

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

<b>ITEM NO</b>	<b>7</b>			
<b>APPLIC NO</b>	LA07/2016/0401/F	Full	<b>DATE VALID</b>	3/25/16
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>			
<b>APPLICANT</b>	Mrs Margaret Kane 142 Dundrum Road Newcastle BT33 0LN		<b>AGENT</b>	Glyn Mitchell Architectural Design 139 Ballinran Road Kilkeel BT34 4JB
				NA
<b>LOCATION</b>	135m ESE of No 42 Levallyreagh Road Rostrevor Warrenpoint Co Down			
<b>PROPOSAL</b>	Proposed Farm Building without underground tanks			
<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 policies CTY 1 and CTY 12 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that the applicant has not provided sufficient information to confirm that it is necessary for the efficient use of the active and established agricultural holding.
- 2 The proposal is contrary to policy CTY 12 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that it has not been demonstrated that there are no alternative sites available at another group of buildings on the holding and that health and safety reasons exist to justify an alternative site away from the existing farm buildings or that the alternative site away is essential for the efficient functioning of the business.
- 3 The proposal is contrary to policy CTY12 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that the applicant has not provided sufficient information to confirm that there are no suitable existing buildings on the holding or enterprise that can be used.



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

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2016/0401/F

**Date Received:** 25/03/2016

**Proposal:**

Proposed Farm Building without underground tanks.

The proposed farm building will have a calving and cattle shed measuring 8.835m x 7.5m internally with a covered hay/straw and feed store with an internal area of 33sqm. The walls will be finished in smooth or roughcast grey plaster and the top half and roof will be finished in green cladding. The roof will be pitched.

**Location:**

135m ESE of No 42 Levallyreagh Road, Rostrevor, Warrenpoint, Co Down.

The site is located outside of settlement development limits and is located approximately 2.5 miles north-west of Rostrevor and approximately 3.5 miles north east of Warrenpoint.

**Site Characteristics & Area Characteristics:**

The site is an agricultural field currently laid in grass and used for grazing. The proposed location of the farm building is approximately 150m west from the Levallyreagh Road. The site is accessed from an existing lane which served no.42 Levallyreagh Road (a disused dwelling). A small complex for birds is currently located opposite no.42 Levallyreagh Road. The gradient of the site increases from the road and past the dwelling for approximately 60m and then the gradient dramatically decreases to the application site. The landscape is undulating and boundaries exist to the west of the site and the south. The southern boundary is comprised of mature hedging while the western boundary is comprised of a wire fence, a small tree and some bushes. There are no defined eastern or northern boundaries. The site is not visible from the Levallyreagh Road.

The proposed site is located outside of settlement development limits, as defined in the Banbridge / Newry and Mourne Area Plan 2015. The Area Plan shows the site itself is unzoned but it is located within the Mourne Area of Outstanding Natural Beauty. There are no historic sites or monument in close proximity to the site. The site is part of an undulating landscape and other farm outbuildings are visible from the site.

**Site History:**

One previous application was submitted on the site, P/2006/0420/F. This application was for the replacement of no.42 Levallyreagh Road which was refused permission on 24/08/2007.

**Planning Policies & Material Considerations:**

- Regional Development Strategy 2035.
- Banbridge / Newry and Mourne Area Plan 2015.
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- PPS 2 – Natural Heritage.
- PPS 3 – Access, Movement and Parking.
- DCAN 15 – Vehicular Access Standards.
- PPS21 – Sustainable Development in the Countryside.

**Consultations:**

The following were consulted regarding this application:

- Environmental Health – 11/04/2016 – No objections.
- DARD – 19/04/2016 – Farm has been in existence for over 6 years.
- NI Water – 21/04/2016 – Generic Response.
- Transport NI – 25/05/2016 – No objections subject to conditions.

**Objections & Representations**

The application was advertised in the local press on 11/04/2016 and one property, no.42 Levallyreagh Road, was notified of the proposed development by letter. The letter sent to no.42 Levallyreagh Road was returned to the Council with the reason given by Royal Mail 'that no such address exists'. Following a site inspection on 27/05/2016 it was noted that while no.42 exists no one lives in the property and it is not in a suitable condition to be inhabited.

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

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

PPS 21

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

Policy CTY 1 of PPS 21 allows for the development of non-residential development in the case where it is agricultural and forestry development in accordance with Policy CTY 12. Policy CTY 12 applies to established agricultural or forestry holdings

and planning permission will be granted for development where it is demonstrated that:

(a) The development is necessary for the efficient use of the agricultural holding.

- The proposed development would be the first agricultural building on this section of the holding in the Rostrevor area so therefore it is important to establish the level of active farming which currently exists. DARD were consulted, and in their response dated 19/04/2016 stated the farm has been in existence for over 6 years and has claimed the Single Farm Payment (SFP), Less Favoured Area Compensatory Allowances (LFACA) or Agri Environment schemes in the last 6 years. A farm boundary map has been submitted which shows that the applicant has a farm holding made up of 56.96 hectares. Approximately 10.99 hectares of the holding is in the Rostrevor area with the remainder predominantly close to the established farm located near Newcastle and some near Kilkeel. The main argument made on behalf of the applicant for this new building is that it is a 43 mile round-trip to this farm holding and the main farm in Newcastle and a farm building is required in this area to keep the farm viable.

The agent discusses that the building will be used to keep 7 head of cattle in over the winter months and also to store equipment. An alternative site away from existing farm buildings has been proposed, which the agent states is a 43 mile round trip to the farm house, and I am neither satisfied that this is essential for the efficient functioning of the business or that there are demonstrable health and safety reasons for the proposed building at this site. Due to the separation of 43 miles between the applicant's home and the proposed farm building, it would possibly be more efficient to develop a similar building closer to existing farm building which is located closer to the applicants home, provided a need can be demonstrated. This would be more efficient for the applicant in looking after the animals over the winter months. These concerns were raised with the agent and a response to address the concerns was requested but not received. Overall I am not satisfied that this building is necessary for the efficient use of the agricultural holding and the proposed development therefore fails to comply with criteria (a).

(b) In terms of character and scale, the proposed development is appropriate to its location.

- The proposed scale of the development is determined appropriate for this site. The landscape is undulating in the area and other farm buildings are clearly visible in the landscape, therefore this building will not be out of character for this area.

(c) The development is to visually integrate into the local landscape and provide additional landscaping where necessary.

- As discussed above, the topography of the site means neither the site, nor the proposed building, would be visible from the main road. Details of additional landscaping required to integrate the proposed development into the undulating landscape have been submitted and will be conditioned.

(d) It will not have an adverse impact of the natural or built heritage.

- The proposed development does not affect any natural or built heritage features. The impact of the Mourne AONB will be considered under PPS 2.

(e) The amenity of residential dwellings outside the holding are not to be adversely impacted by the proposed development including potential problems with noise, smell and pollution.

- The nearest dwellings to the proposed site, no.39 and no.42 Levallyreagh Road, are located approximately 200m from the proposed site. Environmental Health were consulted and in their response dated 15/04/2016 stated they had no environmental health objections to the proposed development. It is unlikely that this development would adversely impact the amenity of residents nearby; therefore the proposal meets criteria (e).

Overall only four of the first five criteria of Policy CTY 12 have been met. As a new building is proposed, an additional three criteria have to be met:

- There must be no suitable existing buildings on the holding that can be used. As discussed above, the applicant's main farm is located near Newcastle and an exception to policy is made for an alternative site when it is demonstrated that it is necessary for the efficient functioning of the businesses. The information submitted from the applicant does not justify the need for a building in this location nor does it confirm that there are no suitable buildings on the holding that can be used.

- The design and materials used are to be sympathetic to the locality and adjacent buildings. The roof and top half of the walls will be finished in green cladding which will assist with integration. The design and scale are both appropriate for the locality and will not cause an unacceptable adverse impact on the locality.

- The proposal is to be sited beside existing farm or forestry buildings. As discussed above an alternative site is to be used which is not beside any existing farm buildings. It has not been demonstrated that that this new building is essential for the efficient functioning of the business or that there are demonstrable health and safety reasons proving the need of this building to be sited on this alternative site.

Overall the proposed development meets the requirements of Policy CTY 12 as:

- It has not been demonstrated that the proposed building is necessary for the efficient use of the agricultural holding.
- The proposed building is not sited beside existing farm buildings and the use of an alternative site has not been justified on the basis that either:
  - It is essential for the efficient functioning of the business.
  - There are demonstrable health and safety reasons.
- It has not been demonstrated that there are not any other existing buildings on the farm that can be used.

The proposed development is unlikely to offend policies CTY 13 and CTY 14.

#### PPS 2 – Natural Heritage

Policy NH 6 states that planning permission for new development within an AONB will only be granted where it is of an appropriate design, size and scale for the locality. The proposed development is unlikely to have an adverse impact on the AONB.

**Recommendation:**

*Refusal*

**Refusal Reasons:**

1. The proposal is contrary to policies CTY 1 and CTY 12 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that the applicant has not provided sufficient information to confirm that it is necessary for the efficient use of the active and established agricultural holding.
2. The proposal is contrary to policy CTY 12 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that it has not been demonstrated that there are no alternative sites available at another group of buildings on the holding and that health and safety reasons exist to justify an alternative site away from the existing farm buildings or that the alternative site away is essential for the efficient functioning of the business.
3. The proposal is contrary to policy CTY12 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that the applicant has not provided sufficient information to confirm that there are no suitable existing buildings on the holding or enterprise that can be used.

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date:**

<b>Mrs Margaret Kane</b>						
<b>142 Dundrum Road</b>						
<b>Newcastle, BT33 0LN.</b>						
ACCOUNTS FOR YEAR ENDED		31-Mar-16				
LIVESTOCK VALUATION AS AT		31-Mar-16				
		AVERAGE		TOTAL		
TOTAL		VALUE		VALUE		
<b>CATTLE</b>						
SUCKLER COWS - calved	6	£1,000	£6,000			
SUCKLER Cow ( - in- calf)	12	£1,050	£12,600			
(IN-CALF) HEIFERS	3	£1,050	£3,150			
BULLS - Aberdeen Angus	0	£0	£0			
<b>BULLOCKS</b>						
6-12 MTHS OLD	22	£650	£14,300			
1-2 YR OLD	20	£850	£17,000			
OVER 2 YRS OLD	3	£1,000	£3,000			
<b>HEIFERS (DRY)</b>						
6-12MTHS OLD	5	£550	£2,750			
1-2 YRS OLD	5	£750	£3,750			
CALVES UP TO 6 MTHS OLD	12	£350	£4,200			
TOTALS- CATTLE		88	£66,750			
TOTAL VALUE		£66,750				
		£66,750				
SILAGE	40	Round Bale	@	£ 19.00	Each	£760
STRAW - BARLEY	8	Round Bale	@	£ 15.00	Each	£120
HAY	12	Round Bale	@	£ 18.00	Each	£216
MEAL	2	TONNE	@	£ 240.00	Per Tonne	£480
FARM FUEL	1000	LITRES	@	£ 0.45	Per Litre	£450
						<b>£2,026</b>
TOTAL						<b>£68,776</b>

Our Ref: 16/26

Your Ref: LA07/2016/0401/F

Newry, Mourne and Down District Council  
Planning Office  
O'Hagan House  
Monaghan Row  
Newry  
BT35 8DL



6<sup>th</sup> January 2017

In relation to the above-referenced application by Mrs Margaret Kane for a farm building at Levallyreagh Road, please find enclosed written correspondence from a number of agricultural specialists who all concur that the proposed farm building is essential on this portion of the applicant's land, for the efficient functioning of their farm business.

In this letter I will deal, in turn, with each of the Department's three proposed reasons for refusal:

1. *The proposal is contrary to policies CTY 1 and CTY 12 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that the applicant has not provided sufficient information to confirm that it is necessary for the efficient use of the active and established agricultural holding.*

Although I acknowledge that you have deemed the applicant had not provided sufficient information to confirm that the proposal is necessary for the efficient use of the active and established agricultural holding, I would like to draw your attention to the documents attached to this letter, each of which is written by an agricultural specialist thoroughly knowledgeable in the necessarily safe handling of animals, and in the day-to-day managing of an active and established farm; these letters thoroughly and specifically deal with why the farm building is necessary in the proposed location, for the efficient use of Mrs Kane's active and established agricultural holding.

2. *The proposal is contrary to policy CTY 12 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that it has not been demonstrated that there are no alternative sites available at another group of buildings on the holding and that health and*



*safety reasons exist to justify an alternative site away from the existing farm buildings or that the alternative site away is essential for the efficient functioning of the business.*

In terms of this second reason for refusal, and as mentioned above, I refer you to the associated documentation from agricultural specialists, who clearly and thoroughly state the necessity for a farm building in the proposed location of the applicant's land at Levallyreagh Road, Rostrevor.

Additionally, to require that Mrs Kane propose a farm building adjacent to existing farm buildings on her holding would make the farming land at Levallyreagh Road beyond use; due to its topography, the land in question is best suited as grazing land. It's not sustainable to continually make the 42-mile round trip to feed and tend to her c. 15 cows and their 15 calves in this location, and without a building no vet will be able or even willing to inspect the animals. The farm building, as proposed, is essential for the efficient functioning of the applicant's business, and is a necessary response to the health and safety requirements of dealing with her cattle at this location.

In addressing your Department's three proposed reasons for refusal of this application, I would like to refer you to Planning Appeal reference 2011/A0081 (attached), which bears a similarity to the current application in terms of the siting of the farm building some distance away from the farm dwelling, with the identical requirement to travel by car to the parcel of land belonging to the farm holding. The Commissioner, in his Appeal Decision written report, states in Paragraph 11:

- The appeal building would provide a suitable facility...for allowing animals to be more safely loaded into a vehicle for transport elsewhere;
- The distance and road network between the appeal site and the main holding is such that it would be impractical to herd livestock along the road;
- A site for a new building on the main holding or use of existing buildings at that location would provide no material benefit to the use of this part of the holding. It would not resolve any of the issues facing the Appellant in keeping livestock on this part of the holding.

The proposed farm building at Levallyreagh Road would indeed provide a suitable facility for allowing animals to be safely loaded into a vehicle for transport elsewhere. Due to the distance between the application site and the main holding, it is not practical to continually load animals into a vehicle for transport to the main farm holding for their necessarily safe testing and inspection. In addition, having a further building at the location of the main farm holding would provide no material benefit to the use of the applicant's land at Levallyreagh Road.

The proposed farm building would allow the applicant to securely store animal feed and equipment in, as well as providing accommodation for the animals, and their safe corralling for inspection, testing and transport as and when required.

3. *The proposal is contrary to policy CTY12 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that the applicant has not provided sufficient information to confirm that there are no suitable existing buildings on the holding or enterprise that can be used.*

Having thoroughly discussed with the applicant her circumstances and the current use of farm buildings located on her active and established farm holding, Mrs Kane would like to make clear to your Department that each of her existing farm buildings are already in use to their safe capacity, and cannot therefore be used for the housing of further animals.

In addition, as mentioned above when highlighting the comments by the Commissioner for Planning Appeal reference 2011/A0081, using an existing building (which is not possible as each one is already in use) would provide no material benefit to the use of the applicant's land at Levallyreagh Road.

In conclusion, as you carefully consider each of the points raised within this letter and within each of the attached letters, I trust you will recognise that the proposed farm building meets the requirements of Policy CTY 12 of Planning Policy Statement 21, and is therefore both acceptable to your Department and necessary for the efficient use of Mrs Kane's active and established agricultural holding.



# Northern Ireland Agricultural Producers' Association

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

04/01/2017

Dear Sirs,

**Planning Reference: LA07/2016/0401/F**

**Date of application: 25/03/2016**

**Relevant Address: 135M ESE of No 42 Levalleyreagh Road, Rostrevor, Warrenpoint, Co Down.**

**Farm Quality Assurance reference: 15363**

**Farm Business reference: 623558**

**Applicant:**

**Mrs Margaret Kane,**

**142 Dundrum Road**

**Newcastle**

**BT33 0LN**

**Background:**

Mrs Kane owns and actively farms about 125 acres at:

- Dundrum Road, Newcastle, Co. Down,
- Knocksticken, Castlewellan Road, Clough, Co Down
- Levalleyreagh Road, Rostrevor, Co Down

Dependent on the time of year she has between 80 and 100 cattle spread across the farm. It is approximately a 40 mile round trip from her home base at Dundrum Road, Newcastle to her lands at Rostrevor and it takes about 3 hours by tractor and trailer to make that journey. She has good, safe, modern facilities for stock management and for the storage of farm materials and veterinary products at Knocksticken and at Newcastle but none at Rostrevor.

She needs those facilities to be installed as a matter of urgency at Rostrevor as she uses that land to graze, feed, manage and maintain about 15 beef suckler cows and their calves. The

Farm Quality assurance inspectors, her own retained veterinary practice and DARD inspectors require safe handling facilities to ensure that animals are treated safely and humanely and that workers, vets, and departmental officials are safe when going about their work.

Your stated reasons for refusal do not withstand the test of informed scrutiny. You state that:

**1. The applicant has not provided sufficient information to confirm that it is necessary for the efficient use of the active and established agricultural holding.**

Answer:

The farm is active. The lands at Rostrevor lack the necessary facilities for the safe storage of farm materials and veterinary products and is bereft of safe handling facilities. It is geographically isolated and the animals cannot easily and safely be transported every time an inspection is required or when an animal falls sick. The lack of facilities put animals, farm workers and inspectors at risk.

**2. It has not been demonstrated that there are no alternative sites available at another group of buildings on the holding and that health and safety reasons justify this proposal.**

Answer:

There are no other buildings owned by Mrs Kane within 20 miles of the Rostrevor lands and health and safety considerations most definitely demand the construction of these facilities.

**3. The applicant has not provided sufficient information to confirm that there are no suitable existing buildings on the holding**

Answer:

As stated above there are no other buildings owned by Mrs Kane within 20 miles of the Rostrevor lands.

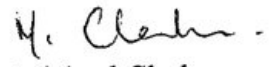
This is a farm business involved mainly in primary production which means there is a constant added danger to personnel from female animals protecting their young. Recently there have been a number of fatalities involving cows, the most recent being an elderly lady from Swatragh, Co Derry who was killed by a freshly calved cow.

Within the DAERA Making it Safer Certificate application there is particular reference to livestock facilities, loading and unloading facilities, calving cows and bulls. Any active and established holding must ensure that they do everything in their power to ensure safety of livestock and more importantly the livestock handler and also reduce the liability as a business decision. This is a particular element within the overall farm business which cannot be managed efficiently and safely without proper housing and handling facilities.

NIAPA as a farming organisation are involved in the Farm Safe Programme and fully support all efforts to reduce risk and improve safety on farms in conjunction with DAERA, Health & Safety Executive etc. We believe that planners should also be supportive of this, therefore we fully support this planning application as an essential part of maintaining this active and established agricultural business.

It is for all these reasons that NIAPA supports this application and requests that Newry Mourne and Down Council grants permission for the construction of these modest proposals without further delay.

Yours faithfully



Michael Clarke  
Chairman

# Appeal Decision

Park House  
87/91 Great Victoria Street  
BELFAST  
BT2 7AG  
T: 028 9024 4710  
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E: info@pacni.gov.uk

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<b>Appeal Reference:</b>	2011/A0081
<b>Appeal by:</b>	Laurence & James Renaghan against the refusal of full planning permission.
<b>Development:</b>	Retention of agricultural store on outfarm.
<b>Location:</b>	400m south west of 76 Dundalk Road, Tullyvallen, Tipping East, Newtownhamilton.
<b>Application Reference:</b>	P/2011/0036/F
<b>Procedure:</b>	Written Representations with Accompanied Site Visit on 6 March 2012.
<b>Decision by:</b>	Commissioner Mark Watson, dated 15 March 2012.

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## Decision

1. The appeal is allowed and full planning permission is granted unconditionally.

## Reasons

2. During the site visit it was apparent that the drawing showing the plan and elevations of the building were inaccurate. The Appellants' representative submitted an accurate drawing of the appeal building subsequent to the site visit. The drawing reflects the building as erected and does not alter the appeal proposal. No third party would be prejudiced by the Commission accepting it for consideration.
3. The main issue in this appeal is whether the development is acceptable in principle in the countryside. The appeal building is situated approximately 400m from the Dundalk Road and is accessed by a long gravelled laneway. An area of land has been hardcored around the front of the building. The building comprises a rectangular shed with block built walls and a monoplane pitched roof. The upper part of the walls are finished in the same corrugated metal sheeting as the roof. There is a large sliding door on the front elevation and a pedestrian sized door on the southern elevation. The interior floor comprises compacted hardcore. At the time of my site visit an improvised barrier formed by two old field gates divided the building interior into two halves. There were various items of agricultural miscellany within the building and the floor was covered in dry cow manure and straw. A single round bale was stored in a corner. The building had no electricity supply. At the front of the building there were concrete foundations poured. It was stated that these were for a wall to provide a penned enclosure to the front of the building. It was stated that the building was erected approximately 3 years

ago.

4. Since submission of the planning application James Renaghan has passed away, with his nephew Laurence having taken over his share in the farm holding. Laurence Renaghan was granted full planning permission for a farm dwelling and garage on land adjacent to the appeal site on 20 April 2011. The Department stated that this was approved under Policy CTY10 of PPS21 despite there being no buildings (excepting the unauthorised appeal structure) for the development to visually link or be sited to cluster with an established group of buildings on the farm. It was stated that the site was capable of integrating a dwelling and thus was approved.
5. The Appellants' representative suggested that the building may have been permitted development under Part 6 of the General Development (NI) Order 1993. He could have chosen to apply for a certificate of lawfulness of existing development under Article 83A of the Planning (NI) Order 1991 to determine this. He has instead submitted a planning application which I must consider on its planning merits. Whilst there may have previously been old buildings in the vicinity of the site, these have been demolished and none now remain.
6. The site lies in the countryside and Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS21) applies to the development. Policy CTY1 lists types of development that are acceptable in principle in the countryside, including agricultural development in accordance with Policy CTY12. It follows that if the development complies with Policy CTY12 it will comply with Policy CTY1 of PPS21. Policy CTY1 also states that other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement.
7. Policy CTY12 states that planning permission will be granted for development on an active and established agricultural holding where it is demonstrated that 5 criteria are met. The Department stated that the development met these 5 criteria. CTY12 goes on to state that in cases where a new building is proposed the applicant will also need to provide sufficient information to confirm:
  - There are no suitable existing buildings on the holding that can be used;
  - The design and materials to be used are sympathetic to the locality and adjacent buildings; and
  - The proposal is sited beside existing farm buildings.The Department stated that the development did not satisfy the first and third of these criteria and that no information had been provided to demonstrate that the development satisfied the exceptional test for new buildings located away from existing farm buildings.
8. The site lies within a part of the holding where there are no existing farm buildings. Policy CTY12 states that exceptionally consideration may be given to an alternative site away from existing farm buildings, provided there are no other sites available at another group of buildings on the holding, and where it is essential to the efficient functioning of the business or there are demonstrable health and safety reasons.
9. It was stated that the appeal building was required for storage purposes, housing

of animals and for when veterinary checks were to be carried out on animals. It was stated that although the Appellants' animals could have been tested at facilities on a neighbouring holding, the more recent regulations for prevention of tuberculosis in animals no longer permit this. It was stated that animals could not safely be herded along the roads between the site and the main holding. It was also stated that the building allowed the animals to be corralled more safely than trying to use a vehicle on its own to corral them into. It was stated that cattle were kept on this part of the holding between mid-March and early October.

10. The farm holding is comprised of several separate and disparately located parcels of land. The main holding lies on Skerriff Road, Cullyhanna, several miles to the west of the site. When inspecting the main holding I found that it took approximately 10 minutes by car to travel to it from the appeal site. There are a number of buildings on the main holding including an animal shed and large pen area. The Appellant stated that there are no other farm buildings outside of the main holding. This was not disputed by the Department's witness. The Appellants' representative stated that were permission for the building to be refused this part of the holding would not be able to be farmed. He also stated that the land was unsuitable for anything but grazing animals given its topography and rough condition. It was stated that it would not be possible to keep animals on the land without some form of shelter and storage for fodder and equipment.
11. In respect of the development I note the following:
  - The Department accepted that the development met criterion (a) of CTY12 – i.e. that it is necessary for the efficient use of the agricultural holding;
  - I accept that restrictions designed to prevent the spread of disease in livestock means that it is no longer viable to utilise facilities on neighbouring holdings for the purposes of testing or treatment of animals. The appeal building would provide a suitable facility for this purpose, as well as for allowing animals to be more safely loaded into a vehicle for transport elsewhere;
  - The distance and road network between the appeal site and the main holding is such that it would be impractical to herd livestock along the road;
  - From my own assessment the topography and condition of the land does make it best suited for the grazing of livestock;
  - There are no environmental objections to the development;
  - A site for a new building on the main holding or use of existing buildings at that location would provide no material benefit to the use of this part of the holding. It would not resolve any of the issues facing the Appellant in keeping livestock on this part of the holding; and
  - The Department considered a farm dwelling to be acceptable on this part of the holding despite there being no existing buildings (excepting the appeal structure) for the dwelling to visually link with or be sited to cluster with. It is surprising that the Department chose to approve a farm dwelling on this part of the holding for the Appellant, yet chose to consider there to be no need for an agricultural building on the same part of the holding.

Taking the above into consideration I judge that the appeal building would be essential for the efficient functioning of the business. It would allow the Appellant a building to keep fodder and equipment in, as well as provide accommodation for animals when required. It would also allow for the safer corraling of animals when necessary. I consider that the development meets the exceptional test under



Policy CTY12. As I find that the development complies with Policy CTY12, it also complies with Policy CTY1 of PPS21. The Department's reason for refusal is not sustained and the appeal shall succeed.

12. The Department suggested a condition restricting the use of the building to agriculture. The application seeks the retention of the building for agriculture. Any other use of the building as approved would be a material change of use requiring planning permission. As such the suggested condition is unnecessary.

This decision relates to the following plans:

<b>DRAWING NUMBER</b>	<b>TITLE</b>	<b>SCALE</b>	<b>DATE</b>
01	Site Location Plan	1:2500	23.06.09
02	Site Plan	1:500	23.06.09
APP2	Planning Drawings	1:100	06.03.12

**COMMISSIONER MARK WATSON**



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306

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

9<sup>th</sup> January 2017

**Re: Planning Reference: LA07/2016/0401/F**  
**135M ESE of No 42 Levalleyreagh Road, Rostrevor, Warrenpoint, Co Down.**  
**Farm Quality Assurance reference: 15363**  
**Farm Business reference: 623558**

Dear Sir /Madam

Our member and applicant of the above application Mrs Margaret Kane of 142 Dundrum Road Newcastle BT33 0LN requires facilities for livestock handling and storage of farm materials at Levalleyreagh Road Rostrevor.

Mrs Kane owns and actively farms about 125 acres at:

- Dundrum Road, Newcastle, Co. Down,
- Knocksticken, Castlewellan Road, Clough, Co Down
- Levalleyreagh Road, Rostrevor, Co Down

Dependent on the time of year she has between 80 and 100 cattle spread across the farm. It is approximately a 40 mile round trip from her home base at Dundrum Road, Newcastle to her lands at Rostrevor and it takes about 3 hours by tractor and trailer to make that journey. She has good, safe, modern facilities for stock management and for the storage of farm materials and veterinary products at Knocksticken and at Newcastle but none at Rostrevor.

Mrs Kane requires facilities to be installed as a matter of urgency at Rostrevor as she uses that land to graze, feed, manage and maintain about 15 beef suckler cows and their calves. The Farm Quality assurance inspectors, her retained veterinary practice and DARD inspectors require safe handling facilities to ensure that animals are treated safely and humanely and that workers, vets, and departmental officials are safe when going about their work.

Owners and keepers of farmed animals are required to comply fully with domestic legislation (The Welfare of Farmed Animals (NI) Regulations 2012). This legislation sets down minimum standards for keeping farm animals. Persons in charge of animals have a legal obligation to ensure that animals in their care have a suitable environment in which the animal is able to exhibit normal behaviour patterns and any need it has to be housed with, or apart from other animals. The welfare regulations also dictate that when necessary stock-keepers should have a

procedure for isolating and caring for sick or injured animals and stresses that isolation pens should be an essential component of any cattle unit.

