragraph 10).
19. One policy to that end is the requirement for sequential assessment for planning applications for main town centre uses that are not in an existing centre and not in accordance with an up-to-date development plan (Policy EC14.3). Such sequential assessments must be performed in accordance with Policy EC15, which provides:
- “15.1 In considering sequential assessments required under Policy EC14.3, local planning authorities should:
- a. ensure that sites are assessed for their availability, suitability and viability.

- b. ensure that all in-centre options have been thoroughly assessed before less central sites are considered.
- c. ensure that where it has been demonstrated that there are no town centre sites to accommodate a proposed development, preference is given to edge of centre locations which are well connected to the centre by means of easy pedestrian access.
- d. ensure that in considering sites in or on the edge of existing centres, developers and operators have demonstrated flexibility in terms of:
  - i. scale: reducing floorspace of their development;
  - ii. format: more innovative site layouts and store configurations such as multi-storey developments with smaller footprints;
  - iii. car parking provisions; reduced or reconfigured car parking areas; and
  - iv. the scope for disaggregating specific parts of a retail or leisure development, including those which are part of a group of retail or leisure units, onto separate, sequentially preferable, sites. However, local planning authorities should not seek arbitrary sub-division of proposals.

15.2 In considering whether flexibility has been demonstrated under policy EC15.1.d above, local planning authorities should take into account any genuine difficulties which the applicant can demonstrate are likely to occur in operating the proposed business model from a sequentially preferable site, for example where a retailer would be limited to selling a significantly reduced range of products. However, evidence which claims that a class of goods proposed to be sold cannot be sold from the town centre should not be accepted.”

- 20. Policy EC16.1 requires planning applications for main town centre uses that are not in a centre and not in accordance with an up-to-date development plan to be assessed against a number of identified impacts on centres, including “the impact of the proposal on town centre vitality and viability...” (Policy 16.1.b). Policy EC10.2 requires such applications also to be assessed against a number of other considerations, including the impact on economic and physical regeneration (Policy EC10.2.d) and the impact on local employment (Policy EC 10.2.e).
- 21. Policy EC17 is of particular importance in this claim. It provides as follows:
  - “EC17.1 Planning applications for main town centre uses that are not in an existing centre and not in accordance with an up to



date development plan should be refused planning permission where:

- a. the applicant has not demonstrated compliance with the requirements of the sequential approach (policy EC15); or
- b. there is clear evidence that the proposal is likely to lead to significant adverse impacts in terms of any one of impacts set out in policies EC10.2 and 16.1 (the impact assessment), taking account of the likely cumulative effect of recent permissions, developments under construction and completed developments.

EC17.2 Where no significant adverse impacts have been identified under policies EC10.2 and 16.1, planning applications should be determined by taking account of:

- a. the positive and negative impacts of the proposal in terms of policies EC10.2 and 16.1 and any other material considerations; and
- b. the likely cumulative effect of recent permissions, developments under construction and completed developments.

EC17.3 Judgments about the extent and significance of any impacts should be informed by the development plan (where this is up to date). Recent local assessments of the health of town centres which take account of the vitality and viability indicators in Annex D of this policy statement and any other published local information (such as a town centre or retail strategy), will also be relevant.”

22. The effect of Policy EC17, and the requirements it places on a local authority applying it, are clear – and again uncontentious as between the parties to this claim.
- i) Where a planning application is for development of main town centre uses not in a centre and not in accordance with an up-to-date development plan, then it is for the applicant to demonstrate compliance with the requirements of the sequential approach (confirmed in paragraph 5.6 of the PPS4 Practice Guidance).
  - ii) The question as to whether the applicant has demonstrated compliance is logically binary, i.e. it is capable of only one of two answers, “yes” or “no”. Compliance has either been demonstrated, or it has not.
  - iii) If it has been demonstrated, and no significant adverse impacts have been identified under Policies EC10.2 or 16.1, then the application is determined by the planning committee performing a balancing exercise, taking account of the positive and negative impacts of the proposal in terms of those two policies and any other material considerations. That balancing exercise takes place within the four corners of the policy: the policy requires it to be performed.

- iv) If it has not been demonstrated, or if it has been demonstrated but there is clear evidence that the proposal is likely to lead to significant adverse impacts set out in Policies EC10.2 and 16.1, then the policy is that the application should be refused. However, that national policy (of refusing an application in these circumstances) is capable of being displaced if the planning committee considers that it is outweighed by other material considerations. That too requires the committee to perform a balancing exercise, but this exercise is performed outside the four corners of the policy: it is required because of the *nature* of the policy, not because of its *terms*. However, one negative factor that must be taken into account in this exercise is of course the fact that it is the national policy to refuse an application in these circumstances.
23. That is the relevant national policy. Turning to local policy, the development plan for North Lincolnshire comprises three elements:
- i) The Yorkshire and Humber Plan (Regional Spatial Strategy to 2026): The Localism Act 2011 enables the revocation of regional policies, but that has not been fully implemented yet. Policy YH4 identifies Scunthorpe as a sub-regional town which should be the prime focus for facilities (including retail shopping) in the region.
- ii) Those parts of the North Lincolnshire Local Plan that were saved by a direction of the Secretary of State dated 17 September 2007: Policy S8 (Out-of-centre Retail and Leisure Development) reflects the national sequential approach, by only permitting out-of-centre retail development where (amongst other things):
- a clear need for the development can be demonstrated;
  - a developer can demonstrate that there are no sites for the proposed use within or at the edge of the town centre that are suitable, viable for the proposed use and likely to be available within a reasonable time period; and
  - the proposal will have no adverse impact on the vitality and viability of existing district centres and the rural economy;
- iii) The Council's Core Strategy, adopted in June 2011 as part of the North Lincolnshire's local development framework, which sets out the spatial planning framework to 2026.
24. Mr Tucker particularly relied upon the Core Strategy. It stresses (paragraphs 10.7 and 10.9):

"The improvement of Scunthorpe town centre is priority for both the Sustainable Community Strategy and the [Local Development Framework],...

As part of the Scunthorpe Urban Renaissance Programme the town centre will be subject to considerable change and

redevelopment that reinforces its role as North Lincolnshire's main centre as well as enhancing its role regionally.”

25. Policy CS14.1 states:

“To fulfil its sub-regional role, identified in the [Regional Spatial Strategy], Scunthorpe town centre will be main location for all new retail, leisure, cultural and office development.... New development should make a positive contribution to improving the town centre's viability and vitality, support the creation of a comfortable, safe, attractive and accessible shopping environment, and improve the overall mix of land uses in the centre and its connectivity to adjoining areas.”

26. Directly reflecting PPS4 and the sequential approach required by that national policy, paragraph 10.25 provides:

“New retail development is an important part of the continued growth in North Lincolnshire. In particular it will have an important role to play in helping to regenerate Scunthorpe town centre. In choosing the location of new retail development, it should be done in line with the sequential test as set out in PPS4, which is as follows:

- Existing centres, where the development is appropriate in relation to the role and function of the centre, then
- Edge of centre locations, which are well-connected to the existing centre and where the development is appropriate to the role and function of the centre, and then
- Out of centre sites that are well serviced by a choice of means of transport.”

### **Application of the Policies to this Application**

27. In respect of Simons' August 2011 application, the planning committee had the benefit of advice from two consultants in retail development, HOW Planning LLP (“HOW”, instructed by Simons) and England & Lyle (instructed by the Council itself).
28. HOW and England & Lyle agreed that the proposed development would not have any significant adverse impact on Scunthorpe town centre, the predicted diversion of trade being no more than 5.5% (see Main Report, at page 59).
29. On the other hand, there was evidence that the development would bring significant economic benefits to the area, with estimates of a claw back of retail trade of £20m, and the creation of approximately 300 part-time and full time jobs (Main Report, page 49). The evidence of the Council's Head of Economic Development and Area Renaissance included the following (Main Report, page 62):



“Whilst we recognise that there may be some negative impact on the town centre of the development, the employment growth, increased local disposable income and stemming the leakage of retail spend outside of North Lincolnshire will result in a net positive impact on Scunthorpe and North Lincolnshire.

It is recognised that female unemployment is currently rising faster than male unemployment in North Lincolnshire. The additional new jobs created, due to their part-time nature, will provide needed employment opportunities particularly for female unemployed.

A global, well-respected firm such as [Marks & Spencer] will provide Scunthorpe with a positive marketing opportunity and may help raising the profile and aspiration of not only Scunthorpe as a town but of North Lincolnshire as a whole.”

30. With regard to the sequential test, HOW concluded that there were no sequentially preferable sites within or on the edge of Scunthorpe. However, England & Lyle examined the potential for the proposed Marks & Spencer store to be split into (i) a non-food (clothes and household goods) store which might be accommodated in a 3,884 sq m unit in Cole Street in the town centre, previously occupied by T J Hughes, and (ii) a food-only store which might be accommodated in the unit in the High Street formerly occupied by Marks & Spencer. The advisers considered that, if the T J Hughes unit was to be discounted, then “there needs to be a clearer justification as to why it is not suitable for use by Marks & Spencer” (paragraph 8.8 of November 2011 Report). Furthermore, if the proposed Marks & Spencer retail operation could be accommodated thus, “the sequential assessment does not adequately assess whether the floorspace of the other retail units could be located on separate sequentially preferable sites to comply with Policy EC15” (paragraph 8.14).
31. HOW responded that Marks & Spencer did not have a business model of stores limited to clothes and household goods, and they considered that they needed a store offering a full range of their goods to make it commercially viable.
32. England & Lyle were still cautious. In their response to HOW’s further comments, they said:

“There may be advantages in creating a critical mass of retail development on the application site but these advantages should be treated as positive benefits of the scheme, not part of the sequential approach. Policy EC17 justifies refusal of planning permission where an applicant has not demonstrated compliance with the requirements of the sequential approach. In this instance we suggest that it is better for the Council to make its own judgement about whether sequentially preferable sites are available, suitable and viable for retail development – including the former T J Hughes unit, West Street car park, land surrounding Church Square, Winterton Road, Glebe Pit and Brigg Road. We would simply comment that, regarding the former T J Hughes unit, the argument seems to be that it

would not be viable for Marks & Spencer to operate a store selling clothing and homewares, and have a separate Simply Food store. But the qualitative need that has been claimed is for an improved retail offer in clothes shopping. It may be viable for Marks & Spencer to operate a store selling clothes and food in the T J Hughes unit, which is significantly larger than the former [Marks & Spencer] store in the High Street. The Council needs to be satisfied that the business model proposed by Marks & Spencer is the most appropriate one for Scunthorpe, such that it justifies an out-of-centre location.”

33. In fact, by that stage, of the possible alternatives mentioned, the T J Hughes unit was the only available site in the town centre, the issue consequently focusing on whether that site was suitable and viable.
34. It was the view of Marks & Spencer, shared by the applicant Simons, that splitting their proposed operation between the T J Hughes unit and other premises was not commercially viable. The Main Report of the officer accepted that justification for not splitting the Marks & Spencer operation, but it did not accept that the smaller units could not be disaggregated, in the following terms:

“The applicants have stated that the closure of [Marks & Spencers’] in-centre operation in 2010 on viability grounds, which was a more typical clothing and food offer, demonstrates that this is a challenging catchment for the retailer from a commercial perspective. This position has led [Marks & Spencer] to establish that ‘to create a commercially viable store within the catchment area, a clothing, homeware, food and hospitality offer needs to be provided under one roof in order to give shoppers a comprehensive brand offer and critical mass of retailing that would make them want to return, and therefore seeks to ensure that the store remains commercially viable’. Furthermore, whilst [Marks & Spencer] do trade from convenience goods focused Simply Food units, they do not have a business model comprising solely clothing and homeware goods. This additional justification provided by the applicants does explain how the viability of the [Marks & Spencer] business model is an important consideration, and justifies why neither the T J Hughes site or the Southgate units are suitable given that the clothing and food offer at the [Marks & Spencer] town centre site failed to be viable.” (page 55).

“In summary, the applicants have adequately justified the sequential approach taken by assessing sites within and on the edge of Scunthorpe town centre for their availability, suitability and viability. On the issue of disaggregation, whilst the applicants have provided a justification why the [Marks & Spencer] (unit 1) cannot be disaggregated, they have not demonstrated flexibility in terms of disaggregating the smaller units of the proposal (units 2, 3 and 4) onto separate, sequentially preferable sites. For this reason it is felt that the

sequential test has not been passed and therefore fails to comply with all the requirements of policy EC15 of PPS4.” (page 57)

35. It is common ground between the parties that Simons, as the applicant, failed to demonstrate compliance with the requirements of the sequential approach in Policy EC15, for the reasons given in that report, i.e. that it had failed to demonstrate the flexibility required by Policy EC15.1.d.iv, in that it had not demonstrated that the three smaller units could not be disaggregated into separate, sequentially preferable sites.

### **The Grounds of Challenge**

36. Zurich, through Mr Tucker, relied upon six grounds of challenge.
37. I can deal with two grounds very shortly, because Mr Tucker properly conceded that, in this court, they are bound to fail by dint of authority binding on me. They were Grounds 5 and 6 in the Statement of Facts and Grounds, namely:
- i) Ground 5: The Highways Contribution Planning Obligation: The Section 106 agreement included an obligation to pay the sum of £300,000 for capacity road improvements. It was submitted that the committee erred because they were not advised that they could only take this proposed obligation into account if it was justified by Regulation 122(2) of Community Infrastructure Levy Regulations 2010 (SI 2010 No 949). However, Mr Tucker accepted that, on the current state of the law and in particular Derwent Holdings v Trafford Metropolitan Borough Council [2011] EWCA Civ 832, even if he were to persuade me that that was so, that would not be a basis upon which the planning permission challenged could be quashed.
  - ii) Ground 6: Legal Error in the Screening Opinion: It was submitted that the screening opinion dated 22 July 2011 (referred to in paragraph 7 above) was unlawful, as it relied upon future documentation which did not exist at the time of the opinion. However, it was not suggested that there was any evidence that, if the opinion had been prepared in accordance with the correct procedure, the resulting decision in relation to the planning permission would have been any different. Consequently, Mr Tucker conceded that, as the challenge advanced was based upon a procedural not substantive defect, following R (Berky) v Newport City Council [2012] EWCA Civ 378, that basis of challenge would be bound to fail in this court.
38. In those circumstances, whilst preserving the Claimant’s position, Mr Tucker did not actively pursue either ground. I formally dismiss them.
39. Mr Tucker did actively rely on four other grounds, which I will deal with in turn.

### **Ground 1: Misapplication of Policy EC17**

40. As I have indicated (paragraph 22(ii) above), the question as to whether an applicant has demonstrated compliance with the requirements of the sequential approach is capable of only one of two answers, “yes” or “no”. If it has not demonstrated



compliance, then there is a presumption raised by Policy EC17 that the application will be refused. In this case it is common ground that Simons failed to demonstrate compliance with the requirements of the sequential approach in the manner I have described (paragraphs 34-5 above).

41. However, Mr Tucker submitted that the planning committee were led into error by the officer's Main Report which, at page 62, said:

“PPS4 is clear in its advice that local planning authorities must consider both the sequential approach and impacts upon retail centres when determining out-of-centre retail development proposals. The applicants have followed the sequential approach and assessed whether sites are suitable, viable or available but have not displayed flexibility by looking at the issue of disaggregation, particularly with regard to the smaller units (units 2, 3 and 4). Consequently policy EC15 of PPS4 is not fully complied with.”

42. That reference to the policy not being “fully” complied with is repeated in the Addendum Report, at page 1, which says in response to the further letters of objection:

“In response, it should be noted that it is accepted that the retail proposal at [the Site] does not fully comply with the sequential approach...”

That report goes on to say, at page 3, that:

“In this case, it is felt that the economic benefits of the development are material considerations which outweigh the development plan and any non-compliance with the sequential test under the provisions of PPS4”.

43. Mr Tucker submitted that those passages displayed a fundamental misunderstanding and misapplication of Policy EC17 – because the policy does not admit of partially meeting of the sequential test. The committee, instead of being told in unequivocal terms that where there was (any) failure to meet the sequential test the national policy directed refusal of the application, were led to believe that the partial breach of the test should merely be weighed against the positive material considerations, notably the economic benefits of the development. That was a legal error with regard to the proper approach to Policy EC17, as a result of which the planning permission should be quashed.
44. Forcefully as that submission was made, I do not find it compelling. The passages relied upon must be seen in their full context: I am not persuaded that the Main and Addendum Reports, when viewed fairly as a whole, do betray any misunderstanding or misapplication of Policy EC15.
45. The Main Report shows the following.

- i) Mr Tucker accepted – as he had to do – that the relevant PPS4 national policies are comprehensively and accurately set out on pages 21 and following of the Main Report. On page 24, Policy EC17.1 is accurately set out, thus:

“Planning applications for main town centre uses that are not in an existing centre and not in accordance with an up-to-date development plan should be refused planning permission where... the applicant has not demonstrated compliance with the requirements of the sequential approach (Policy EC15)...”.

That is repeated on page 51.

- ii) Policy EC15 is set out in full on page 54; and that test is immediately applied to the circumstances of this case on pages 55-7. The conclusion of the report on that issue, set out in the passage quoted above (paragraph 34) was that “the sequential test has not been passed...”. That conclusion is clear and unequivocal.
- iii) However, that is not the end of the planning committee’s exercise; because, having found that the applicant had not satisfied the sequential test (thereby giving rise to a national policy presumption of refusal), the committee still had to decide whether there are any other material considerations which displace that presumption. The report proceeds, properly, to consider the other material considerations, both positive and negative: the impact of the development on Scunthorpe town centre and other retail centres within the catchment area (pages 57-9), highway issues (pages 59-61), residential amenity (pages 61-2), economic considerations (page 62) and ecology (page 62).
- iv) There is then a section headed “Balance of Considerations”, which includes the first quoted passage upon which Mr Tucker relies. That needs to be placed in its particular context: it forms part of the following passage:

“Under the provisions of Section 70(2) of the Town & Country Planning Act 1990 local planning authorities are required, when determining applications, to have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations. Government guidance and the contents of Planning Policy Statements are material considerations but local planning authorities need not follow Government guidance if other material considerations outweigh this.

PPS4 is clear in its advice that local planning authorities must consider both the sequential approach and impacts upon retail centres when determining out-of-centre retail development proposals. The applicants have followed the sequential approach and assessed whether sites are suitable, viable or available but have not displayed flexibility by looking at the issue of disaggregation,

particularly with regard to the smaller units (units 2, 3 and 4). Consequently policy EC15 of PPS4 is not fully complied with.

*Under policy EC17.1a of PPS4 planning applications that fail to demonstrate compliance with the sequential approach (policy EC15) should be refused.” (emphasis added).*

- v) The report then proceeds to consider the other material considerations to which it has already referred, of which it considers that the economic benefits of the development should be attributed particular weight in a period of serious economic downturn:

“The attraction that a [Marks & Spencer] store and other retailers would have in potentially stimulating the local economy is a key driver in reducing the leakage of expenditure to neighbouring centres such as Doncaster and Meadowhall”

The other particular factor which is identified is “the fall back position of the existing use of the site, which enables 4,500 sq m gross of retailing from the site”. I return to this factor below (paragraphs 65 and following below: see especially paragraph 68).

- vi) There is then consideration of how the adverse impact on the town centre, albeit not significant, might be diminished by a Section 106 obligation (again referred to below: paragraphs 79 and following below: see especially paragraph 84).
- vii) The final conclusion (and the report’s recommendation) was:

“It is considered that the positive benefits outweigh the negative and what negative impacts have been identified have been mitigated to an acceptable degree. Consequently the recommendation is one of approval subject to the conditions and the completion of a Section 106 agreement”.

46. It may be that a Parliamentary or other legal draftsman might have drafted some of those passages differently – but, in my judgment, it is clear what is going on here. The applicant having failed to persuade the officer that the sequential test is passed, the officer performs the exercise which he must perform to see whether the presumption of refusal mandated by PPS4 is outweighed by other material considerations (see paragraph 22(iv) above). With respect to Mr Tucker’s submission, it is evident that, as part of that exercise, the national policy directing refusal in these circumstances is clearly taken into account, expressly, in the italicised passage set out in paragraph 45(iv) above. I agree with Mr Katkowski’s submission: *at this stage*, when the positive and negative factors are being balanced to determine whether the presumption is displaced, the extent and consequences of the breach of the sequential provisions may be relevant. That is so because, as well as the breach of



those provisions raising a presumption of refusal, the extent of the breach may be relevant to the question whether the presumption so raised is overcome in the circumstances of the particular case. The scope of the breach in this case comprised the failure on Simons' part to demonstrate that the three smaller units could not be disaggregated into separate, sequentially preferable sites (see paragraph 35 above).

47. The officer considered that the presumption of refusal was displaced in this case by, at least primarily, the economic benefits that this development would bring to the area (briefly described in paragraph 29 above). That was a conclusion based on planning judgment to which the officer was entitled to come, and which the planning committee were entitled to follow.
48. I do not consider that the Addendum Report takes matters any further. The references, early in the report, to the proposal not "fully" complying with the sequential approach and the economic benefits of the scheme outweighing "the non-compliance with this part of PPS4" appear to me to be no more than a reference back to the wording of the main report, rather than a new decision. Mr Tucker relied upon the words "with this part of PPS4" which, he submitted, showed that the officer had improperly suggested that there could be partial compliance with the sequential approach; but, as I have described, the officer had, by this stage, moved on. He had previously unequivocally indicated that the national policy sequential approach had been breached, and was now considering whether other material considerations outweighed the policy directive to refuse the application. In that exercise, it was appropriate for him to consider the nature and scope of the breach of that policy.
49. The report then goes on to list the material factors once again, before concluding that:

"In this case it is felt that the economic benefits of the development are material considerations which outweigh the development plan and any non-compliance with the sequential test under the provisions of PPS4."
50. The final conclusion of the Addendum Report, much in the terms of the conclusion to that in the Main Report, is set out in the penultimate paragraph. Taken as a whole, the Addendum Report says, in substance, that the fresh representations do not change the picture: the officer makes the same conclusion on the same grounds as he does in the Main Report.
51. In my judgment, the committee was not tempted into any forbidden line of thinking, on the basis that there had been a partial compliance with the sequential approach. I appreciate that, contrary to that which was urged by Judge LJ in Oxton Farm (see paragraph 15(ii) above), I have responded to Mr Tucker's submissions on Ground 1, which were based upon a somewhat detailed textual analysis, in kind. In this case, the officer's reports are robust enough to bear that analysis. In any event, in relation to this ground, Mr Tucker has failed by some distance to persuade me that the overall effect of the report was significantly to mislead the planning committee about material matters. In my judgment, the approach of the officer, followed by the committee, was correct, and lawful.
52. For those reasons, I do not find that the first ground is made good.