Due to our varying weather conditions it is imperative that Mrs Kane has adequate housing for her livestock at this "out farm" and an appropriate shed to accommodate any sick animals which may require treatment to comply with legislation.

Your stated reasons for refusal do not withstand the test of informed scrutiny. You state that:

**1.The applicant has not provided sufficient information to confirm that it is necessary for the efficient use of the active and established agricultural holding.**

Answer:

The farm is active. The lands at Rostrevor lack the necessary facilities for the safe storage of farm materials and veterinary products and is bereft of safe handling facilities. It is geographically isolated and the animals cannot easily and safely be transported every time an inspection is required or when an animal falls sick. The lack of facilities put animals, farm workers and inspectors at risk.

**2.It has not been demonstrated that there are no alternative sites available at another group of buildings on the holding and that health and safety reasons justify this proposal.**

Answer:

There are no other buildings owned by Mrs Kane within 20 miles of the Rostrevor lands and health and safety considerations most definitely demand the construction of these facilities.

**3.The applicant has not provided sufficient information to confirm that there are no suitable existing buildings on the holding**

Answer:

As stated above there are no other buildings owned by Mrs Kane within 20 miles of the Rostrevor lands.

It is for all these reasons that the Ulster Farmers Union fully supports this application and requests that Newry Mourne and Down Council grants permission for the construction of these modest proposals without further delay, and to ensure Mrs Kane does not fall foul of basic Animal welfare legislation.

Should you require further clarification, please do not hesitate to get in touch.

Yours faithfully,



Gillian Cheatley

Senior Technical Officer

Ulster Farmers Union

**Castle Veterinary Group**

8 Dublin Road

Castlewellan

Co. Down

BT31 9AQ

02843778302

02843770525 (fax)

[www.castlevetgroup.co.uk](http://www.castlevetgroup.co.uk)

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

09/01/2017

Dear Sirs,

**Planning Reference: LA07/2016/0401/F**

**Date of application: 25/03/2016**

**Relevant Address: 135M ESE of No 42 Levalleyreagh Road, Rostrevor,  
Warrenpoint, Co Down.**

**Farm Quality Assurance reference: 15363**

**Farm Business reference: 623558**

**Applicant:**

**Mrs Margaret Kane,**

**142 Dundrum Road**

**Newcastle**

**BT33 OLN**

Background:

Mrs Kane owns and actively farms about 125 acres at:

- Dundrum Road, Newcastle, Co. Down,
- Knocksticken, Castlewellan Road, Clough, Co Down
- Levallyreagh Road, Rostrevor, Co Down

Dependent on the time of year she has between 80 and 100 cattle spread across the farm. It is approximately a 40 mile round trip from her home base at Dundrum Road, Newcastle to her lands at Rostrevor and it takes about 3 hours by tractor and trailer to make that journey. She has good, safe, modern facilities for stock management and for the storage of farm materials and veterinary products at Knocksticken and at Newcastle but none at Rostrevor.

She needs those facilities to be installed as a matter of urgency at Rostrevor as she uses that land to graze, feed, manage and maintain about 15 beef suckler cows and their calves. The Farm Quality assurance inspectors, her own retained veterinary practice and DARD inspectors require safe handling facilities to ensure that animals are treated safely and humanely and that workers, vets, and departmental officials are safe when going about their work.

Your stated reasons for refusal do not withstand the test of informed scrutiny. You state that:

**1.The applicant has not provided sufficient information to confirm that it is necessary for the efficient use of the active and established agricultural holding.**

Answer:

The farm is active. The lands at Rostrevor lack the necessary facilities for the safe storage of farm materials and veterinary products and is bereft of safe handling facilities. It is geographically isolated and the animals cannot easily and safely be transported every time an inspection is required or when an animal falls sick. The lack of facilities put animals, farm workers and inspectors at risk.

**2.It has not been demonstrated that there are no alternative sites available at another group of buildings on the holding and that health and safety reasons justify this proposal.**

Answer:

There are no other buildings owned by Mrs Kane within 20 miles of the Rostrevor lands and health and safety considerations most definitely demand the construction of these facilities.

**3.The applicant has not provided sufficient information to confirm that there are no suitable existing buildings on the holding**

Answer:

As stated above there are no other buildings owned by Mrs Kane within 20 miles of the Rostrevor lands.

It is for all these reasons that The Castle Veterinary Practice supports this application and requests that Newry Mourne and Down Council grants permission for the construction of these modest proposals without further delay.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Martin Fitzpatrick', written in a cursive style.

Martin Fitzpatrick MVB GPCERT(SAS)MRCVS  
Castle Veterinary Group



<b>ITEM NO</b>	<b>11</b>			
<b>APPLIC NO</b>	LA07/2016/0843/F	Full	<b>DATE VALID</b>	6/22/16
<b>COUNCIL OPINION</b>	<b>APPROVAL</b>			
<b>APPLICANT</b>	Mr Stephen Boyle 65 Ashgrove Road Newry BT34 1QN		<b>AGENT</b>	J. Lynam 11 Newry Road Mayobridge Newry BT34 2ET 028 3085 1125
<b>LOCATION</b>	47 The Mall Newry BT34 1AW			
<b>PROPOSAL</b>	Shop (Retail clothing)			
<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





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

**Application Reference:** LA07/2016/0846/F

**Date Received:** 17<sup>th</sup> June 2016

**Proposal:** Shop (retail, clothing)

**Location:** No.47 The Mall, Newry.

**Site Characteristics & Area Characteristics:**

The site at No. 47 The Mall comprises a former bookmakers shop. The building is single storey measuring approximately 14m x 6m. Eaves and ridge are approximately 4m and 6m. There is a well-kept yard at the rear of the building that contains a number of semi mature trees.

The site is within the Primary Retail Core and an Area of Archaeological Potential as defined on the Banbridge, Newry and Mourne Area Plan 2015. It is also within the Newry Conservation Area and the fluvial flood zone of the Newry River and in proximity to Newry Canal which is a Scheduled Monument (DOW 046:500). There is a range of surrounding land uses including commercial and other public buildings.





### Site History:

P/2008/1028/F for erection of commercial building over 3No. floors with ground floor and first floor retail and second floor as offices was approved on the application site on 29/04/2010. Note on file at deferred application states "building to be demolished does not add anything to character of cons. area".

The 2010 approval permitted raising of the roof and new shop fronts / windows. This application was not implemented and the permission has now lapsed.

Reference	Location	Proposal/Complaint	Status	Date
P/2008/1028/F	47 The Mall, Newry	Erection of commercial building over 3 no. floors with ground floor	PERMISSION GRANTED	30.04.2010
P/2008/1029/DCA	No 47 The Mall, Newry	Demolition of entire building	PERMISSION GRANTED	06.05.2010
P/1996/0567	NO. 47 THE MALL NEWRY	New shop front	PERMISSION GRANTED	
P/1988/1547	TO REAR OF NO47 THE MALL NEWRY	Erection of 1.8m diameter satellite dish	PERMISSION GRANTED	
P/2011/0410/F	Outside 47 The Mall, Newry, BT34 1AW	Erection of new street cabinet to facilitate provision of public services	PERMISSION GRANTED	05.07.2011
LA07/2016/0843/F	47 The Mall, Newry, BT34 1AW	Shop (Retail clothing)	VALID APPLICATION RECEIVED	
P/2010/0218CA	Gable of 47 The Mall Newry	Advertisement	ENFORCEMENT CASE CLOSED	04.08.2010

### Planning Policies & Material Considerations:

- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Banbridge, Newry and Mourne Area Plan 2015
- Planning Policy Statement 3 – Access, Movement and Parking
- Planning Policy Statement 6 – Planning Archaeology and the Built Heritage
- Planning Policy Statement 15 – Planning and Flood Risk
- Parking Standards
- Newry Conservation Area Booklet

**Consultations:**

Environmental Health Department are content

Transport NI has no objections

NI Water has no objections – information sheet attached

NIEA - Historic Buildings Unit is content with the proposals

Historic Environment Division has considered the impacts of the proposal and are content.

Loughs Agency -no objection, standard informatives.

Rivers Agency – Site within fluvial flood zone of Newry River and the potential inundation area of Camlough Reservoir. Assurance required on reservoir safety along with a flood risk assessment if the proposal is deemed an exception to the policy.

The application must be presented to the planning committee as the recommendation to approve is contrary to the advice of a statutory consultee (Rivers Agency has requested a Flood Risk Assessment but as this is a renovation of an existing premises with no new foundations/extensions, under paragraph 5.6 of PPS 15, I consider that the consultation was unnecessary).

**Objections & Representations**

2 Neighbours notified on 18/07/2016 and advertised in 3No. local papers between the 18<sup>th</sup> July 2016. No objections or representations have been received.

**Consideration and Assessment:**

The main issues to be considered are, the design of the refurbished building the impact on adjoining properties, impact on the Conservation Area and flood risk.

The shop unit is a Class A1 use and the proposed use as a shop clearly falls within the same category therefore the retail policy of the SPPS will be applicable to the proposal.

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is currently within the remit of the Banbridge / Newry & Mourne Area Plan 2015 as the new council has not yet adopted a local development plan. The site is located within the settlement limit of Newry on the above Plan, and within the designated city centre and Primary Retail Core. The plan states that the PRC contains the traditional concentration of retailing and other city centre functions and it is designated to control the scale and nature of new development and to ensure the continuance of a compact, lively and attractive shopping environment.

This proposal will retain the use of a retail shop unit, which is an appropriate town centre use. The proposal is therefore not considered contrary to the provisions of the Area Plan.

No demolition work is proposed therefore the proposal will not damage the appearance of the Conservation Area.

The proposed works involve the refurbishment of the existing building. The fee paid is £181 which relates to the alteration/extension of a commercial property where additional floor space will be created is less than 40m<sup>2</sup>.

The alterations include a new timber sign board above the door with lead cover flashing tracked into the existing wall with decorative panelling/pilasters at each end of the property. New rainwater goods (cast iron), existing stone and brickwork walls will be raked out and repointed as necessary. Existing air conditioning units to be refurbished.

The new shop front will be of standard design utilising the existing central entrance with new 2m x 1.9m windows on either side.

The existing chimneys on the building will be built up. The front of the property will be rendered using sika 1 damp proofing render.

The existing stone wall and rear garden area will remain unchanged.

The drawings note that rafters and roof covering to remain as existing.

It is considered that these works will greatly enhance the character and appearance of this part of the conservation area as now required under paragraph 6.18 of the SPPS. This site contains one of the older buildings in the street and it is more appropriate to refurbish rather than rebuild the property. This approach is endorsed by the Newry Conservation Area booklet (page 10). The scheme seeks to enhance the traditional characteristics of the building and apply more appropriate external finishes to the front elevation. There should be no adverse environmental problems as a result of the development and it will not significantly alter views in the conservation area. There is no impact on trees and the scheme is in general conformity with the Newry Conservation Area booklet and the retained sections of policy BH12 of PPS6.

PPS6 is also relevant with regard to historic monuments. The site is in proximity to Newry Canal and is within an Area of Archaeological Potential. Historic Monuments Unit was consulted on the application. Due to the small nature and scale of the proposed extension, they have no archaeological objections.

The site is within the fluvial flood zone of Newry River and the potential inundation area of Camlough Reservoir. Rivers Agency was consulted and advised that policies FLD1, FLD3 and FLD5 were applicable. Paragraph 5.6 of PPS15 advises that extensions to existing buildings are unlikely to increase flood risk elsewhere and that consultation with Rivers Agency in such cases is unnecessary unless there is significant intensification of use or implications for the safe evacuation of people in a flood. The planning authority is satisfied that neither of these scenarios applies to this proposal and that the consultation to Rivers Agency could therefore have been avoided within the terms of the policy. While Rivers Agency is bound to give all advice within the terms set down in PPS15, it is a matter for the planning authority as to how this should be weighted in relation to other material considerations. Therefore the Planning Department recommends that the consultee advice is set aside due to the circumstances of this case. Part 2 of the Council's Scheme of Delegation requires that this decision is taken by the Planning Committee.

With regard to parking provision, it is considered that as there was an existing shop at the site and it is within the town centre with available on street car parking, nearby public car parks and a bus station, there should be no requirement for additional parking provision in association with this scheme given the minor scale of the changes proposed.

In general, the Council will look more favourably at proposals for the sympathetic re-use of existing buildings as compared to proposals involving demolition and redevelopment (such as that approved in 2010)

**Recommendation:**

Approval - The scheme will revitalise a vacant building and add vitality and footfall to this area of the city centre. In my opinion, the redevelopment of this old building is a more appropriate proposal than the demolition/three storey scheme previously approved on the site under reference P/2008/1028/F. Finishes are all appropriate to the Conservation area.

**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 Signature	<i>[Signature]</i>
Date	<i>11/11/16</i>
Appointed Officer Signature	<i>[Signature]</i>
Date	<i>11/11/16</i>

<b>ITEM NO</b>	<b>20</b>			
<b>APPLIC NO</b>	LA07/2016/1486/O	Outline	<b>DATE VALID</b>	11/4/16
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>			
<b>APPLICANT</b>	Mr and Mrs Jonathon Matthews C/O 20 Lower Carrogs Road Newry BT34 2NQ		<b>AGENT</b>	P. O'Hagan & Associates Ltd 10 Trevor Hill Newry BT34 1DN 028 3026 6011

**LOCATION** Lands immediately South of No. 24 Lower Carrogs Road  
Newry

**PROPOSAL** Proposed corner infill site for a new dwelling & garage

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

- 1 The proposal is contrary to Policy CTY 1 and Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation to a of ribbon development along a private lane.
- 2 The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed building is a prominent feature in the landscape, the proposed site lacks long established natural boundaries for the building to integrate into the landscape, the proposed building relies primarily on the use of new landscaping for integration, the proposed building fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop and therefore would not visually integrate into the surrounding landscape.
- 3 The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted, be unduly prominent in the landscape, result in a suburban style build-up of development when viewed with existing and approved buildings, create a ribbon of development and would therefore further erode the rural character of the countryside.



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2016/1486/O

**Date Received:** 04/11/2016

**Proposal:**

Proposed corner infill site for a new dwelling & garage.

The applicant seeks outline planning permission to erect a dwelling and garage on what they argue is a gap site.

**Location:**

Lands immediately South of No. 24 Lower Carrogs Road, Newry.

The site is located in a rural area approximately 2 miles north-west of Burren and approximately 3.5 miles south-east of Newry.

**Site Characteristics & Area Characteristics:**

This rectangular rural site is currently a field, laid in grass and used for grazing. The northern boundary of the site, with no.24 Lower Carrogs Road, is comprised partially of Leyland Cypress hedging and partially of a stone wall with bushes located along this section of the boundary. The Eastern boundary is comprised of a dry stone wall and the southern and western boundaries are defined by a fence constructed from wooden posts and barbed wire. The fence comprised of wooden posts and barbed wire travel around all boundaries. The gradient of the site decreases to the west. Two laneways travel past the site. One laneway comes from Lower Carrogs Road and runs in a northerly direction from the south. This lane is laid in concrete. The other laneway also runs from Lower Carrogs Road and travels from west to east and joins the other lane. This laneway is primarily laid in concrete but the section running adjacent to the site is laid in stone. The site is accessed from a farm gate at the end of this lane.

The site is located outside of settlement development limits, as defined in the Banbridge / Newry and Mourne Area Plan 2015. The site is unzoned and lies outside of the Mourne Area of Outstanding Natural Beauty. There are currently no historic sites or monuments in close proximity to the site. The landscape in the area is undulating and this site is visible from sections of the Lower Carrogs Road which are approximately 510m from the site. Two dwellings are located adjacent to the site: no.20 Lower Carrogs Road is located west of the site and no.24 Lower Carrogs Road is located north of the site. The gradient of land further west of the site dramatically decreases beyond no. 20 Lower Carrogs Road and the gradient of the land further east of the site also rapidly decreases.

**Site History:**

No previous planning applications have been submitted on the application site.

**Planning Policies & Material Considerations:**

This planning application has been considered using the following policies:

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

**Consultations:**

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

1. NI Water – 18/11/2016 – Generic response.
2. Water Management Unit – 21/11/2016 – No specific comment.
3. Transport NI – 05/12/2016 – No objections in principle.

**Objections & Representations**

This planning application was advertised in the local press on 14/11/2016 and three neighbours were notified of the planning application by letter. No letters of objection or any other representations have been received regarding this planning application.

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

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

PPS 21 – Sustainable Development in the Countryside

As there is no significant change to the policy requirements for infill dwellings following the publication of the SPPS and it is arguably less prescriptive, the retained policy of PPS 21 will be given substantial weight in determining the principle of the proposal in accordance with paragraph 1.12 of the SPPS. With regards to PPS 21, a dwelling in the site would not meet the requirements of Policy CTY 8 for an infill dwelling, which therefore makes this application unacceptable in principle under policy CTY 1.

Policy CTY 8 states that *“Planning permission will be refused for a building which creates or adds to a ribbon of development.”* The exception to this rule is *“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 pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.”*

As stated above, a gap site is to be located on a substantial and continuously built up frontage. As will be discussed below, the application site is not part of a substantial and continuously built up frontage and two frontages are used in an attempt to justify that this is a gap site when the policy refers to a singular frontage. This application therefore fails to meet these two policy requirements.

This planning application relies on two frontages in an attempt to justify that this site is a gap site. The laneway running from west to east provides one frontage and the laneway running from south to north provides a separate frontage. In appeal 2013/A0210 (Tullygarden Road), the applicant relied on buildings within two frontages to achieve the policy requirement of three or more buildings. The Commissioner stated that *“This approach is not supported by Policy CTY 8.”* This situation is directly comparable with this planning application; two frontages exist and are being used as one despite this approach not being supported by policy. The use of these two frontages is therefore not acceptable.

The application site is also not part of a substantial and continuously built up frontage. Policy CTY 8 defines a substantial and built up frontage as one containing a minimum of three buildings along a road frontage with no development to the rear. Even if the two frontages were to be accepted as one, there is not a substantial and built up frontage. West of the site is no.20 Lower Carrogs Road which has a frontage, further west is a gap of approximately 60.5m and beyond the gap is no.18 Lower Carrogs Road which has a frontage. (No.18 Lower Carrogs Road has had an application for a replacement dwelling – LA07/2015/0433/F – approved on 07/09/2016 and its curtilage will not extend into the field/gap to the east of this site.) There is no line of three buildings in which the application site falls on a single frontage. Even if no.18 Lower Carrogs Road and its outbuildings were to be accepted as separate buildings, the gap of 60.5m between their site and no.20 Lower Carrogs Road means that the buildings related to no.18 Lower Carrogs Road cannot be considered in the determination of this application due to the gap of 60.5m. Therefore the application site is not within a substantial and built up frontage. Rather the application site provides relief and a visual break which should be protected. This interpretation of policy is in keeping with the findings in the appeal decision 2011/A0235 (Cornascreebe Road) in which there was a gap of 20m in what otherwise would have been a continuous and built-up frontage, but the 20m gap meant that it was determined there was not a continuous and built up frontage and the site failed therefore to comply with Policy CTY 8.

Overall this planning application fails to comply with Policy CTY 8 in that the application site is not gap site as it is not part of a singular frontage which is substantial and built up with three or more dwellings. As this application fails to meet the policy requirements of Policy CTY 8, it also fails to comply with Policy CTY 1 of PPS 21. The proposed dwelling would create a ribbon of development along a private lane.

The development of a gap site must also satisfy the integration policies of CTY 13 and CTY 14. Policy CTY 13 identifies seven cases where a new building in the countryside will be unacceptable for integration and design reasons:

- (a) Even with a restricted ridge height a dwelling on this site would be unduly prominent in the landscape from critical views along the Lower Carrogs Road approximately 510m from the site.
- (b) The site lacks long established natural boundaries and would require further works to provide a suitable degree of enclosure for the dwelling to help it integrate into the landscape.
- (c) The dwelling would rely primarily on the use of new landscaping for integration.
- (d) Ancillary works should be able to integrate into the landscape.
- (e) The design of the dwelling is to be confirmed through a reserved matters application and will be assessed then.
- (f) The dwelling would not be able to blend with the landform. It will appear as a development on top of a hill from critical views and is therefore unacceptable with regards to integration.
- (g) This criterion is not applicable as this is not an application for a dwelling on a farm.

Overall the proposed development fails to satisfy four of the policy requirements in Policy CTY 13.

Policy CTY 14 seeks to ensure that new buildings in the countryside do not cause a detrimental change to, or further erode the rural character of an area. There are five cases identified by this policy where a new building will be unacceptable:

- (a) Even with a restricted ridge height, a dwelling on this site would be unduly prominent and would further erode the rural character of the area.
- (b) The proposed dwelling fails to meet the requirements of Policy CTY 8 and would result in a suburban style build-up of development when viewed with the existing buildings.
- (c) The proposed development respects the traditional pattern of settlement exhibited in the area.
- (d) The proposed dwelling is not on a gap site and does not comply with Policy CTY 8. The approval of this dwelling would create a ribbon of development.
- (e) Ancillary works are unlikely to damage the rural character.

The proposed development therefore meets the requirements of three of the criteria in Policy CTY 14.

#### Access

Policy AMP 2 of PPS 3 states that planning permission will only be granted for a development proposal involving direct access onto a public road where such access will not prejudice road safety. This planning application makes use of an existing access onto Lower Carrogs Road. Transport NI has been consulted and in its response dated 05/12/2016 stated that it has no objections in principle to the development.

#### Sewerage

The site can accommodate a waste treatment unit – subject to obtaining consent to discharge from NIEA. This requirement to satisfy other legislation will be included as an informative. A standard consultation response was received from NI Water on 20/07/2016. Their standard informatives will be added.

### Amenity

The amenity of the adjacent dwelling, no.20 Lower Carrogs Road may be adversely impacted by the development. The full impact on amenity will be in the reserved matters application, however it is likely substantial landscaping will be required along the western boundary of the site.

### Landscaping

The applicant would be required to submit details of the proposed landscaping of the site in the reserved matters planning application.

### **Recommendation:**

#### *Refusal*

This planning application fails to comply with Policies CTY 1, CTY 8, CTY 13 and CTY 14 of PPS 21.

### **Refusal Reasons:**

1. The proposal is contrary to Policy CTY 1 and Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation to a of ribbon development along a private lane.
2. The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed building is a prominent feature in the landscape, the proposed site lacks long established natural boundaries for the building to integrate into the landscape, the proposed building relies primarily on the use of new landscaping for integration, the proposed building fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop and therefore would not visually integrate into the surrounding landscape.
3. The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted, be unduly prominent in the landscape, result in a suburban style build-up of development when viewed with existing and approved buildings, create a ribbon of development and would therefore further erode the rural character of the countryside.

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date:**

## DONALDSON PLANNING

## LA07/2016/1486/O – PROPOSED INFILL DWELLING SOUTH OF NO 24 LOWER CARROGS ROAD, NEWRY

**REBUTTAL OF COUNCIL RECOMMENDATION OF REFUSAL**

1. This note relates to a proposed 'infill' dwelling at Lower Carrogs Road, Newry. The Council has recommended refusal on the basis that the development: will create ribbon development; will lack established boundaries; and will be detrimental to rural character.

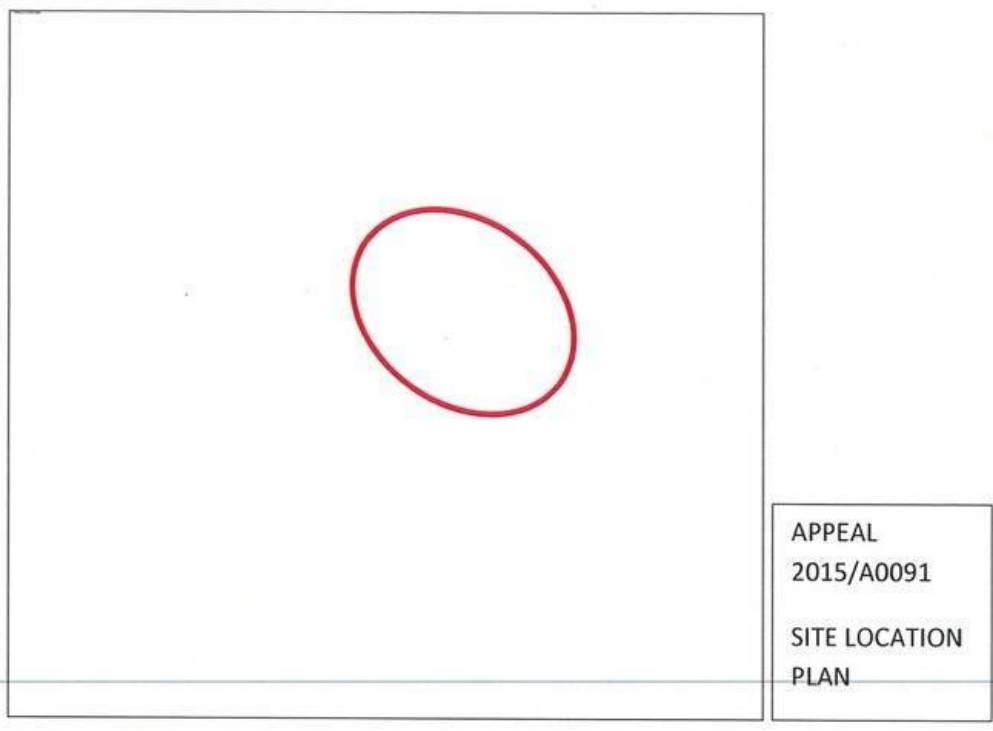
**Site Location**

2. The site is located in the rural area about 3.5 miles south east of Newry. It is outside any settlement limit and is not within the Mourne AONB.
3. The site comprises a rectangular field which lies between Nos 20 and 24 Lower Carrogs Road. These dwellings are located on a private laneway which links to Lower Carrogs Road. Nos 20 and 24 are separated by a sharp bend in the laneway.

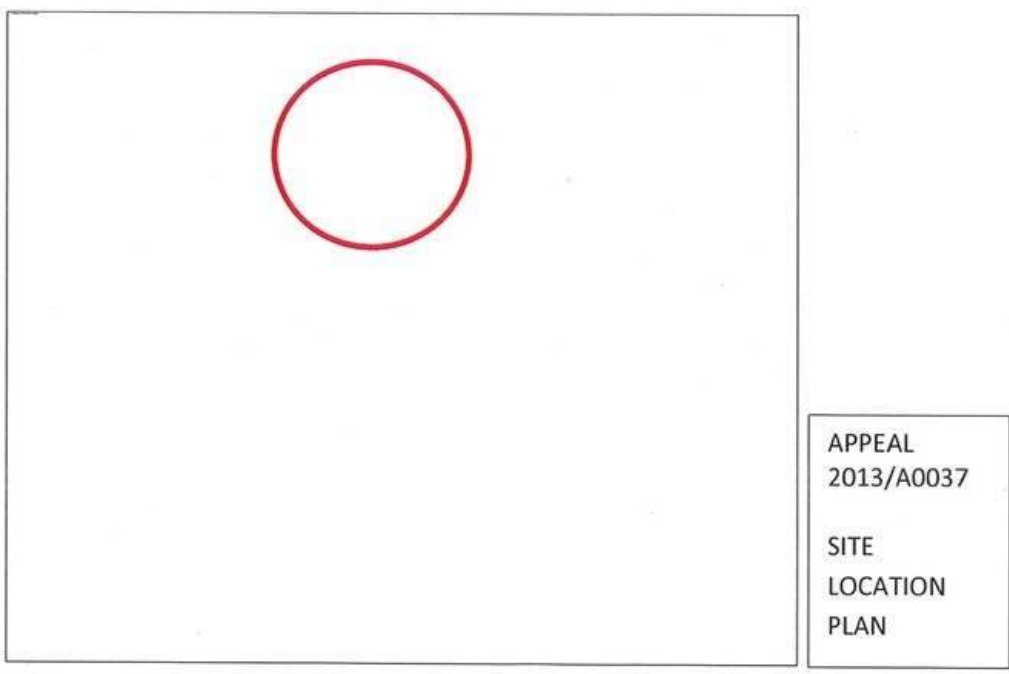
**Consideration of Refusal Reasons**Policy CTY8

4. The first refusal reason asserts that the development will result in the creation of ribbon development. According to the Officer's Report, this should not be regarded as an 'infill' site for two reasons. First, the site does not form part of a substantial and continuously built up frontage. Second, two frontages have been used in an attempt to justify that this is a gap site.
5. Taking the issue of the 'two frontages' first, the case officer asserts that, because there is a sharp bend in the laneway, there are two separate frontages. However this is not correct. Both No 20 and No 24 are located on the same laneway. The fact that the lane continues around a sharp corner (and part of the lane spurs off to the south to provide an alternative route to the public road) is immaterial. Both Nos 20 and 24 have a Lower Carrogs Road address.
6. There are several appeal decisions which confirm that a bend in a laneway does not mean that the existing dwellings are not part of the same frontage.
7. In **2015/A0091**, two dwellings were approved at a bend in a lane. The Commissioner commented that ***'the policy does not say that the line must be straight or that a building must face towards the road or lane or take access from it. Therefore a building would have a frontage to the lane if the plot on which it stands abuts or shares a boundary with the lane'***. The site location plan is shown below.

# DONALDSON PLANNING

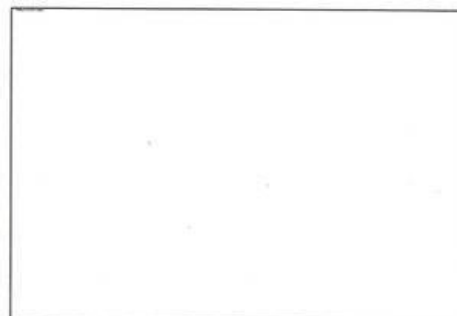


- 8. Another appeal decision of relevance is 2013/A0037. In this appeal the infill site was again at a sharp bend on a lane. The Commission accepted the Appellant's argument that, despite a 90 degree bend, the buildings along the lane read as one frontage entity.



## DONALDSON PLANNING

9. Plainly, although the laneway in this case turns a sharp bend, there remains a strong sequential awareness of development when travelling the laneway from Nos 18, past No 20 and then onto No 24.

**Viewpoints along laneway**

10. In relation to the 'continuous frontage' aspect the policy states that a built-up frontage should have a minimum of three buildings along a frontage with no development to the rear. The case officer asserts that No 20 has a frontage (which is correct) but that there is a gap between this dwelling and No 18 of some 60 metres. It should be noted that the gaps between buildings in the two appeal dwellings examples above were similar. However the key point in this case is that the policy refers to 'buildings' and not just dwellings. No 20 fronts onto the lane, as does No 24. However No 24 also has a separate garage building which has a frontage to the lane, so even if No 18 was excluded from consideration, there remain three buildings at Nos 20 and 24. The proposed dwelling will sit within a gap between these buildings.
11. It must be concluded that the proposed dwelling will infill an existing gap between three buildings on a single frontage, and that it is therefore compliant with policy CTY8.

Policy CTY13

12. Policy CTY13 requires development to be acceptably integrated into the landscape. The case officer asserts that this dwelling would be unduly prominent and will require substantial landscaping to ensure integration. However the case officer has placed insufficient weight on the following considerations:
- i) The site is integrated with other development, in particular Nos 20 and 24;
  - ii) The site is located up a quiet laneway, which in turn is off a minor road. The access laneway rises steeply from Lower Carrogs Road, so that when travelling along the public road the steep rise makes long views towards the site practically impossible; and
  - iii) There are already a number of mature trees within this landscape, which help to soften views from available viewpoints and aid landscape integration.

## DONALDSONPLANNING

### Policy CTY14

13. Policy CTY14 refers to rural character. The concerns in this respect are misplaced. Whilst the proposed dwelling will be on an elevated site, it will not be at all prominent or intrusive. In particular, this is rolling countryside, and dwellings on elevated sites are common throughout the area. Indeed the scattering of dwellings and small farmsteads helps to give the area its character. This dwelling will be entirely consistent with this established local character.

### **Conclusions**

14. Overall , it is clear that this proposal will not cause harm to interests of planning importance. The presumption in favour of development should apply.
15. The proposed development complies with both the thrust and the specifics of Policy CTY8, in that the site is located within a gap on the frontage of a private laneway. Although elevated, the new dwelling will be properly integrated into the landscape, and will be entirely consistent with the established rural character.
16. The Council is requested to reconsider its opinion on the basis of the above.

**DONALDSONPLANNING**

**9 January 2017**



**Topographical Survey / Concept Site Analysis**  
 scale 1:500

- POLICY CITY 13 - INTEGRATION AND DESIGN OF BUILDINGS IN THE COUNTRYSIDE**
- Proposed new dwelling will be visually integrated into the surrounding landscape and is of an appropriate design
  - New dwelling will not be a prominent feature in the landscape
  - New dwelling will be integrated into site by positioning sensitively into long established natural boundaries providing a suitable degree of enclosure.
  - New landscaping will be minimal, reinforcing existing
- POLICY CITY 8 - RIBBON DEVELOPMENT**
- 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 a house to maintain the ribbon of development with other residential and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of site, scale, siting and plot size and meets other planning and environmental requirements.
  - This policy is a definition of a substantial and built



<b>ITEM NO</b>	25		
<b>APPLIC NO</b>	P/2014/0071/F	Full	<b>DATE VALID</b> 1/17/14
<b>COUNCIL OPINION</b>	<b>APPROVAL</b>		
<b>APPLICANT</b>	Mr John Perry C/O Agent	<b>AGENT</b>	Jobling Planning & Environment Ltd. 1 Inverary Valley Larne BT40 3BJ 028 2827 7736
<b>LOCATION</b>	Lands South East of No. 54 Newcastle Street Kilkeel BT34 4AQ		
<b>PROPOSAL</b>	Change of use to part of commercial (pre-cast concrete works) yard to a waste management facility for the depollution and dismantling of End of Life Vehicles (ELVs) and the sorting and bulking of scrap metal. Works will include the use of existing vehicle workshop for the ELV depollution process, external storage of ELVs (unpolluted and polluted) and erection of walled enclosure for storage of non-ferrous scrap metal, roofing of existing enclosure for the storage of ferrous metals, banded fuel storage, and associated boundary treatments.		
<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b> <b>SUP Petitions</b>
	34	1	0                      0
			<b>Addresses Signatures</b> <b>Addresses Signatures</b>
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Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** P/2014/0071/F

**Date Received:** 18<sup>th</sup> January 2014

**Proposal:** Change of use to part of commercial (pre-cast concrete works) yard to a waste management facility for the depollution and dismantling of End of Life Vehicles (ELVs) and the sorting and bulking of scrap metal. Works will include the use of existing vehicle workshop for the ELV depollution process, external storage of ELVs (unpolluted and polluted) and erection of walled enclosure for storage of non-ferrous scrap metal, roofing of existing enclosure for the storage of ferrous metals, bunded fuel storage, and associated boundary treatments.

**Location:** Lands South East of No. 54 Newcastle Street, Kilkeel, BT34 4AQ

**Site Characteristics & Area Characteristics:**

The site is south east of No. 54 Newcastle Street, Kilkeel and is accessed by an avenue between No. 56 Newcastle Street and an existing petrol filling station. This is a narrow avenue taking you in a south easterly direction off Newcastle Street to an existing concrete yards/works. This yard is approximately three metres above the land to the north. The land to the west and south is at a higher level.

Upon entering the yard there is an existing office building to the east and hoppers along the north west. There is then a large building that is used to produce the precast products located within the centre of the yard. The southern third of this building is a workshop and this and the land beyond it to the SE is within the site outlined in red. The land is flat and currently has a concrete surface.

The site is enclosed along the southern boundary by whin bushes, the northern and western boundaries are not defined. The eastern boundary is not defined however there is a row of concrete blocks in piles along this boundary.

The area is within the Development Limits for Kilkeel and lies just off Newcastle Street. The site is to the south east of Local Landscape Policy Area KL 33 whose features are a large house and gardens (No. 54 Newcastle Street). It is within the Mournes and Slieve Croob Area of Outstanding Natural Beauty.

To the south east of the site there is the existing sewage works and a factory for processing fish. The entrance to the site runs along the boundary with Alexandra Drive, a cul-de-sac of semi-detached two storey dwellings and a filling station.



#### **Site History:**

The use of the yard for making concrete blocks was approved under application P/1977/0713 on 22.09.1977. The existing shed on the site for pre-cast concrete manufacturing was approved under application P/1981/0982 on 15.03.1982. The planning history demonstrates that the existing use as a commercial yard is established.

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

- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Banbridge, Newry & Mourne Area Plan 2015
- PPS2 – Natural Heritage
- PPS3 – Access, Movement & Parking
- DCAN15 – Vehicular Access Standards
- PPS11 – Planning and Waste Management

#### **Consultations:**

Consultations were carried out with Environmental Health, TransportNI, NIEA Water Management Unit, NIEA Land and Resource Management Unit.

Environmental Health - have not received any complaints regarding noise associated with the overall site. The dwellings in the vicinity benefit from some screening from the site due to topography and layout. Therefore in view of the proposed end use being a facility dealing with ELV Scrap Metal, Environmental Health would have no objections to the proposed development.

Roads Service have no objection following the receipt of the revised P1 form in particular the traffic figures.

NIEA: WMU have no objections in principle to this proposal providing all the relevant statutory permission for this development are obtained.

NIEA: LRM Unit have no objections.

### **Objections & Representations:**

The application was advertised in local newspapers on 28<sup>th</sup> March 2014, 27<sup>th</sup> June 2014, 21<sup>st</sup> October 2015 and 4<sup>th</sup> November 2015. 30 neighbouring properties were notified of the proposal in the initial round of consultation on 14<sup>th</sup> March 2014. Subsequent notifications were sent to neighbours and objectors on 17<sup>th</sup> June 2014 and 19<sup>th</sup> October 2015. Objections were received from a total of 26 properties in the surrounding area (most of which were copies of the same letter template), as well as from Mr Jim Wells MLA and Gordon Bell and Son Solicitors on behalf of an adjacent landowner (Bannerville Developments Ltd.)

The main issues raised in the letters of objection were noise impact, effect on property values, that a full EIA was not undertaken, potential pollution of harbour area, additional traffic generated, sub-standard entrance, and use unsuitable within a residential area. The correspondence from the solicitor centres on land ownership, specifically, whether the owners of the site had the right to access the site over his clients' property.

A noise assessment was undertaken by Lester Acoustics and submitted with the application. This found that the normal operations of the plant will not exceed recommended noise levels and this was accepted by Environmental Health. They have recommended mitigation conditions regarding operating hours and activity when the baler is present on site to ensure no unacceptable impacts on residential amenity. Therefore this concern cannot be given determining weight. Effects on the value of private property are not a material planning consideration. The proposal is of a relatively small scale as these facilities go and appropriate mitigation measures will be employed to ensure no pollution of the surrounding environment (including use of bunded tanks and interceptors in drains). The point of the facility is to reduce the risk of pollution by properly depolluting and disposing of the end of life vehicles. Following consultation with statutory bodies, a request for a full Environmental Statement could not be justified as the relevant matters can be assessed through the normal application process. Following clarification on the level of traffic to be attracted to the site, TransportNI has no road safety concern with the use of the existing access from Newcastle Street. The site has an established industrial use and is considered suitable for the proposal given the separation distances from residential properties (over 50m).

With regard to the matter of land ownership, the planning authority wrote to the agent concerning the challenge to the P2 certificate. The agent provided a solicitor's letter with accompanying title documents and a map to show that the applicant has an easement over the objector's site for use of the lane. Notice was served on the owner of the land on 10<sup>th</sup> September 2014 and an amended P2 certificate C was submitted on 11<sup>th</sup> September 2014. The Council is satisfied that the challenge to the ownership has been addressed, that the applicant controls the land necessary to carry out the development, and that the interested parties have had the chance to have their say. TransportNI was consulted and there was no change to their position. Any further disputes on the issue are a civil matter between the parties, but the planning application cannot be further held. Further correspondence was received

from Gordon Bell and Son Solicitors alleging inconsistency in the approach adopted by TransportNI on another application by their client using the same laneway. The Council is satisfied that each application is assessed on its own merits having regard to the circumstances of the proposal, policy requirements and consultee advice. As this application is considered acceptable (as indeed was the other one referred to – P/2014/0664/F), there is no prejudice and the application should be determined without further delay.

### **Consideration and Assessment:**

The main issues to be considered are the principle of the waste management use proposed, visual issues associated with the storage of waste on the site, road safety and impacts on amenity.

The proposal exceeded the threshold of Category 11(E) of Schedule 2 of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2012. The previous planning authority was required under Regulation 10 to make a determination as to whether the proposal was for EIA development. Following the receipt of a number of consultation responses, it was determined on 16<sup>th</sup> April 2014 that an Environmental Statement would not be required as the environmental effects were not likely to be significant and could be assessed through the normal planning process.

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is currently within the remit of the Banbridge / Newry & Mourne Area Plan 2015 as the new council has not yet adopted a local development plan. The site is located within the settlement limit of Kilkeel, and is unzoned. There are no specific policies in the Plan that are relevant to the determination of the application and the application will be assessed against the operational policies of the SPPS and the retained PPS11.

Sustainable waste management is essential for the health and well-being of society, and our quality of life. The waste management industry is an important provider of jobs and investment across the region, with the potential to support future business development, investment and employment. The provision of waste facilities and infrastructure can make a valuable contribution towards sustainable development. The aim of the SPPS in relation to waste management is to support wider government policy focused on the sustainable management of waste, and a move towards resource efficiency. This proposal aims to sustainably manage waste by de-polluting and recycling end of life vehicles.

With regard to site selection, the planning authority will be guided by paragraph 6.313 of the SPPS which replicates much of the retained policy WM2 of PPS11. A suitable site must meet one or more of the five locational criteria. This site is considered to meet at least two of these criteria. It is located within an existing industrial area with an established use as a commercial yard. The pre-cast concrete works will remain in the western part of the yard and the development proposal will share a similar character with this existing use. It also makes use of previously developed land and will make use of part of an existing building. The Minister for the

Environment issued a statement in November 2013 to state that Best Practicable Environmental Option (BPEO) was no longer a material planning consideration following the publication of the revised Waste Management Strategy. The SPPS confirms at paragraph 6.323 that this remains the case. Therefore there is no requirement to demonstrate need for the facility provided it meets the locational criteria.

The environmental impact of the waste management facility must be assessed under paragraph 6.321 of the SPPS and policy WM1 of PPS11. The volume and tonnage of ELVs to be processed on the site has been specified in the supporting statement and the recycling of much of the material recovered is to be welcomed. Key consultees have no concerns regarding the type or volume of waste or the method of disposal. The proposal will not cause demonstrable harm to human health or result in an unacceptable adverse impact on the environment. The principal concern for residential amenity would be noise arising from the site. A noise assessment was undertaken by Lester Acoustics and submitted with the application. This found that the normal operations of the plant will not exceed recommended noise levels and this was accepted by Environmental Health. It is intended that a mobile baler will be brought onto the site either quarterly or monthly when there is sufficient volume of waste to be baled and removed. As this process would create additional noise on the particular days when it is present, Environmental Health have recommended mitigation conditions restricting the other machinery that can operate concurrently to a single excavator. They have also recommended restricted operating hours of 9am – 5pm Monday to Friday and 9pm – 2pm on Saturday to ensure no unacceptable impacts on residential amenity. Measures have been taken to ensure that in the event of a spill, there is no risk of pollution of the surrounding environment. This includes a detailed drainage plan, the use of an interceptor and bunds around storage tanks. Water Management Unit is content with the measures proposed. While it is acknowledged that there are residential areas beyond the site (principally off Newcastle Street and Rooney Road), the primary character of this area is commercial and industrial. The site's established use is as a concrete works while there is a sewage works and factories to the SE and a former sale yard and joinery works to the NW. The proposed use is considered compatible with these land uses. Its visual impact is mitigated by its depressed landscape setting and the screening provided by existing industrial development on the site. There are limited public views of the site and the proposed volume of outside storage is limited. Therefore the proposal will not harm the townscape of this part of Kilkeel, or the landscape quality of the Mourne AONB as required by PPS2 policy NH6. There will be no effects on archaeological or built heritage interests and no changes to flood risk. There will be no loss of agricultural land and no risk to air, water or soil resources.

The traffic assessment form in the planning statement submitted by the agent states that the proposal involves the processing of 5,400 tonnes of waste per annum. This equates to 19 tonnes into the site and 1 No. removal trip from the site per day. Overall this proposal will generate 10 No. two-way trips to/from the site on a daily basis. Vehicle types to and from the site will consist of 2 No. vehicles used by staff members and 4 No. HGVs for the traffic movement of waste deliveries to the site. The agent has subsequently submitted an amended P1 form which has shown that there are 2 staff vehicles, 10 visitor/customer vehicles and 15 good vehicles attending the premises daily and that this will not increase for this proposal.

TransportNI initially felt that the proposal was an unacceptable intensification of use of the existing access, but following a meeting and receipt of the amended P1 form with clarification on the existing level of traffic using the laneway, they are now content that there will be no intensification. They have no road safety concerns under PPS3 or DCAN15 with the existing access point and the nature and frequency of traffic movements associated with the proposed use. As there will be a reduction in the use of the concrete plant, the new use should result in less dirt and dust nuisance at adjoining properties. There is adequate space within the site for parking and circulation of vehicles.

In summary, the proposal has been found to comply with the relevant policies, is appropriately sited and will not harm the environment, residential amenity or other interests of acknowledged importance. The concerns raised by objectors have been fully assessed and cannot be given determining weight.

**Recommendation:** Approval

**Conditions:**

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

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

2. The storage areas/facility shall only be for the use of the ELV depollution process and associated recycling of components.

Reason: To prevent other waste being brought onto the site.

3. No machinery shall be operated, no process shall be carried out and no deliveries taken at, or dispatched from the site outside the following times:  
     Monday to Friday 9am – 5pm  
     Saturday 9am – 2pm  
     nor at any time on Sundays, Bank or Public Holidays.

Reason: To safeguard the living conditions of residents in adjoining and nearby properties.

4. At times when the Baler is operating on site only one Excavator shall be permitted to operate.

Reason: To ensure that acceptable noise levels are not exceeded at nearby residential properties.

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date:**

DB/JQ/5920F

22<sup>nd</sup> December 2016

Newry, Mourne and Down District Council  
O'Hagan House  
District Council Offices  
Monaghan Row  
Newry  
BT35 8DJ

Dear Sirs,

**Re: Planning reference: P/2014/0071/F**

**Proposal: Change of use to part of commercial (pre-cast concrete works) yard to a waste management facility for the depollution and dismantling of End of Life Vehicles (ELVs) and the sorting and bulking of scrap metal. Works will include the use of existing vehicle workshop for the ELV depollution process, external storage of ELVs (unpolluted and polluted) and erection of walled enclosure for storage of non-ferrous scrap metal, roofing of existing enclosure for the storage of ferrous metals, bunded fuel storage, and associated boundary treatments.**

**Location: Lands South East of No. 54 Newcastle Street Kilkeel BT34 4AQ**

We are writing prior to the meeting of the Newry, Mourne and Down District Planning Committee on 18<sup>th</sup> January 2017 at which James Anderson BL is instructed by this firm to address the Committee to lodge an objection to the above stated planning application on behalf of our client, Mr Ronald Sloan/Bannerville Developments Limited. Below are the points which we wish to raise:

1. The Applicant has failed to satisfy the Committee that it controls the land and has adequate access to the land. Proof of this position has been given to the Committee, namely that the Applicant has commenced legal proceedings in the County Court for Northern Ireland against our client seeking, *inter alia*, a “*declaration that the Plaintiff, his heirs and assigns, are entitled to right of way at all time and for all purposes*” over the land. This is irrefutable evidence that a question exists as to the Applicant’s right of use of the lane which cannot be ignored by the Committee. It therefore would be improper for the Committee to approve the application until such time as the legal and factual issues as to control and access to the land can be properly determined by the Courts.
2. The Applicant has failed to satisfy the Committee as to the existence of the easement, the mechanism by which the easement was granted or transferred to the Applicant, the extent of the easement, or proof that the easement would survive a change of purpose such as proposed by the Applicant, namely that end of life



vehicles be transported in large number down what is essentially a narrow laneway adjoining residential properties. Such matters are fundamental to principles of planning permission and the Committee must investigate such matters completely before approval may be considered.

3. Photographic evidence was presented to the Committee on 28<sup>th</sup> September 2016 and 5<sup>th</sup> October 2016 that the Applicant had commenced scrap metal work at the premises before approval has been granted for the proposed change of use. These allegations were ignored by the Committee at the meetings. The Committee is now obligated to carry out a proper investigation of these allegations before approval may be considered.

The above stated matters are clear impediments to the application presently before the Committee and the Committee is urged to give due and proper consideration of these objections in accordance with its statutory duties.

Yours faithfully

Mrs Michelle McCreedy  
15c Castlewellan Road  
Rathfriland  
Co Down  
BT34 5LZ

9<sup>th</sup> January 2017

Newry, Mourne and Down District Council  
Planning Office  
O'Hagan House  
Monaghan Row  
Newry  
BT35 8DL

Dear Sir/Madam

Ref : P/2014/0071/F – Lands south east of No 54 Newcastle Road, Kilkeel, BT34 4AQ

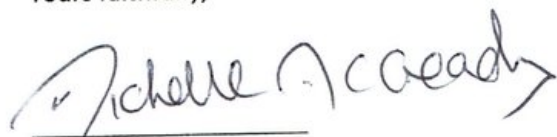
The above planning application is to be heard on Wednesday 18<sup>th</sup> January and I wish to request speaking rights on the following grounds:

1. I wish to report factual inaccuracies presented by Ms Jobling, agent in support of the application at the last council meeting when the application was adjourned pending a site meeting. Under questioning by the Council members, she confirmed that the Baler will only be operated one week of the month. As these balers/crushers can process 5 tonnes per hour, my calculations work out that 9700 tonnes would be processed per year but the application is only for 5400 tonnes per year. Ms Jobling also spent some of her speaking time defending Lester Acoustics and their Noise Assessment Report. I, at no time, refuted their credentials during my previous allocated speaking time but did question the validity of a report stating "This found that the normal operations of this plant will not exceed recommended noise levels" when I have found and attach a page showing actual noise levels of such a site. These levels clearly show the recommended safe levels of 85 decibels being exceeded.
2. I would also like the Planning Officer to explain why, in his report "They have no road safety concerns under PPS3 or DCAN15 with the existing access point and the nature and frequency of traffic movements associated with the proposed use". DCAN15 (1.2) states that "Intensification is considered to occur when a proposed development would increase the traffic flow using an access by 5% or more". The application states traffic movement will be 2 staff vehicles, 10 visitor/customer vehicles and 15 good vehicles per day and that these figures will not increase. This is a total of 27 vehicles meaning that the current movement of vehicles should be more than 540 per day to stay below 5%. We all know that is not correct and never has been. I would also like to inform the Planning Officer and Council Members

that vehicles regularly get stuck in this entrance and cause no end of delays to an already busy main road while they try to reverse back onto the main road and then manoeuvre themselves into this inadequate entrance. This is not hearsay but common knowledge.

As I have stated – a major flaw in the application with regards to tonnage to be processed, an accurate noise assessment as apposed to a potential noise assessment and the clear failings of the DCAN15 rule should surely deem this application be refused.

Yours faithfully,

A handwritten signature in black ink that reads "Michelle McCready". The signature is written in a cursive style and is positioned above a horizontal line.

Mrs Michelle McCready

Found on Google

3.2.5 Graph 3.1 below shows tonal noise characteristics (shown as spikes in the spectra shape) at 1.25kHz, which is due to 'beeper' type reverse alarms, which is addressed in the noise mitigation strategy within section 6.0. The results show that elimination of the tonal characteristic of the 'beeper' would reduce forklift noise levels by around 3dB(A).

**3.3 Mobile Car Crusher - Noise Survey Results:**

3.3.1 WEEE are proposing to bring a mobile car crushing plant onto site which would include the use of an excavator with grab. To ensure the noise prediction calculations are as accurate as possible we have visited an existing site in Peterborough that uses this type of plant to determine typical site operating noise levels during car crushing activities.

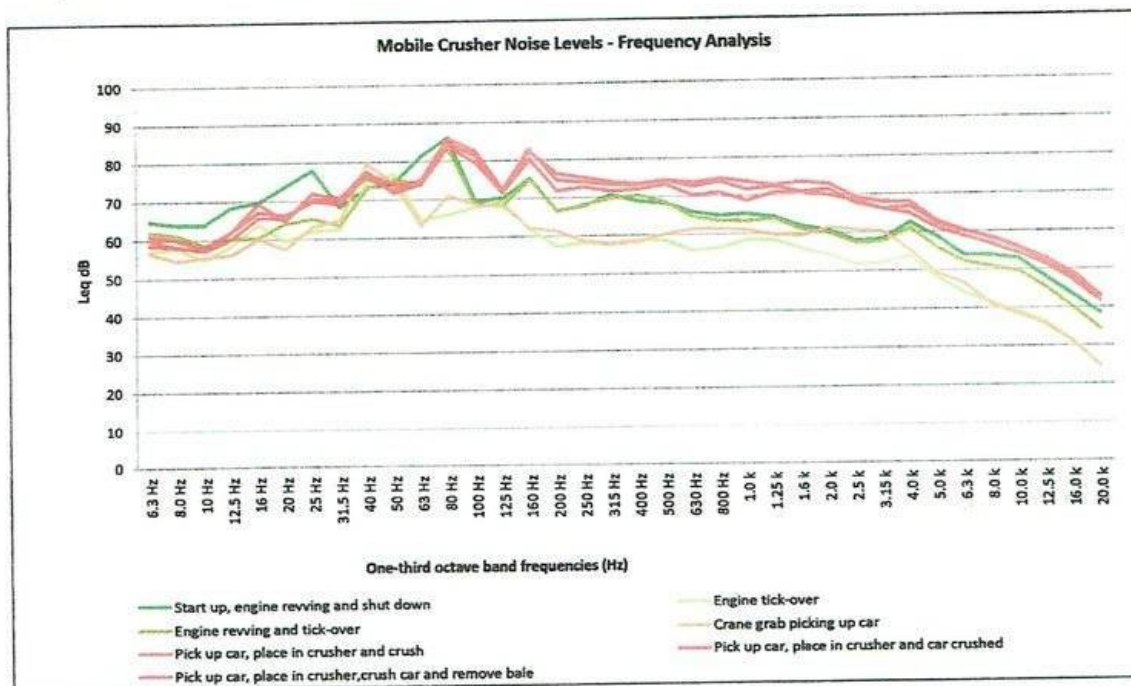
3.3.2 Table 3.4 below shows the results of the noise survey.

**Table 3.4: Noise levels from car crushing activities**

Activity	LAeq	LAS(max)	LA10	LA90
Start-up engine, revs then shut down at 10m	75.3	79.9	79.1	68.2
Tick over on engine, clearing out	67.1	70.4	67.7	66.5
Revs and tickover Lefort Crusher at 10m	74.5	82.3	78.8	65.8
Car pick up with grab	71	82.4	71.9	65.6
Car pick up with grab and crush at 10m	80.9	94.2	81.1	69.2
Car pick up with grab and crush at 0m	82.2	95.5	83.9	76.9
Car pick up with grab and crush at 0m	83.3	95.4	84.1	77.1

3.3.3 Measured frequency analysis of the car crushing plant is provided below in Graph 3.2.

**Graph 3.2: Frequency spectra for mobile crusher**



Please find enclosed my request for speaking rights and the included photo and text, thanks  
Colette,

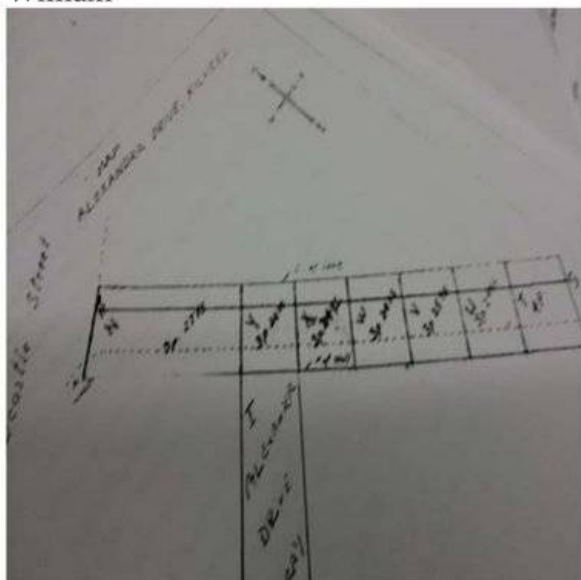
As you can see from the enclosed photo, (which is a copy of our home deeds) showing part ownership of the lane) our property at 1 Alexandra Drive, Kilkeel, includes 'ownership' (50% at least) of the lane to which this application will encroach on if passed.