## **Ground 2: Misapplication of the Sequential Test**

53. In applying the sequential test, an applicant must demonstrate that it has applied an appropriate degree of flexibility including, by virtue of Policy 15.1.d.iv, the disaggregation of specific parts of the proposal into separate, sequentially preferable sites. The PPS4 Practice Guidance states (at paragraph 6.33):

“While there is no policy requirement to demonstrate need, an operator claiming that it is unable to be flexible about its chosen ‘business model’ would be expected to demonstrate why a smaller store or stores could not meet a similar need.”

As indicated in this passage, the burden of demonstrating this falls on the applicant.

54. In this case, submitted Mr Tucker, Marks & Spencer merely asserted that to disaggregate their proposed operation into a non-food store (which could be accommodated in the T J Hughes unit) and a food-only store (which could be accommodated separately elsewhere, for example in the old Marks & Spencer High Street unit) was not viable. There was no evidence upon which the officer or committee could have been satisfied, as they purported to be, that the applicant had demonstrated flexibility in accordance with the terms of Policy 15.1.d.iv.
55. Mr Fraser submitted that this ground adds nothing of substance to Ground 1; because, in relation to that ground, it is uncontentious that Simons failed to demonstrate the flexibility required by Policy EC15.1.d.iv, in that it had not demonstrated that the three smaller units could not be disaggregated into separate, sequentially preferable sites. There is therefore a breach of the sequential approach, in any event. It would add nothing of substance if there were a second breach of that same requirement, in relation to the disaggregation of the proposed Marks & Spencer operation.
56. There is obvious force in that submission with regard to the policy-internal question of whether there is a breach of the sequential approach, which triggers the policy directive to refuse the application; because that is a binary question. However, whether there is a further breach may be relevant to the balancing exercise required thereafter, in which the question of whether other material considerations outweigh the policy presumption of refusal. In that exercise, for the reasons I have given (see paragraph 46 above), the scope of the breach or breaches might be relevant. I therefore need to consider the merits of this ground.
57. However, I am unpersuaded by those merits, for the following reasons.
58. I have recited the relevant background (see paragraphs 33 and following above). The Main Report (at page 55) makes clear that the only available Scunthorpe town centre opportunity for Marks & Spencer was the T J Hughes unit. In terms of the whole of its proposed operation at the Site, that unit was discounted by Marks & Spencer on account of its size, its total floorspace being 3,884 sq m as opposed to the 4,645 sq m proposed in the development at the Site. The T J Hughes unit could only possibly be appropriate by “disaggregation”, i.e. splitting the non-food part of the proposed store from the food part and house them in separate premises. However, in sequential assessments, Policy EC15.1.a requires planning authorities to ensure that sites are assessed for, not only availability, but also viability and suitability. Marks & Spencer

considered such a proposal for split premises neither suitable for their commercial requirements or business model, nor commercially viable. Its position was that this was a commercially challenging catchment for retailers – evidenced by their commercial failure in early 2011 at the (admittedly small) High Street store – and to create a commercially viable store a full range of goods needed to be provided under one roof with a critical mass of retailing.

59. It was that evidence of non-viability that the officer accepted as an explanation as to why Marks & Spencer did not consider a split site in the town centre was feasible. Further, at the planning committee meeting on 7 March 2012, a representative from Marks & Spencer gave evidence that:

“... the company’s position remained unchanged. It would only develop sites that it considered commercially viable and there were no such sites in Scunthorpe town centre”.

60. In my judgment, it is simply incorrect to say that there was no evidence before the officer and committee that (i) the T J Hughes unit was too small to create an economically viable Marks & Spencer food and non-food store, or (ii) it was not economically viable to split the operation into two parts, one of which might be housed in the T J Hughes unit. The evidence was that Marks & Spencer had considered the T J Hughes unit, and in their opinion they could not use that unit (or, indeed, any unit in Scunthorpe town centre) for an economically viable operation. For that reason, they had no interest in any available site other than the Site, as the representative at the hearing made clear. That was evidence that the committee could properly take into account. It is unrealistic to expect a commercial operator to reveal its precise commercially sensitive and valuable calculations as to why it considers possible alternatives to the development proposal not to be commercially viable; and it is unnecessary for them to do so to enable a planning authority to come to a view on viability.

61. It is also important to mark that developers, and planning authorities, work in the real world. Marks & Spencer had assessed the only available town centre alternative to the Site, and had concluded that a development that was smaller than that proposed, or one with a more restricted range of goods, was neither commercially viable nor suitable for their commercial requirements. On the basis of that assessment, emphasised by their representative who spoke at the planning committee hearing, the officer and committee knew that, if this planning permission was refused, then Marks & Spencer would not locate into Scunthorpe town centre. As Lord Reed said in Tesco v Dundee, at [29]:

“Provided the applicant has [given consideration to the scope for accommodating the development in a different form and to have thoroughly assessed sequentially preferable locations]... the question remains... whether an alternative site is suitable for the proposed development, not whether the proposed development can be altered or reduced so that it can be made to fit an alternative site”:

to which Lord Hope perceptively added, at [38]:



“[T]he context indicates that the issue of suitability is directed to the developer’s proposals, not some alternative scheme which might be suggested by the planning authority. I do not think that this is in the least surprising, as developments of this kind are generated by the developer’s assessment of the market that he seeks to serve. If they do not meet the sequential approach criteria, bearing in mind the need for flexibility and realism to which Lord Reed refers..., they will be rejected. But these criteria are designed for use in the real world in which developers wish to operate, not some artificial world in which they have no interest doing so.”

62. Working in the real world, the committee were entitled (and, indeed, bound) to take into account the evidence that any arrangement in which Marks & Spencer used the T J Hughes unit (the only available unit in Scunthorpe town centre) would not be commercially viable, and that, because of that lack of viability, Marks & Spencer would not locate to Scunthorpe town centre in the event that this application for the Site was refused. On the basis of that evidence, in the committee’s view, the applicant had demonstrated flexibility in terms of the sequential approach so far as the possible disaggregation of the Marks & Spencer operation was concerned. They were entitled to come to that conclusion on that evidence.
63. For those reasons, I am quite satisfied that there was evidence upon which the committee could be satisfied (as, in the event, they were) that Simons had demonstrated flexibility in accordance with the terms of Policy 15.1.d.iv so far as the disaggregation of the Marks & Spencer operation is concerned.
64. This ground therefore fails.

### **Ground 3: Fall Back as an Immaterial Consideration**

65. Mr Tucker submitted that, because such a comparison may be a material consideration, a planning committee should compare the development for which planning permission is sought on the one hand, with what the applicants could do with the land and premises on the basis of the planning position as it stands without that planning permission (“the fall back position”). However, such a comparison is only proper if there is a realistic possibility of the fall back position happening. Those propositions, which I accept, derive from Snowden v Secretary of State for the Environment [1980] JPL 749.
66. In this case, the fall back position used stems from Section 4 of the England & Lyle Report of November 2011. The report, after referring to the fact that the garden centre “trades freely as open Class A1 retail floorspace...” (paragraph 4.1) and reciting the Secretary of State’s decision letter in 1990 (quoted at paragraph 6(iii) above), says:

“Our interpretation of the planning status of the existing garden centre is that there is an established open A1 retail use of the existing building which has a floorspace of 4,500 sq m gross. The planning consent is subject to conditions on the range of goods allowed to be sold. The consent represents a fall back

position that is relevant to the current application. A retail development with a total floorspace of up to 4,500 sq m gross could be developed on the site. This could apply to either the Marks & Spencer store or the other retail units.”

67. That is reflected in the officer’s Main Report, at page 50:

“... The planning status of the existing garden centre is that there is an established A1 retail use of the existing building which has a floorspace of 4,500 square metres gross. The planning permission is subject to conditions on the range of goods allowed to be sold. Whilst the goods sold at the Trent Valley Garden Centre do not now conform with the list or the condition, and the range of goods sold for a number of years is much wider than the condition allows, the permission does represent a fall back position that is current to the relevant planning application in that a retail development with a total floorspace of up to 4,500 square metres gross could be developed on the site.”

68. That is the fall back position that appears to be taken into account as a material consideration on page 63 of the Main Report:

“Other material considerations to be attributed weight include: the economic benefits that the scheme would have during this serious economic downturn; additionally, *the fall back position of the existing use of the site , which enables 4,500 square metres gross of retailing from the site...*” (emphasis added).

69. Mr Tucker submitted that the way in which the fall back position was taken into account erred in law, in two respects.
70. First, he submitted that the officer and committee were wrong to take into account the fall back position, of any form of open Class A1 retailing use, in the absence of a lawful development certificate issued under Section 191 of the Town and Country Planning Act 1990. That provision enables an application to be made to the relevant local planning authority for a certificate of lawfulness of existing use or development, to ascertain “whether any existing use of buildings or land is lawful” (section 191(1)(a)). Mr Tucker submitted that, without such a certificate, the comparison cannot in law amount to a material consideration.
71. I do not accept that proposition. Before the committee, there was significant evidence that the Site had had open Class A1 use of the Site for many years: there was, for example, the evidence of the Secretary of State’s decision letter of 9 August 1990 (see paragraph 6(iii) above) and the opinion of the Council’s own planning advisers that there was established open A1 retail use of the existing 4,500 sq m building on the Site (see paragraph 66 above). It was open to the committee to take into account that evidence, and give it the weight that they considered appropriate.

72. The second error was, contended Mr Tucker, that the committee were not advised that they could only take the fall back position into account if it were a realistic possibility that the fall back scenario would happen.
73. Mr Fraser and Mr Katkowski submitted that the “fall back position” here was not a true fall back position at all, because the comparator used was not something that might happen to use of the land in the future but rather the use to which it is currently being put as a garden centre enterprise. I do not accept that submission. It is clear from the passages I have quoted above (paragraph 66) from both the officer’s Main Report (“... a retail development with a total floorspace of up to 4,500 square metres gross *could be developed* on the site” (emphasis added)), and the planning adviser’s report from which it was derived (“A retail development with a total floorspace of up to 4,500 sq m gross *could be developed* on the site” (again, emphasis added)), that the comparator was not simply the garden centre continuing to sell a wide range of goods, but the Site being prospectively “developed” with a total retail floorspace of up to 4,500 sq m gross (i.e. with a development of similar size and planning use to the current garden centre). Unlike the adviser’s report, the officer’s report does not suggest that that prospective development would be restricted to a Marks & Spencer store, or three smaller retail units, as proposed in the development of the Site with which this permission is concerned. But it is clear from the language used, that the Main Report was looking at the prospect of the land being developed with such a retail development, even if this application were not granted.
74. Curiously, the Addendum Report is in slightly different terms from page 63 of the Main Report, referring to “the fall back position of the existing use of the site, which enables 4,500 square metres gross of retailing *in the garden centre building*” rather than “... *from the site...*”, which is more suggestive of another retailer trading from the existing building on the Site rather than a redevelopment. Nevertheless, in the Claimant’s favour, I accept that the reports together suggest a comparator involving a redevelopment.
75. However, I remain unpersuaded by Mr Tucker’s ground of challenge. The prospect of the fall back position does not have to be probable or even have a high chance of occurring; it has to be only more than a merely theoretical prospect. Where the possibility of the fall back position happening is “very slight indeed”, or merely “an outside chance”, that is sufficient to make the position a material consideration (see Samuel Smith Old Brewery (Tadcaster) v Secretary of State for Communities and Local Government [2009] EWCA Civ 333 at [20]-[21] per Sullivan LJ). Weight is, then, a matter for the planning committee.
76. In this case, the report did not address the gamut of possibilities for use of the Site if this application were not granted. However, in addition to the possibility that the garden centre would continue to use the Site for 4,500 sq m of open Class A1 retail use, it was obviously a possibility that they would use the existing use to redevelop the Site for a building of similar size with a similar use for some retailer. The officer’s Main Report suggested no more than that. It did not suggest the prospect that Marks & Spencer would use the existing buildings or limited redevelopment of the site to trade.
77. In any event, although Mr Tucker submitted that the planning decision was a close thing – the chair used his casting vote (see paragraph 10 above) – it is clear from the



Addendum Report that the material considerations which in practice outweighed the negative material considerations (including the development plan and non-compliance with the sequential approach) were, perhaps understandably, the economic benefits that the scheme would bring (see paragraph 3 of the Addendum Report, which states that in terms).

78. In all the circumstances, I am not persuaded that, in relation to this ground, the officer's report significantly misled the committee about material matters.
79. Consequently, this ground fails.

#### **Ground 4: The Proposed Restriction on Letting**

80. Mr Tucker submitted that the Section 106 obligation with regard to protection of the town centre – by imposing the restriction on tenants of town centre retail premises taking lettings in the new development that it did impose – did not reflect the degree of protection required by the resolution on the planning committee.
81. That resolution (set out at paragraph 10 above), on this point, was brief. The committee resolved to grant permission, authorising the Head of Development Planning to grant permission subject to the completion of a Section 106 agreement

“... for off-site highway improvements, *Scunthorpe town centre protection*, protected species translocation and maintenance and a contribution towards improving the existing footpaths in the vicinity of the site, and to the conditions contained in the report...” (emphasis added).

82. If the obligation was not completed within three months, the Head of Development Management was authorised to:

“... refuse the planning application on *the grounds of the adverse impact upon the vitality and viability of Scunthorpe town centre*, adverse impact upon highway safety and levels of congestion within the locality, adverse impact upon protected species and their habitat, and non-compliance with Policy EC16 of PPS 4, policies T2 and T6 of the North Lincolnshire Local Plan, and policies C14, C25 and CS17 of the North Lincolnshire Core Strategy.” (emphasis again added).

83. Mr Tucker submitted that the sanction for non-completion of the agreement showed the great seriousness with which the committee viewed the obligation for the protection of the town centre that was to be contained in it, described by Mr Tucker as the matter which tipped the balance for the grant of permission; but I do not find any great force in that submission. The Section 106 obligations were of course an important part of the planning consent; but the obligations were many and various, and I do not consider that the resolution suggests that the proposed agreement concerning protection of the town centre was any more balance-tipping than, say, the obligation to pay the Council a sum within 14 days in respect of vole translocation (which appears as paragraph 4.2.5 of the Section 106 agreement). The draconian

sanction of non-compliance after three months was, in the usual way, to ensure swift compliance and prompt commencement of the development.

84. Mr Tucker relied upon the history of how this provision arose. As I have indicated, both HOW and England & Lyle were agreed that the proposed development would not have a significant adverse impact on Scunthorpe town centre (see paragraph 28 above). However, England & Lyle's advice to the Council was nevertheless to consider conditions that would protect the town centre from any adverse impact that the development might entail. They raised the possibility of the smaller units being restricted by a bulky goods condition or, if the committee considered that unnecessary, conditions "on the maximum size of units, the prevention of subdivision and on the amount of convenience goods floorspace allowed in the scheme" (see Addendum Report, page 3).
85. However, the officer's Main Report addressed the issue in a different way (page 63):

"England & Lyle considered if a bulky goods condition would be a way of protecting Scunthorpe's town centre, however the applicants have stated that such a condition would make the development unviable. The developer proposes to enter into an agreement under section 106... which, amongst other things, will give greater certainty to [the Council] that Scunthorpe's town centre would not have its vitality or viability reduced by the proposed development to a degree that would cause harm. A list of over 30 town centre retailers has been compiled and are referred to as regulated tenants with the Section 106 agreement. The developer has agreed that only one regulated tenant will be able to occupy any of the smaller units (2, 3 or 4) for the first five years of the development opening and that retailer must retain a town centre presence for the first five years of the development opening. Whilst it is accepted that there will be some impact upon the town centre, the legal agreement carries significant weight in minimising the less than significant impact that is predicted."

86. The officer's recommendation was therefore that the Council enter into a Section 106 obligation with the owner/developer that prohibited the occupiers of town centre shops from letting any of the development units – which would, of course, be very substantial comfort in respect of the vitality and viability of the town centre – subject to just one exception, namely that one of those town centre unit owners could also occupy a development unit, provided that that retailer also maintained a town centre presence for the first five years. All of that was to be done through the Section 106 agreement between owners/developers and the Council.
87. In the event, that agreement contained the following covenant by the owner/developer (paragraph 4.1):

"... not to let a Unit to a Regulated Tenant during the Regulated Period SAVE THAT in the case of one Unit only there shall be permitted one first letting to a Regulated Tenant where such tenant shall prior to the date of his Occupation

covenant with the Owner and/or Developer (as the case may be) that it will Maintain Representation in the Town Centre for a continuous period of five years commencing from the date of his Occupation.”:

“Regulated Tenant” is defined in terms of a list of 32 town centre traders. “Regulated Period” is “a period of five years commencing on the date when the first Unit opens to the public for trade” (paragraph 3).

88. Mr Tucker’s submission was succinct. The resolution of the committee was made on the basis that only one town trader would be allowed to let one of the smaller units in the development (Condition 38 required Marks & Spencer, who were not in the town centre, to let the large unit: see paragraph 12 above), on the basis that that tenant would also be required to maintain its presence in the town centre for five years; but the Section 106 agreement did not give the Council the ability to enforce that restriction. The Council could only require there to be a covenant between the owner/developer and the relevant tenant. It could not enforce that covenant against the tenant - only the owner/developer could do so. The planning consent was therefore granted without the requisite protection required by the committee having been obtained.
89. However, again I am unpersuaded by this ground, which amounts to an argument that the officer who entered into paragraph 4.1 of the Section 106 agreement did so without due authority. The resolution itself merely required the completion of a Section 106 agreement “for... Scunthorpe town centre protection”: it did not specify how that was to be achieved. In the event, in accordance with the recommendation of the officer’s report, the Section 106 agreement forbade 31 of the 32 relevant retailers from letting any unit in the development: that, of course, was the heart of the protection given to the town centre. However, Mr Tucker complains that the restriction on the 32nd retailer is not as tight as it might have been.
90. For my own part, I am not convinced that the covenant between the owner/developer and the tenant would not be enforceable by the Council, for whose obvious benefit the covenant is made – although I did not hear full argument on that point, and express no concluded view nor do I found my rejection of this ground on that basis.
91. But, leaving that aside:
  - i) The planning committee knew that the restriction was to be included in a Section 106 agreement between the owner/developer and the Council, and so were aware that the relevant tenant would not be a direct party to that agreement.
  - ii) The fact that the restriction is not as legally watertight or certain of enforcement as it might have been does not make the planning permission unlawful. The real protection for the town centre lay in the unchallenged restriction that prevented all but one of the town centre retailers letting a unit in the development at all, and ensured that three out of the four units in the development (including the larger unit, required by Condition 38 to be let to Marks & Spencer) would be let to retailers who had no presence in the town centre at all. There is no evidence that the committee intended there to be a



guaranteed legally watertight and enforceable right in the Council to ensure that any tenant taking advantage of that exception would maintain a particular presence in the town centre. Indeed, no such guarantee could possibly have been given. Further, in none of the reports was there any consideration of the extent of presence that might be required to be maintained in the town. That suggests that the resolution left the precise form of the proposed restriction to the officer dealing with the Section 106 obligation. The fact that Mr Tucker believes that he could have drafted a better provision on behalf of the Council – and I have no reason to doubt him – does not, as a matter of law, invalidate the grant of planning permission.

92. For those reasons, Mr Tucker has not persuaded me that, by imposing a restriction on tenants of town centre retail premises taking lettings in the new development, the Section 106 obligation failed to reflect the degree of protection of the town centre required by the resolution on the planning committee. This final ground, too, consequently fails.

### **Conclusion**

93. By reason of the above, I do not consider any of the grounds of challenge are made good; and I dismiss the claim.



## CONCERNED RINGHADDY AREA RESIDENTS (123 SIGNATORIES)

99



Strangford Lough – Environmental jewel on the doorstep





CONCERNED RINGHADDY AREA RESIDENTS  
**(123 SIGNATORIES)**



Area of Outstanding Natural Beauty – Needs protection – From Planners!