We at 1 Alexandra Drive do hereby give notice that they (the company requesting this application) do NOT have any permission to use our property 'if' this 'new' application is approved and our request to Newry, Mourne and Down District Council is that planning permission for this 'new' business will be rejected!

Thanks for your consideration.

Best regards,

William



William McMurray

07769 883344

**ITEM NO** 26  
**APPLIC NO** P/2014/0276/O Outline **DATE VALID** 3/24/14  
**COUNCIL OPINION** REFUSAL  
**APPLICANT** Robert Francis Spence **AGENT** JF Speers and  
 Son 39  
 Greencastle Street  
 Kilkeel  
 BT344BH  
 02841762212

**LOCATION** Approximately 275 metres north west of 79 Aughnafoory Road  
 Kilkeel  
**PROPOSAL** Site for dwelling with detached 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 Signatures</b>		<b>Addresses</b>	<b>Signatures</b>		
			0	0	0	0		

- 1 The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm and access to the dwelling is not obtained from an existing lane. It also has not demonstrated that health and safety reasons exist to justify an alternative site not visually linked (or sited to cluster) with an established group of buildings on the farm and it has not been demonstrated that verifiable plans exist to expand the farm business at the existing building group to justify an alternative site not visually linked (or sited to cluster) with an established group of buildings on the farm.
- 2 The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed building is a prominent feature in the landscape, the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape, the proposed building relies primarily on the use of new landscaping for integration, the ancillary works do not integrate with their surroundings and the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.
- 3 The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted, be unduly prominent in the landscape and the impact of ancillary works would damage rural character and would therefore further erode the rural character of the countryside.
- 4 The proposal is contrary to Policy NH 6 of Planning Policy Statement 2, Natural Heritage, in that the site lies in a designated Area of Outstanding Natural Beauty and the development would, if permitted, be detrimental to the environmental quality of the area by reason of its siting which does not respect the distinctive character and landscape quality of the locality.



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

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

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

**Proposal:**

Site for dwelling with detached garage.

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

**Location:**

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

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

**Site Characteristics & Area Characteristics:**

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

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

**Site History:**

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

**Planning Policies & Material Considerations:**

This planning application has been assessed under:

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

**Consultations:**

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

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

**Objections & Representations**

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

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

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

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

As there is no significant change to the policy requirements for dwellings on farms following the publication of the SPPS and it is arguably less prescriptive, the retained



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

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

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

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

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

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

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

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

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

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

#### Integration

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

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

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

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

### Access

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

### Sewerage

The site can accommodate a septic tank and soak-away – subject to obtaining consent to discharge from NIEA. This requirement to satisfy other legislation will be included as an informative. A standard consultation response was received from NI Water so their informatives will be added to the decision.

### Amenity

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

### Flooding

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

### Impact on the AONB

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

### **Recommendation:**

#### *Refusal.*

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

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

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

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

2. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed building is a prominent feature in the landscape, the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape, the proposed building relies primarily on the use of new landscaping for integration, the ancillary works do not integrate with their surroundings and the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted, be unduly prominent in the landscape and the impact of ancillary works would damage rural character and would therefore further erode the rural character of the countryside.
4. The proposal is contrary to Policy NH 6 of Planning Policy Statement 2, Natural Heritage, in that the site lies in a designated Area of Outstanding Natural Beauty and the development would, if permitted, be detrimental to the environmental quality of the area by reason of its siting which does not respect the distinctive character and landscape quality of the locality.

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date:**

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

11<sup>th</sup> January 2017

Dear Sir / Madam,

**Ref: P/2014/0276/O**  
**Site for Dwelling with Detached Garage**  
**275 metres north west of 79 Aughnahoorry Road, Kilkeel**

1. The above planning application has been recommend for refusal, having been under consideration for almost three years.
2. The key issue in this case is that the dwelling is not clustered or visually linked with a group of buildings on the applicant's farm. Additionally, the Council considers the dwelling will be visually prominent and incapable of integrating into the surrounding countryside, while the proposal's siting has been deemed likely to adversely affect the area's environmental quality.
3. A case has been made that there is justification for an "alternative site" away from the main farm grouping, for health and safety reasons, and for pragmatic reasons.
4. The proposal falls to be assessed under the provisions of Policy CTY 10 of Planning Policy Statement 21 (dwellings on farms). The applicant's farm business is active and established, and no development opportunities have been disposed of from the farm. The proposal therefore meets the requirements of criteria a and b of Policy CTY 10. The fundamental difference in opinion concerns the failure to cluster with existing buildings on the farm, which the Council considers contrary to Criterion c of Policy CTY 10.



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### **Council's Initial Assessment of Most Appropriate Site (This was on third party lands)**

5. At an early stage in the processing of the application the planning authority indicated its belief that a site was available, beside the farm, which would have met the locational requirements of Policy CTY 10. However, this site does not actually fall within the applicant's ownership or control.

### **Applicant's Farm**

6. By way of background, the applicant's farm is comprised of lands he owns outright and lands he takes in conacre. DARD's farm maps are clearly marked "DARD maps do not convey legal ownership". While planning authorities have a tendency to look at farm holdings as a whole, it is illogical to expect an applicant to construct a dwelling on third party lands. Such an approach would undermine the thrust of the policy, i.e. to grant permission for a new dwelling on the basis of an active and established farm business. Without there being an active and established farm business there cannot be a development opportunity for the purposes of this policy. Therefore, the thrust of the policy is clearly directed towards those who operate active and established farm businesses and not those who simply own land. Nonetheless, in this case, the lands that the planning authority initially earmarked did not even feature on the applicant's farm maps at all. However, it would appear that the planning authority was of the view that the applicant had simply "held back" from declaring that the site in question was under his ownership or control. Accordingly, land registry / folio maps were provided to demonstrate that the site in question was not connected to the applicant. Although that site was situated immediately adjacent to the applicant's farm buildings, since he does not have any interest in it, he could not erect his dwelling thereon.

### **Constraints with applicant's land adjacent to his farm buildings**

#### **Access / Ownership**

7. It next became necessary to look at the most appropriate location to position a new dwelling on the farm. The applicant's farm buildings are located within Folio 7224. The land registry map pertaining to same shows that this folio does not abut the adjacent road. Worse still, the folio map has clearly been marked to show the existence of a "right of way", which allows the applicant to pass from Aughnahoor Road through his farm to an outlying field within his farm. Therefore, while a new dwelling sited to the

- east of the farm buildings would have met policy CTY 10's locational requirements, it could only have been accessed (from the front) by travelling through a densely built up farm yard. The access would have involved traversing the narrow spaces between closely spaced farm buildings. Clearly, this would be unacceptable, not least in health and safety grounds.
8. The "right of way" in question was granted to facilitate use, for agricultural purposes, and no right has been conferred to use this access to serve a residential property. The Council recently indicated that "rights of way can be acquired", however this again would defeat the purpose of obtaining planning approval to construct a dwelling on one's own farm, only to have to acquire the means of access thereto. Even if such an access was acquired, the first 120 metres of the access would combined with the access to the farm, and in places the gap between buildings is but a mere 3.5 metres wide. Irrespective of road safety standards (which would in actual fact not apply to this private / un-adopted lane) there is a clear health and safety risk inherent in such a design.
  9. An alternative means of access would, potentially, be available, from the north west. However, this access would have to traverse another third party's lands, while it would still have to traverse the second party's farm. The fact that the applicant currently rents a field (field 7 in farm map set), for agricultural use, from a the third party, should not be taken as an indication that a dedicated access to a new dwelling could be negotiated. In fact, there is no prospect of such happening, because this would constitute a significant encumbrance upon that landowner's holding and it could potentially dissect it and make areas of his holding inaccessible.
  10. Information pertaining to ownership of the constituent parts of the farm was provided to the Council on 04<sup>th</sup> August 2015 and 14<sup>th</sup> October 2015. However, the case officer report makes no mention of the land registry information previously provided and it is not apparent whether or not this has been taken into consideration in the assessment of the proposal (the planning report simply refers to information being submitted that shows some of the fields adjacent to the farm buildings are out of the applicant's control however "the agent has not demonstrated the need for an alternative site in accordance with the policy requirements" – the critical failing in this respect is believed to be the absence of an independent health and safety assessment).
  11. In asserting that the failure to provide independent health and safety input ought not to be determining, I would highlight the Council's approval of four applications in recent

months, in which refusal recommendations have been overturned in similar circumstances:

12. It would appear that the LPA's position on this issue is at odds with its own Planning Committee, who have in recent months granted approval for a number of farm dwellings away from farm buildings, against the recommendations of its own planning officials, including:
  - LA07/2015/0936/O
  - LA07/2015/1217/O
  - LA07/2015/0381/F
  - LA07/2015/0303/F Note: This application was recommended for refusal but the refusal recommendation was overturned by Newry, Mourne and Down Council's planning committee (dated 21<sup>st</sup> December 2016) however the approval notice appears not yet to have been issued.
13. Of the above four cases, only the first involved the submission of an independent health and safety report, and yet the Planning Committee was content to approve them. It is respectfully contended that the same degree of flexibility and common sense ought to be applied in the assessment of this planning application.
14. The outcome of this appraisal has been to conclude that while there is a site available to the immediate east of the applicant's farm buildings, which would fulfill Policy CTY 10's locational requirement, this cannot actually be accessed other than by the acquisition of third party lands. The only existing access, which is conferred under a right of passage (for agricultural purposes), would not be appropriate to use as the means of access to the new dwelling, due to the necessity to pass through the midst of twelve densely-built agricultural buildings, some of which include slurry tanks. Owing to the health and safety constraints associated with this, it has proven necessary to look at an "alternative site" away from the farm buildings.

#### **Proximity to neighbouring farm buildings**

15. One issue that has hitherto not been considered is the fact that the planning policy in question precludes applicants from clustering with neighbouring farm buildings. It is also the policy of the Council's Environmental Health Department to recommend that farm



dwellings be sited more than 75 metres from third parties' farm buildings, as would be the case here if a dwelling was sited to cluster with the applicant's own farm buildings.

#### **Independent Health and Safety Report**

16. While it would have been preferential to have a health and safety expert summarise the aforementioned constraints in advance of the Council's last development management group meeting, the Council's response to similar reports in recent months has been that the issues are common to many farms in NI, and that there has been nothing unique about the identified examples. In light of the fact that the access issue in this case is so obvious, and the land ownership issues have been so clearly laid out, it is contended that the Council had sufficient information available to assist in its determination of the issue. Additionally, on a number of occasions I offered to submit such information, however on each occasion I was advised to hold back from this until the case was reconsidered. While a Health and Safety report has hereby been appended, I would apologise for the timing of same and I would point out that there has been no deliberate attempt to drip feed the Council with piecemeal submissions. As outlined above, the failure to submit this information earlier in the process is not considered to have unduly impeded the Council's ability to determine the application, not least in light of the recent approvals cited in the preceding text.

#### **VISUAL IMPACT**

17. In relation to the environmental issues, it is significant that on 06<sup>th</sup> July 2015, I received a telephone call from the Council's Senior Planning Officer. The senior planning officer indicated that herself and the Chief Planning Officer had felt that the site could accommodate some form of development, i.e. that "a dwelling, if single storey, at the rear of the site would be acceptable, but there was a fundamental principle – that other lands within the farm had not been explored". I concluded the telephone call by welcoming that acknowledgement and by confirming my intention to provide additional information in the coming week. It is unfortunate that this acknowledgement has not been factored into the current refusal recommendation, which has required me to make additional comment upon the following issues (that appeared to have been overcome already).



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### Integration

18. The Case Officer Report erroneously stated that the applicant has acknowledged that “the preferred site lacks long established natural boundaries and that the site is unable to provide a suitable degree of enclosure”. This mistaken assumption is based upon the fact that a number of trees were planted in the site purportedly “prior to the submission of the application”. While it is my understanding that the trees were actually planted after the submission of the application, irrespective of the date, this action cannot be taken as an acknowledgement of any failing on the applicant’s part. Rather, the planting would appear to indicate a genuine attempt to improve this application’s prospects.
19. The case officer report outlines concerns in relation to boundaries, means of enclosure and standard of integration, indicating that new planting is required along the site boundaries. In that respect, I would respectfully highlight the importance of the design guidance contained in Building on Tradition – PPS 21’s supplementary design guidance.
20. This guide identifies a series of 8 principles that should be applied to development proposals, to ensure that new development integrates adequately into the surrounding countryside.
21. This proposal will work with the contours (not against them), while the location is as sheltered as is available in this wider landscape. The site is low lying and, critically, the proposal has avoided a full-frontage location (views into and through the site are “side on” as opposed to full frontage, notwithstanding the considerable distance from the site to the relevant viewpoints). The site location is not exposed, being well set back from the public road. The guidance advises that applicants should look for sites with at least two boundaries in situ and preferably three, and in this respect the proposal complies. The recent planting is immaterial in this respect and while the case officer report refers to dry stone walling and gorse along the site boundaries, these are typical of this part of the AONB. In accordance with previous design guidance (which referred to situations like coastal zones and exposed mountain areas, where some degree of prominence is unavoidable) the proposal has been carefully sited, well back from the road and not at a full frontal angle to the road, to avoid any perception of prominence. On balance, the general adherence to the guidance set out in Building on Tradition is indicative of the proposal’s compliance with Policy CTY 13 of PPS 21.

22. It is difficult to reconcile the Council's perception of prominence with the reality that this site is located over 100 metres back from the public road, at a lower level than the road, and with a backdrop of rising terrain and other buildings to integrate and assimilate with. The vegetation around the site's environs is superior to that commonly witnessed in this part of the Mourne AONB.
23. Concerns have been expressed with regard to the impact of ancillary works. However, this is not a case of widespread vegetation being removed or a new driveway artificially meandering through a suburban lawn. The applicant can easily ensure that the proposed access hugs the site's boundaries as far as possible, avoiding any significant harm to the character or appearance of the area. Any new boundaries required by the new access would comprise dry stone walls, in keeping with the area, and this would not undermine the area's rural character.

#### **Area of Outstanding Natural Beauty (AONB)**

24. In terms of its purported impact on the AONB, it has been argued that the proposal would be unduly prominent. Notwithstanding the senior planning officers' previous considerations on this matter, the planning report indicates that the siting and the scale of the development are contrary to Policy NH 6 of PPS 2. However, the scale of the dwelling would not be determined until an application for approval of Reserved Matters was submitted, and the proposal has respected the typical disposition of dwellings in this area of countryside i.e. either a dispersed pattern of settlement or dwellings clustered with farm groupings.
25. The true tests laid out within Policy NH 6 are set out as follows:

"Planning permission for new development within an Area of Outstanding Natural Beauty will only be granted where it is of an appropriate design, size and scale for the locality and all the following criteria are met:

- a. the siting and scale of the proposal is sympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality; and
- b. it respects or conserves features (including buildings and other man-made features) of importance to the character, appearance or heritage of the landscape; and

- c. the proposal respects: local architectural styles and patterns; traditional boundary details, by retaining features such as hedges, walls, trees and gates; and local materials, design and colour.
26. Since this is an application for outline planning permission, the design, size and scale of the dwelling will to be determined at Reserved Matters stage. The application therefore cannot be considered to have fallen short of any of these requirements.
27. In terms of siting, as mentioned above, the scale of the development falls to be considered at Reserved Matters stage and can be controlled now by way of condition. Whereas the planning report cites concerns of prominence the true test within Policy NH 6 is siting and not prominence. It is conceded that inappropriate siting could, in certain instances, render the proposal contrary to criterion a of Policy NH 6, however this is deemed not to be the case.
28. The proposal has not failed to conserve features (including buildings and other man-made features) of importance to the character, appearance or heritage of the landscape while the architectural style of the dwelling will fall to be considered at a later date. In particular, the traditional pattern of settlement has been respected, and boundary details are consistent with this part of the Mourne. Materials and finishes can be controlled by way of condition, and on balance it is respectfully contended that the planning report did not contain an appropriate assessment against Policy NH 6 in particular since the issue of prominence was cited as the main concern (whereas the closest test actually laid out in the policy relates to siting), notwithstanding the senior officers' previous acknowledgement that the site could accommodate a single storey dwelling.
29. In light of the foregoing and the information hereby appended, the Council's Planning Committee is respectfully requested to overturn the planning officials' recommendation to refuse planning permission.

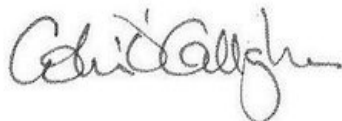


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30. In the event that the Council requires any additional information or amended plans, please do not hesitate to contact the applicant, his agent or the undersigned.

Yours faithfully,



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



**Fig. 1** Image of the applicant's house. Initially, the planning authority suggested the dwelling should be positioned in the gap between the applicant's dwelling and the adjacent shed. However, neither the adjacent shed nor the intervening lands belong to the applicant or to his immediate family.



**Fig. 2** This image shows the agricultural entrance that is shared between the applicant's farm and a third party's farm. The applicant does not own the buildings to the left or right, and the concrete apron reflects the current "right of way" that facilitates the applicant's right of passage through this area, for agricultural purposes.



**Fig. 3** The applicant would have to travel up this laneway, between two agricultural buildings that are not under his ownership / control, before turning right into another farm yard, on the approach to a new dwelling.



**Fig. 4** If a new dwelling was erected to the east of the applicant's farm buildings, it's access would of necessity have to follow the route identified by the red line shown in this image. Notwithstanding the actual ownership issue, the access would traverse two different parties' farms, which is of itself an unacceptable health and safety risk.



**Fig. 5** Image taken from previous submission issued to Council. A significant period of time has elapsed since these trees were planted. Irrespective of whether or not these trees have matured in the intervening period, the site's backdrop, set-back from the public road and means of enclosure to three sides are immediately apparent. All that would be required would be the planting of a new hedge between the trees, or the construction of a dry stone wall, and the site would have full enclosure to all four sides, whereas Building on Tradition advises applicants to look for sites that have at least two and preferably three boundaries intact.



## Appendix 1

Health and Safety Report

## Appendix 2

Land registry map pertaining to folio 7224 – Illustrating the extent of the lands owned by the applicant at his farm grouping, and showing the right of way through his land (note: the folio does not abut or have any direct road frontage).



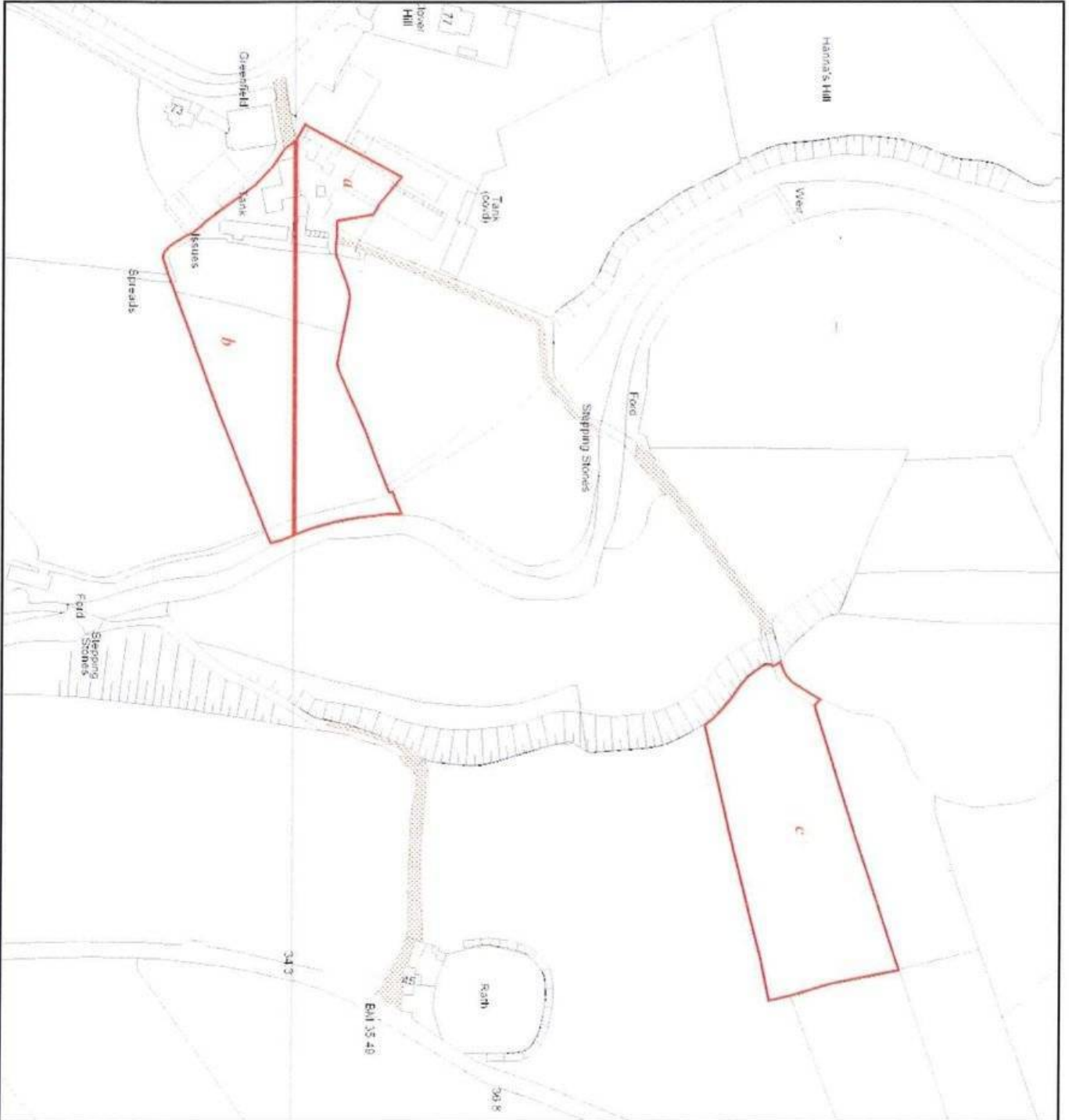
Land & Property Services  
THE LAND REGISTRY

Date: 10 Jul 2015  
County: Down  
Folio: 7224  
Scale: 1:2500  
Our Ref: 2015.440102  
Your Ref: robert spence  
Map Refs: 27816SE.28404NE  
Sheet 1 of 1

Key to folio labels:  
a - 7224 2 17a  
b - 7224 2 17b  
c - 7224 17 2

This map is for information only. It is not intended to be used as a legal document. The information on this map is provided by the Land Registry and is based on the best available information. The Land Registry does not accept any liability for any loss or damage caused by the use of this map. The information on this map is provided by the Land Registry and is based on the best available information. The Land Registry does not accept any liability for any loss or damage caused by the use of this map.

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

09<sup>th</sup> January 2017

**Planning application:** P/2014/0276/O  
**Proposal:** Health & Safety Viability study of Site for Farm Dwelling  
**Location:** Farm at 77 Aughnahoor Road, Kilkeel.

Dear Sir/Madam,

MG Safety Services Ltd has been engaged to provide a Health and Safety Audit on a Dairy Farm at 77 Aughnahoor Road, Kilkeel. The purpose of the audit is to appraise current health and safety risks and also to ascertain the potential for further risks in the event of a new dwelling being erected within the existing farm complex.

The following commentary outlines the author's perception of the dangers of building a house in a position that is sited in such a manner as to cluster with the existing farm buildings (as required by current planning policy).

The author is a Health & Safety, Quality & Environmental Consultant with 11 years' experience in the Construction Industry, the last Six years of which have been spent in general practice. Professional qualifications include National Examination Board in Occupational Safety and Health (NEBOSH) accreditation, Internal Auditors Qualification, First Aid cert. & CSR cert. The author specializes in Health & Safety Site Inspections & Risk Assessments along with the setting up of companies ISO 9001, ISO 14001 & ISO 18001, Safe-T-Cert and helping with Investors in people.

#### **Access & Egress to the property:**

It has been noted that if the dwelling was sited so as to cluster with the farm buildings, and access was obtained via the existing farm entrance lane, the risk of contact with machinery and animals would be greater than necessary. Poor surface conditions would exacerbate any difficulties.

Due to the location of the farm buildings, access to the new dwelling would require the exiting of any vehicle currently up to 3 times to open and close gates that segregate livestock. With some of the animals being Bulls, this would be seen as an unnecessary risk especially if the person traversing the yard and opening the gate is a visitor or is unfamiliar with a farm or the dangers of livestock.

Some of the farm yard is used by a haulage company to keep their lorries (Pictures C&D). Up to 7 no. heavy vehicles are used by this business. These lorries enter and leave at unpredictable hours - day or night. It would be un-safe to combine the use of this access with that of the farm and a proposed new dwelling.

Company No. NI640109



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 62 Downpatrick Street, Rathfriland, Newry, Co. Down BT34 5DQ



The farm is also an operational dairy farm and it is attended regularly by a milk tanker (see evidence of milk collection in pictures F&G). There is an obvious risk of collision with the tanker, however other risks include the risk of a small child running across the tanker's path, in such a confined space.

### Dangers to occupants:

The site is intended for the applicant's daughter, Emma Magill. The dangers and hazards on the farm are known to Mrs Magill as she was brought up on the farm. However, Mrs Magill's partner is not familiar with health and safety obligations on working farms and her infant children would be at obvious risk if forced to live in these circumstances.

Children who live or regularly visit farms are at greater risk of injury and death than their parents or farm workers. The under-15 age group is one of the most vulnerable to work-related farm accidents. They account for one in seven farm deaths.

The existence of farm buildings and the consequent exposure to significant health and safety risks ensure that it would be unadvisable to site this new dwelling in a location that is physically clustered with the existing farm buildings at this location. Potential risks include slatted slurry tanks. During the (slurry) mixing process, fumes created are capable of travelling and are flammable. The risk of fire or inhalation of fumes would ensure that it would not be appropriate to site a new dwelling in close proximity to these facilities.

While every farm is different, hazards common to most farms include:

- Animals – injuries inflicted by animals can include bites, kicks, crushing, ramming, trampling, and transmission of certain infectious diseases such as giardia, salmonella, ringworm and leptospirosis.
- Bulls are a dangerous animal especially in mating season. Bulls cause over 50% of livestock related deaths on Irish farms. No matter what kind of bull a farmer has, they are potential killers even, seemingly quiet bulls. Farmers along with people handling bulls must treat them with caution and respect at all times. The older the farmer the more the risk due to reduced mobility and speed.
- A bull's temperament changes as it matures, from playful aggression as a yearling to defensive, territorial aggression as a 2-3-year-old. People handling bulls should be very vigilant at all times and never turn their back on a bull. They should be fully aware of the dangers when handling bulls and properly trained. All bulls need to be ringed in the nose when 10 months old and the ring should be examined regularly.
- Chemicals – pesticides and herbicides can cause injuries such as burns, respiratory illness or poisoning.
- Confined spaces – such as silos, water tanks, milk vats and manure pits may contain unsafe atmospheres, which can cause poisoning or suffocation.
- Electricity – dangers include faulty switches, cords, machinery or overhead power lines.
- Heights – falls from ladders, rooftops and silos are a major cause of injury.

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- Machinery – hazards include tractors without roll-over protection structures (ROPS), power take-off (PTO) shafts, chainsaws, augers, motorbikes and machinery with unguarded moving parts.
- Noise pollution – noise from livestock, machinery and guns can affect your hearing.
- Vehicles – crashes or falls from motorbikes, two-wheel and quad bikes, tractors and horses can result in major injuries.
- Water – drowning can occur in as little as five centimetres of water. Dams, lakes, ponds, rivers, channels, tanks, drums and creeks are all hazards. Young children are particularly at risk.
- Delivery lorries (Meal etc) & on a dairy farm collection lorries (Milk Lorry).

The farm at 77 Aughnahoor Road was noted as being consistent with the categorisations highlighted above, with almost all of these risks identified during the course of my site inspection. Additionally, the possibility of explosion from gases created during mixing was noted.

It was also noted that there is no area for a separate access/egress to any new dwelling which means using the existing laneway - directly through the current farm buildings and sharing the route with that used by heavy commercial traffic, livestock, farm machinery and other collection / delivery vehicles including a milk tanker.