**The natural environment  
Needs protection -  
It needs your support  
Because it cannot defend itself**



## CONCERNED RINGHADDY AREA RESIDENTS (123 SIGNATORIES)

102



When scenery is scarred, it is scarred forever because it never heals





CONCERNED RINGHADDY AREA RESIDENTS  
(123 SIGNATORIES)



Public right of way - but trespassers face being prosecuted





## CONCERNED RINGHADDY AREA RESIDENTS (123 SIGNATORIES)

104



'Keep Out' of the public right of way. You might damage the Development potential





# CONCERNED RINGHADDY AREA RESIDENTS (123 SIGNATORIES)

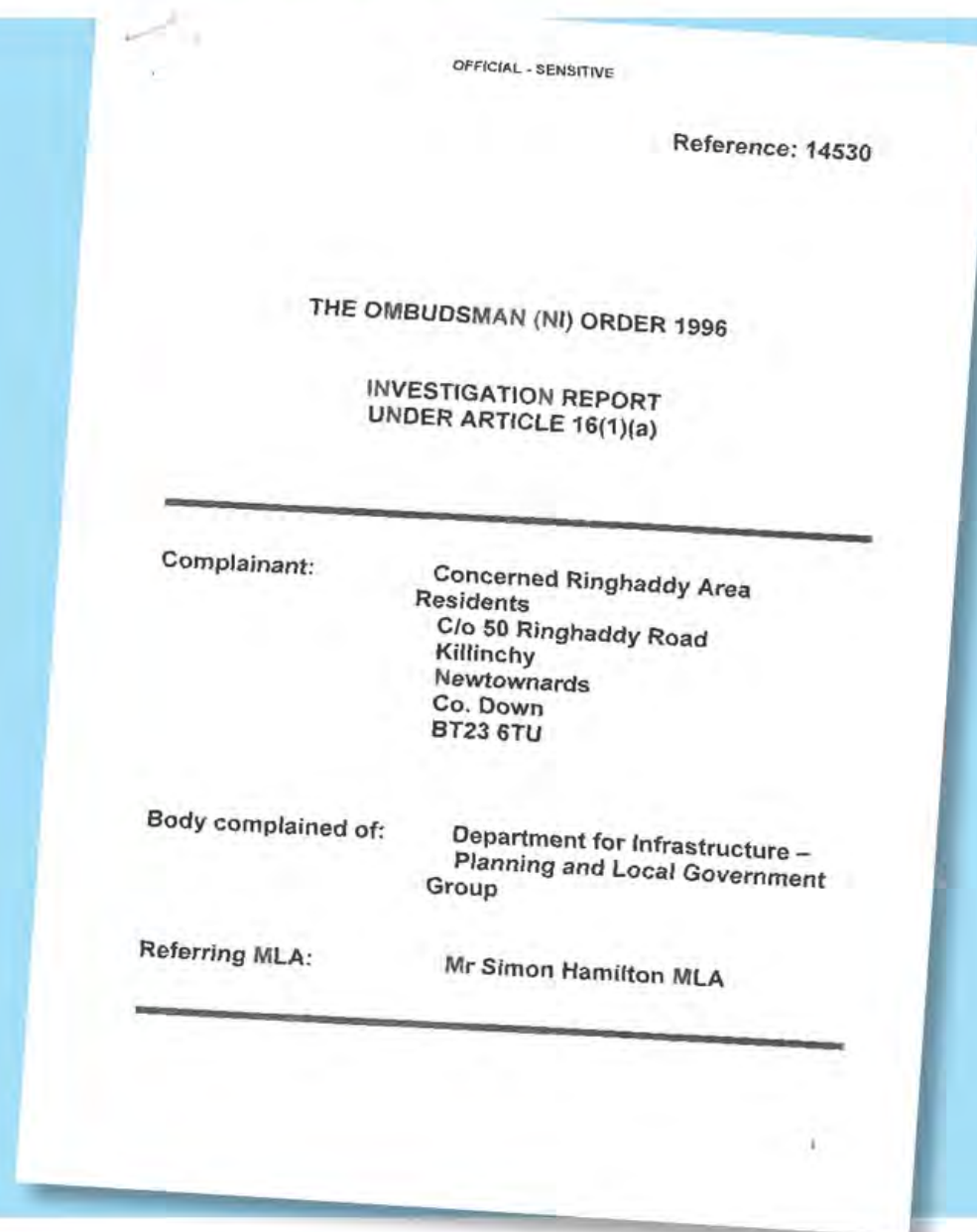


Virgin fields 'before' 2005 and 'now' after Development and the approval of application LA07/2016/0821/F



## CONCERNED RINGHADDY AREA RESIDENTS (123 SIGNATORIES)

106



'Secret' Report from the Ombudsman – DoE guilty of Maladministration





## CONCERNED RINGHADDY AREA RESIDENTS (123 SIGNATORIES)



Scenic view from Ringhaddy Road – 3 years ago





## CONCERNED RINGHADDY AREA RESIDENTS (123 SIGNATORIES)

108



Development recommended for approval today





## CONCERNED RINGHADDY AREA RESIDENTS (123 SIGNATORIES)



Existing Partly Built modest 'Farm' Dwelling





## CONCERNED RINGHADDY AREA RESIDENTS (123 SIGNATORIES)

110



Farm Mansion recommended for approval today with no restrictions on use or sale





## CONCERNED RINGHADDY AREA RESIDENTS (123 SIGNATORIES)

111



The Environmental Legacy of Strangford Lough - in your hands today

<b>ITEM NO</b>	<b>9</b>			
<b>APPLIC NO</b>	LA07/2016/0895/F	Full	<b>DATE VALID</b>	01/07/2016
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>			
<b>APPLICANT</b>	Mr & Mrs Barry McCartan 14 Slieve Hanny Park Castlewellan BT31 9ES		<b>AGENT</b>	Marcus Bingham 9 Tullyquilly Road Tullyquilly Rathfriland BT34 5LR  02840638842

**LOCATION** Adjacent to and South East of 72 Bannanstown Road  
Castlewellan  
BT31 9BQ

**PROPOSAL** Erection of farm dwelling & detached garage

<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>
	0	1	0	0
			<b>Addresses</b>	<b>Signatures</b>
			0	0
			<b>Addresses</b>	<b>Signatures</b>
			0	0

- 1 The proposal is contrary to the Strategic Planning Policy Statement (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 Bannanstown Road.
- 2 The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted create a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.
- 3 The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.





Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2016/0895/F

**Date Received:** 21st June 2016

**Proposal:** Erection of Farm Dwelling and Detached Garage

**Location:** The site is located adjacent to and south-east of 72 Bannanstown Road, Castlewellan.



**Site Characteristics & Area Characteristics:**

The site is comprised of a three fields surrounding No 72 Bannanstown Road. The fields are currently used for agricultural grazing and are positioned slightly above road level. No. 72 is defined to the SE by a row of mature conifer trees and a post and rail fence, therefore the southern portion of the site outlined in red shares this boundary, while its remaining boundaries are defined by a post and wire fence. The lands to the immediate rear of No 72 and to the west of this dwelling are more

elevated than the eastern sections. These western lands are defined along the western boundary by mature trees, while the remaining boundaries are defined by a post and wire fence. This portion of the site is more open than that to the east of the site.

Opposite the site, the land falls towards the north and appears undulating.

The site is visible on approach from both directions along Bannanstown Road

The topography of the surrounding area is typically undulating and it is noted that the area is predominantly agricultural use, however, there are a significant number of detached single dwellings dispersed throughout the area.

### **Site History:**

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

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

I have assessed the proposal against the following relevant policies:

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

Ards & Down 2015 – the site is located within the open countryside outside any defined settlement area.

### **Consultations:**

Transport NI – No objections

NI Water - No objections

DARDNI – Confirmed 6 years active business and payments claimed – it is noted that the business number was created as a result of a merge from two other businesses

HED – No objections

### **Objections & Representations**

The following neighbouring properties were notified on 18.07.16:

- 69 and 72 Bannanstown Road, Castlewellan

The application was advertised in the local press on 27.07.16.

One letter of support has been received from Cllr Patrick Clarke

### **Consideration and Assessment:**

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

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

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

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

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

The applicant has stated in the P1C forms that no development opportunities or dwellings have been sold off since November 2008. A search on EPIC has not revealed any other planning applications in connections with the business ID, nor any other developments being sold off. The provision in CTY10 with regards to disposing of development opportunities or dwellings applies from 25<sup>th</sup> November 2008. There is no evidence to suggest that any development opportunities or dwellings have been sold off since 25<sup>th</sup> November 2008, therefore the proposal meets criteria (b).

The applicant has identified a site which includes all the lands immediately surrounding the farm dwelling and associated farm building. A preferred siting has been identified as those lands immediately SE of No. 72 Bannanstown Road. It is considered that the dwelling would cluster and visually link with the established group of buildings on the farm.

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

Policy CTY 10 also requires that the proposed site must also meet the requirements of CTY 13, 14 and 16 of PPS 21.

### CTY13

The proposal seeks full planning permission for the erection of a single storey dwelling, the design of which is considered acceptable. The site benefits from



existing vegetation and would integrate into the landscape. It has already been established that the site would cluster and visually link with the farm buildings.

#### CTY14

It is not considered that a single storey dwelling would appear prominent in the landscape. It is considered, however, that the development would result in the creation of ribbon, when sited beside the dwelling and adjacent agricultural building.

An alternative site has been suggested to the applicant, on the land immediately to the rear of No 72, however, the applicant has declined this suggestion stating that the more elevated position is not acceptable to them and that it would restrict the development of their farm business

#### CTY16

A septic tank is proposed. It is proposed to locate the tank less than 15m from the proposed dwelling but this could be amended if the siting of the dwelling were to be agreed. It is not considered that the proposal is contrary to CTY 16.

### **Summary**

The proposed farm dwelling meets the criteria of the SPPS and policy CTY10, the design of the dwelling is considered acceptable, however, the siting, if approved in the applicants preferred portion of the site would create ribbon development and is therefore contrary to policies CTY 14 and consequently CTY 8 and CTY 1 of PPS21.

### **Recommendation:**

Refusal

1. The proposal is contrary to the Strategic Planning Policy Statement (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 Bannanstown Road.
2. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted create a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.
3. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding

reasons why this development is essential in this rural location and could not be located within a settlement.

**Signed** .....

**Date** .....

**Signed** .....

**Date** .....

## Speaking Rights - LA07/2016/0895/F – McCartan

Dear Sir / Madam

Proposed Farm Dwelling And Detached Garage Adjacent To And South West Of No 72 Bannanstown Road, Castlewellan, BT31 9BQ, For Mr & Mrs Barry McCartan

Further to our email to Colette McAteer dated 9<sup>th</sup> June 2017 and her response of the same date we hereby confirm that we wish to make a deputation at the Planning Committee meeting on 21<sup>st</sup> June 2017 on behalf of our (above-named) clients and attach the following paperwork:

1/500 scale site map

The issues we hope to be speaking on relate to the siting of the dwelling.

We had been asked by the then Case Officer Mr Mark Oliver to re-site the dwelling behind the existing farmhouse but we were not sure of the exact location. We had asked for a map to show the required location but to date have not received one.

We had also asked for a reconsideration of this as any extension of the farmyard would be to the rear. This request has still not been answered.

The attached 1/500 scale site map shows the house located where we can only assume the Planning Office have requested.

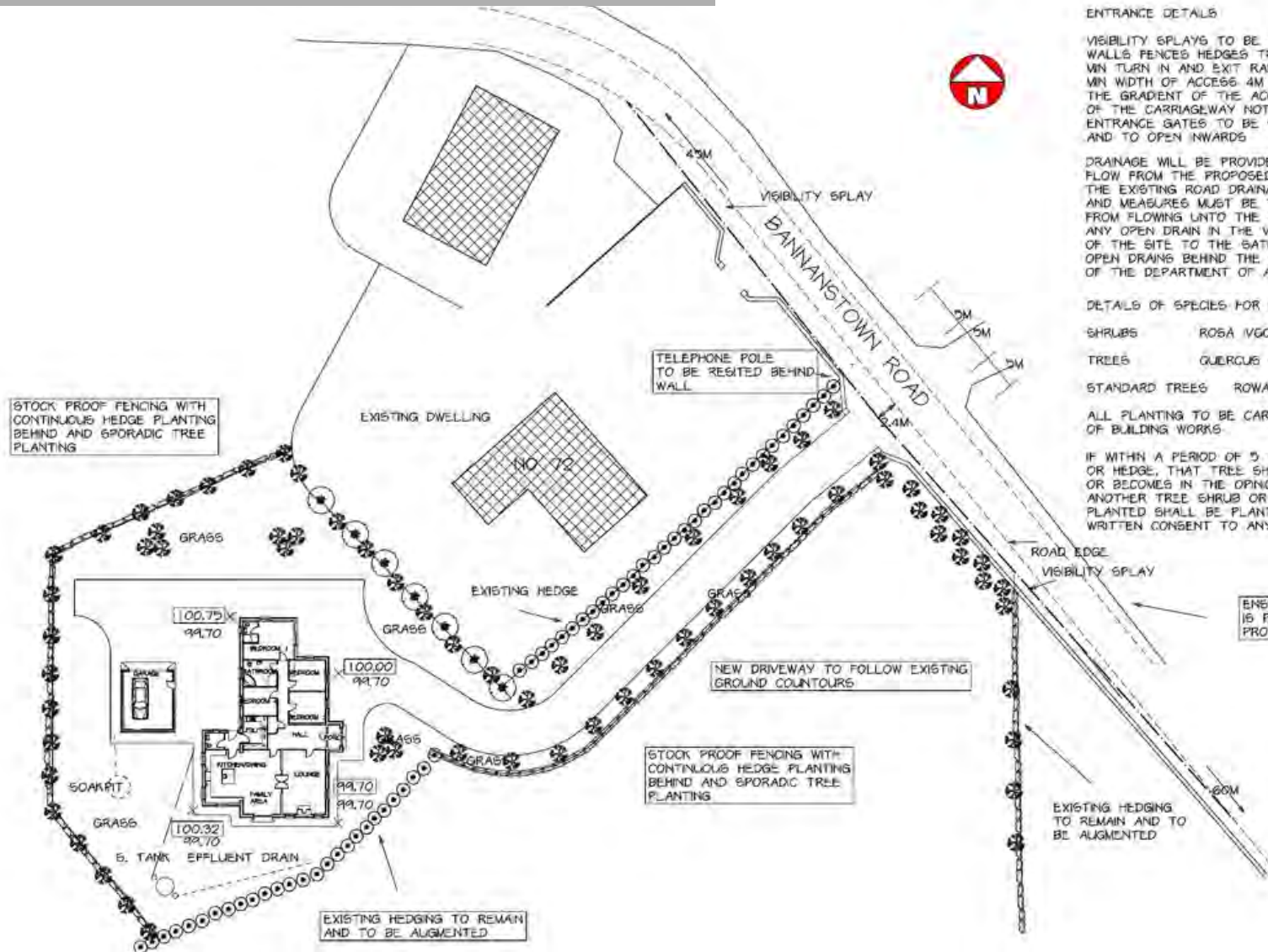
We would point out that there is no existing laneway to the present dwelling.

*Grace*

---

for Marcus Bingham MCIAT  
Architectural Design Services NI  
Tel 028 40638842





ENTRANCE DETAILS

VISIBILITY SPLAYS TO BE 2.4X60M MEASURED ALONG THE ROAD EDGE WALLS FENCES HEDGES TREES POLES ETC TO BE KEPT BEHIND SIGHT SPLAYS MIN TURN IN AND EXIT RADI 5M MIN WIDTH OF ACCESS 4M THE GRADIENT OF THE ACCESS FOR A DISTANCE OF 5M FROM THE EDGE OF THE CARRIAGEWAY NOT TO EXCEED 1 IN 12.5 AND 1 IN 10 THEREAFTER ENTRANCE GATES TO BE SITED 5M MIN FROM THE EDGE OF THE CARRIAGEWAY AND TO OPEN INWARDS

DRAINAGE WILL BE PROVIDED TO ENSURE THAT SURFACE WATER DOES NOT FLOW FROM THE PROPOSED SITE UNTO THE PUBLIC ROAD THE EXISTING ROAD DRAINAGE MUST BE ACCOMMODATED WHERE APPROPRIATE AND MEASURES MUST BE TAKEN TO PREVENT ROAD SURFACE WATER FROM FLOWING UNTO THE SITE ANY OPEN DRAIN IN THE VERGE SHALL BE PIPED ALONG THE ENTIRE FRONTAGE OF THE SITE TO THE SATISFACTION OF THE DOE ROADS SERVICE OPEN DRAINS BEHIND THE FENCE/HEDGE LINE SHALL BE PIPED TO THE SATISFACTION OF THE DEPARTMENT OF AGRICULTURE WATERCOURSE MANAGEMENT DIVISION

DETAILS OF SPECIES FOR PLANTING

- SHRUBS ROSA VIGOSA, CRATAEGUS MARGOPYNA, CORYLLOS AVELLUNA, ACER CANPESTE
- TREES QUERCUS ROBUR, ACER PSEUDOPATANUS, FRAXINUS EXCELSIOR
- STANDARD TREES ROWAN, MOUNTAIN ASH, NORWAY MAPLE

ALL PLANTING TO BE CARRIED OUT IN THE FIRST SUITABLE SEASON AFTER COMPLETION OF BUILDING WORKS

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 DESTROYS OR DIES OR BECOMES IN THE OPINION OF THE DEPARTMENT 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 DEPARTMENT GIVES WRITTEN CONSENT TO ANY VARIATION

ENSURE 2.0M X FULL FRONTAGE SETBACK IS PROVIDED ON THE NEAR SIDE OF THE PROPOSED ACCESS

SITE MAP

FLOOR LEVEL 100.00  
 [Symbol] EXISTING LEVELS SHOWN IN THIS

JOB TITLE <b>MR AND MRS BARRY McCARTAN</b>		DRS NO. <b>SM/01</b>
PROPOSED FARM DWELLING AND DETACHED GARAGE ADJACENT TO AND SOUTH WEST OF NO 72 BANNASTOWN ROAD CASTLEWELLAN BT31 9BQ		
REVISIONS ENTRANCE LOCATION REVISED SITINGS AMENDED	DRN DATE	SCALE <b>1/500</b>
MARCUS BINGHAM MCIAI (INCORPORATING SAM SMITH 3D DESIGN)		
9 TULLYGUILLY ROAD RATHFRILAND MEMBER OF THE CHARTERED INSTITUTE OF ARCHITECTURAL TECHNOLOGISTS TELEPHONE 028 406 38842 : MOBILE 07780937420 : EMAIL marcus@bcidm.net		

<b>ITEM NO</b>	<b>10</b>				
<b>APPLIC NO</b>	LA07/2016/1196/F	Full	<b>DATE VALID</b>	08/09/2016	
<b>COUNCIL OPINION</b>	<b>APPROVAL</b>				
<b>APPLICANT</b>	McGrady Contracts Ltd 3 Station Road Castlewellan BT31 9NF	<b>AGENT</b>	McGurk Architects 33 King Street Magherafelt BT45 6AR NA		
<b>LOCATION</b>	Lands to the South East of Mountain View off Burrenwood Road; adjacent to 24 Burrenwood Road; adjacent to Nos 5 to 10 Commedagh Park; and adjacent to 68 94 96a and 96b Newcastle Road; Castlewellan				
<b>PROPOSAL</b>	Residential development of 30 No semi-detached dwellings (15 pairs), a block of 3 terraced houses and 1 detached dwelling, including associated site works, ancillary developments and landscaping.  (Amended description and layout plans received)				
<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>	
	8	0		0	0
			<b>Addresses Signatures</b>		
			0	0	0 0



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference: LA07/2016/1196/F**

**Date Received: Sept 2016.**

**Proposal:**

Full permission is sought for a Residential development comprising a total of 34 units (30 No semi-detached dwellings (15 No pairs), 1 No detached dwelling, and 1 terrace of 3 dwellings), including associated site works, ancillary developments and landscaping, on lands to the south east of Mountain View (off Burrenwood Road), Castlewellan.

Applicant: McGrady Contracts

**Location:**

The site is located within the development limits of Castlewellan, on land zoned for housing as identified in the Ards and Down Area Plan 2015 (HPA3). It is noted this field comprising the application site is part of a larger zoning, whereby the lands to the north east are residential in character, while the remaining lands are currently undeveloped and rural in form. It is also noted this site is in an AONB.

The site adjoins the sizeable existing residential development of Burrenwood, and is accessed via the cul-de-sac of Mountain View. The development of Burrenwood and adjoining cul-de-sacs is largely characterised by medium to low density mix of detached and semi-detached dwellings, which also includes a mix of house types and sizes, although also includes terraced units. It is noted the cul-de-sac of Mountain View is largely characterised by detached dwellings, whereby the dwellings are 1 1/2 storey.

**Site Characteristics & Area Characteristics:**

The site outlined in red extends to comprise the road serving the cul-de-sac of Mountain View, off Burrenwood Road, and continues to include 2 fields beyond the end of this cul-de-sac.

This cul-de-sac of Mountain View slopes downhill from the junction with Burrenwood Road, and comprises a development of detached dwellings, which 1 1/2 storey dwellings. This cul-de-sac includes foot-pathing and a turning head at the end.



The fields comprising the application site also slopes gently downhill from the end of the cul-de-sac of Mountain View towards no.s 96a/96b, although also slopes downhill from the development of Commedagh Park.

### Site history

A history search has been carried out for the site and surrounds whereby the most relevant history observed includes:

LA07/2015/0103- Land to rear of 14-21 Woodvale Burrenwood Road Castlewellan with access between 14 & 18 Woodvale Burrenwood Road Castlewellan, Residential development of 11 dwellings, Full, Approved, Applicant: KCD Homes Ltd

LA07/2016/0336- 94 Castlewellan Road, Residential development comprising 5 dwellings, Full, Approved, Applicant: Douglan Developments Ltd

R/2007/0961- 94 Newcastle Road, Removal of existing dwelling and replacement with proposed residential development comprising 10 no apartments and 3 no. townhouses providing a total of 13 no. units, Full, Withdrawn (Recommended for Refusal).

R/2014/0349/PAD- Pre Application enquiry for housing, Lands at Woodvale, Burrenwood Park, Castlewellan, 10 Dwellings as phase one and a further 10 dwellings as phase 2 as future development

### Representations

A total of 11 representations have been received to date (31-05-17) from the owner/occupiers of no.24 Burrenwood Road (x3), 96a and 96b Newcastle Road, 1, 4 and 9 Mountain View, 2 Woodvale and 4 Commedagh Park, whereby the main issues/concerns raised include:

- the development does not respect the surrounding context, and is not appropriate to the character or topography of the site,
- 2 storey semi-detached dwellings are inappropriate and out of keeping,
- no.24 Burrenwood Rd requires to be given specific consideration for this layout due to its location between the existing development and that proposed,
- specific objections regarding site 35 on the grounds of proximity, position and elevation in relation to no.24 Burrenwood Rd, which will impact on character of this property and its value,
- the housing density is out of keeping with Mountain View,
- this development is for social housing which has not been acknowledged, this community would be better served by a mixed scheme,
- the development will result in an increase in traffic accessing on to the Newcastle Road, whereby the feeder lane in place is inadequate, a traffic impact assessment has not been carried out,
- there are sewage issues in this area,
- the additional traffic and vehicle movements through Mountain View raises concerns for children's safety,

- adequate neighbour notification has not been carried out,
- primary schools in the area are already at capacity,
- what attenuation measures are in place regarding flooding and surface water issues,
- dominance, loss of light and loss of privacy over adjoining properties.

See file for full content of representations received.

It is noted the majority of these representations are objections although several raised concerns and are not specifically objecting to the proposal.

### **Consultation**

Having account the nature of this proposal, constraints of this site and area, and issues raised in the representations received, consultations have been issued to Transport NI, NI Water, NIEA, Rivers Agency, Shared Environmental Services and Environmental Health as part of this application.

A Drainage Assessment, Design and Access Statement, Design Concept Statement, and Landscape Plan have all been submitted as part of this application.

A HRA screening exercise and EIA determination were also undertaken as part of this application.

### **Policy- RDS, Ards and Down Area Plan 2015, SPPS, PPS2, PPS3, PPS6, PPS7 (and Addendum), PPS11, PPS12, PPS15, and supplementary guidance including Creating Places, DCAN8**

As stated above the site is located on the inner edge of the development limits of Castlewellan as identified in the Ards and Down Area Plan 2015, whereby some of the lands are also zoned for housing (HPA3). The southern boundary of the site forms the edge of the development limit, while the line of the existing laneway serving no.94, 96a and 96b forms the eastern edge of the development limit.

The lands surrounding the site which are within the development limits are largely characterised by housing or undeveloped lands zoned for housing, while the lands beyond the south of the site are rural/agricultural in use. The lands along this stretch of road also fall away from the Castlewellan to Newcastle Road. It is also noted this area is an AONB, while there is also a watercourse along the boundary of the site.

Policy HPA3- Lands to the south east of Mountain View and Woodvale.

These zoned housing lands comprised some 4 fields and included 4 considerations, namely, housing density (min 20 per hectare), access and buffer planting along edge of settlement development limit.

### **Assessment**

As stated above the site comprises a roughly rectangular shaped plot, accessed via the cul-de-sac of Mountain View, off Burrenwood Road.