### Recommendations:

- The applicant is advised to provide a separate access and egress from the farm for his intended new dwelling and the existing farm complex, if this is not possible then an alternative site should be sought.
- Due to the existence of multiple risks, and the intended occupant's siblings' unfamiliarity with health and safety practices, it is recommended that the new dwelling should not be constructed in close proximity to the existing farm buildings at 77 Aughnahoor Road. The separation distance between the new dwelling and the existing buildings should be maximised. Noting the general expectation that new farm buildings should be sited at least 75 metres away from nearby dwellings, the applicant is likewise advised to ensure the new dwelling is sited at least 75 metres from all existing and proposed agricultural buildings on this farm and also that a separate access/egress route is achieved. Maximising the physical separation will minimise the danger of fumes when mixing slurry.
- Please see attached photographs and explanations, highlighting the dangers of accessing any new dwelling through the existing laneway or in close proximity with the existing farm activities.

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# MG SAFETY SERVICES LTD.

Health & Safety, Quality, Environmental and Business Consultants.

367



PHOTO A

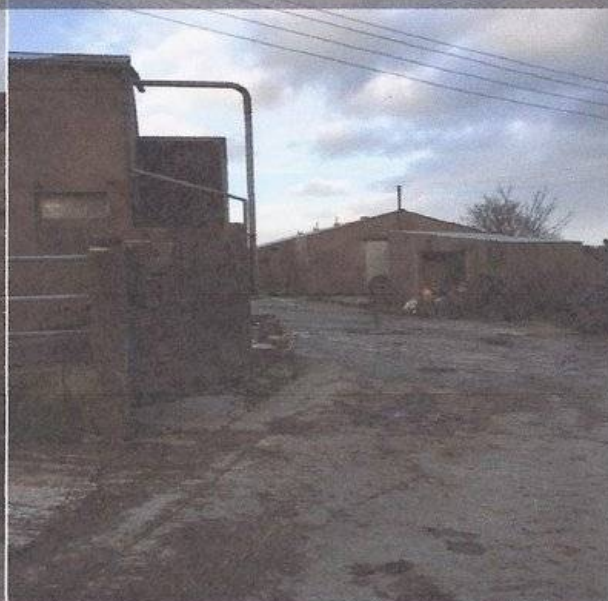


PHOTO B

The above photos show the only available access route to the proposed new dwelling. This access is full of dangers especially to those who are unaware of the workings of this farm including visitors to any proposed new dwelling but especially to any infant children.

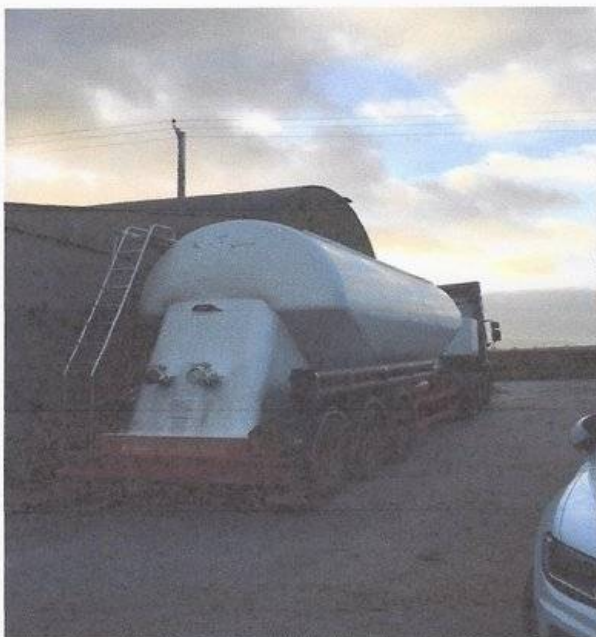


PHOTO C



PHOTO D

The above photos show the kind of transport lorries that pass through this farm yard. This would create a real danger to occupants or visitors to any proposed new dwelling given the size of the vehicle and the narrow confines within the yard (which requires reversing into entrances and around buildings).

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# MG SAFETY SERVICES LTD.

Health & Safety, Quality, Environmental and Business Consultants.



PHOTO E

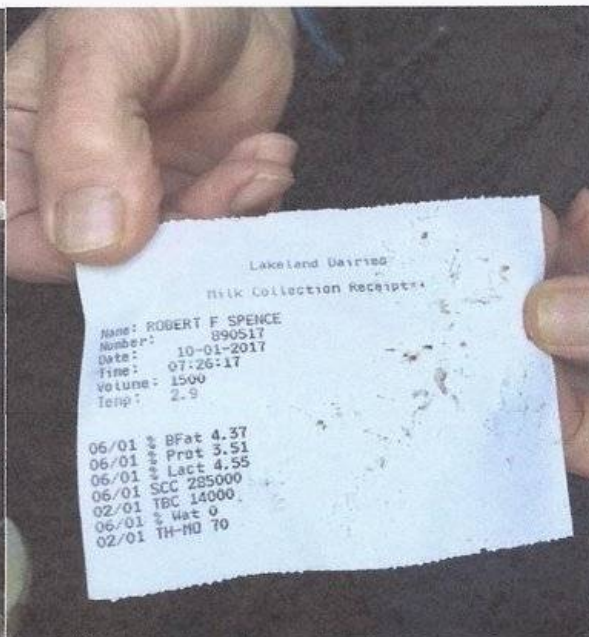


PHOTO F

The above photos show evidence that this is a working Dairy farm with ongoing milk collection and machinery, such as a milk cooler, operating continually, which if accessed by children could be extremely hazardous.



Photo G



PHOTO H

The above photos show the lower part of the route to the proposed new dwelling which would necessitate passing cattle houses, silage storage and a slurry mixing area.

Company No. NI640109







PHOTO I



PHOTO J

The above photos show the applicant's closest fields (to his farm complex) which is directly behind the last farm building and is only accessible through the farm yard. Given all the associated dangers, and the absence of another access/egress route this area is not considered suitable for a new dwelling (note this area shows signs of farm runoff from silage & slurry deposits)

I trust that this document adequately outlines the risk to human health and to residential amenity. However, should you require clarification of the above, please do not hesitate to contact me.

Yours faithfully,

Mark Gracey (Tech IOSH, Cmgr, CBA, CMC, MIC, MIM)

Director, Health & Safety, Quality, Environmental and Business Consultant

Company No. NI640109



**ITEM NO** 27  
**APPLIC NO** P/2014/1041/O Outline **DATE VALID** 12/18/14  
**COUNCIL OPINION** REFUSAL  
**APPLICANT** Matthew Mallon 30 Edentrummy Road Mayobridge Newry **AGENT** Quinn Design & Engineering Services 36 Corrags Road Burren Warrenpoint BT34 3PY 028 41 772377

**LOCATION** 20 metres north east of no 30a Edentrummy Road Mayobridge Newry (lands adjacent and north and north-east of No. 30A Edentrummy Road)

**PROPOSAL** Site for dwelling and detached garage

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

- 1 The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
- 2 The proposal is contrary to Strategic Planning Policy Statement for Northern Ireland (SPPS), Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that:
  - other dwellings/development opportunities have not been sold off from the farm holding within 10 years of the date of the application;
  - the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm and access to the dwelling is not obtained from an existing lane.
  - health and safety reasons exist to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm
 verifiable plans exist to expand the farm business at the existing building group to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm.

- 3 The proposal is contrary to 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 building is a prominent feature in the landscape; lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; relying primarily on the use of new landscaping for integration; ancillary works will not integrate with their surroundings and the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.
- 4 The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, be unduly prominent in the landscape; result in a suburban style build-up of development when viewed with existing buildings; add to a ribbon of development; the impact of ancillary works would damage rural character and would therefore result in a detrimental change to and further erode the rural character of the countryside.
- 5 The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition to a ribbon development along Edentrumley Road and does not represent a small gap site suitable for no more than two dwellings.



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

**Application Reference: P/2014/1041/O**

**Date Received: 18.12.14**

**Proposal: Site for dwelling and detached garage**

**Location:** 20 metres north east of no 30a Edentrumly Road, Mayobridge, Newry (lands adjacent and north and north-east of No. 30A Edentrumly Road)

**Site Characteristics & Area Characteristics:**

Site is located 1.2 miles SE of Mayobridge within the open countryside. The site is 0.5 ha of land which comprises of agricultural with the SW corner occupied by a recently constructed dwelling and roadside wall. Land at the site rises steeply from the road from W to E field boundaries comprise of native species hedge along the N and E portion of the site.

**Site History:**

**P/2010/0481/F** - Matthew Mallon of 30 Edentrumley Rd. Erection of new dwelling and garage on a farm. 80m North East of no.30 Edentrumly Road, Mayobridge, Newry. (Application site including lands to the west) Refused 22.10.10 –Integration, unduly prominent and has no buildings in which to visually link.

**P/2007/0161/RM** - Mr Aidan Mallon of 30 Edentrumley Rd. Erection of dwelling and garage. Adjacent to No.30 Edentrumley Road, Mayobridge (Application site – sited to SW corner) Approved 09.06.08

**P/2005/0952/O** - Mr Aidan Mallon of 30 Edentrumley Rd. Site for dwelling and garage. Adjacent to No.30 Edentrumley Road, Mayobridge (Application site – Sited to SW corner) Approved 26.07.05

**P/2004/0770/O** - Miss Theresa Mallon of 30 Edentrumley Rd. Site for dwelling and detached garage. Approximately 50 metres north east of No.30 Edentrumly Road Mayobridge. (Application site) Withdrawn following a recommendation to refuse on prominence, build-up and ribbon development

**P/2002/1045/O** - Miss Theresa Mallon of 30 Edentrumley Rd. Dwelling & detached garage. Approx. 90m N.E. of 30 Edentrumly Road Mayobridge. Withdrawn 31.07.2003 following a recommendation to refuse on prominence, build-up, ribbon development and inadequate site lines (Application site)

**P/2001/1138/O** – Mr Aidan Mallon of 30 Edentrumley Road. Dwelling and garage. Adjacent to 30 Edentrumly Road, Mayobridge. Withdrawn 14.01.2002 (Application Site)

**P/2002/0035/O** - Mr Aidan Mallon of 30 Edentrumley Road. Dwelling and garage. Adjacent to 30 Edentrumly Road, Mayobridge. Approved 05.03.02 (Application site)

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

#### **Area Plan:**

#### **Policy Consideration: SSPS, PPS21 and PPS3**

#### **SPPS and CTY10:**

DARD in their consultation response dated 20.02.15 confirm that farm business is currently active and has been established for at least 6 years although the applicant is not a formal member of the business.

The farm business is within the name of Mary Mallon of No.30 Edentrumley Road with land at 30a identified within supporting information to be part of the farm holding. However planning permission was obtained within the name of Aidan Mallon on land at No. 30a approved 09.06.08 and is outside the holding of Mary Mallon.

There are currently no buildings within the farm holding as shown on the farm map however the agent states that the family farm consist of 2 sheds, the main farm dwelling (No. 30) and the applicant's brother's home (30A). As No. 30A is within the ownership of Mr Aidan Mallon (Mr Mallon has acquired planning permission under planning reference at No. 30a) which is not within the farm holding of Mary Mallon. The proposed site is far removed from the existing holding that it is not possible to cluster with the established group of buildings and the site is not visually interlinked (as per 5.41 of CTY10) due to the physical separation by the existing dwelling house at No. 30A. As No.30a is not within the holding there is no support within the policy for visual linkage with adjacent residential properties which lie outside the holding (See appeal 2015/A0176 with regard to visual linkage/ clustering).

No evidence of health and safety reasons have been presented to justify an alternative position, although it is more likely that there is insufficient room close to the established buildings to accommodate a dwelling.

Overall proposal fail to meet planning policy with regard to the SPPS and CTY 10.

The agent in his submission states that once the criteria of CTY10 has been meet the 'exceptional circumstances' tests relating to CTY 13 and CTY 14 are not applicable, CTY10 is not a standalone policy and other policy must be considered.

The SPPS in relation to dwellings on farms emphasises that development must comply with LDP policies with regard to integration and rural character however in the absence of LDP guidance direction is taken from extant policy, the recent judicial review (Justice Treacy) supports this position as does appeal reference 2014/A0260 (Assessment of other policies beyond CTY 1 and CTY10)

### **Integration (SPPS and CTY13)**

The application site had been previously recommended for refusal on 3 occasions (P/2010/0481/F, P/2004/0770/O and P/2002/1045/O) citing integration reasons as one of the reasons for refusal. This position remains unchanged from previous.

The entire site is visible from the Ballyvalley Road (W of application site) from this vantage point any development on the site will appear prominent due to the open and exposed nature of the site. The site rises steeply in an easterly direction from the road, it is difficult to envisage how a dwelling and ancillary works can be adequately integrated and deemed acceptable given that the dwelling will site above the road level. In order to accommodate a new dwelling a level platform to facilitate development will require extensive site works and thus the open and prominent nature of the site will be clearly amplified.

The dwelling will be located to the NW portion of a much larger agricultural field with no means of separation from surrounding ground. Any dwelling at this location cannot be adequately integrated. Any new build at this location will appear dominant in the local landscape and as a roadside site any development will introduce suburban design solutions with a large and prominent garden area, which further contribute to a change in rural character of this area. Thus proposals fail to meet policy tests.

### **Ribbon Development and Rural Character (SPPS, CTY8 and 14)**

CTY14 indicates that planning permission will be refused where development will result in a detrimental change to or erode the rural character of an area. Within 300m of the site there are 7 existing dwellings that include Nos. 24, 25, 26, 27, 30, 30a and 32 Edentrumley Road.

The entire site is visible from the Ballyvalley Road (to the west) from this area any development at the application site will be obvious and easily read with existing properties at 24, 25, 26, 27, 30, 30a and 32 appearing as build-up of development within the open countryside. On approach along Edentrumley Road from S to N the site will read with properties 30, 30a, 27 and 26 Edentrumley Road.

The implementation of planning permission at the site would extend the area of development. When taken with the adjacent dwellings will add to an overall cumulative effect of buildings within this area leading to a change of the rural character of this area.

Furthermore development at this location will create a ribbon of development which is evident on approach in either direction along Edentrumley Road with such a number of dwellings creating a build-up appearance when viewed from the road. From south heading northwards the entire site will read as a ribbon of development along with properties 26, 30 and 30A, whilst in the other direction from south heading north development at this location will read with properties Nos. 30 and 30a all of which have a common frontage to the road, another building at the site will create a ribbon of development in this rural locality, thus creating a built up appearance when viewed from the road.

Proposals will introduce suburban siting and design solutions, which will visually link with existing dwellings on Edentrumley Road creating a continuous urban frontage in the countryside. Development if approved at this location will inevitably create a gap site between Nos. 26 and the proposed site which could potentially pave the way for further erosion to the rural character of this area.

#### **Amenity (SPPS):**

The proposed location of site is within 75m of a working farm however other family member houses are much closer, the working farm is shown within land in ownership and control and thus activities can be controlled to avoid any potential nuisance.

#### **Consultations:**

DARD (20.02.15) - Confirm that business id has been in existence for more than 6 years and single farm payments claimed. The applicant is not a formal member of the business.

Transport NI (09.02.15) - No objection in principle

Environmental Health (15.01.15) - Site is within 75m of a working farm and farms have the potential to cause nuisance, consent to discharge required and sufficient land should be made available for a septic tank.

NIW (14.01.15) - Generic response

#### **Objections & Representations**

5 neighbour notifications issued  
Advertised 16.01.15

No third party representations received

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

Taking into account the submission of additional information from the agent which it is acknowledged that there is existing buildings within the holding the position of the site does not allow for visual linkage and clustering, thus failing to meet criteria for

dwelling on a farm. Overall proposals fail to fully meet criteria for dwellings on the farm under the SPPS as well as CTY10.

Furthermore planning history relating to the site indicates there have been a number of occasions whereby integration, build-up and ribbon development issues have been problematic, this position remains unchanged from previous and these issues still apply.

The agent has identified a number of appeals which indicate where the criteria of CTY10 is met then other policies should not be engaged. The recent judicial review (Treacy) and PAC decisions (2014/A0260, 2015/A0176) provide support that CTY1 and CTY 10 are not self-contained policies and that other policies should be taken into account in this case CTY 13 and 14 but other buildings outside the holding should not be relied upon to provide visual linkage/ clustering. Overall development fails to meet the policy requirements of the SPPS, PPS21: CTY1, 8, 10, 13 and 14 and should therefore be recommended for refusal

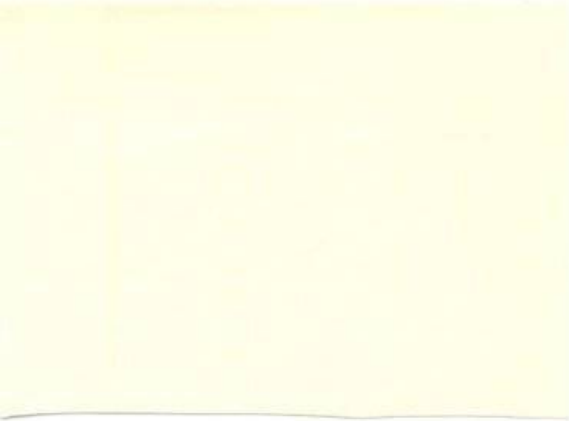
**Recommendation:** Refusal

**Refusal Reasons:**

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS), Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that:
  - other dwellings/development opportunities have not been sold off from the farm holding within 10 years of the date of the application;
  - the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm and access to the dwelling is not obtained from an existing lane.
3. The proposal is contrary to 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 building is a prominent feature in the landscape; lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; relying primarily on the use of new landscaping for integration; ancillary works will not integrate with their surroundings and the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.



4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, be unduly prominent in the landscape; result in a suburban style build-up of development when viewed with existing buildings; create a ribbon of development; the impact of ancillary works would damage rural character and would therefore result in a detrimental change to and further erode the rural character of the countryside.
5. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along Edentrumley Road.



7/7/16

7/7/16

## Addendum to previous Case Officer Report.

Following this application being brought before Planning Committee in July as a refusal the agent submitted a case that the proposal would represent an infill opportunity

Policy CTY 8 is entitled 'Ribbon Development' and states that planning permission will be refused for a dwelling that creates or adds to a ribbon of development.

Paragraph 5.32 states that ribbon development is detrimental to the character, appearance and amenity of the countryside. While it is not defined in policy, Paragraph 5.33 sets out what ribbon development can consist of. Notwithstanding that this form of development has been consistently opposed, policy goes on to

State, that an exception will be permitted for the development of a small gap site.

The amplification text at paragraph 5.34 is clear that an exception will be permitted providing four specific elements are met. Namely, the gap site must be within an otherwise substantial and continuously built up frontage; the gap site must be small; the existing development pattern along the frontage must be respected; and other planning and environmental requirements must be met.

The Planning department would not contest that a ribbon of development exists to the south of this site, along the Edentrummley Road, however this site together with the site adjacent land to the north represents a gap of 95m and from building to building of 30A to 26 is a gap site of 112m. This is a substantial break in the development at this position on the road, and therefore this does site does not benefit from a small gap of a substantially built up frontage. If the existing pattern along the frontage of Edentrummley Road was to be respected the average plot size for development along the entire frontage is 36m. Given this this site together with the gap to the north would be able to accommodate three dwellings on plots which respect the existing frontage as there is 95m between plots and 112m between buildings. This proposal would therefore occupy a plot of 25m frontage, which would dilute the average plot size down to 34m frontage and would leave a gap of 70m remaining for another two dwellings. This proposal would add to the ribbon of development along the Edentrummley road further, and further erode the rural character within the remaining landscape by reason of both build up and ribbon of development contrary to CTY 14 and ribbon development of CTY 8. As the proposal fails to meet CTY 8 to constitute a small gap site the proposal also fails to meet CTY 1.

Refusal remains recommended, with the amendment reason CTY 8 to read as:

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition to a ribbon development along Edentrumley Road and does not represent a small gap site suitable for no more than two dwellings.

# Quinn Design and Engineering Services

36 Corrags Road, Burren, Warrenpoint, Co. Down, BT34 3PY

Tel (028) 417 72377 • Mobile 07768854084

Email:- [brendanfrancisquinn@yahoo.co.uk](mailto:brendanfrancisquinn@yahoo.co.uk)

Statement in support of planning application  
P/2014/1041/O

Proposal: Site for dwelling and detached garage

Location: Edentrumley Road, Mayobridge

Applicant: Matthew Mallon

## Background

When this application was submitted to Planning Service in 2014, compliance with CTY 10 alone demonstrated compliance with CTY 1 and permission should have been forthcoming with or without the need to comply with policies CTY 13 & 14 in PPS 21.

The planning system has changed dramatically in the intervening 25 months with the transfer of planning powers to the Councils and the publication of the Strategic Planning Policy Statement (SPPS) in September 2015. The SPPS now requires that all applications for new dwellings on farms must comply with CTY 8, 13 & 14 as well as CTY 10.

In July 2016, the planning department set out its reasoning as to why a new dwelling could not be approved under CTY 10. The Planning Department listed policies CTY 8, 13 & 14 as additional refusal reasons. The application was subsequently listed on the agenda for the Planning Committee meeting which took place on 3<sup>rd</sup> August.

Instead of refuting the refusal reasons published in July 2106, I submitted a detailed statement which justified an infill dwelling on the application site.

In my statement which was included in the agenda for the Planning Committee meeting to be held on 3<sup>rd</sup> August 2016, I pointed out that the application site when considered together with the vacant plot to the north represented a gap within a long frontage of buildings capable of accommodating 2 dwellings, 1 on each plot. In short I was seeking to justify a dwelling on the same application site as an infill dwelling.

The Council's senior officer, Mr Mc Kay informed me by email (less than 24 hours before the Committee meeting) that the application would be removed from the schedule for re-consideration as an infill dwelling.

The Planning Department has re-considered the application in terms of an infill dwelling and still considers that the application should be refused.

Un-helpfully, the Planning Department has included a refusal reason (No 2) relating to Policy CTY 10, Dwellings On Farms. This reason for refusal is no longer applicable as an infill dwelling is being sought under the exception clause in CTY 8, Ribbon Development.

## Policy CTY 8, Ribbon Development.

Policy CTY 8 seeks to refuse development in cases where an approval would lead to the creation or extension of a row of buildings along a lane or road.

As with many planning policies, there is an exception rule. The exception in CTY 8 permits the infilling of a gap between buildings with 1 or even 2 dwellings providing the following 4 key tests are met:

1. The site must be within a substantial and continuous frontage which is a line of 3 or more buildings along a road or lane.
2. The existing buildings must have a common frontage OR be visually linked.
3. The site must be a small gap site sufficient to accommodate up to a maximum of two dwellings.
4. The proposal must reflect the pattern of development along the frontage in relation to size, scale, siting and plot size.

The second Case Officer's Report, which was published in early January, tests the application against the 4 above mentioned tests in CTY 8. The author agrees that the application site and the plot to the north complies with the first 2 of the 4 tests in that the site and the plot to the north are indeed located within a substantial and continuous frontage and that the buildings either side of the application site + the plot to the north have a common frontage with Edentrumley Road.

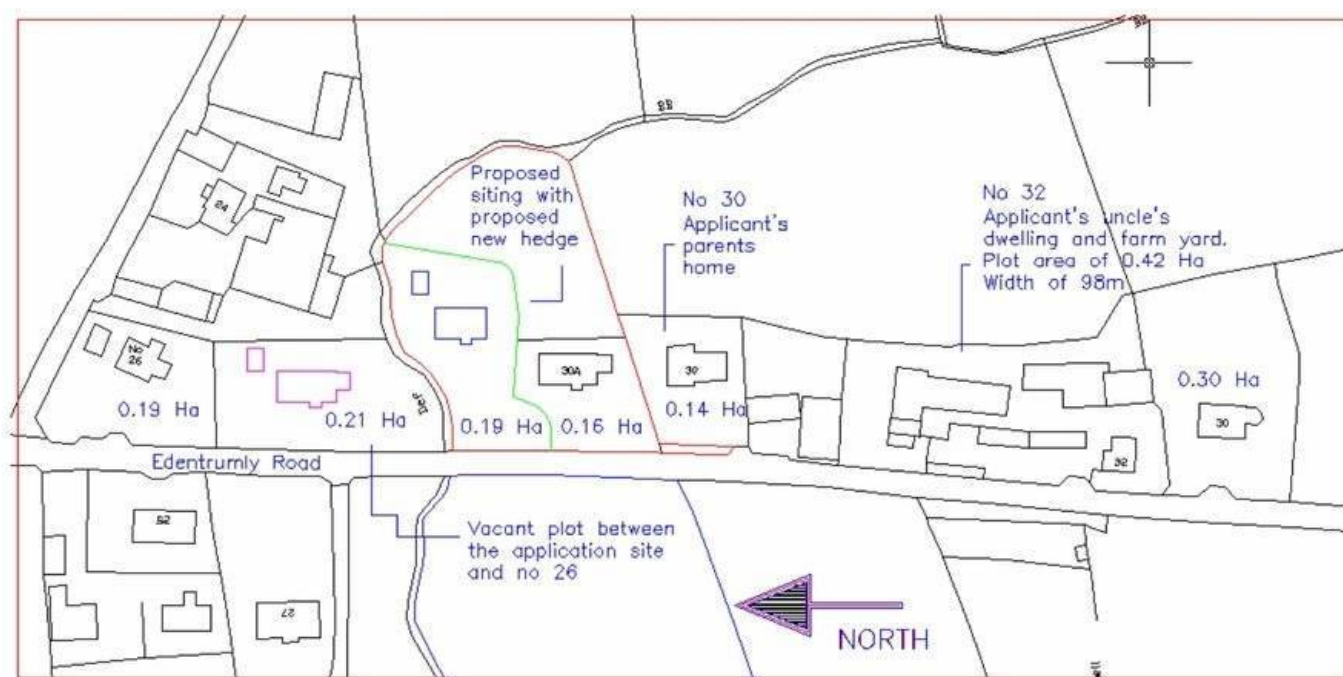
The second report advises that the total width of the application site + the plot to the north extends to 95m. The report then advises that the average **plot size** along the entire frontage is 36m. The report is both poorly worded and mis-leading in that the author is actually referring to the plot "**width**" not plot "**size**" as advised by Policy CTY 8.

The report continues to explain that the application site, if approved would lead to a plot with an actual frontage of 25m and deduces that the remaining plot width of 70m could accommodate 2 dwellings. The officer concludes that the overall gap between nos 26 and 30a could accommodate 3 dwellings which is contrary to CTY 8.

CTY 8 actually advises “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**”.

CTY 8 doesn't mention plot width / plot frontage. It only mentions plot size.

Despite me including the size of the existing plots along the frontage in my August submission, the second officer's report makes no mention of the **area/size** of the plots which would be created if this application were to be approved.



The map above shows that the 2 plots which would be created if houses were constructed on the application site + the plot to the north would extend to 0.19ha and 0.21 ha respectively.

The existing plots occupied by dwellings extend from 0.14ha up to 0.30ha. This being the case 2 new plots with areas of 0.19ha and 0.21 are completely within the range of existing plot sizes.

There are 2 additional plots occupied by farm buildings. One of these, no 32 extends to 0.42 ha which is twice as large as the plot which would be created if a dwelling was to be built on the plot between the application site and no 26.

There is room to site 2 dwellings on the plot to the north of the application site; however, CTY 8 could only approve 2 dwellings on this site if they respected the pattern of development.

With plot areas of 0.105ha each, their plot sizes would be smaller than the smallest existing plot. For this simple reason the Planning Department would very likely refuse an application for 2 houses on the plot between the application site and no 26.

So in short, the planning department would like us to believe that the plot to the north could accommodate 2 houses, which, in their eyes, is fatal to this application.

In reality, the planning department would likely refuse an application for 2 houses on this plot due to plot size.

The officer doesn't confirm how the average plot width of 35m was derived and no calculations have been included in the second officer's report.

When mentioning plot width, the officer fails to point out that the plot associated with no 32 and its farm buildings is just less than 100m wide.

The officer raises no concerns relating to the site's ability to respect the pattern of development in relation to size, scale and siting.

In summary, the officer, in recommending that the application be refused refers only to the plot width and to the fact that the site + the plot to the north can physically accommodate 3 houses.

Unfortunately, the officer has used only the plot width to do so. CTY 8 refers to plot size, not plot width.