This site is low lying, comprising an overgrown field, whereby the existing developments of Mountain View, Woodvale, Commedagh Park and Burrenwood are residential in character. This field and also several adjoining fields are zoned for housing.

This zoning (HPA3) as outlined above includes 4 considerations as summarised above.

The site area measures approx 1.3 hectares, whereby it is considered this proposal for 34 dwellings complies with the density requirements of this zoning.

In addition having account the character of the development of Mountain View, Woodvale, Commedagh Park, and Burrenwood Road, no objections are offered to the principle of the units proposed. It is noted the development is largely characterised by semi-detached dwellings, although also includes 1 detached and 1 terrace of 3 dwellings, whereby it is considered these units are acceptable in this instance, whereby the terrace is considered will appear like a book-end block at the bottom end of the development. It is noted the plot sizes are smaller than those of properties within Mountain View, and although Mountain View is also characterised by detached dwellings, it is considered this development respects the density requirement of both the wider area and area plan.

This site is accessed via the existing development of Mountain View and Burrenwood Road, whereby a right turn facility is currently in place at the junction with the Newcastle Road. There is no requirement for a right turn lane to be provided.

The PAC comments at the time of the public inquiry were also noted as part of considerations. In addition, it is noted the points raised in this zoning HPA3 are considerations and not requirements. Also, the size of this entire zoning in relation to the existing development which accesses onto the Newcastle Road via this junction at present, and also the width and layout of the Newcastle Road junction at present were also noted. As such, on balance it has been concluded no further works or improvements are required at this junction.

The units proposed have been sited to front the road, while landscape buffer/belt, outside the curtilage and garden of any property has also been provided along the boundary of the site, where it adjoins the countryside.

As such it is considered the proposal is not contrary to the zoning and requirements of the Area Plan.

As stated above the site is accessed via the cul-de-sac of Mountain View and will extend this cul-de-sac. There is no access through to Cow Lane or Newcastle Road.

A number of amendments have been made to the proposal since originally submitted in Sept 2016, however this report is based on the most recent submission in May 2017 (site layout plan date stamp 8th May 2017, and house types date stamped 29th March 2017).

The red line of this application extends to include 2 fields and also the road and footpath of Mountain View, and also part of Burrenwood Road.

As outlined above the site will extend from the existing cul-de-sac and development of Mountain View with a central road and housing to either side. This road then turns towards the bottom of the site where it adjoins no.96a and 96b Newcastle Road, whereby the units along this portion of the site back on to these adjoining properties.



Transport NI have been consulted on several occasions, most recently today (1<sup>st</sup> June), with minor amendments to the previously submitted PSDs following discussions and agreements with TNI, who are now content with the layout subject to conditions, and have not requested any further information to assess this proposal.

As outlined above this development forms part of the zoned lands (HPA3), whereby it is noted the road layout has not included provision for accessing through to the remainder of this zoning.

It is noted these remaining lands of this zoning can be accessed via the lands associated with the recent approval LA07/15/0103, whereby this layout has left an access point through to middle portion of this zoning, and having account the topography of the lands it is considered this central portion is better accessed via the approved development of LA07/15/0103.

Levels have been provided for this phase of development, whereby it is considered those proposed will respect existing. The lands generally fall away from Mountain View towards no.96a and 96b, and also from the Newcastle Road.

This development comprises a total of 34 of dwellings, with 30 semi-detached, 1 detached and 1 terrace of 3 dwellings, and include a mix of house types (HT A, B, B1, C, D, E, F).

House types (HT) A, B, B1, C, D and F will be 1 1/2 storey high, with a ridge height of between 7.5- 8.2m, while HT E will be 2 storey with a ridge height of approx 9m. whereby the finishes include concrete clay plain or slate effect roof tiles, render walls, and upvc windows.

Having account the existing character and house types found in this area, it is considered the principle of 1 1/2 and 2 storey units are acceptable.

Having account the existing character of development within this Burrenwood development, and also density requirement, it is considered the plot sizes, house types, sizes, designs and finishes as proposed are acceptable and will not result in any unacceptable impact on the character of the area.

It is also considered the layout and siting of each unit is positioned to ensure there are no unacceptable relationship or amenity issues will result on any adjoining property or between units in this urban context in terms of overlooking, overshadowing, loss of light or dominant impact. Current guidance recommends a separation distance of approx 10m from the rear of the dwelling to the rear boundary. It is noted the units at sites 11-15 back onto no.96a and 96b Newcastle Road, and will each be sited approx 10m from the rear boundary adjoining these existing properties and also at least 20m from the opposing rear gables.

In addition the units at sites 1-10 back onto properties within Commedagh Park and Burrenwood Road, whereby the separation distances of no.3-10 to the rear boundary are at least 14m, while that at site 2 is approx 10m. It is noted the separation distance of the dwellings at site 1 falls short of the current guidance, however it is noted the levels of this property is significantly lower than that of no.24 adjacent. It is considered this difference in levels and boundary treatment including sizeable

retaining wall, is sufficient to prevent any unacceptable impact on the amenity of no.24.

It is also noted the side gables of no.34 and 11 face towards other properties whereby it is considered these dwellings will not result in any unacceptable impact due to the internal layout and spacing with the adjoining properties.

Each unit will have its own in-curtilage parking, whereby sufficient provision is also considered to have been made for amenity space within each site.

A large area of communal amenity space has also been provided for this development, as per the requirements of PPS8/SPPS, whereby it is considered the location and size of which is sufficient and acceptable for this development of 34 units.

As outlined above a portion of the site extends to adjoin the boundary/edge of the settlement development limit, whereby a belt of buffer planting is being proposed. This belt of planting is located outside the defined curtilage of any unit and will be approx 7-8m wide, thus providing a suitable boundary buffer and assist in integrating the site to ensure it does not harm or spoil the adjoining countryside and AONB. A planting schedule has been provided for the entire site.

Having account the constraints of the site and issues raised, consultation was undertaken with a number of bodies as outlined above, whereby it is considered no objections are offered in principle. NIW and NIEA have not raised any concerns regarding the capacity of the sewerage system to accommodate this development, while Rivers Agency have raised no concerns regarding flooding or surface water related matters. A Drainage Assessment was submitted as part of this application. In addition Shared Environmental Services have raised no concerns that the development will have any unacceptable adverse impact on the integrity of any European site. As outlined above TNI are also content with the layout.

It is noted the proposals include culverting a watercourse which runs through the site. Rivers Agency have agreed to this culverting whereby the Planning Authority also notes these lands are zoned for housing, thus is content to allow the culverting of this watercourse. The comments from NED have been discussed whereby it is concluded that as no species were observed in the watercourse and as these are zoned housing lands, this small watercourse could be culverted, while the comments regarding bats and Japanese knotweed can be included on any decision notice.

While it is noted there is opposition to this proposal from local residents, it is considered the development as proposed complies with the requirements of the area plan and applicable policy test, and will not result in any unacceptable impact or harm the amenity of any existing residents/properties or character of the area, for the reasons outlined above, and there are no grounds to sustain a refusal.

The Planning Authority has reviewed the extent of neighbour notification and is content all properties entitled to be notified have indeed been notified in line with current guidance and practice.

It is noted a number of the interested parties raised issue regarding who this development is intended to serve, and have advised it is for social housing. This was raised with the agents on several occasions who advised the applicants (McGrady Contracts Ltd) have been in negotiations with Apex Social Housing

Association but as yet no binding contract is in place with them to purchase these units, whereby any such agreement would not be entered into by Apex until planning permission is secured.

As advised the named applicant is McGrady Contracts Ltd whereby this application has been assessed against PPS7 which is the standard policy context for assessing proposals for residential developments, and deemed acceptable.

As such Approval is recommended subject to conditions.

**Recommendation: Approval.**



<b>ITEM NO</b>	<b>11</b>			
<b>APPLIC NO</b>	LA07/2016/1284/F	<b>Full</b>	<b>DATE VALID</b>	26/09/2016
<b>COUNCIL OPINION</b>	<b>APPROVAL</b>			
<b>APPLICANT</b>	Michael Braniff 77 Killough	<b>AGENT</b>	David Burgess 24	
	Ardglass BT30 7UH		Crossgar BT30 9NG 07720145893	
<b>LOCATION</b>	Coney Island Caravan Park 75 Killough Road Ardglass BT30 7UH			
<b>PROPOSAL</b>	Extension of caravan park for static and touring pitches, new shower/amenity building and associated landscaping/amenity areas			
<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>
	0	0	0	0
			<b>Addresses</b>	<b>Signatures</b>
			0	0 0 0



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference: LA07/2016/1284/F**

**Date Received: Aug 2016.**

**Proposal:**

Full permission is sought for an extension to the existing caravan park for static and touring pitches, new shower/amenity building and associated landscaping/amenity areas, at Coney Island Caravan Park, Ardglass.

Applicant: Mr M Braniff.

**Location:**

The site is located in the countryside, (off the Killough Road), between Killough and Coney Island, in an AONB and Area of Constraint on Mineral Developments as identified in the Ards and Down Area Plan 2015. The site is also in close proximity to Killough Bay and Strand Lough Area of Special Scientific Interest (ASSI), Killough Bay RAMSAR site and Killough Bay Special Protection Area (SPA), which are designated sites of international and national importance and which are protected. It is also noted the former railway line runs along the southern boundary of the application site.

**Site Characteristics & Area Characteristics:**

The site outlined in red comprises the grounds of Coney Island Caravan Park and an adjoining field, which extends to some 6-7 hectares of lands, which are located off the Killough Road. This caravan park includes a vehicular entrance on to the Killough Road with internal access road and has a number of plots, central entertainment block and managers dwelling.

It is proposed to extend this caravan park into a field, which will be accessed via the existing caravan park grounds. These lands of this caravan park are relatively flat and low lying, whereby the field comprising the application site slopes down to the rear (eastern) boundary at present.

**Site history**

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

LA07/2016/0699/PAN- Coney Island Caravan Park, Extension to caravan park, PAN,

It is noted there are also recent approvals for a managers dwelling and social club associated with this caravan park.

### **Representations**

None received to date (02-06-17)

Having account current practice and requirements, and extent of red line, neighbour notification was undertaken with several properties along Killough Road in Oct 2016 as part of this application, while the application was advertised in the local press in Oct 2016.

### **Consultations-**

Having account the nature of this proposal and location and constraints of the site and area, consultations have been carried out with a number of bodies including Transport NI, NI Water, NIEA, Historic Environment Division (HED), Rivers Agency, Shared Environmental Services and Environmental Health, whereby it is considered no objections are offered in principle.

It is noted TNI, Environmental Health, Rivers Agency and NIEA had initially requested further information (Access details, changes to the layout, Drainage Assessment and clarification regarding sewerage treatment), however are now content with the proposals, following receipt of same.

Having account the size of the site and location of the site a HRA and EIA screening exercise was also undertaken.

### **Applicable Policy- RDS, Ards & Down Plan 2015, SPPS, PPS2, PPS3, PPS4, PPS6, PPS11, PPS15, PPS16, PPS21, and supplementary guidance**

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

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

As such it is considered PPS21 remains the applicable policy context to consider the proposed development under, and having account the nature of this proposal it is considered the provisions of PPS4 and PPS16 are key.

### **Assessment**

By way of background it is noted from the history outlined above there is a recent PAN (Proposal of Application Notice) for this extension to the caravan park (LA07/2016/0669), which has a legislative requirement in the Planning Act 2011, prior to submitting a planning application.



This PAN is required as this application falls within the category of Major applications as prescribed in the Development Management Regs, whereby an applicant, prior to submitting an application, must give notice known as a proposal of application notice.

This PAN was submitted in May 2016 and has complied with the applicable legislative requirements.

The use of this site as a caravan park is long established, whereby this application solely considers the proposal for an extension to provide static and touring pitches, amenity/shower building and landscaping.

As such it is considered policies PED3 of PPS4 and TSM6 and TSM7 of PPS16 apply.

Policy PED3 of PPS4 is key, which states the expansion of an established economic development use in the countryside will be permitted where the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is no major increase in the site area of the enterprise.

Proposals for expansion will normally be expected to be accommodated through the reuse or extension of existing buildings on site. Where it is demonstrated that this is not possible, new buildings may be approved provided they are in proportion to the existing building(s) and will integrate as part of the overall development.

Any extension or new building should respect the scale, design and materials of the original building(s) on the site and any historic or architectural interest the original property may have.

A proposal for the major expansion of an existing industrial enterprise that would not meet the above policy provisions will only be permitted in exceptional circumstances where it is demonstrated that:

- relocation of the enterprise is not possible for particular operational or employment reasons;
- the proposal would make a significant contribution to the local economy; and
- the development would not undermine rural character.

In all cases, measures to aid integration into the landscape will be required for both the extension and the existing site.

Policy TSM6 of PPS16 states planning permission will be granted for a new holiday park or an extension to an existing facility where it is demonstrated that the proposal will create a high quality and sustainable form of tourism development.

The location, siting, size, design, layout and landscaping of the holiday park proposal must be based on an overall design concept that respects the surrounding landscape, rural character and site context.

Proposals for holiday park development must be accompanied by a layout and landscaping plan (see guidance at Appendix 4) and will be subject to compliance with 7 specific criteria (a-g).

Policy TSM7 sets out the design and general criteria for tourism use, and lists a number of criteria.

As outlined above there is an established caravan park at this location (Coney Island Caravan Park), which includes access on to the Killough Road, with a number of plots and internal concreted access road.

It is proposed to extend this caravan park in to the field to the rear of no.77 (which is associated with this business), which will be accessed via the existing caravan park grounds.

This extension will accommodate an area of static caravans to the eastern portion of the site, and an area of touring caravans to the rear of no.77, with a new small single storey shower block, again to the rear of no.77.

This site is low lying whereby the lands fall away from the dwelling of no.77 to the eastern boundary. Levels have been provided which show how those proposed will resect existing. A belt of planting is to be provided along the southern and eastern boundaries of the site to assist in the integration of the development, and reducing the potential impact on the surrounding countryside.

Having account the size and shape of this existing site, it is considered this site has the capacity to absorb the extension proposed which will round off the development of these lands as a caravan site, whereby the scale and nature of which, including location, size of buildings, site levels and boundary planting will have limited visual impact and not result in any unacceptable harm on the character or appearance of this sensitive area.

As outlined above a good belt of planting is to be provided along the southern and eastern exterior boundaries of the site, whereby the northern and western boundaries adjoin the existing grounds. Several pockets of open space are also to be provided in this section of the site.

It is noted a new 2m wide footpath is proposed along the site frontage, as there is only a grass verge in place at present, at the request of TNI.

It is also noted the site is to be served by a sewage collection point which is to be sited in the south east corner (lowest point) of the site. As outlined above a new amenity shower building is also to be provided.

It is also noted this extension will be located approx 50m from any property not associated with this business, which together with the low lying nature of the site and boundary planting is considered sufficient to prevent any unacceptable impact on the amenity or enjoyment of any neighbouring property.

Taking into account the above it is considered the proposal does not offend any applicable policy test and will not result in any unacceptable impact on the character of the area or any neighbouring property.

As such approval is recommended subject to conditions.

**Recommendation: Approval.**

<b>ITEM NO</b>	<b>14</b>			
<b>APPLIC NO</b>	LA07/2016/1537/O	Outline	<b>DATE VALID</b>	17/11/2016
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>			
<b>APPLICANT</b>	P & T Miskelly 17 Ballynahinch Road Crossgar BT30 9HS		<b>AGENT</b>	Dempsey Architects 677 Lisburn Road Belfast BT9 7GT 02890664086
<b>LOCATION</b>	Site adjacent to 35 Darragh Road Darragh Cross Downpatrick			
<b>PROPOSAL</b>	Erection of 2no detached houses and associated works			
<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>
	0	0	0	0
			<b>Addresses</b>	<b>Signatures</b>
			0	0
			<b>Addresses</b>	<b>Signatures</b>
			0	0

- 1 The proposal is contrary to the Strategic Planning Policy Statement 2015 (SPPS) and Policies CTY1 and CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the gap is such that it could accommodate more than two dwellings, therefore it is not a valid infill opportunity and 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 2015 (SPPS) and Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the design of the proposed dwellings is unacceptable in this countryside location.
  
- 3 The proposal is contrary to the Strategic Planning Policy Statement 2015 (SPPS) and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the dwellings would, if permitted result in a suburban style build-up of development when viewed with existing buildings, create a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.





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**Newry, Mourne  
 and Down**  
 District Council

**Application Reference:** LA07/2016/1537/O

**Date Received:** 22.11.2016

**Proposal:** The application is for outline planning permission for the erection of two detached dwelling houses and associated works.

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



Site location plan



### Site Characteristics & Area Characteristics

The site is located just off the Darragh Road and comprises a roughly rectangular plot. The site has some rear boundary (west) planting comprising mainly fir trees. The southern boundary consists of more fir trees, but also consists of the well maintained trees belonging to the garden of No 39. The northern boundary is shared with No 35 and a number of out buildings which lie along this boundary. The site has been partially covered with stones and a stone pile remains on the site. There is a storage container to the south east corner of the site. The eastern boundary along the roadside comprises a smaller trimmed hedge with field gate access to the front of the site.





**Site History:**

R/1977/0184 'The Bungalow', Darragh Cross, Saintfield Sun Porch Permission Granted

R/2003/0129/A41 35 Darragh Road, Barnamaghery, Crossgar, Northern Ireland Conservatory And Kitchen Extension Application Required

R/2004/0206/F Lands South Of 35 Darragh Cross, Crossgar Application For The Retention Of Existing Fill And Proposed Further Infilling Of Lands With Inert Material For Reclamation Purposes. Permission Granted 26.04.2005

R/2007/0576/F Lands South Of 35 Darragh Road Crossgar Bt30 9np Walls, Pillars And Gates At Approved Entrance. Application Withdrawn 27.10.2010

R/2004/0059ca South Of 35 Darragh Road, Darragh Cross, Crossgar. Miscellaneous Enforcement.

**Planning Policies & Material Considerations:**

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

**Consultations:**

NI water – No objections

Transport NI – No objections subject to conditions

NIEA Water management – No objections



**Objections & Representations**

In line with statutory requirements three neighbours have been notified on 06.12.2016 and again with amended plans on 06.04.2017. No letters of objection or support have been received. The application was advertised in the Mourne Observer and the Down Recorder on 07.12.2016.

**Consideration and Assessment:**

Strategic Planning Policy Statement for Northern Ireland (SPPS)

The SPPS states that in the case of infill/ribbon development provision should be made for the development of a small gap site in an otherwise substantial and continuously built up frontage. This is less prescriptive than the content of PPS21 regarding infill dwellings, however the SPPS states that the policy provisions of PPS21 will continue to operate until such time as a Plan Strategy for the whole of the Council area has been adopted.

PPS 21 - Sustainable Development in the Countryside

Policy CTY 1 states that a range of types of development are acceptable in principle in the countryside. Planning permission will be granted for an individual dwelling house in the countryside in the certain cases which are listed, the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8 is one such instance. Integration and design of buildings in the Countryside CTY 13 and Rural character CTY 14, and CTY 16 are also relevant.

Policy CTY8- Ribbon Development and associated policies CTY13-16.

Planning permission will be refused for a building which creates or adds to a ribbon of development.

An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size. For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear. The J & A in paragraph 5.34 clearly refers to gaps between housing or other buildings that provide relief and visual breaks in the developed appearance of the locality and that help maintain rural character. It goes on to comment that the infilling of these gaps will therefore not be permitted except where it comprises the development of a small gap within an otherwise substantial and continuously built up frontage. Thus it is the gap between buildings that requires to be assessed. Additionally CTY's wording logically requires consideration of the whole gap and not just the site.

As outlined in the site characteristics section above the site fronts onto the Darragh Road and comprises a rectangular plot immediately south of No.35 Darragh Road. In terms of plot sizes the plots range in size: No 39 = 0.15ha; the site = 0.35ha; No 35 =0.24ha; and for context No 33 =0.08ha; and No 31 = 0.08 ha. In terms of frontage length No. 35 including dwelling and outbuildings has a frontage of 53m, No.39 a frontage of approx. 80m. The application site has a frontage of 66m. No's 33 and 31 have a narrower frontage of 20m and 19m respectively.



plot sizes

Darragh Road at this point is long and straight. No 39 is a single storey dwelling which is gable onto the road and has a long narrow garden which extends northwards towards the site.

While No 39 is open to the road, its side garden is surrounded by trees, its curtilage does have a frontage to the road and extends down towards the site. When the associated buildings and the dwelling at No 35 are considered with No. 39 it could be said that the road frontage meets the policy requirement for a built up frontage to consist of 3 or more buildings.

The red line (under the ownership/control of applicant) measures the gap frontage as 66 metres. This does not however represent the full gap frontage. As highlighted in PAC decision 2016/A0163 the term gap as referred to in Policy CTY8 relates to the

spacing between buildings. In this instance the gap between the buildings is 129 metres.

Thus the application site forms part of larger gap in development (129 metres) which separates No.39 from the outbuildings associated with No 35. An assessment under CTY8 must therefore consider whether the aforementioned gap between the buildings constitutes a small gap within a continuously built up frontage.

Taking account of the existing development pattern the full gap site between No 35 and No 39, offers the potential to accommodate more than two dwellings. The application as presented is for two dwellings on the site, with a frontage each of 30m, taking this into account the 'gap' could accommodate 4 dwellings similar in size, scale and plot size to that presented and would therefore be contrary to Policy CTY8. There is no perception of a continuous line of development along this part of the Darragh Road as the application site provides a clear visual break between the buildings to the north and south of the site.

It is therefore considered that the proposal fails to meet the Policy requirements of PPS21 CTY 8. The site is therefore not a valid infill opportunity.

There is no evidence to suggest that the proposal falls into any of the other types of development that are listed as acceptable in principle in the countryside under Policy CTY 1 or that there are overriding reasons why the development is essential and could not be located in a settlement. There is thus no policy support for the principle of two dwellings as an infill opportunity in this instance.

Policy CTY 13 considers whether the proposal will achieve a suitable degree of integration. It is considered that the site would have a reasonable degree of enclosure and would benefit from screening from existing boundary vegetation when approaching from either direction along the Darragh Road. Suitably designed and positioned dwellings on the site are therefore unlikely to appear prominent in the landscape if it met policy. This is for an outline application, however, as part of the submission, full elevations and plans were submitted and the design of the dwellings are presented as part of the application. The dwellings are for a one and half storey dwellings with a frontage of 13m and a gable depth of 7m and a two storey rear return extending 3.8m at the same height of the proposed dwelling. There is a single storey porch to the front elevation. The majority of dwelling in the immediate area are single storey. The windows to the front are square in size and the dormers to the front appear bulky and out of character, more of a suburban feature than simple form to respect the rural area. As the principle of the dwellings are unacceptable, no negotiations were sought in relation to the dwelling design. As it stands the design of the dwellings would be unacceptable.

Policy CTY 14 outlines a number of circumstances where a new building will be unacceptable, this includes proposals which result in suburban style development create or add to a ribbon of development. In this instance the rural character along



the Darragh Rd has been maintained by the visual break provided by the application site. The proposed development would result in the loss of rural character through a build up of development contrary to CTY 14 criteria (b) and the addition of a ribbon of development along the Darragh Road, contrary to criteria (d).

Policy CTY16 - In order to comply with this policy the applicant must demonstrate a means of sewerage disposal that will not create or add to a pollution problem. It is considered the site is large enough to accommodate septic tanks and soakaways for two dwellings.

### **Conclusion**

Based on careful consideration of all the relevant material planning considerations, the proposal does not comply with relevant planning policies and it is contended that the proposal is unacceptable in this countryside location. It is recommended that the application be refused for the reasons stated.

### **Refusal Reasons:**

1. The proposal is contrary to the Strategic Planning Policy Statement 2015 (SPPS) and Policies CTY1 and CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the gap is such that it could accommodate more than two dwellings, therefore it is not a valid infill opportunity and 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 2015 (SPPS) and Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the design of the proposed dwellings is unacceptable in this countryside location.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the dwellings would, if permitted result in a suburban style build-up of development when viewed with existing buildings, create a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.

Case Officer Signature

Date

Appointed Officer Signature

Date



**dempsey**  
architects

477 LISBURN ROAD  
BELFAST BT9 7QT  
NORTHERN IRELAND

### **LA07/2016/1537/O**

#### **Outline planning application at site adjacent to 35 Darragh Road, Darragh Cross, Downpatrick, Erection of 2no. detached houses and associated works**

The outline planning application is for the erection of 2 dwellings in an infill site, which is acceptable by the Planning Service in it's guidance policy PPS21 CTY 8. This was also accepted by the Planning Service in it's email to us dated 1<sup>st</sup> June 2017 ( copy attached ) the email read :

*“ the gap is such that it could accommodate more than two dwellings, therefore it is not a valid infill opportunity “*

The Planning Service is confirming that it is a gap site but states that it is too big as an infill site and therefore cannot be accepted. This appears to be the main reason for refusal, however it does not provide any evidence. It should be noted that the application is for 2 dwellings only and should only be assessed on the detail provided and nothing more.

We have however researched this statement and examined the dwellings and plot sizes along the Darragh Road and in the vicinity of the application site as a comparision to the application site.





**dempsey**  
architects

677 LISBURN ROAD  
BELFAST BT9 7QT  
NORTHERN IRELAND

## AREA OF PLOT (SQ METRES)

## FRONTAGE ( METRES )

12 Darragh Road	3078	54
14 Darragh Road	2584	38
20 Darragh Road	3735	83
29A Darragh Road	4945	115
24 Darragh Road	2964	65
34 Darragh Road	2790	5
31 Darragh Road	1786	38
35 Darragh Road	2024	44
39 Darragh Road	1764	84
43 Darragh Road	3456	65
40 Darragh Road	1599	33
45 Darragh Road	1258	46
47 Darragh Road	1518	33
49 Darragh Road	1170	27

## ANALYSIS

The plot sizes for the application have an area of approx. 1750 sq metres. Taking an average of all plots in the immediate vicinity this equates 2476 sq metres, therefore the proposed plot sizes are 34% less than the average. Also the proposed plot sizes are only greater than 4 of the existing plots and smaller than the remaining 10 existing plots. Therefore the proposed plots are only greater than 30% of existing plots.

## CONCLUSION

It can be clearly demonstrated that the proposed plot sizes are in keeping if not smaller than the majority of the existing plots and are appropriate for the proposal of a maximum of 2 dwellings.



**dempsey**  
architects

677 LISBURN ROAD  
BELFAST BT8 7BT  
NORTHERN IRELAND

The second reason for refusal is the style of the proposed dwellings. As it is an outline planning application, the proposed dwellings are indicative only and were prepared to illustrate the principles of the outline application only – namely appropriate size to adjacent dwellings, appropriate private and public amenity space both for the proposed dwellings and its none impact on adjoining neighbours. To repeat the illustration of the proposed dwellings is indicative only and should these not be deemed appropriate, the Planning Service could ( as would be the norm ) placed conditions on the approval such as size, height and style to ensure that at Reserved Matters stage their principles are attained.

## **CONCLUSION**

In conclusion the statement by the Planning Service that the design is inappropriate could easily have been resolved by placing conditions as is standard procedure with the Planning service.

The third reason for refusal appears to be based on the first reason for refusal namely that the site although accepted as a gap site is too big and therefore should be refused. We have clearly demonstrated that no research was undertaken to come to this decision and upon researching the evidence, it can be clearly stated that the site can accommodate a maximum of 2 dwellings.

## **RECOMMENDATION**

**That the outline application be approved.**

<b>ITEM NO</b>	<b>15</b>			
<b>APPLIC NO</b>	LA07/2016/1542/F	Full	<b>DATE VALID</b>	14/11/2016
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>			
<b>APPLICANT</b>	Alan Morgan 2 Clanfort Hill Castlewellan BT31 9FB		<b>AGENT</b>	Design RTH Ltd 45 Halfpenny Gate Road Moir BT67 0HW 07931855841

**LOCATION** 50m East of 141 Newcastle Road  
Drumee  
Castlewellan  
BT31 9HF

**PROPOSAL** Proposed barn conversion with extension to provide a dwelling (amended plans)

REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions	Addresses	Signatures	Addresses	Signatures
	3	0		0	0	0	0	0

- 1 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building proposed is not a locally important building suitable for conversion.
- 2 The proposal is contrary to Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside in that;
  - the reuse or conversion would not maintain or enhance the form, character and architectural features, design and setting of the existing building and would have an adverse effect on the character and appearance of the locality;
  - access to the public road will prejudice road safety.
- 3 The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the width of the existing access renders it unacceptable for intensification of use and is not in accordance with the standards contained in the Department's Development Control Advice Note 15.  
The A50 is a PROTECTED TRAFFIC ROUTE and Planning must be satisfied that this application falls within the exceptions listed in the policy relating to intensification of accesses onto protected routes. If this application does not fall within the exceptions listed then it should be REFUSED.
- 4 The proposal is contrary to Planning Policy Statement 3, Policy AMP3 Access to Protected Routes (Consequential Revision) in that the proposal fails to meet the criteria for development in the countryside and would, if permitted, result in the intensification of use of an existing access onto a Main Traffic Route (Protected Route), thereby prejudicing the free flow of traffic and conditions of general safety.
- 5 The proposal is contrary to the Strategic Planning Policy Statement 2015 and Planning Policy Statement 2 'Natural Heritage' Policy NH5 Habitats, Species or Features of Natural Heritage Importance in that it has not been demonstrated that proposal is not likely to result in the unacceptable adverse impact on, or damage to the trees afforded protection by the Tree Preservations Order which affects the site.





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**Newry, Mourne  
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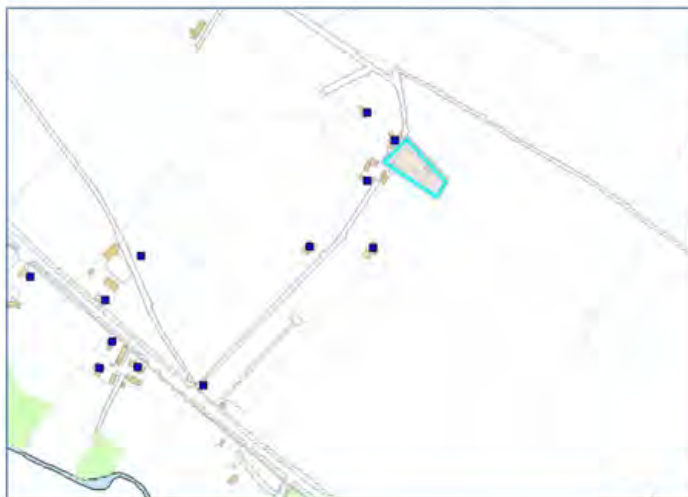
**Application Reference:** LA07/2016/1542/F

**Date Received:** 14<sup>th</sup> November 2016

**Proposal:** Proposed barn conversion with extension to provide a 3 bedroom dwelling

**Location:** 50m East of 141 Newcastle Road, Drumee, Castlewellan.

The site is within the countryside between Newcastle and Castlewellan. The site is approx. 1.7miles south-east of Castlewellan and 2.3 miles from Newcastle. The site is also located within the Tollymore Ward of the District.



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

The site is accessed from the Newcastle Road by a long narrow stone lane. It is a large rectangular site with a tree lined northern boundary.



Elevations facing NE



Smaller portion of the building and internal wall shared between the smaller and larger building



Internal wall of smaller portion of building, no fireplace corresponds with the chimney





SW facing gable wall and internal wall



South-East facing gable wall (rear) and closer photo of window detail



Internal wall, window and door of rear gable wall



The site is accessed from the road through an established narrow access which serves several detached dwellings, farm buildings and agricultural lands. The site abuts the lane with a stone wall and vegetation that provides boundary definition of the site. The north-east boundary is lined, internally, with mature trees. The site is an agricultural field which has a slight rise in level towards the eastern boundary. There is a stone structure which is divided into 2 portions, a larger roofed structure and an attached smaller structure with a chimney and no roof. The building is stone. To the south, east and north the site shares its boundary with agricultural lands to the west the boundary is shared with the lane with outbuildings opposite and to the south.

### **Site History:**

R/1979/1019

Bungalow Drumee Road, Castlwellan

Refused 21.03.1980

### *Neighbouring Site*

There is a pending application to the south and west of the site at 141 Newcastle Road for a replacement dwelling LA07/2017/0122/F.

R/2013/0536/O Granted 03.11.2014

LA07/2016/1358/RM Granted 24.11.2016

Replacement dwelling at 145 Newcastle Road, Drumee

LA07/2016/0451/O GRANTED 02.09.2016

Proposed development of 2no semi-detached dwellings and 1no detached dwelling with associated site works

31 Fishermans Row, Killough, BT30 7QR

R/2009/0176/O GRANTED 30.09.2010

Demolition of existing dwelling and development of 3 no dwellings (holiday homes) with associated parking & landscaping (amended proposal)

No 31 Fishermans Row, Killough, Downpatrick, Co Down, BT30 7QP.

LA07/2015/0055/F Granted 03.10.2016

Extension to Existing Cemetery at Drumee Cemetery 151 Newcastle Road

R/2010/0534/F Granted 17.09.2010

Retention of existing cottage in noncompliance with condition 2 of Planning Approval Ref. R/2004/0788/F.(amended) Existing building within the curtilage of 145 Newcastle Road, Castlewellan.

R/2004/0788/F Granted 15.03.2005

Conversion of outbuildings for use as accommodation for tourists at 145 Newcastle Road, Drumee, Castlewellan

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

The proposal is a full application for a conversion of a building to a dwelling within the countryside. The application must be considered in relation to the Regional Development Strategy, the Ards and Down Area Plan 2015, the Strategic Planning

Policy Statement for Northern Ireland, Planning Policy Statement 21 (PPS21) Sustainable Development in the Countryside, PPS2 Natural Heritage Department guides such as Building on Tradition Design Guide, Parking Standards, Development Control Advice Note (DCAN) 15 Vehicular Access Standards, will also be considered.

### **Consultations:**

#### *Ni Water Ltd*

Response received 2.12.2016 providing information for the applicant.

#### *Transport NI*

1.5.2017 required the plan details on epic to be amended as they were illegible. The plans were rescanned and Transport Ni was reconsulted  
Response received 25.1.2017 highlighted the proposal would be contrary to PPS3 Policy AMP 2 in that it would prejudice the safety and convenience of road uses since the width of the existing access renders it unacceptable for intensification of use and is not in accordance with the vehicular standards of Development Control Advice Note 15. Transport Ni also state that the A50 is a protected route and Council must be satisfied that the proposal falls within the exceptions listed in the policy relating to intensification of access onto protected route and if this is not the case then the proposal should be refused.

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

Drainage and water – no specific objection to the proposal.

Natural Heritage and Conservation Areas – Natural Environment Division requires more information as building and mature trees have the potential to be used by roosting bats, a European protected species under the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) such as a Bat Roost Potential survey and may require follow up activity surveys.

### **Objections & Representations**

The site was advertised in Mourne Observer on 9th December 2016.

A total of 6 Neighbours were notified.

The Council has received 3 representations which have been summaries as follows:-

- Removal of trees that are protected through TPO, the impact on the remaining trees, the character of the area
- Loss of habitat through removal of mature trees which serve bats and birds
- Impact of an additional property on the water supply for the neighbouring dwellings
- Concern relating to localised flooding which runs into the site
- Use of the existing structure is disputed as site is locally known as a lean-to for cattle and photographic evidence supplied and reference to renting the site for agricultural use whereby the structure was not in a suitable state to support livestock rather than a dwelling as detailed within the design and access statement submitted by the applicant
- Safety of access to and from the Newcastle Road as the lane is narrow and not suitable for intensification of use

- Ownership of the lane is shared with existing residents have a right of way which may not extend to new residents/dwelling and parties with an interest in the lane have not been served with notice as applicant completed Certificate A.
- The inaccuracy of the plans on Planning Portal (this has since been rectified by the Council)
- Photos supplied with objection



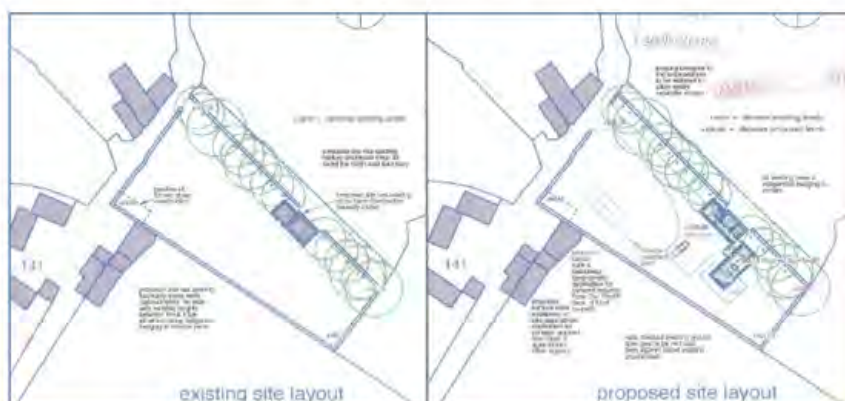
Council requested clarification of ownership of the lane in letter dated 16<sup>th</sup> January 2017.

Transport Ni have been consulted with regards to the access. Their comments are detailed within the report.

Please note having checked the NI Flood Maps via the department for Infrastructure there is no issue of flooding highlighted within the vicinity of the site.

**Consideration and Assessment:**

The proposal is a full application for the conversion with extension to provide a detached dwelling. The proposal details 2 bedrooms within the single storey stone structure and a single storey new build extension finished with white render and slates which will be linked to the existing structure through a flat roof glazed link. The extension would provide the kitchen and living space, while the flat roofed link provides a hallway. The proposal would result in an L-shaped dwelling within the site. The proposal details use of the established access land onto the Newcastle Road and will create a new internal drive from the proposed dwelling to the shared lane.





Policy CTY1 of PPS21 identifies a range of different types of development which in principle are considered acceptable in the countryside and will contribute to the aims of sustainable development. One such avenue is the conversion of a non-residential building to a dwelling in accordance with CTY4.

Policy CTY4 provides permission for the sympathetic conversion and reuse of existing buildings (with adaptation if necessary) of a suitable building to a range of uses such as a dwelling, where it would secure its upkeep and retention. The Strategic Planning Policy Statement for Northern Ireland (SPPS) provided further clarification in relation to a suitable building. The SPPS identifies a suitable building as a locally important building providing examples such as a former school house, churches, and older traditional barns and outbuildings. While this list is not exhaustive, PAC decision 2015/A0150 clarified that the SPPS reference to locally important refers to buildings that 'generally having some design, architectural or historic merit'. The proposal is for the conversion, adaptation and extension of a building to provide a 2 bedroom dwelling. The policy test is if the building proposed is locally important.

Upon site inspection it is clear that the building has had extensive building works. This includes 3 new stone walls within the smaller portion of the building that is attached to the older stone walls of the main, larger building. The new build includes a chimney with no corresponding fireplace, the creation of a doorway and window, a new tin roof to the larger building with a timber frame canopy structure attached to the building and the neighbouring trees to the rear (east). The larger portion of the building has a tin roof which is supported by a significant amount of cement block underneath providing a buffer from the stone walls and increasing the height of the walls. The walls of the older structure are substantial intact however the level of intervention in the build has caused the original structure to be overwhelmed by the new build and renovation works which have been completed on site. The doorway on the north-east facing gable wall is supported by timber frame which would suggest that the doorway is not an original feature of the building. Access to the larger stone building is from the eastern gable wall at the rear. This elevation has a wood framed window and door. They do not appear to be original to the build; the level of repointing is extensive from this elevation. The internal inspection revealed the level of works which have been undertaken internally to the stone walls. The south west facing gable window is supported by a new plinth and new ivy growth is underway.

The images supplied by a neighbour vary from the images gained by the case officer during site inspection. No dates are detailed on the photographs and it must be noted that the details have been passed to the Council's enforcement team for consideration. The appearance of the building with the photographs provided by the third party detail a single building, as 1 structure not a smaller portion and a larger portion as it appears on site at present. The works to the structure have had a considerable impact on the building and have been extensive. This is clear from site inspection.

Considering the building in terms of the SPPS, the building offers no architectural merit. The historic information provided by the applicant through email dated 22<sup>nd</sup> of

March 2017 refers to the stone barn being part of a larger farmstead of Mr John Boden in 1865 and a map was provided. Considering this detail I am not convinced that the current building has a historic link to the site and it must also be noted the site context would not support the building having historic links as all other buildings have since been lost. The building is not a locally important building and therefore is contrary to planning policy.

While the proposal is for a building that is not considered to be locally important, the details of the conversion must also be considered in relation to policy.

The building is a stone structure that has had extensive works and is a permanent construction.

Policy requires the conversion/re-use of the building to maintain the form, character and architectural features, design and setting of the building. Considering the level of works which have taken place on site which appear to be rebuilding work, it would not be possible to consider that the proposal would maintain the form, character or features of the building. The setting of the building also a consideration within the policy.

There is a Tree Preservation Order TPO/2011/001. This TPO is established and was placed on the locality which includes this site. This has a direct impact on the proposal as it refers to the trees along the north-eastern boundary of the site. The original site layout detailed removal of several trees however the applicant has since amended the site layout to illustrate the retention of the trees in site layout dated 28 MAR 2017. Considering the amended layout the proposal would still have an impact on the health and survival of the protected trees. This is due to the details of the proposal which include the proposed internal driveway and access onto the lane, the link and the extension are all, like the structure itself, within the tree canopy of the protected trees. Works within the tree canopy would have the potential to damage the root systems of the mature trees. Therefore the proposal would have a detrimental impact on the setting of the building and the trees which are afforded protection by the Tree Preservation Order which affects the site. No tree survey has been provided to consider the impacts the proposal would have on the protected trees.

The proposal details an extension in the form of a separate single storey building linked by a flat roof glazed element. The new extension would be sympathetic to the scale, massing and architectural style of the existing building. The wall finishes would be render, not stone as the existing, and the roof would be finished in natural slates to both the existing and proposed building. The proposal is in keeping with this aspect of the planning policy.

Considering the details of the proposal it would not result in overlooking, loss of light or impact the amenities of the neighbouring properties. The proposal would also not adversely affect the continued agricultural use of the adjacent lands. The nature of the proposed use as a 2 bedroom dwelling would be appropriate to the rural location. The site would have a large curtilage which reflects the existing walled boundary. Therefore it can supply a suitable level of amenity space and a sewage treatment plant is proposed.

Transport NI have raised significant objections to the proposal. While queries were raised with the applicant following representations received regarding ownership of the lane, it must be noted that this would be a civil matter and clarification by the Council had been sought. The access to the public road ie A50 would be through an existing narrow lane which serves several properties and access to agricultural lands. An additional dwelling, in the form of a conversion would be contrary to policy as it would be intensification of use rather than like for like ie a replacement dwelling. Policy AMP3 of PPS3 has a consequential revision detailed within Annex 1 of PPS21 which refer to development proposals involving access to a Protected Route, such as this planning application requires onto the A50. This policy identifies replacement dwelling, farm dwellings, dwelling relating to an established commercial or industrial enterprise as an exception which facilitates access onto the protected routes. It also identifies other categories of development stating that approval may be justified in particular cases for developments which meet the criteria for development in the countryside. However as the principle of the development has not been established the proposal therefore fails to satisfy this policy.

Natural Environment Division were consulted on the proposal and highlighted the mature trees on site would necessitate a Bat Roost Potential Survey. The Council also requested the applicant provide a completed biodiversity checklist for the site. This was highlighted to the applicant however as the principle of a conversion is unacceptable this additional information has not been submitted. Planning Policy Statement 2 (PPS2) Natural Heritage considers development impacts on protected spaces species and habitats. The proposal would have a detrimental impact on the protected trees and may have an impact on the local bat species contrary to policy NH5 in terms of the TPO. The amended site layout details the retention of all trees therefore the proposal would not necessarily have an impact on roosting bats.

The site is located within the Mourne Area of Outstanding Natural beauty. PPS2 Natural Heritage considered new development within AONB within Policy NH6. This policy requires new development, such as the conversion with extension, to be of an appropriate design, size and scale for the locality and respect features of importance to the character, appearance or heritage of the landscape. The policy also refers to traditional boundary details. The site has a traditional boundary detail that is referred to within the site layout as unchanged from that of the existing. This would respect the character of the locality, however the principle of the conversion has not been accepted and the concern over the potential for the development to have a detrimental impact on the protected trees would be contrary to planning policy.

**Recommendation:**

*Refusal – the building is not locally important, the re-use/conversion would not maintain or enhance the form, character and would have an adverse impact on the character and appearance of the locality, access to the public road would prejudice public safety, the width of the lane is a concern as is the intensification of use.*

**Refusal Reasons/ Conditions:**

*Refusal Reasons as recommended by planning officer and can be subject to change:*



The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building proposed is not a locally important building suitable for conversion.

The proposal is contrary to Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside in that;

- the reuse or conversion would not maintain or enhance the form, character and architectural features, design and setting of the existing building and would have an adverse effect on the character and appearance of the locality;
- access to the public road will prejudice road safety.