### **Do we need to consider Policies CTY 13 & 14 if the site complies with Policy CTY 8.**

Policy CTY 1 in PPS 21 states that planning permission will be granted for an individual dwelling house in 6 cases. One of the cases relates to Policy CTY 8. Since the subject proposal is consistent with Policy CTY 8, it is one of the types of development that is acceptable in the countryside in accordance with Policy CTY 1. It is therefore not necessary to consider any other policies in PPS 21.

This interpretation is supported by many unchallenged Appeal decisions; 7 of which are summarised overleaf.

Notably, the decision on appeal 2015/A0091 was issued on 21 January 2016, 4 months after the publication of the Strategic Planning Policy. Had this or indeed any Council felt this decision was flawed, leave for a Judicial Review could have been sought from the High Court. This didn't happen, so, in short, the Planning Department in NMDDC is content with the decision on 2015/A0091.

### **Appeal reference 2011/A0103**

Planning authority's reasons for refusal related to Policies CTY 1, 13 and 14

The Commissioner who decided Appeal reference 2011/A0103 concluded that,

*"In as much as I have found that the proposal satisfies the requirements of Policy CTY 8 I also have concluded that the proposal is in accordance with Policy CTY 1 of PPS 21. As the proposal forms an acceptable form of infill development the Departments third Reason for Refusal based on Policy CTY 14 has also been misplaced."*

### **Appeal reference 2013/A0087**

Planning authority's reasons for refusal related to Policies CTY 1, 8 and 14

The Commissioner who decided Appeal reference 2013/A0087 concluded that,

*"In the light of my findings above, the proposal represents an exception to policy. It therefore complies with Policy CTY 8 and CTY 1 of PPS 21. The Department has not sustained its first and second reasons for refusal. Furthermore, as the proposal acceptable form of infill development, the third reason for refusal in respect of rural character is misplaced."*

### **Appeal reference 2012/A0281**

Planning authority's reasons for refusal related to Policies CTY 1, 10 and 14

The Commissioner who decided Appeal reference 2012/A0281 concluded that,

*"Taking all the matters into consideration I have concluded that the proposal is an exception to policy CTY 8 in that it constitutes the development of a small gap site within an otherwise substantial and continuously built up frontage. In such circumstances the proposal also satisfies the requirements*



*of policy CTY 1. As such the Department's refusal of planning permission has not been justified."*

### **Appeal reference 2014/A0152**

Planning authority's reasons for refusal related to Policies CTY 1, 8 and 14

The Commissioner who decided Appeal reference 2014/A0152 concluded that,

*"It follows that if the proposal meets Policy CTY 8, then the proposal would fall within one of the accepted forms of development permitted by Policy CTY 1."*

### **Appeal Reference 2015/A0091 Decision issued 21 January 2016**

Planning authority's reasons for refusal related to Policies CTY 1, 8 and 14

The Commissioner who decided Appeal reference 2015/A0091 concluded that,

*"Accordingly, the proposal satisfies the exceptional test and complies with Policy CTY 8. As the proposal is an acceptable form of infill development the objection based on Policy CTY 14 of PPS 21 is misplaced and is not therefore sustained. Given that the proposal complies with Policy CTY8, it is also in accordance with Policy CTY 1 of PPS 21. The reasons for refusal as set out in the Decision Notice are not sustained."*

### **Appeal reference 2013/A0254**

Planning authority's reasons for refusal related to Policies CTY 1 and 8 (CTY 2a was raised at the Appeal)

The Commissioner who decided Appeal reference 2013/A0254 concluded that,

*"It follows that if the proposal meets Policy CTY 8, then the proposal would fall within one of the accepted forms of development permitted by Policy CTY 1. The Department has therefore not sustained its first reason for refusal. Having found that the proposal qualifies as an exception under Policy CTY 1, I do not need to consider the additional arguments advanced by the parties under Policy CTY 2a of PPS 21."*

## Appeal reference 2010/A0128

Planning authority's reasons for refusal related to Policies CTY 1 and 8 (CTY 2a was raised at the Appeal)

The Commissioner who decided Appeal reference 2010/A0128 concluded that,

*"As the proposal is not at odds with Policy CTY 8 of PPS 21, it is one of the types of housing development that is acceptable in the countryside in accordance with Policy CTY 1 thereof. There is therefore no need to assess the appeal proposal against Policy CTY 2a. Accordingly, the Department's first reason for refusal is not sustained and the appeal is allowed."*

The appeals referred to above make it clear that an application complies with CTY 8 also complies with CTY 1, and no further policies in PPS 21 are engaged.

## Conclusion

The second officers report wrongly applies Policy CTY 8 in that it discusses only the width of the plots where as CTY 8 refers to **plot size**.

Seven unchallenged appeals confirm that Policies CTY 13 & 14 can be set aside if an application complies with Policy CTY 8.

The refusal reason relating CTY 10 is not applicable as the applicant has decided to justify his new dwelling as an infill dwelling.

## How Can The Committee Approve This application?

From spectating and taking part in recent planning committee meetings, it is very readily apparent that the Council's Senior Planning Officer and the Council's Legal Advisor require Committee members to provide substantial planning reasons as to **WHY** an application should be approved contrary to the Planning Department's recommendation to refuse.

If minded to approve this application, the committee can record in the minutes of the meeting that the assessment in relation to the pattern of development should be carried out using plot size/area and that the assessment which has been carried out using the plot width/frontage was incorrect and has no policy support.

As such I would ask the members of the planning committee to accept that the 2 plots which would be created by approving this application are in keeping with the existing pattern of development, set aside the refusal reasons relating to Policies CTY 10, 13 & 14 and grant outline planning permission.

I would like to thank the Council for the opportunity to speak in support of the application.

Brendan Quinn  
BSc Hon's  
ICIOB

**ITEM NO** D2

**APPLIC NO** P/2012/0743/F

Full **DATE VALID** 9/19/12

**COUNCIL OPINION** REFUSAL

**APPLICANT** Mr Brian Cunningham C/o Agent

**AGENT** Barry Owens  
Consulting 38  
Highfields Avenue  
Newry  
BT35 8UG  
07867976610

**LOCATION** Valley Business Park  
48 Newtown Road  
Rostrevor  
BT34 3BZ

**PROPOSAL** Part change of use to tourism park incorporating 47 No. touring caravan pitches, 2 No. log cabins, tent pitching areas, gate house, pump house, toilets and showers and new microhydropower system

<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>					
	3	0		0					
					<b>Addresses</b>		<b>Signatures</b>		<b>Addresses</b>
					0	0	0	0	0

- 1 The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
- 2 The proposed log cabins are contrary to Policy TSM5 of Planning Policy Statement 16 - Tourism, because they are not within the grounds of an existing or approved hotel, self catering complex, guest house or holiday park, there are not 3 or more new units close to an existing or approved tourist amenity that is a significant visitor attraction in its own right, and it does not involve the restoration of an existing clachan or close, through conversion and / or replacement of existing buildings.
- 3 The proposed holiday park is contrary to Policy TSM6 of Planning Policy Statement 16 - Tourism, because the scale of the development would have an adverse impact on the visual amenity and rural character of the area, it has not been demonstrated that effective integration into the landscape can be secured primarily through the utilisation of existing natural features, there is inadequate provision for communal open space, the layout of caravan pitches represents cramming and is not informal or discrete, the design of ancillary buildings does not reflect local traditions of form, materials and detailing, it has not been demonstrated that the environmental assets of the site can be retained and integrated in a suitable manner into the overall design and layout, and it is therefore not a high quality and sustainable form of tourism development.
- 4 The proposal is contrary to Policy TSM7 of Planning Policy Statement 16 - Tourism, with regard to criteria b (layout and design), c (boundary treatments), d (drainage), e (designing out crime), h (effects on residential amenity), i (impact on natural heritage), and l (road safety), 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 development would be a prominent feature in the landscape, the proposed site is unable to provide a suitable degree of enclosure for the proposal to integrate into the landscape, the proposal relies primarily on the use of new landscaping for integration, the ancillary works do not integrate with their surroundings, the design of the proposal is inappropriate for the site and its locality, the proposal fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop 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 development would, if permitted, be unduly prominent in the landscape, would not respect the traditional pattern of settlement exhibited in the area, would create a ribbon of development, the impact of ancillary works would damage rural character, 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, the proposed buildings do not respect traditional architectural styles and patterns, and it is not sympathetic to the special character of the Mournes AONB.
- 8 The proposal is contrary to Policy NH 2 of Planning Policy Statement 2: Natural Heritage in that the site is used by otters and potentially by bats. The applicant has failed to amend the design in response to the recommendations of the otter survey and has not demonstrated how the proposal will avoid impacting on bats, or on the nature conservation value of the river corridor.
- 9 The proposal is contrary to paragraph 6.224 of the Strategic Planning Policy Statement for Northern Ireland and policy RE 1 of Planning Policy Statement 18: Renewable Energy, in that it has not been demonstrated that the proposed micro hydropower system would not result in an adverse impact on biodiversity or nature conservation interests.
- 10 The proposed development is contrary to Policy AMP 2 of Planning Policy Statement 3: Access, Movement and Parking, in that it has not been demonstrated that the applicant can achieve a satisfactory means of access to and egress from the site, and the development would therefore prejudice the safety and convenience of road users and pedestrians.
- 11 The proposal is contrary to Policy FLD 1 of Planning Policy Statement 15: Planning and Flood Risk, in that the site lies within the fluvial flood plain of the Kilbroney River and it has not been demonstrated that the proposal is an exception to the policy, or that a Flood Risk Assessment has been undertaken to identify all sources of flood risk to and from the proposed development and that there are adequate measures to manage and mitigate any increase in flood risk arising from the development.
- 12 The proposal is contrary to Policy FLD 3 of Planning Policy Statement 15: Planning and Flood Risk, in that the site exceeds 1 hectare and it has not been demonstrated through a Drainage Assessment that adequate measures will be put in place to effectively mitigate the flood risk from surface water to the proposed development and development elsewhere.
- 13 Having notified the applicant under Article 3 (6) of the Planning (General Development Procedure) Order (Northern Ireland) 2015 that additional information is required to allow the Council to determine the application, and having not received sufficient information, the Council refuses this application as it is the opinion of the Council that this information is material to the determination of this application.



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** P/2012/0743/F

**Date Received:** 19<sup>th</sup> September 2012

**Proposal:** Part change of use to tourism park incorporating 47 No. touring caravan pitches, 2 No. log cabins, tent pitching areas, gate house, pump house, toilets and showers and new micro hydropower system

**Location:** Valley Business Park, 48 Newtown Road, Rostrevor, BT34 3BZ.  
The site is located 1 mile NE of Rostrevor.

**Site Characteristics & Area Characteristics:**

The site is located at "Valley Business Park", 48 Newtown Road outside Rostrevor in the Mourne Area of Outstanding Natural Beauty. It comprises a relatively large folio of land adjacent to Newtown Road, in the open countryside. The site is situated in a narrow valley that runs parallel with Kilbroney Road and Newtown Road. The terrain falls from south east to north west, away from the road and down to Kilbroney River which runs along the north western boundary of the site. The difference in ground levels is approximately 20 metres, from Newton Road to Kilbroney River. The overall site measures approx. 3.5 ha, however this includes a number of industrial units and a Builders' Merchants at the western edge of the site. The upper part of the site, along Newtown Road, is partially overgrown and some site works have been carried out in the past. A new dwelling has been constructed close to the south eastern boundary (No. 48A). There are belts of mature vegetation along each of the site's four boundaries, including a number of mature trees to the north, south and west. Part of the vegetation has been removed along the northern part of the roadside boundary. There is a set of overhead power lines running through the middle of the site, from north to south. Mid-way along the site's road frontage, the site wraps around a private dwelling house. This house is well screened with mature vegetation, and the house is set in a plot measuring approx. 40 metres by 40 metres. Views into and through the site are restricted on Newtown Road, however there are clear uninterrupted views through the site from Kilbroney Road which is approx. 220 metres from the western boundary of the site, at a higher level. The industrial units are set at the lowest part of the application site, and their impact is therefore not as pronounced as any development on the upper part of the site would be despite their

scale, finishes and colour. The main vehicular access to Newtown Road is close to the south eastern boundary of the site. There is a newer secondary access at the north eastern corner and some gravel tracks have been created within the site to link the two accesses. These works are subject to an enforcement investigation.



Proposed site for caravans



New dwelling within site



Builders Suppliers premises



Main entrance from Newtown Road



Site from Kilbroney Road to west

The site is located in a rural area 1 mile north east of Rostrevor. It is in an unzoned area outside settlement limits on the Banbridge, Newry and Mourne Area Plan 2015. It is also within the Mourne and Slieve Croob Area of Outstanding Natural Beauty. It is in close proximity to the Strategic Natural Resource of the Mourne and would be

well located for tourists with handy access to walking routes into the southern and western side of the mountain range. The Rostrevor River to the west of the site is a Site of Local Nature Conservation Importance (SLNCI 151) and its associated fluvial flood zone covers part of the site.

**Site History:**

There have been no previous planning applications on the main part of the site proposed for the tourism park.

The new dwelling at the entrance was approved as security for the existing business park under applications P/2002/0536/O and P/2005/3021/F.

Replacement of the other roadside dwelling outside the site boundary (No. 52) was approved under applications P/2006/0558/O and P/2009/1418/F. These approvals have not been implemented and appear to have lapsed. The owner of the property has objected to the tourist park application.

A replacement office associated with the existing business 'Kilbroney Timber Frame Homes' was approved under application P/2010/0437/F.

The current application was presented to the former Newry and Mourne District Council as a refusal on 9<sup>th</sup> May 2013, with 12 refusal reasons given. The decision was held to allow the submission of information which had previously been requested. The application was then re-assessed following the publication of PPS16. This left a total of 10 revised refusal reasons based on the updated policies. The application was not re-presented to the legacy Council due to delays with the agent providing further information and the transfer of planning powers to the new Councils. The application was transferred to Newry, Mourne and Down District Council on 1st April 2015 under paragraph 2 of Schedule 2 to the Planning (2011 Act) (Commencement No. 3) and (Transitional Provisions) Order (Northern Ireland) 2015 as it remained undetermined at that date.

In July 2016, the agent was given a comprehensive list of the further information required to progress the application. This included changes to the layout to reflect the conclusions of the otter survey and to preserve the amenity of No. 52 Newtown Road, a substantial reduction in the number of pitches with soft landscaping provided between them, the provision of quality communal open space, amendments to the access and Construction Method Statement, provision of a Flood Risk Assessment and a Drainage Assessment, details of the proposed water turbine, details of in-river structures and fish protection measures, a survey of existing trees and a bat survey if any trees are to be removed, a specification for new planting, details of external lighting, and further cross sections. The information was to be submitted by 2<sup>nd</sup> September 2016 and the agent advised that he was working on it, however, no new information has been provided. Given the length of time this application has been in the system, the Council cannot continue to hold it. The application will be determined as it currently stands.



**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
- PPS 4 – Planning and Economic Development
- PPS15 – Planning and Flood Risk
- PPS16 – Tourism
- PPS18 – Renewable Energy
- PPS21 – Sustainable Development in the Countryside
- Building on Tradition Sustainable Design Guide

**Consultations:**

Newry and Mourne District Council – The former Council wrote to the DOE in support of the application on 12<sup>th</sup> December 2012 following a discussion at the Planning Development Committee. They cited tourist need for the proposal and job creation.

TransportNI – Newtown Road to be widened to 5.5m along the site frontage and drainage details to be provided.

NI Water – Public water supply and foul sewer available (with capacity at WwTW).

Environmental Health – Details of the proposed turbine type and sound power output are required and have not been submitted. A Caravan Site Licence application will be required if the application is approved.

NIEA – Standard advice on sewerage and drainage. Abstraction and Impoundment licence application required for proposed micro hydro system. An otter survey, bat survey and construction method statement were required along with retention of trees, details of external lighting and a plan of new planting. Of these, only the otter survey and construction method statement have been submitted and they do not fully address the concerns raised. The plans as submitted would adversely affect otters due to the proximity of the hydro intake and caravan pitches to a holt. No detail of modifications to the river bank has been provided.

DCAL Inland Fisheries – DCAL has no remit on this river: defer to Loughs Agency.

Rivers Agency – Flood Risk Assessment and Drainage Assessment required.

Loughs Agency – Additional information required on the proposed weir, water turbine and fish protection measures.

Shared Environmental Services – No likely significant effects on Carlingford Lough SPA or any other European site.

Northern Ireland Tourist Board – Expressed support for additional caravan and camping accommodation in this area.

**Objections & Representations:**

The application was advertised in the local press on 12<sup>th</sup> October 2012 and four neighbouring properties were notified of the proposal on 16<sup>th</sup> October 2012, and again on 15<sup>th</sup> April 2013. Several letters of objection were received from the owner of No. 52 (which is not currently occupied). The issues raised can be summarised as follows:

- The validity of the application has been questioned due to perceived inaccuracies in the description of the development and with the site address provided;
- Inappropriate nature and scale, impact on the character of the landscape and development is incompatible with existing industry;
- Failure to comply with TOU Policies of PSRNI and Draft PPS16;
- Lack of supporting information to demonstrate need for the development;
- Impact on habitats / wildlife, and lack of information on micro hydro-plant;
- Impact on residential amenity to adjacent property;
- General road safety concerns – sightlines, creation of a new access, inadequate infrastructure;

**Consideration of representations:**

- The Council is content that the application is valid. The site address has been accurately described and no third parties have been prejudiced as a result of the wording of the description of the proposed development or the stated site address;
- Following an initial recommendation for refusal, there have been changes to several relevant policies and the previous planning authority then accepted the principle of a tourist use on the site. This overcomes previous concerns under PPS4 regarding incompatibility with existing industry. However, concerns remain regarding the scale of the facility and its impacts on the surrounding area;
- The PSRNI and draft PPS16 have now been superseded by the finalised version of PPS16 which should be read in conjunction with the relevant provisions of the SPPS. A number of policy deficiencies remain;
- The applicant is no longer required to demonstrate tourist need for a camping park under PPS16;
- Despite the submission of an otter survey, there is still insufficient detail to give assurance that protected habitats and species will not be adversely affected by the proposal and there is a lack of information on the proposed micro-hydro plant;
- The Council is concerned about the amenity impact on the adjacent house (No. 52) due to noise, nuisance and general disturbance. Amendments to the layout were requested to address these concerns, but have not been provided;
- TransportNI has not indicated any concerns in relation to the adequacy of the existing roads infrastructure provided the carriageway is widened at the entrance, and any issues with sight lines crossing third party lands are essentially civil matters.

**Consideration and Assessment:**

Most of the proposed caravan pitches will be located along the centre of the site with additional pitches in the NW corner. There will be two 2-bedroom log cabins to the west of No. 52 and tent pitching and picnic areas to the north and south of No. 52, close to the roadside. There will be a small toilet block in the NW corner of the site and a larger toilet and shower block to the rear of the new dwelling No. 48A. The

new access point at the NE corner will be used and a small gatehouse / office will be erected here. There will be a children's play area to the west of the main development road. The micro hydro intake point on the Kilbroney River will be at the northern corner of the site. There will be a pump house at the SW corner before the water is returned to the river. A penstock pipe which snakes around the existing warehouses will connect the two locations. No details of the pipe, intake or turbine have been provided.

In a supporting statement submitted in May 2013, the agent argued that the proposal constituted a farm diversification proposal. However, P1C Forms in relation to the farm business were not provided to enable further assessment of this point. In June 2013 the final version of PPS16 was published. This removed the requirement to demonstrate tourist need and increased the scope for holiday parks in the countryside. On this basis, the principle of tourist use on this site has been accepted (subject to changes to the layout and other information which the agent has so far failed to provide) and there is no need to rely on diversification of an existing farm business.

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 close proximity to the Strategic Natural Resource of the Mourne. 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 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.

The main consideration is **policy TSM6**. As the equivalent section in the SPPS (paragraph 6.260) is less specific, the retained policy TSM6 will be given substantial weight in determining the application in accordance with paragraph 1.12 of the SPPS. Planning permission will be granted for a new holiday park 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. It is the planning department's view that this proposal is not a high quality or sustainable form of tourism development. It is poorly laid out with limited landscaping and the pitches have been crammed onto the site. These deficiencies will be explored further under the specific policy criteria below:

- a) The landscape setting of the site is dramatic and it will be visible in the wider area, particularly from Kilbroney Road to the west. However, the backdrop of rising land to the east and the presence of existing mature trees means that the site can in principle accommodate some form of tourism development. The scale of holiday park proposed would harm the visual amenity and rural character of the area, though a reduced scheme with better landscaping could be satisfactorily absorbed into the landscape.
- b) If all existing trees can be retained, they would be an effective means of integrating the proposed development, with the assistance of some new landscaping. A survey of existing trees and a detailed specification of new landscaping have been requested since February 2013 and the agent has failed to provide it. Therefore it has not been demonstrated that criteria (b) has been met.
- c) Adequate provision (normally around 15% of the site area) should be made for communal open space (including play and recreation areas and landscaped areas), as an integral part of the development. Much of the indicated open space in this scheme doubles as tent pitching space and is located at the steep margins of the site. This would be unsuitable for playing ball games on and would not meet the above test. A quality central area of flatter ground would need to be provided.
- d) The layout of caravan pitches should be informal and characterised by discrete groupings or clusters of units separated through the use of appropriate soft landscaping. More detailed guidance in Appendix 4 of the policy recommends the avoidance of 'regimented' rows of units that typically result in a detrimental visual impact (a 'sea' of caravans effect). It further states that long straight lines of roads and paths should be avoided. This proposal is the opposite of good practice and will result in a sea of caravans in long straight rows with virtually no landscaping between them. The pitches at only 6m long and 3m wide would barely accommodate modern caravans which can be up to 7m long, and they are so close together that there would be insufficient room for awnings or the safe parking of a towing car off the roadway, aside from the adverse amenity impacts of having units so close together. The pitches are crammed onto the site and would need to be at least halved in number to provide a decent level of space around each one. The best sites would provide individually hedged plots with room for a caravan, awning, car and play space, and each with its own water and sewage connection. Tent pitching areas should be relatively flat, but those proposed here are on the steep margins of the site and would be very difficult to pitch a tent or set up a cooker on. No parking provision has been shown for visitors with tents. Overall, the layout is of poor quality and would not provide conditions that would attract tourists to the area.

- e) The design of the ancillary buildings is poor. They all have full- or half-hipped roofs and timber clad walls. These are not traditional to the Mourne area where roofs are normally gable pitched and walls are rendered. It appears that available design guidance for the area has not been consulted. The formal straight lines of the internal road network and the lack of detail on car parking and boundary treatments are also contrary to this criterion.
- f) The main environmental assets of the site are the mature trees. Despite several requests for information over almost 4 years, the agent has not demonstrated how these will be retained and integrated in a suitable manner into the overall design and layout.
- g) Mains water and sewerage services are available to serve the site.

In summary, the proposal is contrary to criteria (a) – (f) of this policy. Therefore it remains unacceptable in principle as development in the countryside under policy CTY1.

The proposed holiday park also includes two log cabin self-catering units. These must be assessed under **policy TSM5**. It permits three possible circumstances where self-catering units will be acceptable in the countryside:

- (a) one or more new units all located within the grounds of an existing or approved hotel, self-catering complex, guest house or holiday park;
- (b) a cluster of 3 or more new units to be provided at or close to an existing or approved tourist amenity that is / will be a significant visitor attraction in its own right;
- (c) the restoration of an existing clachan or close, through conversion and / or replacement of existing buildings, subject to the retention of the original scale and proportions of the buildings and sympathetic treatment of boundaries.

As there is no existing holiday park at this location, there are only two units proposed and it does not involve conversion or replacement of buildings, the proposal does not meet any of the circumstances where it would be acceptable. This element is contrary to policy TSM5.

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 the location of the site will encourage customers to walk in the Mourne. The nearest public transport is in Rostrevor village.
- (b) The site layout, building design, and landscaping arrangements are unsatisfactory as discussed above. Details of external lighting were requested, but were not provided.
- (c) The agent has not provided sufficient detail of boundary treatments and means of enclosure.
- (d) Caravan pitches will be surfaced with permeable grasscrete so there will be no significant increase in surface water runoff. A Drainage Assessment was requested but has not been provided.
- (e) The lack of enclosure to individual pitches does not deter crime or promote a feeling of security for campers.
- (f) Not applicable as there is no public art in the proposal.

General criteria

- (g) Surrounding land uses include a joinery works and Builders' Suppliers. These are likely to generate a level of noise during working hours, though Environmental Health did not raise concerns in this regard. As the previous planning authority and now the Council have accepted the principle of some form of tourism use on the site, the proposal should not be refused on this basis, or the similar requirement in **PPS4 (policy PED8)**.
- (h) The proximity of the development to Nos. 48A and 52 could harm their residential amenity through noise and overlooking (there are tent spaces on the slope above the new dwelling). The layout should be reviewed to provide a greater distance and buffer planting between the site and the dwellings. There is also potential for the hydro turbine to harm amenity through noise, though no details of the turbine or its sound power output have been submitted.
- (i) There should be no adverse effects on built heritage features on the site. However, it has not been demonstrated that the proposal will provide adequate fish passage arrangements or not harm protected habitats and species.
- (j) Mains sewerage is available and the proposed sewage can be accommodated at the nearest WwTW.
- (k) The new access at the NE corner of the site is to be used. In accordance with published guidance in PPS3 and DCAN15, the plan states that visibility splays of 4.5m x 70m will be provided.
- (l) TransportNI requires Newtown Road to be widened to 5.5m along the site frontage and drainage details to be provided. The road improvements suggested would improve road safety for all road users, though the agent has failed to provide an amended layout to show these details. Until this information is provided, the proposal remains contrary to **policy AMP2 of PPS3**.
- (m) additional vehicular traffic generated by the proposal can be handled safely by the existing road network provided the access improvements are carried out prior to commencement of development.
- (n) the Newtown Road is not a protected route.
- (o) the proposal does not constrain access to the coastline or tourism assets.

In summary, the proposal is contrary to several criteria in policy TSM7.

As development in the countryside, the proposal is subject to the design and integration criteria in PPS21. **Policy CTY13** deals with Integration and Design of Buildings in the Countryside. The planning department do not consider that a tourism development on this scale can be visually integrated into the surrounding landscape. It would be a prominent feature in the landscape, particularly when viewed from Kilbroney Road. The site lacks sufficient means of enclosure to provide a suitable degree of integration, it would rely primarily upon new landscaping for integration and ancillary works (roads, hard surfaces and overall cut and fill operations that would dramatically alter the site's existing contours) do not integrate with their surroundings. Overall, the development would fail to blend with the landform, existing trees, buildings, slopes or other natural features that would form a backdrop. The design of the ancillary buildings is poor. They all have full- or half-hipped roofs and timber clad walls. These are not traditional to the Mourne area where roofs are normally gable pitched and walls are rendered. It appears that available design guidance for the area has not been consulted. The proposal is therefore contrary to criteria a, b, c, d, e and f of Policy CTY 13. If the scale of the scheme was reduced

and additional landscaping introduced between plots, these concerns may be overcome.

**Policy CTY14** concerns impact on rural character. It states that "Planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area". It is considered that the proposal as it stands would, if permitted, cause a detrimental change and erosion to the rural character of this area. In its totality, the development would appear unduly prominent in the landscape. It would fail to respect the traditional pattern of settlement exhibited in this area and the impact of ancillary works would have a detrimental impact on the rural character of this area. Development would also appear to be extended along Newtown Road and the proposal would lead to the creation of a ribbon of development. On balance, the proposal would fail to meet the requirements of criteria a, c, d and e in particular. In relation to criteria b, while the proposal would result in a significant build-up of development in combination with the sheds and other dwellings, this is not considered to be suburban.

Linked to the above visual tests is **policy NH6 of PPS2** regarding new development within Areas of Outstanding Natural Beauty. The proposal has failed to be sensitive to the special character of this AONB in terms of the layout and the design of the buildings (which do not use typical local materials or respect traditional architectural styles and patterns). The proposal is judged to have a detrimental impact on this part of the AONB and the scale of the development is inappropriate.