#### *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 the width of the existing access renders it unacceptable for intensification of use and is not in accordance with the standards contained in the Department's Development Control Advice Note 15.

The proposal is contrary to Planning Policy Statement 3, Policy AMP3 Access to Protected Routes (Consequential Revision) in that the proposal fails to meet the criteria for development in the countryside and would, if permitted, result in the intensification of use of an existing access onto a Main Traffic Route (Protected Route), thereby prejudicing the free flow of traffic and conditions of general safety.

#### *TPO*

The proposal is contrary to the Strategic Planning Policy Statement 2015 and Planning Policy Statement 2 'Natural Heritage' Policy NH5 Habitats, Species or Features of Natural Heritage Importance in that it has not been demonstrated that proposal is not likely to result in the unacceptable adverse impact on, or damage to the trees afforded protection by the Tree Preservations Order which affects the site.

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Case Officer DATE

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Appointed Officer DATE

<b>ITEM NO</b>	<b>18</b>			
<b>APPLIC NO</b>	LA07/2017/0033/O	Outline	<b>DATE VALID</b>	05/01/2017
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>			
<b>APPLICANT</b>	Mr John Tumelty 13 Blackstaff Road Clough BT30 8SW	<b>AGENT</b>	Mr Frederic Moore 26 Audleystown Road Strangford Downpatrick BT30 7LP 07740625949	
<b>LOCATION</b>	Between 18 and 20 Commons Road and 24 Commons Road Ballykinler Downpatrick  BT30 8DH			
<b>PROPOSAL</b>	Application for outline planning permission for the erection of a single dwelling and garage			
<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>
	0	0	0	0
			<b>Addresses</b>	<b>Signatures</b>
			0	0 0 0

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



Comhairle Ceantair  
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**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2017/0033/O

**Date Received:** 10 February 2017

**Proposal:** Erection of an infill dwelling

**Location:** Between 18 and 20 Commons Road, and 24 Commons Road Ballykinlar.

**Site Characteristics & Area Characteristics:**

The site is located along the minor Commons Road, Ardglass. It is comprised of a 0.3 hectare portion of land, which is positioned including No.18 Commons Road and the agricultural field to the rear, which extends to that shared boundary with No.24 Commons. The site immediately abuts the public road, and is proposed to be accessed via a private lane off Commons Road, Ballykinlar. The boundaries of the site are comprised of a post and wire fence along the public road, with mature hedging along the southern boundary the site shares with No 24 Commons Road.

The site appears elevated on approach from the north along Commons Road, given the nature of the road, however, on site the land is relatively flat.

The site is located within the rural area and Area of Outstanding Natural Beauty (AONB) as designated in the Ards and Down Area Plan 2015.

**Site History:**

There is no history for the site specifically, however, it is noted that the following applications have been determined within the immediate vicinity.

R/2005/1301/F – Replacement Dwelling - Approved

R/2005/1164/O – Retirement Dwelling - 475 Metres North, North East form junction of commons Road and Carricknab Road, Ballykinlar – Approval

R/2006/0965/RM – Retirement dwelling - 475 Metres North, North East form junction of commons Road and Carricknab Road, Ballykinlar – Approval



LA07/2015/1182/F – Removal of occupancy condition – Approval.

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

In assessment of this proposal regard shall be given to the Strategic Planning Policy Statement (SPPS), Ards and Down Area Plan 2015, PPS 3, 6 and 21 (CTY 1, 8, 13, 14, 15), Building on Tradition (Guidance Document), in addition, to the history and any other material consideration.

The application was advertised in the local press on 25.01.17

The following neighbours were notified of the proposal on 17.01.17:

18, 18a, 20, 22 and 24 Commons Road, Ballykinlar.

### **Consultations:**

Consultations were carried out with Transport NI, Northern Ireland Water (NIW) and Historic Environment Division (HED) and Water Management Unit (NIEA).

No objections have been received.

### **Objections & Representations**

No objections or representations have been received.

### **Consideration and Assessment:**

Planning Policy Statement 21 provides the policy context, its Policy CTY1 specifies a range of types of development considered acceptable in principle in the countryside and that will contribute to the aims of sustainable development. The applicant considers the proposal would be the development of a small gap within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8. As the Strategic Planning Policy Statement for Northern Ireland 2015 (SPPS) does not introduce a more stringent policy context in respect of such development PPS 21 remains the relevant policy context under which to consider the application.

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

In order to ascertain whether this site constitutes a small gap an assessment of the existing pattern of development reveals that No.18 Commons Road does not share the same road frontage as the site, in that its curtilage is restricted to the land immediately surrounding the dwelling, the dwelling faces towards the private lane and this dwelling is accessed from the private lane. The land immediately west of No 18, which abuts both Commons Road and the private lane, is agricultural land which is defined with a post and wire fence, it does not form part of the curtilage of

No 18 and therefore, No. 18 does not form part of road frontage development along Commons Road.

Consequently, the site outlined in red is not considered to be a gap site within a substantial and continuously built up frontage.

It is considered therefore that the development of this site would create a ribbon of development when viewed with those dwellings existing adjacent at Nos 24, 26 and 28 Commons Road.

**Recommendation:**

The proposed development fails to meet the requirements of PPS 21 and is considered contrary to CTY 1 and CTY 8.

**Receipt**

**Refusal Reason:**

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

Signed .....

Date .....

Signed .....

Date .....

LA07/2017/0033/O ... Item No 18.

Single dwelling between 18 and 20, and 24 Commons Road. Mr Sean Tumelty.

**Reason for refusal:** “... result in the creation of ribbon development along Commons Road.”

In considering this proposal there are two principal material considerations:

**Existing pattern of development**



OS Base, site outlined in red.

Note site is enclosed on three sides by substantial development: 'ribbon development' as defined by CTY 8 - Ribbon Development

- To North and East by ribboning along The Marlhole Lane - Nos 18, 20a, 20, an engineering works and 22, Commons Road;
- To South Nos 24, 26 and 28 which, with the The (private) Marlhole Lane and No 18 (both by virtue of para 5.33 of CTY 8 below) and the application or 'gap' site, form a ribbon of about 200 metres



- Also, the site and its surroundings display many characteristics of a 'cluster' as defined by Policy 2a, New Dwelling in Existing Clusters. Is the old folk network of rural roads enough to register as a crossroads at the junction of Commons Road and The Marlhole Lane? Is the engineering works or the large barn a focal point? The less prescriptive requirements of SPPS present an opportunity for approval on this basis.

#### **Policy CTY 8 Ribbon Development ... exception thereto.**

The critical passage is para 5.33, part of the '**Justification and Amplification**' of the 'policy headnote'. (My emphasis)

*"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 right angles and with gaps between them can still **represent ribbon development, if they have a common frontage or they are visually linked.**"*

The pattern of development offers three scenarios supported by CTY 8: Ribboning

1. Substantially built up frontage along Commons Road;
2. Substantially built up frontage along The Marlhole Lane; and
3. Substantially built up frontage combining both, along Commons Road turning into The Marlhole Lane.

#### **The Application**

The application was based primarily on the ribboning along Commons Road, from The Marlhole Lane (serving Nos 18, 20a, 20, the engineering works and 22 Commons Road), the application (gap) site, to Nos 24, 26 and 28. The area at the corner, 17 metres x 22 metres, seen by Planning as 'Agricultural', was given by the Applicant to the previous owner of No 18, in exchange for part of the latter's garden for provide access to his site at 20a. It is therefore perceived to be part of the residential curtilage of No 18. It fronts both Commons Road and the Lane. In the greater picture, this 'postage stamp' of land is not viable in agricultural terms. Nor does it detract from the visual and physical characteristics of the ribboning (see 5.33 above '.... they are visually linked').

It was also mooted that the proposal could be considered as 'infill' along The Marlhole Lane, or indeed a composite of both the Lane and Road.

Again, it was suggested that there might be merit in looking at the proposal in the light of CTY 2a, New Dwellings in Existing Clusters.

Planning however focused negatively and solely on the supposed agricultural character of a small inconsequential patch of land ignoring,

- the complex nature of the overall development pattern, presenting alternative solutions,
- the private laneway accessing 5 Planning units as part of a built up frontage,
- that visual linkage is sufficient to constitute ribboning (see para 5.33 above),
- the perception that such a small patch might be associated with the residential use of No 18,
- other alternative 'gap site' solutions (on The Marlhole Lane frontage),
- the possibility of approval under CTY 2a,
- the unsustainable opportunity cost of a refusal,
- .....

**Conclusion**

It appears that Planning has focused on the one potentially negative aspect of the proposal, in the face of the many positive opportunities clearly offered by a thorough interpretation of planning policy: for example, the complexities of interpretation addressed in para 5:33 are to cater for cases which may not be straightforward in physical terms, but which clearly merit approval when considered in the greater scheme of things ... wider settlement pattern, visual perception .....

A refusal will be to the ultimate detriment of achieving a satisfactory and sustainable pattern of development in the locality. A missed opportunity.

<b>ITEM NO</b>	<b>19</b>			
<b>APPLIC NO</b>	LA07/2017/0111/F	Full	<b>DATE VALID</b>	25/01/2017
<b>COUNCIL OPINION</b>	<b>APPROVAL</b>			
<b>APPLICANT</b>	Ballynahinch Community Centre 55 Windmill Street Ballynahinch BT24 8HB		<b>AGENT</b>	Newry Mourne & Down District Council Downshire Civic Centre Downshire Estate Ardglass Road Downpatrick BT30 7UA  0300 013 2233
<b>LOCATION</b>	55 Windmill Street Ballynahinch BT24 8HB			
<b>PROPOSAL</b>	Replacement of existing all weather pitch & 3 metre chain link fence to new muga pitch with associated drainage works. The erection of new 3 metre high sports fence, 5 metre high sports fence at roadside, with 2 number access gates.			
<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>
	0	0	0	0
			<b>Addresses</b>	<b>Signatures</b>
			0	0
			<b>Addresses</b>	<b>Signatures</b>
			0	0





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**Newry, Mourne  
and Down**  
District Council

**Application Reference: LA07/2017/0111/F**

**Date Received: 25<sup>th</sup> January 2017**

**Proposal: Replacement of existing all weather pitch & 3 metre chain link fence to new muga pitch with associated drainage works. The erection of new 3 metre high sports fence, 5 metre high sports fence at roadside, with 2 number access gates.**

**Location: Ballynahinch Community Centre, 55 Windmill Street, Ballynahinch.**



**Site Characteristics & Area Characteristics:**

The site in question is located within the settlement development limits of Ballynahinch as per the Ards and Down Area Plan 2015 but outside what is defined as the town centre. The site is adjacent to an existing leisure centre and is also adjacent to housing on Loughside Drive. The site itself is flat with lands to the rear leading to children's play equipment sitting on lower ground.

The area is adjacent to the town centre with a mix of uses surrounding the site. Lands adjacent are noted as being of Archaeological Potential but not the lands in question. The site is in existing recreation and open space as per Ards and Down Area Plan 2015.

**Site History:**

R/1985/0399 – 49-77 Windmill Street, Ballynahinch - Community Hall – Granted – 26-11-1985

R/1978/0303 – Nos 49-79 Windmill Street – Demolition of nos 49-79 Windmill Street – erection of leisure centre – granted – 3-4-79

R/1979/0999 – Ballynahinch, Co Down – Town Park – Granted - 20-10-1980

**Planning Policies & Material Considerations:**

The application is considered against Ards and Down Area Plan 2015, PPS 3 Access, Movement and Parking, PPS 8 Open Space, Sport and Outdoor Recreation and SPPS.

**Consultations:**

Transport NI was consulted on the application and responded with no objections. NI Water – Strategic applications responded with no objections.

**Objections & Representations**

The application was advertised in the local press 8<sup>th</sup> February 2017 which expired 22<sup>nd</sup> February 2017; the application was advertised 31<sup>st</sup> January 2017 which expired 14<sup>th</sup> February 2017, to date no representations have been made in relation to the application.

**Consideration and Assessment:**

The main policy consideration is PPS 8 Open space, Sport and Outdoor Recreation, Policy OS 1 Protection of Open Space.

The proposed rebound fencing is 3m in places and 5m along the road and will ensure that stray balls etc. do not cause any nuisance.

This application will see the re development and replacement of an existing all weather pitch with a Muga pitch, the application will see the improvement of existing outdoor facilities and will not offer a reduction of existing open space.

The proposed works are of a scale similar to the existing use and therefore are not likely to result in any demonstrable harm on the neighbouring land uses with particular attention given to the neighbouring residential properties. The application is considered acceptable.

The application is also in keeping with SPPS. The existing pitch is in need of updating and the fencing surrounding the pitch is in a poor state. The proposal will improve the overall visual impact of the area which is visible within the town of Ballynahinch.

There have been no objections raised in relation to the application and the works are considered acceptable.

It is noted that amended drawings and P1s were submitted as the pitch was altered from a 3G pitch to a Muga pitch, this amendment would not require further consultation or notification. Also the proposal description was altered to become clearer.

**Recommendation:**

The application is considered acceptable, therefore approval is recommended.

**Conditions:**

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

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

**Case Officer:****Authorised By:****Date:**



<b>ITEM NO</b>	<b>23</b>			
<b>APPLIC NO</b>	LA07/2017/0175/F	Full	<b>DATE VALID</b>	03/02/2017
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>			
<b>APPLICANT</b>	Mr Owen Miskelly 36 Crabtree Road Ballynahinch BT24 8RH		<b>AGENT</b>	Surveying & Architectural Mgmt Mulloven Cottage 40A Drumsnade Road Ballynahinch BT24 8NG
				NA

**LOCATION** 250m South East Of No 19 Nutgrove Road, Annadorn, Downpatrick  
**PROPOSAL** Change of design and new garage block to dwelling previously approved under ref: R/2005/1517/RM with development having commenced (amended site address)

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

- 1 The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location as the previous approval has expired.
- 2 Having notified the applicant under Article 3 (6) of the Planning (General Development Procedure) Order (Northern Ireland) 2015 that the Planning authority require verifiable proof that the development previously approved under reference R/2005/1517/RM had commenced within the statutory time period, and having not received sufficient information, the Council refuses this application as it is the opinion of the Council that this information is material to the determination of this application.

**Application Reference:** LA07/2017/0175/F

**Date Received:** 07.02.17

**Date of site visit:** 20.02.17



**Proposal:**

The Council has received an application seeking planning approval for proposed change of design and new garage block to dwelling previously approved under ref: R/2005/1517/RM.



**Location:** 250m South East of No. 19 Nutgrove Road, Annadorn, Downpatrick

**Characteristics of site:**

The entrance to the site is located approximately 360m West along the Nutgrove Road from the junction with the Buckshead Road and is beside an existing concrete cattle crush. The site of the dwelling is approximately 170m South of the Nutgrove road and is located in the North Eastern corner of a larger agricultural field. Access to the site from the Nutgrove Road is through an agricultural gate between the cattle crush and hedge and then via a long, straight lane that runs along existing mature hedgerow field boundary. This access to site comprises of a crushed stone base and is apportioned from adjacent large agricultural field by way timber post and stock proof fence.

The site of dwelling is within the NE corner of another large agricultural field at intersection of four fields and this field itself is in the form of a large drumlin which is a prominent feature in the landscape. The area of the site has been demarcated by way of timber post and stock proof fence. Within this enclosed area the site has been stripped and levelled being largely excavated from sloping side of large Drumlin and foundations are in place. The drumlin rises approximately 10-12m high and acts as a natural backdrop to this site. The site is surrounded on all four sides by agricultural land and the area surrounding this drumlin is relatively flat. The northern and eastern boundaries of this site are defined by existing mature native hedgerow. The southern and western boundaries are defined by a newly erected 1.2m high timber post and stock proof fence.

**Characteristics of area:**

The site is located in the countryside and not within or near to any defined settlement limit as stated in the Ards and Down Area Plan 2015 and shown on Map No.3/001a. It is located in a secluded, sparsely populated rural area between Loughinisland and Downpatrick with a variance of styles between old and new properties and farm buildings. The surrounding land is used mainly for agricultural purposes and the predominant feature of this area being the rolling drumlin topography typical of this region and native species hedgerows.

**Site History:**

R/2005/1517/RM Approx 170m south of Nutgrove Road & 360m west of junction with Buckshead Road

Proposed Dwelling

Permission granted - 09.11.2006

R/2002/0637/O Approx 170m South of Nutgrove Road & approx 360m West of junction with Buckshead Road,

Proposed dwelling .

Permission granted - 08.11.2002

R/2004/1752/O 180m South of 19 Nutgrove Road, Annadorn, Downpatrick

Private dwelling house.

Permission refused - 14.05.2007

R/2004/0495/O 240 metres South West of junction with Buckshead Road, Nutgrove Downpatrick  
A dwelling

Permission refused - 11.02.2006

**Planning Policies & Material Considerations:**

The Ards and Down Area Plan 2015

SPPS – Strategic Planning Policy Statement for Northern Ireland

This policy provides overall context under which the Council will determine planning applications.

Planning Policy Statement 3: Access, Movement and Parking

Policies AMP 2 – Access to Public Roads and AMP 7 – Car Parking & Servicing Arrangements and DCAN 15 - Vehicular Access Standards set out the main considerations that the Council will take into account in assessing the suitability of this proposal with regard to vehicular access, servicing and parking requirements.

Planning Policy Statement 21: Sustainable Development in the Open Countryside

Policies CTY 1 – Development in the Countryside, CTY 13 – Integration and Design of Buildings in the Countryside & CTY 14 – Rural Character of PPS -21; Sustainable Development in the Open Countryside set out the main considerations that the Council will take into account in assessing proposals for dwellings of this type and in this location. The provisions of this policy will prevail unless there are any other overriding policies or material considerations that outweigh it and justify a contrary decision.

Building on Tradition:

A Sustainable Design Guide for the Northern Ireland Countryside (April 2012)



**Consultations:**

No consultations were sought in respect of this proposal.

**Objections & Representations:**

1 No. neighbouring property within proximity to this site (No. 19 Nutgrove Road) was initially notified with regard to this proposal on 13.02.17 and re-notified again on 10.04.17 due to amended site address. This application was initially advertised in the local press on 22.02.17 and it was re-advertised again on 19.04.17 due to amended site address. To date no objections have been received. A representation was received from Mr Jim Shannon MP on 16.02.17 supporting this application and seeking an update on behalf of the applicant and a further representation was received from Councillor William Walker on 27.02.17 also in support of this application and seeking an update on behalf of the applicant.

Note: The site address of this application as originally submitted, advertised and neighbour notified was Approx 170m south of Nutgrove Road and 360m west of junction with Buckshead Road. This address was the same as originally approved outline planning application R/2002/0637/O and approved reserved matters application R/2005/1517/RM. However upon consideration this address was considered to be too vague and could have lead to confusion as to exact site location. The agent was requested to amend site address to refer to closest neighbouring property. The agent subsequently amended the P1 Application form with new address stated as: 250m South East of No.19 Nutgrove Road, Annadorn, Downpatrick and it was under this new address that this application was re-neighbour notified and re-advertised.

**Consideration of the proposal:**

This current proposal (LA07/2017/0175/F) was received by the Council on the 03<sup>rd</sup> of February 2017 and seeks to change the house design previously approved under R/2005/1517/RM and includes some re-sitting within the site and re-design and enlargement of proposed dwelling and additional large detached garage with first floor level over.

The principle of development has been established on this site under planning application reference number R/2002/0637/O and again more recently under planning application reference number R/2005/1517/RM. A single storey detached dwelling was approved on the 07<sup>th</sup> of November 2006 under application reference number R/2005/1517/RM. The effect of Condition 1 of this approval required the development to be begun by 07.11.08. Condition 2 of this approval required the vehicular access, including visibility splays be provided in accordance with the approved plans, prior to the commencement of any works or other development on the site.

It is noted that at date of site inspection (20.02.17) construction work in relation to the dwelling as originally approved had commenced. It was evident that an access lane had been created from the public road to the site. This access lane is located as per previous reserved matters approval and runs along existing mature hedgerow field boundary. This access to site comprises of a crushed stone base and is apportioned from adjacent large agricultural field by way timber post and stock proof fence.

The site of dwelling is within the corner of another larger agricultural field and this area has been demarcated by way of timber post and stock proof fence. Within this enclosed area the site has been stripped and levelled being largely excavated from sloping ground and foundations are in place. The

foundations as excavated (some of which have been filled with concrete) are in roughly in accordance with the layout and location of dwelling as originally approved. This change of house type application was received Newry, Mourne and Down District Council Planning Department on 03.02.17. Council records show that this site was inspected by Building Control on 05.02.2010 (post expiry date). The notes from this inspection state that no house or development as per submitted site plan, deemed reasonable to assume works not started.

Research of the site using GIS historical ortho-photography data shows that the site of dwelling to the North East corner of large field has not been commenced, neither being fenced off or excavated and remains in use as agricultural land on 05.10.2008 and remains in a similar state in 01.09.2010 and 01.07.2014 with no evidence of any excavations or foundations being in place. A letter was sent to the agent on 13.02.17 requesting that any supporting information and/ or evidence that may be in his possession demonstrating that the implementation of application reference number R/2005/1517/RM commenced on site before the expiry date (07.11.2008).

The agent subsequently submitted a letter dated 21.02.2017 stating that the previous approval R/2005/1517/RM remains extant with the development having commenced by way of the completion of the access road to the proposed dwelling site. The agent has attached images to this letter from Google street view dated October 2008 and it is contended that these images show the entrance to the site with new access road formed in accordance with permission R/2005/1517/RM.

It is the case officers opinion that these images do indeed show an access lane in place leading from the Nutgrove Road to the site of proposed dwelling and although this lane itself is as per previous approval the access arrangements at junction of lane and public road are not in accordance with the approved plans most notably the existing cattle crush still being in place whereby approved plans show that it is to be demolished thus allowing the entrance to be further to the L.H.S.

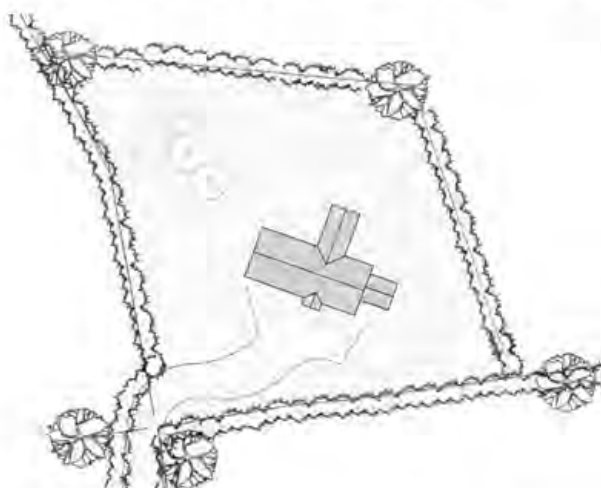


01.09.2010 - <http://nmdc.maps.arcgis.com/home/webmap/viewer.html>

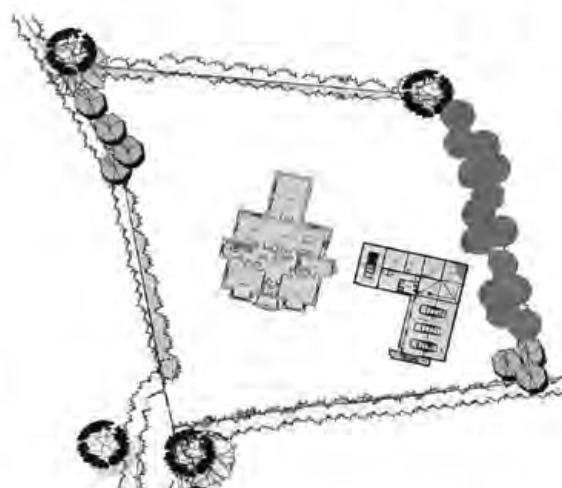
This information as submitted by the agent is not considered by this Department as verifiable proof that commencement of planning application reference number R/2005/1517/RM occurred before the expiry date of 07.11.2008. It is considered that the issue of commencement remains unproven. The applicant/agent has failed to adequately demonstrate the development approved under R/2005/1517/RM had commenced within the statutory time period in order to secure planning permission on this site. As a result the application fails to meet Policy CTY 1 of Planning Policy Statement 21 in that there are no overriding reasons for this development is essential in this rural location as the previous approval has expired.

Notwithstanding the issue of commencement this change of house type design (as proposed) is considered be an unduly prominent feature in the landscape and this is ensured by change in style from simple single storey bungalow to a two storey mansion with period features. The ridge height of dwelling will increase by 4.5m from previously approved height of 5.7m to proposed 10.2m, the footprint will increase by 56.0m and the internal floor area of dwelling will more than double. The scale, style and massing of dwelling is not considered to be in keeping with the site.

Combined with the proposed large detached L-shaped garage with first floor level over this change of house type application represents an increase of more than double the external footprint from what was previously approved on this site. The total internal floor area of garage and dwelling is 860m<sup>2</sup> compared to an internal floor area of 220m<sup>2</sup> as previously approved. Having considered the site and the surrounding context it is considered the design of the dwelling and garage as discussed above is inappropriate for the site and its locality and will have a greater impact visual impact when viewed from both the Buckshead and Nutgrove Roads than previously approved in this rural area.



Site Layout (as approved under R/2005/1517/RM)



Site Layout as proposed under this application



Front elevation (as approved under R/2005/1517/RM)



**Summary:**

Main Dwelling	Approved	Proposed	Increase/Decrease
Front/Rear elevations	24.1 m	19.0 m	-4.1 m
Side elevations	18.1 m	23.5 m	5.4 m
Main gable width	9.1 m	14.3 m	5.2 m
Height of main ridge*	5.7 m	10.2 m	4.5 m
Internal floor area **	220.3 m <sup>2</sup>	468.0 m <sup>2</sup>	247.7 m <sup>2</sup>
External footprint	247.0 m <sup>2</sup>	303.0 m <sup>2</sup>	56.0 m <sup>2</sup>

Garage	Approved	Proposed	Increase
Length	N/A	18.0 m	18.0 m
Width	N/A	18.0 m	18.0 m
Height of ridge*	N/A	6.0 m	6.0 m
Internal floor area **	N/A	392.0 m <sup>2</sup>	392.0 m <sup>2</sup>
External footprint	N/A	213.75 m <sup>2</sup>	213.75 m <sup>2</sup>

\* Height of ridge above finished floor level.

\*\* Combined internal area of both ground and first floor level.

It is also noted that the area of the site has increased significantly within this application. The previous application form gives the site area as being 0.35 hectares whereas this application states the site area to be 0.72 hectares. The red line site boundary has moved approximately 20m further west and 20m further south.



Front Elevation as proposed under this application

**Recommendation:**

After consideration of all relevant planning policies and other material considerations this proposal does not satisfy the requirements of the policy and the issue of commencement remains unproven and therefore it is recommended that it is refused permission.

Should the Planning Committee be minded to approve this application contrary to the officer's recommendation, the Committee should be mindful that the commencement of previous approval is not the sole issue. The Planning Department have concerns in relation to the change of house type proposed and its integration into the landscape and associated impact on the rural character.

Signed: \_\_\_\_\_ Date:

Signed: \_\_\_\_\_ Date:

**Refusal Reasons:**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location as the previous approval has expired.
2. Having notified the applicant under Article 3 (6) of the Planning (General Development Procedure) Order (Northern Ireland) 2015 that the Planning authority require verifiable proof that the development previously approved under reference R/2005/1517/RM had commenced within the statutory time period, and having not received sufficient information, the Council refuses this application as it is the opinion of the Council that this information is material to the determination of this application.

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

**ITEM NO** 24  
**APPLIC NO** LA07/2017/0240/F **Full** **DATE VALID** 16/02/2017  
**COUNCIL OPINION** REFUSAL  
**APPLICANT** Father B Brown 4 Leitrim Road **AGENT** Ewart Davis 14  
 Castlewellan Killynure Road  
 BT31 9BA Carryduff  
 Belfast  
 BT8 8ED  
 07969919145/0289

**LOCATION** 110m south east of 29 Ballymaginthy Road  
 Castlewellan  
 BT31 9BH

**PROPOSAL** Conversion of stone building to dwelling with extensions.

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

- 1 The proposal is contrary to Strategic Planning Policy Statement (SPPS) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
- 2 The proposal is contrary to Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the new extensions are not sympathetic to the scale and massing of the existing building.





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**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2017/0240/F

**Date Received:** 16<sup>th</sup> February 2017

**Proposal:** Conversion of stone building to dwelling with extensions

**Location:** 110m south-east of No 29 Ballymaginthy Road, Castlewellan

**Site Characteristics & Area Characteristics:**



The site is located along the minor Ballymaginaghy Road, Castlewellan. It is comprised of a 0.1 hectare portion of land, which contains a stone building that sits gable end to the road. The building has a corrugated roof and is overgrown with vegetation. There are a number of window and door openings along the front elevation at ground and first floor. On the southern gable there is a stone external staircase which allows access to the first floor area. The land surrounding the building is currently overgrown with vegetation. The site tends to slope gently upwards in a southerly direction and is accessed directly from Ballymaginthy Road by an existing lane, which is not included within the site.

The surrounding topography is typically undulating agricultural land, with more elevated land to the south. The area is predominantly used for agriculture but there are several single dwellings dispersed throughout the area.

### **Site History:**

Q/2015/0045/F - 110m south-east of No 29 Ballymaginthy Road, Castlewellan – Replacement dwelling – refused 17.09.15.

It was considered that the building on site does not exhibit the essential characteristics of a dwelling and therefore is not suitable for replacement.

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

In assessment of this proposal regard shall be given to the Strategic Planning Policy Statement (SPPS), Ards and Down Area Plan 2015, PPS 21 (CTY 3, 13, 14), Building on Tradition (Guidance Document), in addition, to the history and any other material consideration.

The application was advertised in the local press on 01.03.17

### **Consultations:**

In assessment of the proposal consultations were carried out with Transport NI, Northern Ireland Water (NIW), NIEA Water Management Unit and NIEA Natural Environment Division (NED) and Environmental Health.

No objections have been received, however, it is noted that NED have advised that a Biodiversity Checklist should be completed

### **Objections & Representations**

A letter has been received from Mr Middleton 66 Bannanstown Road, stating that he is the owner of visibility splays to the east of the site. It is noted that the applicant has served notice on Mr Middleton regarding this application.

### **Consideration and Assessment:**

The proposal seeks full planning permission for the conversion and extension of an existing building to a dwelling. The extension will be located to the southern end of the building and will be 6.2m long with a depth of 5.4m and a 6.6m ridge height. A further extension is proposed to the western side of the existing - this section will be comprised of a single storey element with a maximum ridge height of 4m, with a maximum length of 7.6m and a gable depth of 5.5m. The window and door openings on the original building will be retained and fitted with hardwood double glazed windows and doors. The extensions will be finished with random pattern stonework to match existing.

In assessment of the proposal against current policy, it is noted that the Strategic Planning Policy Statement (SPPS) states that provision should be made for the sympathetic conversion and re-use, with adaptation if necessary, of a locally important building (such as former school houses, churches and older traditional barns and outbuildings), as a single dwelling, where this would secure its upkeep and retention. In assessment of this, it is considered that the building on site is not one of local importance and the proposal therefore fails the first test.

Policy CTY 4 of PPS 21 provides further policy requirements (a) – (g), in assessment of these criterion, it is considered that the proposed extension, particularly that to the southern end is not sympathetic to the scale and massing of the existing, given that it proposes to raise the roof height of the extension above the existing – a more subordinate extension should be proposed.

On the basis of the above, a recommendation to refuse will be put forward.

**Recommendation:** Refuse

**Refusal Reasons:**

Signed .....

Date .....

Signed .....

Date .....



<b>ITEM NO</b>	<b>26</b>			
<b>APPLIC NO</b>	LA07/2017/0634/F	Full	<b>DATE VALID</b>	27/04/2017
<b>COUNCIL OPINION</b>	<b>APPROVAL</b>			
<b>APPLICANT</b>	Newry Mourne and Down DC Downshire Civic Centre Downshire Estate Ardglass Road Downpatrick BT30 7UA		<b>AGENT</b>	Newry, Mourne & Down District Council Downshire Civic Centre Downshire Estate Ardglass Road Downpatrick BT30 7UA  03000132233
<b>LOCATION</b>	Saintfield Hockey Club Adjacent to 40 Comber Street Saintfield			
<b>PROPOSAL</b>	Replacement of existing all weather pitch, to new synthetic pitch with associated drainage works. The erection of new 3 metre high sports fence, 4.2 metre high sports fence behind goals, with 2 number pedestrian gates 1 number vehicular access gates			
<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	
	0	0	0	
			<b>Addresses</b>	<b>Signatures</b>
			0	0
			<b>Addresses</b>	<b>Signatures</b>
			0	0



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**Newry, Mourne  
and Down**  
District Council

**Application Reference: LA07/2017/0634/F**

**Date Received: April 2017**

Proposal: Full permission is sought for the replacement of existing all weather pitch, to new synthetic pitch with associated drainage works, including the erection of new 3 metre high sports fence, 4.2 metre high sports fence behind goals, with 2 number pedestrian gates 1 number vehicular access gates, on lands at Saintfield Hockey Club, Comber Street, Saintfield.

Applicant: Newry, Mourne and Down District Council.

In line with the Councils Scheme of Delegation this application is required to be presented before the Planning Committee (as the Council are the applicant).

**Site Characteristics & Area Characteristics:**

The site is located on the inner edge of the settlement development limit of Saintfield, on land zoned as an existing area of open space and recreation, as identified in the Ards and Down Area Plan 2015. The site is outside Saintfield Conservation Area and Area of Archaeological Potential.

It is noted the adjoining lands to the north comprise the extensive grounds of Saintfield Demesne and LLPA (8).

The site outlined in red comprises the grounds of the Saintfield hockey pitch and associated entrance road.

This pitch is accessed via a private drive off Comber Street/Road, whereby this drive serves this hockey pitch and the cricket club/ground.

This hockey pitch is located beyond the cricket ground access via a path whereby the lands rise from the cricket ground. This pitch comprises a flat gravel surface with goals at either end and floodlighting to either side.

It is noted the hockey pitch occupies an elevated level above the cricket ground however is not readily visible from any surrounding public view point due to its siting and separation distance from any public view point. It is also noted this pitch is surrounded and enclosed by mature planting.

**Site History:**

A history search has been carried out whereby it is noted there has been several previous permissions for both the original hockey pitch with porous surface (R/75/0815), and also for the floodlighting around this pitch (R/93/1001).

**Representations**

None received to date (06-06-17).

Having account the extent of the red line and current practice neighbour notification was undertaken with 2 properties in Old Cart Road in May 2017, while the application was also advertised in the local press in April 2017.

**Consultations:**

Having account the nature of this proposal and constraints of the site and area, consultation was undertaken with Transport NI, Historic Environment Division (HED) and Environmental Health as part of this Full application, who offer no objections in principle.

**Planning Policies & Material Considerations:**

**The application is considered against Ards and Down Area Plan 2015, SPPS, PPS2, PPS3, PPS6, PPS8.**

As stated above the site comprises Saintfield Hockey pitch, whereby the red line only extends to include this pitch and entrance road.

This pitch is adjacent to the existing cricket ground, and is set well back from any public road or viewpoint, and although is elevated is not readily visible from any public viewpoint being enclosed by mature planting.

As stated above this site is located on the inner edge of the development limit of Saintfield on land zoned as an existing area of open space and recreation. The works proposed include retaining this pitch, and providing a new surface with associated drainage works, with new fencing and gates.

The existing surface comprises gravel whereby it is proposed to replace this with a synthetic sand dressed surface, coloured green. It is noted there is no fencing around this pitch at present whereby it is proposed to erect a 3m high fence around the outside of the entire pitch, with higher 4.2m high ball stop fencing behind each goal, and a 1.2m high spectator fencing along the eastern side of the pitch inside the outer 3m high ball stop fence. The existing floodlighting is to be retained with new team dug outs also being provided. A new gated entrance is also to be provided.

While it is considered the site has minimal impact from any public viewpoint, it is noted the lands to the rear of the site comprise Saintfield demesne which are zoned as a LLPA (8), and which include the listed Saintfield house and other listed structures, and large areas of parkland landscaping and important tree groups. It is noted the extent of the Historic Park, Garden and Demesne however do not extend to adjoin the existing hockey pitch.



While it is noted the existing pitch adjoins this LLPA, it is considered the proposed works including new surface, fencing and gates, will not result in the loss of or any unacceptable adverse affect on the environmental quality, integrity or character of this landscape or area, due to their nature, over and above that existing. It is also noted this existing pitch is largely surrounded and enclosed by mature planting. It is also noted Historic Environment Division (HED), who were consulted due to the zonings and constraints in this area, are content with the proposals as submitted.

It is also noted Environmental Health and Transport NI offer no objections to this proposal.

Taking into account the above it is considered the proposal does not offend the content of the Area Plan or the provisions of any applicable policy as listed above. As such approval is recommended.

**Recommendation: Approval**

<b>ITEM NO</b>	30		
<b>APPLIC NO</b>	R/2014/0657/F	Full	<b>DATE VALID</b> 12/12/2014
<b>COUNCIL OPINION</b>	APPROVAL		
<b>APPLICANT</b>	Bluebuild Developments ltd C/ O 91 Main Street Bangor BT20 4AF	<b>AGENT</b>	LIKE Architects 34 Bedford Street Belfast BT2 7FF  02890278000
<b>LOCATION</b>	The Mourne Observer The Roundabout Castlewellan Road Newcastle and Lands Adjacent No 10 Burren Park BT33 0JX		
<b>PROPOSAL</b>	Proposed Residential Development Comprising 11 No. Dwellings (10 Semi-Detached and 1 Bungalow) (Amended proposal and landscaping details)		
<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b> <b>SUP Petitions</b>
	18	0	0                      0
			<b>Addresses Signatures</b> <b>Addresses Signatures</b>
			0                      0    0    0



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Newry, Mourne  
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District Council

**Application Reference: R/2014/0657/F**

**Date Received:** 12<sup>th</sup> December 2014

**Proposal:** Proposed Residential Development Comprising 11 No. Dwellings (10 Semi-Detached and 1 Bungalow) (Amended proposal and landscaping details)

**Location:** The Mourne Observer, The Roundabout, Castlewellan Road, Newcastle and Lands Adjacent No 10 Burren Park

This site is located in Newcastle Town within the Mid-East coastal portion of the District.

Site detailed below, note red line is approximate and is a visual aid, see plans for accurate details.



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

The site is a roadside site located within Newcastle. The site is relatively flat and unprofiled and divided into 2 portions consisting of an open greenfield site within the smaller northern section and the larger rectangular southern portion which houses a large building which is the site of the Mourne Observer office with parking and a security fence. The site fronts onto the roundabout and Castlewellan Road and



situated between 2 storey detached dwelling of 10 Castlewellan Road and the single storey dwellings of Burren Park. The site can be viewed from the Dundrum Road and Castlewellan Road.



View from adj to  
10 Castlewellan Road



View from adj to 12 Burren Park

The area has a mixed use with a heavy residential influence within the immediate vicinity of the site.

#### **Site History:**

R/1975/0008, Erection of steel frame single storey storey for paper and generator at Castlewellan Rd, Newcastle, Approval 11.3.1975

R/1980/0885, extension to printing works at Castlewellan Road, Newcastle, Approval 14.05.1981

R/1993/1064, 2 pairs semi-detached dwellings (amended plans) site at junction of Burren Park and Castlewellan Road, Newcastle Granted 21.12.1994

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

The proposal will be considered in relation to the Ards and Down Area Plan 2015, the Strategic Planning Policy Statement for Northern Ireland, PPS7 Quality Residential Environments and PPS7 Addendum Safeguarding the Character of Established Residential Areas, PPS3 Access, Movement and Parking, PPS12 Housing in Settlements, PPS15 Planning and Flood Risk as well as guides to include Parking Standards, Creating Places, Living Spaces and DCAN 15 Vehicular Access Standards. The site is within the settlement limits of Annsborough village however it is also within the AONB and therefore PPS2 Natural Heritage will also be considered.

**Consultations:**

NI Water, public water sewer, foul sewer and surface water sewer available within 20m of the proposal and the Waste Water Treatment Works has available capacity. Information for the applicant is included within their response

Transport NI, layout considered unsatisfactory and amended plans sought in comments returned 15<sup>th</sup> January 2015. Plans amended and re-consultation with Transport NI returned comments 29<sup>th</sup> February 2016 to request an amended layout. Amended plans submitted 17<sup>th</sup> November were acceptable in terms of layout for Transport NI and drawings to facilitate Private Streets Determination (PSD's) were requested within their response dated 16.1.2017.

NIEA Water Management Unit, no objection as the sewage element disposal terminates at Newcastle Waste Water Treatment Works and provides information for the applicant.

DAERA Rivers agency – 24.12.2014 requested a Drainage Assessment as site is for more than 10 units and surface water run-off may have an impact on other development. Drainage Assessment provided 17.11.2016. Response received 18.1.2017 which advised the site does not lie within the 1 in 100year fluvial plain, and accept the details of the Drainage Assessment provided which advises of a 22% decrease in surface water run-off from the site post development. Rivers Agency did request more information due to Policy FLD5 in that the Development is in close proximity to reservoirs. However this was discussed with Senior Officers and as this refers to Lough Island Reeve in Kilcoo, a considerable distance from the site (Approx 6 miles) it was set aside due to low risk of impact on the site.

**Objections & Representations**

The site was originally advertised in Mourne Observer and Down Recorder on 07.01.2015 for total of 13 units (6 semi-detached and 7 townhouses).

Amended plans were received and the scheme was readvertised in the MNourne Observer on the

The scheme was reduced to 11 units (10 semi-detached and 1 detached dwelling) on the 17<sup>th</sup> of November 2016 and the application was readvertised in the Mourne Observer on the 30.11.2016.

A total of 36 neighbouring dwellings were notified.

A number of representations have been received – total 18. The following is a brief overview of the objections raised concerning planning matters:

- Concern relating to the access proposed and available sight lines
- The development would result in increased traffic at this busy roundabout adjacent to the site
- Impact on the character of the area and reference to the proposed 2 storey semi-detached nature of the dwellings proposed as they neighbour single storey detached dwellings of Burren Park



- Impact the proposal has in terms of loss of light and overlooking of the dwellings of Burren Park
- Impact on the character of the area in terms of density for 13 units on the site
- Impact of proposal in terms of flooding and response from NI Water

**Consideration and Assessment:**

The proposal has been amended during the processing of the application. It has been reduced from 13 units to 11 units. The layout details 10 semi-detached dwellings and a detached dwelling. The following impact is taken from the proposed landscaping plan which accompanies the proposal:



The semi-detached dwellings on sites 2 to and including 11 are 2 storey with a height of approx. 8.6m. The corner site opposite 12 Burren Park is site 1 within the application, this is a storey and a half hipped roof dwelling with roof dormers on the front and rear elevation. It stands at approx. 5.6m high and the elevation facing Burren Park is finished with a projecting bay window.

The proposal includes a mix of finishes with red brick, reflecting the finishes of No 10 Castlwellan Road, and render which reflects the finishes of Burren Park.





The proposal has railings along the elevation fronting onto Castlwellan Road with pedestrian access only. The proposal will have a central access to the public road through Burren Park and each unit can accommodate 2 car parking spaces within their curtilage.

The principle for development is largely acceptable as the site is within the settlement limits of Newcastle. The site is the current Mourne Observer site therefore the proposal would potential result in re-development of a Brownfield site within Newcastle. Both the SPPS and PPS7 support sustainable development. Housing will only be granted where it would create a quality and sustainable residential environment.

Considering the proposal in relation to the surrounding context of the site. This is a roadside site which will front onto the Castlwellan Road. The site neighbours established housing to the side and rear. The site will share access, onto the Castlwellan Road, through Burren Park. This is an established residential development of single storey dwellings with a density of approx. 19 units per hectare (12 units within 0.64Ha). The site shares its southern boundary with the detached 2 storey dwelling of 10 Castlwellan Road which has a large plot and the dwelling itself is set back behind a 1.8m high red brick wall. To the rear of the site is the high density development of Dunwellan Park which consist of a mix of terrace dwellings . This has a density of 49 units per hectare which is 70 units within 1.44Ha.

The proposal will create an attractive front onto the Castlwellan Road. The proposal also addresses frontage onto Burren Park as the unit proposed within site 1 is storey and a half with a hipped roof. This will create a step in height from the 2 storey proposed dwellings to the single storey Burren Park dwellings. This unit will also have 3 public frontages (Castlwellan Rd, Burren Park and the internal layout itself) which has been reflected in the design of the dwelling proposed.

While the development has a higher density than the neighbouring Burren Park, the density is balanced between the high density development of Dunwellan Park and the lower density development of Burren Park, not forgetting No 10 Castlwellan Road. On balance, the development proposed reflects the surrounding context and would be appropriate to the character and topography of the site. The proposal is in keeping with Policy QD1 (a) of PPS7 and LC1 of PPS7 Addendum safeguarding the character of established residential areas.