A micro hydro power plant is proposed to be included within the development. This plant is ancillary to the overall development however it will operate in an SLNCI, and has potential to adversely affect nature conservation interests. As there is no significant change to the policy requirements for renewable energy schemes following the publication of the SPPS and it is arguably less prescriptive, the retained policy of PPS18 will be given substantial weight in determining the principle of the proposal in accordance with paragraph 1.12 of the SPPS. **Policy RE 1 of PPS18** states that development that generates energy from renewable resources will be permitted provided the proposal, and any associated buildings and infrastructure, will not result in an unacceptable adverse impact on five listed criteria:

- (a) This proposal will not cause any harm to human health or public safety. In order to assess the potential noise impact of the turbine on residential amenity, Environmental Health requested details of the turbine type and its sound power output. The agent has failed to provide this information. Therefore it has not been demonstrated that residential amenity will not be adversely affected.
- (b) The micro hydro power plant will not affect the visual amenity or the character of the area as much of the technology is underground. The only significant visual impact will be a small pump house and it will be in a low-lying section of the site detached from public views.
- (c) The development will not impact on any built heritage interests. However, it is likely to cause harm to biodiversity and nature conservation interests. The area is a habitat for European protected species including otters and bats and the river also supports migratory fish. An otter survey was submitted in August 2014 and notes the presence of otter holts and other activity in the area. The intake point of

the hydro system is only 5m from a holt. The report recommended that it is moved at least 30m away to ensure no adverse impact on the protected species. The agent has failed to provide an amended plan to this effect. Also, no information has been provided regarding the impact on existing trees along the riverbank which are used by bats. A bat survey would be required if there is any impact on existing trees, but has not been provided. NIEA also require details of external lighting. The abstraction of water from the river will have implications for fish passage and no detail has been given on the nature of the concrete weir structures required to remove and return water from and to its normal course, including the possible use of screening grills. The proposal is contrary to this criterion, and also **policy NH2 of PPS2** in that it could harm European Protected species. With regard to policy NH1, there is a hydrological linkage to a European site (Carlingford Lough SPA). The potential impact of this proposal was assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Services on behalf of the Council. The proposal would not be likely to have a significant effect on the features of any European site.

(d) Water Management Unit had no objections regarding effects on the surface water environment, subject to the applicant following standard advice and obtaining an Abstraction and Impoundment licence. However, Loughs Agency had some concern about deleterious matter entering the watercourse. This could be addressed in an updated Construction Method Statement. Provided good practice is followed, the hydro scheme should not harm water quality in the river.

(e) This part of the proposal will not impact on public access to the countryside.

The environmental benefits of this clean energy project are not considered to overcome the nature conservation concerns with the scheme.

Part of the site is within the fluvial flood plain of the Kilbroney River. A Flood Risk Assessment is required in accordance with **policy FLD1 of PPS15**. The agent has not provided this information. Without it, the scheme is contrary to policy and should be refused based on the flood risk to the new development and development elsewhere.

A Drainage Assessment is also required under **policy FLD3** due to the size of the site and the potential for increased surface water runoff. The agent has failed to provide the necessary information. Therefore the scheme is contrary to policy FLD3.

In addition to the above reasons, the on-going failure of the agent to provide information necessary to determine the application should be listed as a further refusal reason.

In summary, the planning department will accept a smaller scale tourism park on the site with appropriate layout, design and landscaping, however, substantial changes are required to the scheme to meet the relevant policies and the agent has failed to supply any new information.

**Recommendation:** Refusal



**Refusal Reasons:**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposed log cabins are contrary to Policy TSM5 of Planning Policy Statement 16 - Tourism, because they are not within the grounds of an existing or approved hotel, self-catering complex, guest house or holiday park, there are not 3 or more new units close to an existing or approved tourist amenity that is a significant visitor attraction in its own right, and it does not involve the restoration of an existing clachan or close, through conversion and / or replacement of existing buildings.
3. The proposed holiday park is contrary to Policy TSM6 of Planning Policy Statement 16 - Tourism, because the scale of the development would have an adverse impact on the visual amenity and rural character of the area, it has not been demonstrated that effective integration into the landscape can be secured primarily through the utilisation of existing natural features, there is inadequate provision for communal open space, the layout of caravan pitches represents cramming and is not informal or discrete, the design of ancillary buildings does not reflect local traditions of form, materials and detailing, it has not been demonstrated that the environmental assets of the site can be retained and integrated in a suitable manner into the overall design and layout, and it is therefore not a high quality and sustainable form of tourism development.
4. The proposal is contrary to Policy TSM7 of Planning Policy Statement 16 - Tourism, with regard to criteria b (layout and design), c (boundary treatments), d (drainage), e (designing out crime), h (effects on residential amenity), i (impact on natural heritage), and l (road safety), 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 development would be a prominent feature in the landscape, the proposed site is unable to provide a suitable degree of enclosure for the proposal to integrate into the landscape, the proposal relies primarily on the use of new landscaping for integration, the ancillary works do not integrate with their surroundings, the design of the proposal is inappropriate for the site and its locality, the proposal fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop 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 development would, if permitted, be unduly prominent in the landscape, would not respect the traditional pattern of settlement exhibited in the area, would create a ribbon of development, the impact of ancillary works would damage rural character, 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, the proposed buildings do not respect traditional architectural styles and patterns, and it is not sympathetic to the special character of the Mourne AONB.
8. The proposal is contrary to Policy NH 2 of Planning Policy Statement 2: Natural Heritage in that the site is used by otters and potentially by bats. The applicant has failed to amend the design in response to the recommendations of the otter survey and has not demonstrated how the proposal will avoid impacting on bats, or on the nature conservation value of the river corridor.
9. The proposal is contrary to paragraph 6.224 of the Strategic Planning Policy Statement for Northern Ireland and policy RE 1 of Planning Policy Statement 18: Renewable Energy, in that it has not been demonstrated that the proposed micro hydropower system would not result in an adverse impact on biodiversity or nature conservation interests.
10. The proposed development is contrary to Policy AMP 2 of Planning Policy Statement 3: Access, Movement and Parking, in that it has not been demonstrated that the applicant can achieve a satisfactory means of access to and egress from the site, and the development would therefore prejudice the safety and convenience of road users and pedestrians.
11. The proposal is contrary to Policy FLD 1 of Planning Policy Statement 15: Planning and Flood Risk, in that the site lies within the fluvial flood plain of the Kilbroney River and it has not been demonstrated that the proposal is an exception to the policy, or that a Flood Risk Assessment has been undertaken to identify all sources of flood risk to and from the proposed development and that there are adequate measures to manage and mitigate any increase in flood risk arising from the development.
12. The proposal is contrary to Policy FLD 3 of Planning Policy Statement 15: Planning and Flood Risk, in that the site exceeds 1 hectare and it has not been demonstrated through a Drainage Assessment that adequate measures will be put in place to effectively mitigate the flood risk from surface water to the proposed development and development elsewhere.
13. Having notified the applicant under Article 3 (6) of the Planning (General Development Procedure) Order (Northern Ireland) 2015 that additional information is required to allow the Council to determine the application, and having not received sufficient information, the Council refuses this application as it is the opinion of the Council that this information is material to the determination of this application.

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date:**

Planning Policy Division



Clarence Court  
10-18 Adelaide Street  
Belfast  
BT2 8GB  
Tel: 0300 200 7830

8<sup>th</sup> December 2016

Dear Sir/Madam

**CONSULTATION ON PERMITTED DEVELOPMENT RIGHTS FOR MINERAL EXPLORATION**

I am writing to inform you that the Department for Infrastructure has issued a consultation paper on proposals to amend permitted development rights in respect of mineral exploration.

The purpose of the consultation is to obtain views on the Department's proposals for amending permitted development rights, including removing permitted development rights for petroleum exploration from Class A of Part 16 of the Schedule to the Planning (General Permitted Development) Order (Northern Ireland) 2015.

Copies of the Consultation Paper may be downloaded from the Planning Portal website at [www.planningni.gov.uk](http://www.planningni.gov.uk) or the Departmental website at [www.infrastructure-ni.gov.uk](http://www.infrastructure-ni.gov.uk). Alternatively you can request a copy by telephone: (028) 90540571(text relay prefix 18001); by email: [ppdconsultations@infrastructure-ni.gov.uk](mailto:ppdconsultations@infrastructure-ni.gov.uk) or from the postal address below.

Review of Permitted Development Rights Consultation  
Planning Policy Division  
Room 1-18  
Clarence Court  
10-18 Adelaide Street  
Belfast  
BT2 8GB

The closing date for the receipt of comments is 3<sup>rd</sup> February 2017.

Yours faithfully,



E-mail: [planning@infrastructure-ni.gov.uk](mailto:planning@infrastructure-ni.gov.uk)  
Website: [www.planningni.gov.uk](http://www.planningni.gov.uk)

**ANGUS KERR**

Planning Policy Division  
Department for Infrastructure  
Planning Policy Division  
Room 1-01  
Clarence Court  
10-18 Adelaide Street  
Belfast  
BT2 8GB

Planning Policy Division



Clarence Court  
10-18 Adelaide Street  
Belfast  
BT2 8GB  
Tel: 0300 200 7830

15 December 2016

Dear Sir/Madam

**CONSULTATION ON ENVIRONMENTAL IMPACT ASSESSMENT AMENDMENT DIRECTIVE**

I am writing to inform you that the Department for Infrastructure has issued a consultation paper on proposals to amend the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015.

The purpose of the consultation is to obtain views on the Department's proposals for transposing and implementing European Directive 2014/52/EU, amending Directive 2011/92/EU on the effects of certain public and private projects on the environment.

Copies of the Consultation Paper may be downloaded from the Planning Portal website at [www.planningni.gov.uk](http://www.planningni.gov.uk) or the Departmental website at [www.infrastructure-ni.gov.uk](http://www.infrastructure-ni.gov.uk). Alternatively you can request a copy by telephone: (028) 90540572(text relay prefix 18001): by email: [ppdconsultations@infrastructure-ni.gov.uk](mailto:ppdconsultations@infrastructure-ni.gov.uk) or from the postal address below.

EIA Amendment Directive 2014/52/EU Consultation  
Planning Policy Division  
Room 1-18  
Clarence Court  
10-18 Adelaide Street  
Belfast  
BT2 8GB

The closing date for the receipt of comments is 9<sup>th</sup> February 2017.

Yours faithfully,



E-mail: [planning@infrastructure-ni.gov.uk](mailto:planning@infrastructure-ni.gov.uk)  
Website: [www.planningni.gov.uk](http://www.planningni.gov.uk)

**ANGUS KERR**

Department for Infrastructure  
Planning Policy Division  
Room 1-01  
Clarence Court  
10-18 Adelaide Street  
Belfast  
BT2 8GB

## Newry, Mourne & Down District Council – December 2016

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### 1. Live Applications

MONTH 2016	NEW APPLICATIONS	LIVE APPLICATIONS	LIVE APPLICATIONS OVER 12 MONTHS
April	138	1,389	436
May	121	1,335	455
June	162	1,178	418
July	106	1,147	425
August	131	1,089	405
September	133	1,048	394
October	132	1,026	392
November	132	1,007	355
December	124	1,016	333



## Newry, Mourne & Down District Council – December 2016

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### 2. Live Applications by length of time in system

Month 2016	Under 6 months	Between 6 and 12 months	Between 12 and 18 months	Between 18 and 24 months	Over 24 months	Total
April	583	370	222	66	148	<b>1,389</b>
May	549	331	222	86	147	<b>1,335</b>
June	511	249	195	77	146	<b>1,178</b>
July	501	221	196	78	151	<b>1,147</b>
August	480	204	162	99	144	<b>1,089</b>
September	472	182	150	97	147	<b>1,048</b>
October	462	172	135	103	154	<b>1,026</b>
November	483	169	115	100	140	<b>1,007</b>
December	496	187	99	97	137	<b>1,016</b>

### 3. Live applications per Case Officer

Month 2016	Average number of Applications per Case Officer
April	58
May	56
June	47
July	46
August	44
September	40
October	41
November	46
December	51

## Newry, Mourne & Down District Council – December 2016

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### 4. Decisions issued per month

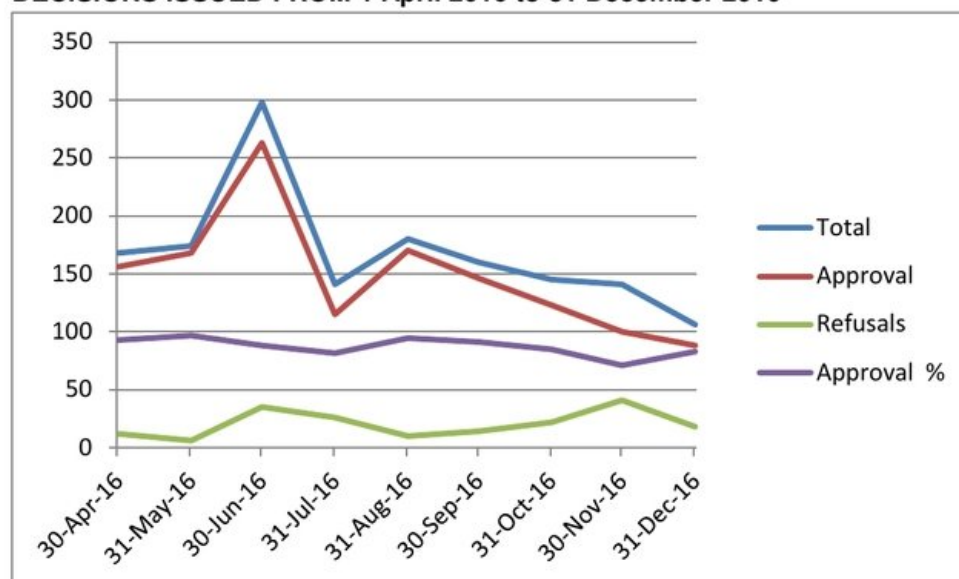
Month 2016	Number of Decisions Issued	Number of Decisions Issued under delegated authority
April	168	163
May	174	169
June	298	273
July	141	114
August	180	162
September	160	140
October	145	122
November	141	102
December	106	85

## Newry, Mourne & Down District Council – December 2016

### 5. Decisions Issued YTD

Month 2016	Number of Decisions Issued	Breakdown of Decisions	
April	168	Approvals (156)	93%
		Refusals (12)	7%
May	342	Approvals (324)	95%
		Refusals (18)	5%
June	640	Approvals (587)	92%
		Refusals (53)	8%
July	781	Approvals (702)	90%
		Refusals (79)	10%
August	961	Approvals (872)	91%
		Refusals (89)	9%
September	1,121	Approvals (1018)	91%
		Refusals (103)	9%
October	1,266	Approvals (1141)	90%
		Refusals (125)	10%
November	1,407	Approvals (1241)	88%
		Refusals (166)	12%
December	1,513	Approvals (1329)	88%
		Refusals (184)	12%

### DECISIONS ISSUED FROM 1 April 2016 to 31 December 2016



## Newry, Mourne & Down District Council – December 2016

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### 6. Enforcement Live cases

Month 2016	<=1yr	1-2 yrs	2-3 yrs	3-4 yrs	4-5 yrs	5+yrs	Total
April	185	119	97	56	23	78	558
May	190	113	101	58	24	77	563
June	217	119	104	56	27	79	602
July	220	117	94	64	28	77	600
August	231	125	87	72	32	75	622
September	240	129	86	83	35	77	650
October	248	129	90	84	34	80	665
November	285	126	90	83	35	77	696
December	283	133	82	85	37	83	703

## Newry, Mourne & Down District Council – December 2016

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### 7. Planning Committee

Month	Number of Applications presented to Committee	Number of Applications Determined by Committee	Number of Applications Withdrawn/ Deferred for future meeting
13 April 2016	14	11	3
27 April 2016	10	5	5
11 May 2016	15	13	2
26 May 2016	17	12	5
8 June 2016	13	9	4
29 June 2016	35	25	10
6 July 2016	22	9	13*
3 August 2016	27	14	13
10 August 2016	4	2	2
31 August 2016	12	10	2
28 Sept & 5 Oct 2016	59	31	28
26 October 2016	30	21	9
10 November 2016	30	23	7
23 November 2016	31	22	9
7 December 2016	30	14	16
21 December 2016	22	14	8
<b>Totals</b>	<b>371</b>	<b>235</b>	<b>136</b>

\*2 Applications called in by Dfl

### 8. Appeals

#### Planning Appeal Commission Decisions issued during December 2016

Area	Number of current appeals	Number of decisions issued	Number of decisions Allowed	Number of decisions Dismissed	Other decisions
Newry & Mourne	23	2	0	2	0
Down	8	1	1	0	0
<b>TOTAL</b>	<b>31</b>	<b>3</b>	<b>1</b>	<b>2</b>	<b>0</b>

## Newry, Mourne & Down District Council – December 2016

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### 9. Statutory Targets Performance Data

Statutory targets monthly update to April to November 2016  
(unvalidated management information)  
Newry, Mourne and  
Down

	Major applications (target of 30 weeks)			Local applications (target of 15 weeks)			Cases concluded (target of 39 weeks)		
	Number decided / withdrawn <sup>1</sup>	Average processing time <sup>2</sup>	% of cases processed within 30 weeks	Number decided / withdrawn <sup>1</sup>	Average processing time <sup>2</sup>	% of cases processed within 15 weeks	Number brought to conclusion <sup>3</sup>	"70%" conclusion time <sup>3</sup>	% of cases concluded within 39 weeks
April	3	42.6	33.3%	164	31.0	18.9%	13	37.2	69.2%
May	2	149.3	0.0%	168	25.5	23.8%	31	92.5	45.2%
June	4	68.9	0.0%	285	27.0	22.5%	2	0.0	0.0%
July	1	159.2	0.0%	133	22.4	36.8%	25	83.4	44.0%
August	3	90.0	0.0%	173	19.4	42.8%	-	0.0	0.0%
Sept	6	163.4	0.0%	158	19.5	42.4%	7	42.0	71.4%
Oct	1	75.2	0.0%	129	16.4	47.3%	4	19.8	100.0%
Nov	2	121.6	0.0%	145	28.0	33.1%	23	58.4	39.1%
Dec	-	0.0	0.0%	-	0.0	0.0%	-	0.0	0.0%
Jan	-	0.0	0.0%	-	0.0	0.0%	-	0.0	0.0%
Feb	-	0.0	0.0%	-	0.0	0.0%	-	0.0	0.0%
Mar	-	0.0	0.0%	-	0.0	0.0%	-	0.0	0.0%
<b>Year to date</b>	<b>22</b>	<b>104.1</b>	<b>4.5%</b>	<b>1,362</b>	<b>23.4</b>	<b>33.6%</b>	<b>105</b>	<b>60.3</b>	<b>51.4%</b>

Source: NI Planning Portal

#### Note

1. CLUDS, TPOS, NMCS and PADS/PANs have been excluded from all applications figures

2. The time taken to process a decision/withdrawal is calculated from the date on which an application is deemed valid to the date on which the decision is issued or the application is withdrawn. The median is used for the average processing time as any extreme values have the potential to inflate the mean, leading to a result that may not be considered as "typical".

3. The time taken to conclude an enforcement case is calculated from the date on which the complaint is received to the earliest date of the following: a notice is issued; proceedings commence; a planning application is received; or a case is closed. The value at 70% is determined by sorting data from its lowest to highest values and then taking the data point at the 70th percentile of the sequence.

## Record of meetings between Planning Officers and Public Representatives

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DATE OF MEETING	PLANNING OFFICER'S NAME/S	PUBLIC REPRESENTATIVE'S NAME
8/01/2016	A McKay, P Rooney, D Watson	Seán Rogers MLA, Cllr Willie Clarke, Cllr Mark Murnin
12/01/2016	P Rooney, M Keane	Cllr Stephen Burns
14/01/16	A McKay	Margaret Ritchie MLA
20/01/2016	P Rooney	Cllr Cadogan Enright
25/01/2016	D Watson	Margaret Ritchie MLA
27/01/16	M Keane	Seán Rogers MLA
17/02/16	Jacqui McParland	Declan McAteer
19/02/16	Jacqui McParland	Jarlath Tinnelly
22/02/16	Jacqui McParland	Michael Ruane
22/02/16	Jacqui McParland	Gillian Fitzpatrick
24/02/16	David Watson	Seán Rogers MLA
25/02/16	Andrew Hay, James King	Seán Rogers MLA
25/02/2016	Annette McAlarney	Seán Rogers MLA
25/02/16	Anthony McKay	Margaret Ritchie MLA
26/02/16	M Keane	Cllr McGrath
15/03/16	J McParland	Cllr M Ruane
16/03/2016	J McParland	Sean Rogers
25/03/16	A Davidson	Cllr Taylor
30/03/16	J McParland	Seán Rogers MLA
5/4/16	A McKay	Seán Rogers MLA
8/4/16	A McKay	Margaret Ritchie MLA
12/04/2016	Annette McAlarney	Cllr Curran
14/04/2016	J McParland	Cllr Declan McAteer
25/04/2016	J McParland	Cllr Tinnelly
27/04/2016	J McParland	Cllr Tinnelly
28/04/2016	Annette McAlarney	Cllr Burgess
29/04/2016	Annette McAlarney	Cllr McGrath
18/05/2016	Annette McAlarney	Cllr Curran
23/05/2016	A McKay	Cllr Ó Gribín
10/6/16	P Rooney & J McParland	Carla Lockhart MLA
14/06/2016	J McParland	Cllr Quinn
14/06/2016	J McParland A McKay P Rooney	Cllr Tinnelly
15/6/16	P Rooney	Cllr G Fitzpatrick
15/06/2016	P Rooney A McKay	Harold McKee MLA, J Tinnelly & G Fitzpatrick
16/06/2016	J McParland	Cllr Quinn
20/06/2016	Clare Miskelly	Cllr Dermot Curran
21/06/2016	J McParland	Cllr Taylor
21/06/2016	J McParland	Cllr Hanna
27/06/2016	J McParland	Cllr Tinnelly

## Record of meetings between Planning Officers and Public Representatives

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30/06/2016	A McKay	Margaret Ritchie MP
4/07/2016	Andrew Hay	Jim Shannon MP
08/07/2016	J McParland	Cllr Quinn Cllr Doran
14/07/2016	P Rooney	Cllr W Clarke
21/07/2016	Anthony McKay	Margaret Ritchie MP
26/7/2016	J McParland	Sean Doran
27/07/2016	J McParland	J Tinnelly
08/08/2016	J McParland	J Tinnelly
8/08/16	A Hay M Keane	Colin McGrath MLA
11/08/16	Andrew Hay	Cllr Walker Cllr Curran
25/08/16	Anthony McKay	Cllr O'Gribin
30/08/16	Pat Rooney	Cllr Ruane
1 /9/16	Anthony McKay	M Ritchie MP
02/09/2016	A McAlarney Mark Keane	Cllr Willie Clarke
02/09/2016	A McAlarney	Cllr Willie Clarke
06/09/2016	Pat Rooney/Andrew Davidson	Cllr Terry Hearty
08/09/2016	Annette McAlarney Catherine Moane	Colin McGrath MLA
08/09/2016	Pat Rooney	Cllr David Taylor MLA and Danny Kennedy MLA
14/9/16	Pat Rooney	Cllr Terry Hearty
14/9/16	Anthony McKay	Wm Erwin MLA
15/09/2016	Pat Rooney	Cllr Terry Hearty
23/09/2016	Pat Rooney/Andrew Davidson	Harold McKee MLA, David Taylor MLA
29/09/2016	Pat Rooney	Cllr Terry Hearty
11/10/16	Andrew Davidson	Cllr Tinnelly
13/10/16	Andrew Hay	Margaret Ritchie MP
14/10/16	Pat Rooney & Andrew Davidson	Justin McNulty MLA
14/10/2016	Jacqui McParland	Cllr B Quinn
17/10/2016	Annette McAlarney	Cllr Curran
18/10/2016	Jacqui McParland	Cllr Doran
01/11/2016	Annette McAlarney	Cllr Harvey & Cllr Walker
3/11/16	Anthony McKay	Margaret Ritchie MP
07/11/2016	Jacqui McParland Anthony McKay	Cllr Reilly
	Anthony McKay	Cllr Naomi Bailie
11/11/2016	Annette McAlarney	Cllr Walker
14/11/2016	Annette McAlarney	Cllr Andrews
18/11/2016	Annette McAlarney	Cllr Walker
18/11/2016	Annette McAlarney	Colin McGrath MLA
24/11/2016	David Watson	Colin McGrath MLA
24/11/2016	Anthony McKay	M Ritchie MP



## Record of meetings between Planning Officers and Public Representatives

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25/11/2016	Jacqui McParland	Cllr Taylor
02/12/2016	Annette McAlarney	Cllr Andrews and Walker
15/12/16	Anthony McKay	Margaret Ritchie MP

## CONTACT FROM PUBLIC REPRESENTATIVES – 1 October - 31 December 2016

418

DATE	CALLER	REF	ISSUE	REFERRED TO	MODE	DATE CLEARED
3/10/16	Clr R Mulgrew	_____	J McParland/Andrew Davidson (No Reply)	ClIr to E-mail		3/10/16
" "	M Ritchie MP	Update on housing application	L O'Connor	E mail from A McAlarney		5/10/16
4/10/16	Jim Shannon		Andrew Hay	Message		4/10/16
4/10/16	ClIr G Fitzpatrick	Enforcement issues	P Rooney – D Watson	E mail		7/10/16
5/10/16	Mgt Ritchies Office	Wished to Speak to A McKay	T/S to Annette			5/10/16
" "	ClIr T Andrews	Update	A McAlarney	Direct e mail		11/10/16
6/10/16	ClIr Paul Gribbon	App in Castlewellan Area	T/S to Annette			6/10/16
7/10/16	Colin McGrath	_____	T/S to Annette			7/10/16
" "	ClIr H Reilly	Request for meeting	C O'Rourke – A McKay	E mail		13/10/16
8/11/16	ClIr B Walker	Request for meeting	A McAlarney	Direct e mail		14/11/16
10/10/16	ClIr G Hanna	Enforcement issues	David Watson	E mail		14/10/16
" "	ClIr D Taylor	Update	J McParland/A Davidson	E Mail		11/10/16
10/10/16	Naomi Bailie x2	_____	Mark Oliver x 2	Transferred Call		10/10/16
" "	ClIr G Fitzpatrick	-----	P Rooney	Direct e mail		12/10/16
11/10/16	ClIr Glynn Hanna	_____	Davy Watson	Transferred Call		11/10/16
" "	ClIr P O'Gribin	_____	A McAlarney	Transferred call		11/10/16
" "	ClIr G Fitzpatrick	Request for meeting	P Rooney	DSU-P Rooney		17/10/16 & 20/10/16
12/10/16	M Ritchie MP	Update	M Keane	Direct e mail		12/10/16
13/10/16	ClIr P Brown	Potential enforcement at 39 Ardglass Road, Downpatrick	A Hay	Direct e mail		13/10/16
" "	ClIr M Ruane	CLUD app for M McGivern	P Rooney	Direct e mail		13/10/16
" "	ClIr P O'Gribin	-----	A McAlarney	Call transferred		13/10/16
" "	J McNulty MLAs Office		J McParland	Call transferred		13/10/16
13/10/16	J McNulty MLA	-----	P Rooney	Call transferred		13/10/16

## CONTACT FROM PUBLIC REPRESENTATIVES – 1 October - 31 December 2016

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DATE	CALLER	REF	ISSUE	REFERRED TO	MODE	DATE CLEARED
17/10/16	Cllr S Bradley	Updates	P Rooney	Direct e mail	17/10/16	
20/10/16	Cllr R Mulgrew	Discuss e mail from A Davidson	A Davidson	Call transferred	20/10/16	
21/10/16	Frances from S Bradley MLAs Office	-----	P Rooney	E mail sent	24/10/16	
" "	Cllr D Curran	Appt 31/10/16 at 9.30am with potential applicant John Magee	A McAlarney	E mail sent	31/10/16	
24/10/16	Cllr D McAteer	Bettyshill Road, Ballyholland	P Rooney	E mail sent	28/10/16	
" "	M Ritchie's office	Mr McEvoy - revocation	A McAlarney	Direct e mail	24/10/16	
" "	" "	Objects from residents	M McQuiston – A McAlarney	Direct e mail	24/10/16	
" "	" "	Update	M Keane	Direct e mail	24/10/16	
25/10/16	Cllr P O'Gribin	Not pleased that a Senior Planner was not available to take his call	A McAlarney	E mail sent	25/10/16	
" "	Cllr B Walker	-----	A McAlarney	E mail sent	25/10/16	
" "	Cllr N Bailie	Update	M Keane	Direct e mail	27/10/16	
" "	M Ritchie MP	Updates	A McAlarney	Direct e mail	28/10/16	
26/10/16	Cllr P O'Gribin	-----	A McAlarney	E mail sent	27/10/16	
" "	Cllr H Harvey	Letter of support	DSU-A McAlarney	Direct e mail	27/10/16	
" "	Cllr Hearty	Rural Development Funded Applications	L Hannaway/C O'Rourke/A McKay	Direct e mail	27/10/16	
27/10/16	Cllr R Mulgrew	Re Site meeting	A Davidson	Call transferred	27/10/16	
28/10/16	M Ritchie MP	-----	A McAlarney	Call transferred	28/10/16	
" "	Cllr M Ruane	Issue or Decision Notice	P Rooney	Direct e mail	28/10/16	
28/10/16	Cllr G Fitzpatrick	Martin Bailie	P Rooney	Direct e mail	1/11/16	
30/10/16	Cllr T Andrews	Request for meeting	A Davidson	Direct e mail	31/10/16	
31/10/16	Cllr T Andrews	Request for meeting	A Davidson-A McAlarney	Direct e mail	31/10/16	
" "	Cllr D Taylor	Request to prioritise application	A Davidson	Direct e mail	31/10/16	