The site is a brownfield site and therefore while it contains the Mourne Observer, a local newspaper, it does not contain features of archaeological or built heritage. The proposed layout includes a detailed landscape plan which will soften the appearance of the development. There are no landscape features within the current site that would be necessary to protect or accommodate within the proposal. Each dwelling has a suitable amount of amenity space and while sites 2-6 average 56sqm of amenity space this does not highlight that the dwellings will also accommodate in-curtilage car parking and a small front garden. The front garden of units on sites 1-7 provide a set back from Castlwellan Road. The set back from 12 Burren Park from Castlwellan Road is the side gable wall, while the proposal provides a frontage onto Castlwellan Road, as well as the dwelling of site one accommodating a frontage onto Burren Park. The dwellings on sites 1-6 share their rear boundaries with the internal access road of the development which presents difficulties for ensuring the

rear amenity space remains private. The units accommodate this through the use of a 1.8m hi wall with planting to soften the appearance. The landscaping plan and details will be conditioned. This is in keeping with Policy QD1 (b) and (c).

The proposal has a legible site layout and there are no public rights of way within or affecting the site. The site layout also accommodates 2 parking spaces within the curtilage of each of the 11 units proposed. This is in keeping with parking standards and planning policy. Policy QD1 also requires that new development is designed to deter crime and promote personal safety. The proposal includes an internal footpath which accommodates safety for pedestrians.

Transport NI initially had some difficulties with the scheme in its original form. However the applicants planning agent addressed the concerns and as a result Transport NI is content to provide Private Streets Determination on the scheme. Concerns have been expressed in representations relating to road safety. These concerns can be eased through the favourable response the application, in its current form, has from Transport NI.

In relation to the impact on neighbouring residents representations have been received. The proposal would create no conflict with No 10 Castlwellan Road or the dwellings within Dunwellan Park. This is visible through the landscaping details proposed. Unit 8 shares its rear boundary with Dunwellan Park which will be protected by 1.8m high screen wall. The boundary of No 7 and No 8 as shared with No 10 Castlwellan road is defined by a hedge and the car parking between the units divided by a hedge.

The proposal is accessed through Burren Park. The side boundary of No 10 Burren Park will be shared with the internal access of the proposal. This boundary is currently defined by a close board fence which appears to be within the ownership of No 10 Burren Park. To soften this boundary the applicants propose a hedge and planting. This continues around the turning area adjacent to unit 11. The established dwellings of No 7, 8, 9 and 10 Burren park share their rear boundary with the side boundary of the proposed site and unit 11. The dwelling proposed on site 11 is a 2 storey semi-detached dwelling and its side gable will be approx. 1.5m from the boundary shared with no 8 and 9 Burren Park. This side gable has a 1<sup>st</sup> floor ensuite window however due to the generous rear amenity space of Nos 8-10 Burren Park with average rear garden depth of 16m the potential for overlooking is minimised. The 1<sup>st</sup> floor rear gable wall includes master bedroom window and bathrooms, however due to the orientation and separation distance the proposal would not result in overlooking of the rear amenity space of No 7 and 8 Burren Park. Planting along the shared boundary will also protect the privacy of the established dwellings. The distance between the proposed units and the existing dwellings of Burren Park will also ensure there would be no loss of light to the private amenity of the dwellings.

It must be noted that while the dwelling at No 10 Burren Park sought a solid wall definition along the boundary shared with the site. Council would note that this boundary is currently defined within No 10 Burren Park with a 1.8m high close board fence. The applicant proposes hedges and heavy tree planting along the boundary shared with No 10 Burren Park.

Rivers Agency raised the issue of Lough Island Reeve Reservoir in Kilcoo, however, this is 6 miles from the site and it is not considered necessary for the applicant to amend the Drainage Assessment to reflect this distant reservoir. Rivers Agency accepted the details of the Drainage Assessment and noted the proposal would result in a reduction of surface water. The proposal is in keeping with PPS15.

**Recommendation:**

*Approval* - The proposal is in keeping with planning policy.

**Refusal Reasons/ Conditions:**

Conditions as recommended by case officer and consultees, can be subject to change prior to issuing decision;

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

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

All planting indicated on site layout plan R/2014/0657/13 bearing the date stamp 321 DEC 2016, shall be carried out during the first available planting season following the commencement of the development.

REASON: To ensure the development integrates into the countryside.

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

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

**CONDITIONS RECOMMENDED BY NI WATER**

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

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

All services within the development should be laid underground.

REASON: In the interests of visual amenity.

None of the dwellings shall be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted to and approved by the Council.

REASON: In the interests of public health.



Development, hereby permitted, shall not begin until drainage works have been carried out in accordance with details submitted to and approved in writing by the Council.

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

#### RECOMMENDED TRANSPORT NI CONDITIONS

The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

The Department hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. JPC002 Revision B bearing the date stamp 05 APR 2017.

REASON: To ensure there is a safe and convenient road system within the development and to comply with the provisions of the Private Streets (Northern Ireland) Order 1980.

The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

No other development hereby permitted shall be commenced until the works necessary for the improvement of the public road have been completed in accordance with the details outlines blue on Drawing No. JPC002 Revision B bearing the date stamp 05 APR 2017. The Department hereby attaches the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3(4C).

REASON: To ensure there is a safe and convenient road system within the development and to comply with the provisions of the Private Streets (Northern Ireland) Order 1980.

The visibility splays of 2.0metres by 33metres at the junction of the proposed access with the public road shall be provided in accordance with Drawing No. JPC002 Revision B bearing the date stamp 05 APR 2017, prior to the commencement of any other works or development.

REASON: To ensure there is a safe and convenient road system within the development and to comply with the provisions of the Private Streets (Northern Ireland) Order 1980.

No dwellings shall be occupied until that part of the service road which provides access to it has been constructed to base course; the final wearing course shall be applied on the completion of the development.

REASON: To ensure the orderly development of the site and the road works necessary to provide satisfactory access to each dwelling.

Notwithstanding the provisions of the Planning (General Development Procedure) Order (Northern Ireland) 2015, no buildings, walls or fences shall be erected, nor hedges nor formal rows of trees grown, (in verges/service strips) determined for adoption.

REASON: To ensure the orderly development of the site and the road works necessary to provide satisfactory access to each dwelling.

Notwithstanding the provisions of the Planning (General Development Procedure) Order (Northern Ireland) 2015, no planting other than grass, flowers or shrubs with a shallow root system and a mature height of less than 500mm shall be carried out in (verges/service strips) determined for adoption.

REASON: To ensure the orderly development of the site and the road works necessary to provide satisfactory access to each dwelling.

No dwelling shall be occupied until provision has been made and permanently retained within the curtilage of the site for the parking of private cars at the rate of 2 space(s) per dwelling.

REASON: To ensure there is a suitable provision of car parking for each dwelling.

The development hereby permitted shall not be commenced until any (highway structure/retaining wall/culvert) requiring Technical Approval, as specified in the Roads (NI) Order 1993, has been approved and constructed in accordance with BD2 Technical Approval of Highways Structures : Volume 1: Design Manual for Roads and Bridges.

REASON: To ensure that the structure is designed and constructed in accordance with BD2 Technical Approval of Highways Structures: Volume 1: Design Manual for Roads and Bridges.

Rivers Agency will require to be consulted regarding the discharge of any storm water into an existing water course prior to commencement of building works on site.

REASON: To ensure that the structure is designed and constructed in accordance with BD2 Technical Approval of Highways Structures: Volume 1: Design Manual for Roads and Bridges.

Any telegraph poles/ street furniture to be re-sited to the rear of sight visibility splays and to the satisfaction of Transport NI.

REASON: To ensure that the structure is designed and constructed in accordance with BD2 Technical Approval of Highways Structures: Volume 1: Design Manual for Roads and Bridges.

The development hereby permitted shall not be commenced until a Street Lighting scheme design has been submitted and approved by the Department for Regional Development Street Lighting Section.

REASON: Road safety and convenience of traffic and pedestrians.

The Street Lighting scheme, including the provision of all plant and materials and installation of same, will be implemented as directed by the Department for Regional Development Street Lighting Section.

(These works will be carried out entirely at the developer's expense.)

REASON: To ensure the provision of a satisfactory street lighting system, for road safety and convenience of traffic and pedestrians.

All appropriate road markings and associated signage within the development and on the public road shall be provided by the developer/applicant in accordance with the Department's specification (Design Manual for Roads & Bridges) and as directed by Transport NI Traffic Management Section prior to the development becoming occupied by residents.

REASON: In the interest of road safety and traffic progression.

The gradient of a private access should not exceed 8% for the first 5m outside the public road boundary and a maximum gradient of 10% thereafter.

REASON: In the interest of Road Safety.

The developer/applicant prior to the commencement of any road works shall provide a detailed programme of works and associated traffic management proposals to the Department of Regional Development Transport NI for agreement in writing.

REASON: To facilitate the free movement of roads users and the orderly progress of work in the interests of road safety.

The developer/applicant will contact Transport NI Traffic Management prior to commencement of works on site to agree suitable positions for any existing road signage and traffic calming measures that will require being relocated as a result of this proposal.

REASON: In the interests of road safety and traffic progression.

\_\_\_\_\_  
Case Officer DATE

\_\_\_\_\_  
Appointed Officer DATE



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

**Council Newry, Mourne and Down**

**Date 21/06/2017**

<b>ITEM NO</b>	<b>1</b>			
<b>APPLIC NO</b>	LA07/2015/0144/F	Full	<b>DATE VALID</b>	21/04/2015
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>			
<b>APPLICANT</b>	Mr Frank Newell C/O Agent		<b>AGENT</b>	Eres Limited Mourne House 41-43 Downshire Road Newry BT34 1EE

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

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

<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>
	1	0	0	0
			<b>Addresses</b>	<b>Signatures</b>
			0	0
			<b>Addresses</b>	<b>Signatures</b>
			0	0

- 1     The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
- 2     The proposal is contrary to paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland Policy CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the building to be replaced has been previously replaced under application P/ 2002/0094/F and should have been demolished.
- 3     The proposal is contrary to Policy TSM3 of Planning Policy Statement 16 - Tourism, because the building has been previously replaced, the redevelopment will not result in significant environmental benefit, the new building would not integrate into the surrounding landscape and would have a visual impact significantly greater than the existing building, and access to the guest house would have an adverse impact on road safety.
- 4     The proposal is contrary to Policy TSM7 of Planning Policy Statement 16 - Tourism, with regard to criteria g (build-up of development), and k, l, m & n (intensification of access onto a protected route with inadequate sight lines available), and therefore would not represent a satisfactory and sustainable form of tourism development.
- 5     The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed building would be a prominent feature in the landscape, the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape, and the proposed building relies primarily on the use of new landscaping for integration and therefore would not visually integrate into the surrounding landscape.

- 6 The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, be unduly prominent in the landscape, would result in a suburban style build-up of development when viewed with existing and approved buildings, would not respect the traditional pattern of settlement exhibited in that area, and would therefore result in a detrimental change to the rural character of the countryside.
- 7 The proposal is contrary to paragraph 6.187 of the Strategic Planning Policy Statement for Northern Ireland Policy NH6 of the Department's Planning Policy Statement 2, Natural Heritage, in that the site lies in a designated Area of Outstanding Natural Beauty and the siting and scale of the proposal is inappropriate for the locality and is not sympathetic to the special character of the Mourne AONB.
- 8 The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it proposes to intensify the use of an existing access at which visibility splays of 2.4 metres x 120 metres cannot be provided in accordance with the standards contained in Development Control Advice Note 15.
- 9 The proposal is contrary to Planning Policy Statement 3, Access Movement and Parking, Policy AMP3 in that it would, if permitted, result in the intensification of use of an existing access onto a Main Traffic Route (Protected Route), thereby prejudicing the free flow of traffic and conditions of general safety.





Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

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

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

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

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

**Site Characteristics & Area Characteristics:**

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

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





Derelict dwelling to be replaced



Site for guest house

### Site History:

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

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

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

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

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

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

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

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

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

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

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

#### **Consultations:**

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

NI Water – Standard informatives.

NIEA – Standard advice on sewerage & drainage.

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

#### **Objections & Representations:**

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

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



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

### **Consideration and Assessment:**

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

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

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

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is currently within the remit of the Banbridge / Newry & Mourne Area Plan 2015 as the new council has not yet adopted a local development plan. The Plan reflects the approach of the RDS in seeking to provide a choice of tourist accommodation whilst balancing this against the need to protect the natural and built environment. There is no specific policy for tourism development. The site is outside settlement limits in a rural area and within the Mourne and Slieve Croob Area of Outstanding Natural Beauty. Development proposals in rural areas will be considered under PPS21. Impact on the AONB will be considered under PPS2.

The principle of development proposals in rural areas must first be assessed against PPS21 – Sustainable Development in the Countryside. Policy CTY1 states that a range of types of development are acceptable in principle in the countryside. This includes replacement dwellings if they are in accordance with Policy CTY3 and tourism development if in accordance with the TOU policies of the Planning Strategy for Rural Northern Ireland. As the TOU policies have now been superseded by the final version of PPS16 – Tourism (published June 2013), the principle of the scheme must be considered under that policy. As there is no significant change to the policy requirements for replacement dwellings following the publication of the SPPS and it is arguably less prescriptive, the retained policy of PPS21 will be given substantial weight in determining the principle of the proposal in accordance with paragraph 1.12 of the SPPS. The design and integration policies of PPS21 (CTY8, CTY13 and CTY14) will also be considered below.



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

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

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

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

Design criteria

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

General criteria

- (g) a guest house is not incompatible with any surrounding land uses, though it would result in a build-up of development which would damage the landscape quality and character of the area.
- (h) there should be no adverse impact on residential amenity.
- (i) There should be no adverse effects on natural or built heritage features on the site.
- (j) no mains sewerage is available so a septic tank is proposed. Policy CTY16 of PPS21 states that Planning permission will only be granted for development relying on non-mains sewerage, where the applicant can demonstrate that this will not create or add to a pollution problem. None of the supporting evidence referred to under policy CTY16 has been submitted. However, this could be requested through a negative condition that evidence of consent to discharge be submitted to and agreed in writing by the planning authority prior to the commencement of development. As the matter could be dealt with by condition, the failure to submit information on sewage treatment would not warrant refusal under CTY16 or TSM7. Standard consultation responses were received from NIEA Water Management Unit, Environmental Health and NI Water.
- (k) access is proposed via a shared laneway from Newry Road. The proposal will cause intensification of use of the shared laneway onto a Protected Route which is contrary to PPS3 policy AMP3 (see below).
- (l) the sight lines proposed at the entrance from the public road are considered insufficient given the speed of traffic on this part of the road. TransportNI would require an improvement to 2.4m x 120m which is not achievable. Therefore the access arrangements would prejudice road safety and inconvenience the flow of traffic.
- (m) additional vehicular traffic generated by the proposal could not safely enter the public road due to the inadequate sight visibility at the junction.

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

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

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

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

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

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

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



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

The access to the site must be considered against the requirements of PPS3 – Access, Movement and Parking and DCAN15 – Vehicular Access Standards. Policy AMP2 of PPS3 states that planning permission will only be granted for a development proposal involving direct access onto a public road, or the intensification of the use of an existing access where such access will not prejudice road safety or traffic flow. Paragraph 5.16 of Policy AMP2 makes reference to DCAN 15 which sets out the current standards for sightlines that will be applied to a new access onto a public road. In this case visibility splays of 2.4m x 70m are proposed in both directions. TransportNI would require an improvement to 2.4m x 120m which is not achievable. Therefore the access arrangements would prejudice road safety and inconvenience the flow of traffic. This was accepted by the Commission under the previous application and the circumstances have not changed as there is no valid replacement opportunity.

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

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

**Recommendation:** Refusal

#### **Reasons for Refusal:**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the building to be replaced has been previously replaced under application P/2002/0094/F and should have been demolished.
3. The proposal is contrary to Policy TSM3 of Planning Policy Statement 16 - Tourism, because the building has been previously replaced, the redevelopment

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

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

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date:**



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

#### **Preliminary Matters: Existing dwelling**

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

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

The Case Officer however refuses to accept this independent finding.





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206

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It is felt therefore that the case officer has pre-determined this application failing to have regard for a significant material consideration in this instance. There is a common law obligation to hear the other side and the European Convention provides the right to a fair hearing.

In refusing to acknowledge the PAC decision the case officer is reaching a final view on the matter without due consideration of all relevant material.

The matter surrounding the existing dwelling on site represents a major part of this application. The Case Officer has already made his thoughts clear on the matter when he sent an email on 13<sup>th</sup> April 2016 stating “It is absurd to suggest that the present owner should be advantaged by the act of constructing the dwelling in the wrong place to the extent that he could achieve another planning permission on a building that had previously been replaced”.

This highlights a pre-determination on behalf of the case officer that he feels that the present owner is being “advantaged” in this instance. It is felt that this application is not being fairly assessed in this respect. It must be pointed out that our client purchased his existing family home long after this dwelling had been constructed on the site. He was unaware that it had been constructed without the benefit of planning permission. Indeed it seems as though he is being punished for another person’s actions.

It is questionable where this advantage arises from as if the original application had been implemented our client would be able to construct a second dwelling on the site. The Case Officer’s comments are therefore confusing in this regard.



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207

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

**The fact remains that the PAC have determined that the original planning permission was never implemented and therefore a valid replacement opportunity exists on the site.** The existing dwelling on the application site falls to the heart of the proposal and the decision by the PAC should be accepted.

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

### Consideration

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

The Policy is written in a permissive context and states “Planning permission **will be granted** for a new guest house in the countryside in certain circumstances, one of which is **the replacement of an existing rural building;**





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208

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

The Policy goes on to say that a proposal to replace an existing building in the countryside with a guest house will be permitted subject to the 8 specific criteria.

The Planning Authority's refusal reasons are repeated on a number of occasions however they relate to the following:

- the building has been previously replaced (this matter has already been addressed),
- the new building would not integrate into the surrounding landscape and change of rural character, and
- access to the guest house would have an adverse impact on road safety.

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





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209

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

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

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

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

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



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

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

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

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

The original consultation response from Transport NI had no objections to this proposal and it was only seen as unsatisfactory after a subsequent consultation request from the case officer regarding the validity of the existing dwelling. This subsequent consultation request did not provide Transport NI with the full facts of the case and indeed it is felt that the information was misleading. There are a number of refusal reasons relating to access issues all of which would fall if the existing dwelling on site is accepted as a replacement opportunity.

It is therefore felt that this application has not received a fair assessment and in light of the information above it is respectfully requested that this application is approved.

<b>ITEM NO</b>	<b>2</b>			
<b>APPLIC NO</b>	LA07/2015/0345/F	Full	<b>DATE VALID</b>	15/05/2015
<b>COUNCIL OPINION</b>	<b>APPROVAL</b>			
<b>APPLICANT</b>	Crossmaglen Rangers GAC C/ O Agent		<b>AGENT</b>	McMahon Associates 50 Dobbin Street Armagh BT61 7QQ 028 37522940
<b>LOCATION</b>	Rear of 7 Dundalk Road Crossmaglen			
<b>PROPOSAL</b>	Proposed terracing for spectators & floodlighting of sports field			
<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	
	2	1	0	
			<b>Addresses</b>	<b>Signatures</b>
			0	0
			<b>Addresses</b>	<b>Signatures</b>
			0	0





Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**

District Council

**Application Reference: LA07/2015/0345/F**

**Date Received: May 15<sup>th</sup> 2015**

**Proposal: Proposed terracing for spectators & floodlighting of sports field**

**Location:** Rear of 7 Dundalk Road Crossmaglen

**Site Characteristics & Area Characteristics:**

The site is an existing GAA grounds, home to Crossmaglen Rangers GAC, the complex is located on Dundalk Road near the town centre it consists of a large social club near the entrance together with associated changing rooms. There is a grandstand on the north-western side of the grounds; the other sides of the main pitch are surrounded by embankments that provide standing accommodation for spectators.





The grounds are located within the development limit of Crossmaglen; there are residential properties to the north west and south east of the grounds. Crossmaglen PSNI station is situated at the northern corner of the grounds.

**Site History:**

Approval for the installation of floodlighting at the grounds was granted under application P/2009/0591/F on July 16<sup>th</sup> 2009, this proposal was broadly similar to the current scheme however it included less terracing on south eastern side of the grounds adjacent to a practice pitch, approval for floodlighting was granted by P/2012/0414/F on July 9<sup>th</sup> 2012.

**Planning Policies & Material Considerations:**

Strategic Planning Policy Statement  
Banbridge/Newry and Mourne Area Plan 2015  
Planning Policy Statement 8 Open Space; Sport and Recreation.

**Consultations:**

**Transport NI** No objections

**Environmental Health** No objections subject to the floodlighting being operated in accordance with recommended guidelines

### **Objections & Representations**

A letter of objection has been received from the resident of a nearby property. Issues of concern relate to overlooking, loss of privacy, overshadowing and noise from the ground disturbing a dependent.

A letter of support has also been received from the Ulster Council GAA.

### **Consideration and Assessment:**

#### **Strategic Planning Policy Statement**

The SPPS provides strategic guidance for the preparation of new Local Development Plans by Councils, the SPPPS is less prescriptive than the retained policy PPS8 and it is this which is given determining weight.

#### **Banbridge/Newry and Mourne Area Plan 2015.**

The site lies within the development limit of Crossmaglen, no other policies of the plan are relevant.

#### **PPS8 Policy OS4 Intensive Sports Facilities**

The policy sets out a number of criteria which proposals for all intensive sports facilities must comply with. In this case the first criterion is most relevant as it requires proposals not to adversely impact on the amenity of adjoining residents. While a slightly larger proposal was previously allowed under P/2009/0591/F, no objections were received in relation to this application and the issues raised by the objector must be considered.

It must be noted that Environmental Health has not raised any issues in relation to noise associated with this proposal. The site is already used as a major sporting venue and this use would continue in the event of this application being refused.

#### **Policy OS7 Floodlighting**

Environmental Health has advised that the floodlighting should not cause any adverse impacts if the floodlights are operated in accordance with all relevant guidelines.

#### **Recommendation:**

The proposal is for a smaller version of the scheme which was allowed in 2009, and therefore the principle of the development has been established. The objection provides a new material consideration which was not present during the processing of the previous scheme. It is unavoidable that a facility of this kind will generate noise, however this is not in itself a reason to refuse permission, Environmental Health has raised no concerns about noise. The other issues raised by the objector including overlooking/ loss of privacy and overshadowing have also been considered as part of this assessment and it is considered that this proposal will not create any issues in terms of overlooking, overshadowing or loss of privacy from a stadium which has been in operation for a significant period of time and has the benefit of previous larger scale approvals. Therefore the issues raised by the objector,



including their personal circumstances are not sufficient to justify a refusal of this scheme. Therefore approval is recommended.

**Case Officer**

**Authorised Officer**