## CONTACT FROM PUBLIC REPRESENTATIVES – 1 October - 31 December 2016

DATE	CALLER	REF	ISSUE	REFERRED TO	MODE	DATE CLEARED
1/11/16	Cllr T Andrews	Request for meeting	A McAlarney	Direct e mail	1/11/16	
" "	Cllr T Andrews	Re; 19 Downpatrick Road, Crossgar	M Keane	Direct e mail	3/11/16	
2/11/16	Cllr S Burns	-----	A McAlarney	Direct e mail	2/11/16	
2/11/16	Cllr S Burns	-----	A McAlarney/Mark K	Cllr to phone back	2/11/16	
" "	Cllr C McGrath	Request for meeting	A McAlarney	Direct e mail	4/11/16	
3/11/16	Cllr H McKee	-----	A Davidson-A McAlarney	Direct e mail	3/11/16	
3/11/16	Cllr Mulgrew	-----	A Davidson-A McAlarney	Direct e mail	3/11/16	
3/11/16	Justin McNulty MLA	-----	P Rooney	T/S Call to P Rooney	3/11/16	
" "	Cllr R Mulgrew	Request for app to be removed from Committee on 10/11/16	A Davidson	Direct e mail	3/11/16	
7/11/16	Cllr T Hearty	Update requested	A Davidson	Direct e mail	7/11/16	
" "	M Ritchie MP	Update requested	M Keane	Direct e mail	7/11/16	
" "	Cllr D Taylor	Wind turbines Newtownhamilton	A Davidson	E mail sent	8/11/16	
" "	M Ritchie MP	Request for PAD	A McAlarney	Direct e mail	8/11/16	
" "	Cllr W Walker	Update	A McAlarney	Direct e mail	8/11/16	
" "	Cllr T Hearty	Update	A Davidson	Direct e mail	7/11/16 & 10/11/16	
9/11/16	Cllr R Mulgrew	Follow up enquiry	A Davidson	Call transferred	9/11/16	
10/11/16	Cllr R Mulgrew	-----	A Davidson	Call transferred	10/11/16	
14/11/16	Cllr G Craig	Site visits 15/11/16	P Rooney	E mail sent	14/11/16	
15/11/16	Cllr C Casey	-----	P Rooney	Direct e mail	16/11/16	
16/11/16	Cllr H McKee	-----	J McParland	E mail sent	16/11/16	
" "	Cllr S Bradley	When will decision notice be issued?	P Rooney	Direct e mail	16/11/16	
" "	M Ritchie MP	Ballydonnety Road, Downpatrick	A McAlarney	Direct e mail	16/11/16	

## CONTACT FROM PUBLIC REPRESENTATIVES – 1 October - 31 December 2016

421

DATE	CALLER	REF	ISSUE	REFERRED TO	MODE	DATE CLEARED
17/11/16	Cllr P O’Gribin	-----	A McAlarney	Call transferred	17/11/16	
17/11/16	Cllr P O’Gribin	General enquiry re consultation/involvement in the preparation of the LDP	A Hay	Returned call	17/11/16	
21/11/16	Cllr Walker	Date for meeting	M Keane	Direct e mail	22/11/16	
21/11/16	Cllr D Taylor	Request for priority status for application	A Davidson	Direct e mail	22/11/16	
22/11/16	Cllr P O’Gribin	-----	M Keane	Call transferred	22/11/16	
“ “	M Ritchie MP	-----	A McAlarney	E mail sent	24/11/16	
“ “	Cllr D Taylor	-----	A Davidson	Call transferred	22/11/16	
“ “	M Ritchie MP	Update requested	A McAlarney-D Clarke	Direct e mail	24/11/16	
“ “	M Ritchie MP	Update requested	A McAlarney	Direct e mail	22/11/16	
“ “	Cllr L Kimmins	Request for a meeting	A Davidson	Direct e mail	22/11/16 & 29/11/16	
“ “	M Ritchie MP	Update requested	A McAlarney	Direct e mail	24/11/16	
23/11/16	Cllr J Trainor	Remove letter of objection and save as letter of support	M McIlhone	Call answered	23/11/16	
23/11/16	Cllr C Enright	Request for a meeting	A McAlarney	Direct e mail	30/11/16	
24/11/16	Cllr D Curran	-----	C Miskelly	Call transferred	24/11/16	
24/11/16	Cllr Jill MacAuley	-----	A Davidson	E mail	25/11/16	
“ “	Cllr W Clarke	Update requested	P Rooney	Direct e mail	25/11/16	
25/11/16	Cllr S Doran	Request for a meeting	J McParland-A McAlarney	Direct e mail	25/11/16	
28/11/16	Cllr T Andrews	Request for meeting re refusal decision	A McAlarney	Direct e mail	28/11/16	
“ “	M Ritchie’s office	Further details on Planning Decision	A McAlarney	Call transferred	28/11/16	
“ “	Cllr L Kimmins	Update requested	C O’Rourke-A McKay	E mail	29/11/16	
“ “	Cllr T Andrews	Update requested	A McAlarney	Direct e mail	29/11/16	

## CONTACT FROM PUBLIC REPRESENTATIVES – 1 October - 31 December 2016

DATE	CALLER	REF	ISSUE	REFERRED TO	MODE	DATE CLEARED
30/11/16	Cllr G Fitzpatrick	Update requested	P Rooney	Direct e mail	30/11/16	
" "	Cllr G Fitzpatrick	Update requested	P Rooney	Direct e mail	30/11/16	
" "	Cllr D Taylor	-----	A Davidson	E mail sent	1/12/16	
" "	M Ritchie	Update on Decision	A McAlarney	Direct e mail	30/11/16	
" "	Cllr G Stokes	Update	A Davidson	Direct e mail	1/12/16	
1/12/16	Cllr P Brown	Policy query	A Davidson	Call transferred	1/12/16	
" "	" "	Follow up to earlier call	A McAlarney	E mail	Message left 1/12/16	
" "	Cllr P Byrne	-----	A Davidson	E mail	1/12/16	
2/12/16	Cllr C McGrath	Follow up to earlier enquiry	A McAlarney	Direct e mail	2/12/16	
" "	Cllr T Hearty	Update requested	P Rooney	Direct e mail	6/12/16	
" "	" "	Information on Farm Business	P Rooney	Direct e mail	6/12/16	
5/12/16	M Ritchie MP	Update requested	A McAlarney-M Keane	Direct e mail	7/12/16	
6/12/16	Cllr R Mulgrew	Re Clarke McCourt Application	A Davidson	E mail	8/12/16	
" "	Cllr M Murnin	Query withdrawal from Committee meeting 7/12/16	A McAlarney	Telephone call	2/12/16	
6/12/16	M Ritchie MP	Request to withdraw app. from committee meeting 7/12/16	A McAlarney	Direct e mail	6/12/16	
" "	M Ritchie MP	Support for application	A McAlarney	Direct e mail	6/12/16	
7/12/16	M Ritchie	Update requested	A McAlarney	Direct e mail	7/12/16	
7/12/16	M Ritchie MP	Update requested	A McAlarney-M Keane	Direct e mail	9/12/16	
8/12/16	Cllr S Doran	Update requested	A Davidson	E mail sent	8/12/16	
" "	M Ritchie MP	Update requested	A McAlarney	Direct e mail	8/12/16	
" "	Cllr T Andrews	Update requested	A McAlarney	Direct e mail	9/12/16	
9/12/16	M Ritchie MP	Update requested	A McAlarney-M Keane	Direct e mail	9/12/16	
" "	Cllr G Fitzpatrick	Update requested	C O'Rourke-A McKay	Direct e mail	13/12/16	
12/12/16	M Ritchie MP	Update requested	K Cunningham	Direct e mail	19/12/16	
13/12/16	Cllr S Doran	Update	A Davidson	Call transferred	13/12/16	
" "	J Shannon MP	Request to remove from	A Hay	Direct e mail	14/12/16	

## CONTACT FROM PUBLIC REPRESENTATIVES – 1 October - 31 December 2016

423

DATE	CALLER	REF	ISSUE	REFERRED TO	MODE	DATE CLEARED
		Committee meeting				
" "	Cllr W Walker	Request for meeting and deferral	A McAlarney	Direct e mail	14/12/16	
" "	M Ritchie MP	Update requested	M Keane-K Cunningham	Direct e mail	19/12/16	
" 2	M Ritchie MP	Enforcement issue	M Keane	Direct e mail	5/1/17	
14/12/16	Cllr P Byrne	Update	A Davidson	Call transferred	14/12/16	
" "	Cllr W Walker	Request for Deferral from Committee meeting 21/12/16	A McAlarney	Direct e mail	14/12/16	
15/12/16	Cllr M Ruane	Re Meeting with J McParland	Rita McCrickard	Details confirmed by return telephone call	15/12/2016	
16/12/16	Cllr D Taylor	Update	A Davidson	E mail sent	20/12/16	
" "	M Ritchie's Office	Can decision be temporarily blocked?	M McQuiston-A McAlarney	Direct e mails	16/12/16	
16/12/16	M Ritchie MP	Update on app. Dwelling between 32-34 Eliza Close, Newcastle	M Keane-C Moane	Direct e mail	19/12/16	
19/12/16	Cllr T Hearty	-----	C O'Rourke-P Rooney	Direct e mail	21/12/16	
" "	Cllr L Kimmons	Update requested	C O'Rourke-A McKay	Direct e mail	21/12/16	
20/12/16	Cllr P Brown	Update request	M Keane	Call transferred	20/12/16	
" "	Harold McKee MLA	Update	D Watson	E mail sent	21/12/16	
21/12/16	Thomas for Justin McNulty MLA	Re; meeting on application	P Rooney	E mail sent	23/12/16	
21/12/16	Cllr Dermot Curran	Call for Enforcement	C Miskelly	Call Transferred	21/12/16	
22/12/16	Alice for M Ritchie	Asked name of Applicant	M McIlhone	Call answered	22/12/16	
" "	Cllr Jill McAuley	Update requested	A McAlarney	Call transferred	22/12/16	
23/12/16	M Ritchie MP	Potential Enforcement issue	A McKay	Direct e mail	23/12/16	

## Current Appeals

424

**AUTHORITY** Newry, Mourne and Down

**ITEM NO** 1  
**Planning Ref:** P/2014/0303/O **PAC Ref:** 2016/A0005  
**APPELLANT** Michael Horner  
**LOCATION** Adjacent To And North Of 36 Belmont Road  
 Kilkeel  
 Newry  
**PROPOSAL** Erection of Infill Dwelling and Detached Garage

**APPEAL TYPE** Plg Refusal: permissions  
**Appeal Procedure** **Date Appeal Lodged** 05/04/2016  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

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**ITEM NO** 2  
**Planning Ref:** P/2014/0853/F **PAC Ref:** 2016/A0041  
**APPELLANT** S Meade  
**LOCATION** To The Immediate North And East Of 16 Rostrevor Road  
 Hilltown.  
**PROPOSAL** Retention of two light industrial units, erection of three light industrial units.

**APPEAL TYPE** Plg Refusal: permissions  
**Appeal Procedure** **Informal Hearing** **Date Appeal Lodged** 01/07/2016  
**Date of Hearing** 16/09/2016  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

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## Current Appeals

425

**ITEM NO** 3  
**Planning Ref:** P/2015/0236/F **PAC Ref:** 2016/A0073  
**APPELLANT** Mr Francis McGuinness  
**LOCATION** Lands To The Rear Of No 41 Newtown Road  
 Killeen  
**PROPOSAL** <sup>Newrv</sup>  
 Extension to existing dwelling curtilage and erection of domestic  
 garage.

**APPEAL TYPE** Plg Refusal: permissions  
**Appeal Procedure** **Date Appeal Lodged** 28/06/2016  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

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**ITEM NO** 4  
**Planning Ref:** P/2015/0221/F **PAC Ref:** 2016/A0074  
**APPELLANT** Mr Francis McGuinness  
**LOCATION** Adjacent And South Of No 41 Newtown Road  
 Killeen  
**PROPOSAL** <sup>Newrv</sup>  
 Erection of Vehicle Maintenance Shed and retention of existing yard for  
 the storage of vehicles.

**APPEAL TYPE** Plg Refusal: permissions  
**Appeal Procedure** **Date Appeal Lodged** 28/06/2016  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

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## Current Appeals

426

<b>ITEM NO</b>	<b>5</b>		
<b>Planning Ref:</b>	LA07/2015/0542/F	<b>PAC Ref:</b>	2016/A0094
<b>APPELLANT</b>	Mr R L Annett		
<b>LOCATION</b>	150 Metres Southwest Of No 20 Council Road Kilkeel		
<b>PROPOSAL</b>	RT34 ANP Agricultural Building, yard and access from Council Road		

<b>APPEAL TYPE</b>	Plg Refusal: permissions		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	<b>09/08/2016</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>6</b>		
<b>Planning Ref:</b>	LA07/2016/0556/C	<b>PAC Ref:</b>	2016/A0095
<b>APPELLANT</b>	J & J McKibbin		
<b>LOCATION</b>	40m Southeast Of 181 Moyad Road Kilkeel		
<b>PROPOSAL</b>	RT34 AH1 Site for dwelling and garage		

<b>APPEAL TYPE</b>	Plg Refusal: permissions		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	<b>10/08/2016</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

427

<b>ITEM NO</b>	<b>7</b>		
<b>Planning Ref:</b>	LA07/2015/0455/F	<b>PAC Ref:</b>	2016/A0106
<b>APPELLANT LOCATION</b>	Fergal O'Hanlon 15 Kearney Crescent Whitecross		
<b>PROPOSAL</b>	<sup>Armagh</sup> Retention of part boundary walls piers and railings		

<b>APPEAL TYPE</b>	Plg Refusal: permissions		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	<b>22/08/2016</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>8</b>		
<b>Planning Ref:</b>	LA07/2015/0921/C	<b>PAC Ref:</b>	2016/A0107
<b>APPELLANT LOCATION</b>	Noel McLoughlin Adjacent And Immediately South Of No 5 Greenan Lough Road And Fronting Mullavat Road		
<b>PROPOSAL</b>	<sup>Newry</sup> Dwelling and domestic garage on gap site		

<b>APPEAL TYPE</b>	Plg Refusal: permissions		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	<b>24/08/2016</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

428

<b>ITEM NO</b>	<b>9</b>		
<b>Planning Ref:</b>	LA07/2015/1246/C	<b>PAC Ref:</b>	2016/A0112
<b>APPELLANT LOCATION</b>	Terence J O'Hare 60m North West Of No 25 Church Rock Road Carrickbracken		
<b>PROPOSAL</b>	Camlough Replacement dwelling and garage on farm land		

<b>APPEAL TYPE</b>	Plg Refusal: permissions		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	<b>31/08/2016</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>10</b>		
<b>Planning Ref:</b>	LA07/2015/1287/F	<b>PAC Ref:</b>	2016/A0113
<b>APPELLANT LOCATION</b>	Morrisons Vivomed Morrisons Vivoxtra 1 Ballynahinch Road Saintfield		
<b>PROPOSAL</b>	Illuminated digital display panel to replace existing signage board on external totem adjacent to car park entrance		

<b>APPEAL TYPE</b>	Plg Refusal: permissions		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	<b>01/09/2016</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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### Current Appeals

**ITEM NO** 11  
**Planning Ref:** LA07/2015/0546/F **PAC Ref:** 2016/A0118  
**APPELLANT** Jane Magee  
**LOCATION** Approx 70m South East 71 Ardglass Road  
 Ballyhornan  
 Downpatrick  
**PROPOSAL** Retention of building with alterations to be used as farm shed and  
 animal handling facility in substitution for agricultural building granted  
 permission under R/2007/1021/F. (additional information)

**APPEAL TYPE** Plg Refusal: permissions  
**Appeal Procedure** **Date Appeal Lodged** 13/09/2016  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

**ITEM NO** 12  
**Planning Ref:** LA07/2015/1109/F **PAC Ref:** 2016/A0125  
**APPELLANT** Noel Mckinely  
**LOCATION** Adjacent To No.24 And Opposite Nos 19 And 20 Tudor Mews  
 Upper Dromore Road  
 Warranpoint  
**PROPOSAL** Proposed 2 No. Apartments

**APPEAL TYPE** Plg Refusal: permissions  
**Appeal Procedure** **Date Appeal Lodged**  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

## Current Appeals

430

<b>ITEM NO</b>	<b>13</b>		
<b>Planning Ref:</b>	R/2014/0576/F	<b>PAC Ref:</b>	2016/A0127
<b>APPELLANT LOCATION</b>	Mr D Orr West Of 109 Barnamaghery Road Crossgar		
<b>PROPOSAL</b>	Erection of wintering shed for livestock and retention of existing fodder storage shed on part foundation of original shed on site.		

<b>APPEAL TYPE</b>	Plg Refusal: permissions		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	<b>22/09/2016</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

<b>ITEM NO</b>	<b>14</b>		
<b>Planning Ref:</b>	LA07/2015/0969/C	<b>PAC Ref:</b>	2016/A0129
<b>APPELLANT LOCATION</b>	Liam McDonnell Approx 50m South East Of No 41a Aughnagun Road Derryleckagh Newry Co. Down		
<b>PROPOSAL</b>	Dwelling and Garage on infill site		

<b>APPEAL TYPE</b>	Plg Refusal: permissions		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	<b>28/09/2016</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

## Current Appeals

431

**ITEM NO** 15  
**Planning Ref:** P/2014/0649/O **PAC Ref:** 2016/A0135  
**APPELLANT** Mr Joseph Walls  
**LOCATION** 60 Metres East Of No.20 Sandbank Road Hilltown County Down BT34 5XU  
**PROPOSAL** Site for Farm Dwelling (amended address)

**APPEAL TYPE** Plg Refusal: permissions  
**Appeal Procedure** **Date Appeal Lodged** 13/10/2016  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

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**ITEM NO** 16  
**Planning Ref:** P/2014/0678/F **PAC Ref:** 2016/A0139  
**APPELLANT** Mr Frank King  
**LOCATION** 33a Flagstaff Road  
 Fathom Lower  
 Newry  
**PROPOSAL** Retention of existing fuel sales business to include existing hard standing area and portacabin

**APPEAL TYPE** Plg Refusal: permissions  
**Appeal Procedure** **Written Reps with Site Visit** **Date Appeal Lodged** 17/10/2016  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

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## Current Appeals

432

<b>ITEM NO</b>	<b>17</b>		
<b>Planning Ref:</b>	P/2014/0670/F	<b>PAC Ref:</b>	2016/A0140
<b>APPELLANT LOCATION</b>	Mr Frank King Lands To The Rear Of No. 33 Flagstaff Road And Associated Farm Complex (shed Approx. 45 Metres To The West Of Existing Dwelling With Hardstanding Extending Approx. 50 Metres Further West And Retention of existing shed and hard standing area for agricultural purposes (revised address and plans)		
<b>PROPOSAL</b>			

<b>APPEAL TYPE</b>	Plg Refusal: permissions		
<b>Appeal Procedure</b>	<b>Written Reps with Site Visit</b>	<b>Date Appeal Lodged</b>	<b>17/10/2016</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>18</b>		
<b>Planning Ref:</b>	LA07/2015/0308/C	<b>PAC Ref:</b>	2016/A0142
<b>APPELLANT LOCATION</b>	David And Maura De Mello In Front Of 113 Dunmore Road Ballynahinch.		
<b>PROPOSAL</b>	Replacement dwelling and refurb of outhouse		

<b>APPEAL TYPE</b>	Plg Refusal: permissions		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	<b>18/10/2016</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

433

**ITEM NO** 19  
**Planning Ref:** LA07/2015/0310/C **PAC Ref:** 2016/A0147  
**APPELLANT** Padraig And Adrian Walsh  
**LOCATION** Land 175m North West Of 196 Lackan Road  
 Kilcoo  
**PROPOSAL** <sup>Newrv</sup>  
 Proposed single storey detached dwelling and garage on a farm

**APPEAL TYPE** Plg Refusal: permissions  
**Appeal Procedure** **Date Appeal Lodged** 28/10/2016  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

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**ITEM NO** 20  
**Planning Ref:** LA07/2015/0877/F **PAC Ref:** 2016/A0148  
**APPELLANT** Mr Diarmid Sloan  
**LOCATION** 10 Tullybrannigan Brae  
 Newcastle  
 RT33 000  
**PROPOSAL** Roof space conversion, replacement roof and 2 storey extension

**APPEAL TYPE** Plg Refusal: permissions  
**Appeal Procedure** **Written Reps** **Date Appeal Lodged** 01/11/2016  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

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## Current Appeals

434

<b>ITEM NO</b>	<b>21</b>		
<b>Planning Ref:</b>	LA07/2016/0240/F	<b>PAC Ref:</b>	2016-A0150
<b>APPELLANT LOCATION</b>	Wayne Morton 30m North Of 28 Tunnel Road Jerretspass		
<b>PROPOSAL</b>	<sup>Newrv</sup> Replacement single storey 3 bed dwelling with single storey 4 bed dwelling		
<b>APPEAL TYPE</b>	Plg Refusal: permissions		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	<b>03/11/2016</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>22</b>		
<b>Planning Ref:</b>	LA07/2016/0240/F	<b>PAC Ref:</b>	2016/A0150
<b>APPELLANT LOCATION</b>	Wayne Morton 30m North Of 28 Tunnel Road Jerretspass		
<b>PROPOSAL</b>	<sup>Newrv</sup> Replacement single storey 3 bed dwelling with single storey 4 bed dwelling		
<b>APPEAL TYPE</b>	Plg Refusal: permissions		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	<b>03/11/2016</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

435

<b>ITEM NO</b>	<b>23</b>		
<b>Planning Ref:</b>	LA07/2015/0009/F	<b>PAC Ref:</b>	2016/A0151
<b>APPELLANT LOCATION</b>	Mrs Kathleen McKeivitt Approximately 75m North Of No 26 Jack's Road (access From Clontigora Road)		
<b>PROPOSAL</b>	Killeen Erection of farm dwelling and garage		

<b>APPEAL TYPE</b>	Plg Refusal: permissions		
<b>Appeal Procedure</b>	<b>Written Reps with Site Visit</b>	<b>Date Appeal Lodged</b>	<b>04/11/2016</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>24</b>		
<b>Planning Ref:</b>	P/2013/0938/F	<b>PAC Ref:</b>	2016/A0157
<b>APPELLANT LOCATION</b>	John Morgan 220 Metres West Of 6 Tamary Road Mayobridge		
<b>PROPOSAL</b>	225 kw wind turbine with 30 metre mast and 29 metre rotor for electricity production		

<b>APPEAL TYPE</b>	Plg Refusal: permissions		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	<b>15/11/2016</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

436

<b>ITEM NO</b>	<b>25</b>		
<b>Planning Ref:</b>	R/2015/0078/O	<b>PAC Ref:</b>	2016/A0163
<b>APPELLANT LOCATION</b>	Mrs M Dodds Lands 20m North East Of 65 Tollymore Road Newcastle		
<b>PROPOSAL</b>	Proposed infill site for 1no dwelling and garage within gap site along an existing continuously built up frontage.  (Amended proposal)		
<b>APPEAL TYPE</b>	Plg Refusal: permissions		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	<b>23/11/2016</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>26</b>		
<b>Planning Ref:</b>	LA07/2015/1244/F	<b>PAC Ref:</b>	2016/A0166
<b>APPELLANT LOCATION</b>	Barney Mackin 19.3m North-East Of No27B Derrycraw Road Derrycraw		
<b>PROPOSAL</b>	Newry Erection of farm dwelling and garage		
<b>APPEAL TYPE</b>	Plg Refusal: permissions		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	<b>30/11/2016</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

<b>ITEM NO</b>	<b>27</b>		
<b>Planning Ref:</b>	LA07/2016/1041/C	<b>PAC Ref:</b>	2016/A0172
<b>APPELLANT LOCATION</b>	Joseph O'Hare Lands North Of And Adjacent To 53 Mayo Road Mayobridge		
<b>PROPOSAL</b>	<sup>Newry</sup> Dwelling and domestic garage on gap/infill site (amended address)		

<b>APPEAL TYPE</b>	Plg Refusal: permissions		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	<b>05/12/2016</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

<b>ITEM NO</b>	<b>28</b>		
<b>Planning Ref:</b>	LA07/2016/0812/C	<b>PAC Ref:</b>	2016/A0173
<b>APPELLANT LOCATION</b>	George Kelly Between No. 54 & 54a Mill Road Mullaghbawn		
<b>PROPOSAL</b>	<sup>Newry</sup> New dwelling with domestic garage. Gap/Infill site		

<b>APPEAL TYPE</b>	Plg Refusal: permissions		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	<b>05/12/2016</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

### Current Appeals

438

**ITEM NO** 29  
**Planning Ref:** LA07/2016/0731/C **PAC Ref:** 2016/A0174  
**APPELLANT** Ms Sheena Gribben  
**LOCATION** 60 Metres South East Of 47 Castlewellan Road Hilltown  
**PROPOSAL** Site for dwelling and garage on farm

**APPEAL TYPE** Plg Refusal: permissions  
**Appeal Procedure** **Date Appeal Lodged** 07/12/2016  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

**ITEM NO** 30  
**Planning Ref:** LA07/2015/1315/C **PAC Ref:** 2016/A0184  
**APPELLANT** Clare Ferris  
**LOCATION** Between 16 And 20 Lough Road Crossgar  
**PROPOSAL** **RTN QNT** Proposed Dwelling on in-fill site under Policy CTY 8 Ribbon Development

**APPEAL TYPE** Plg Refusal: permissions  
**Appeal Procedure** **Date Appeal Lodged** 15/12/2016  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

## Current Appeals

439

<b>ITEM NO</b>	<b>31</b>		
<b>Planning Ref:</b>	LA07/2016/0396/L	<b>PAC Ref:</b>	2016/E0032LDC
<b>APPELLANT</b>	Michelle McGivern		
<b>LOCATION</b>	26A Greenan Lough Road (on Lands Associated With 26 Greenan Lough Road)		
<b>PROPOSAL</b>	Dwelling of temporary construction within the curtilage of an existing dwelling		
<b>APPEAL TYPE</b>	Plg Conditions		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	<b>15/11/2016</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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# Appeal Decision

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<b>Appeal Reference:</b>	2016/A0066
<b>Appeal by:</b>	Edel Rooney
<b>Appeal against:</b>	The refusal of outline planning permission
<b>Proposed Development:</b>	Site for dwelling and garage
<b>Location:</b>	Site approximately 20m south west of 10 Head Road, Moyad, Annalong
<b>Planning Authority:</b>	Newry & Mourne District Council
<b>Application Reference:</b>	LA07/2015/0286/O
<b>Procedure:</b>	Hearing on 9 November 2016
<b>Decision by:</b>	Commissioner Brigid McGlinchey dated 29 November 2016

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## Decision

1. The appeal is dismissed.

## Reasoning

2. The main issues in this appeal are whether the proposal is acceptable in principal in the countryside and its impact on the landscape and character of the surrounding area.
3. The site lies in the open countryside as defined in the Banbridge and Newry Area Plan 2015. The plan has no material provisions in respect of the appeal proposal. The provisions of the Strategic Planning Policy Statement for Northern Ireland (SPPS) are a material consideration. This policy document sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area. During this transitional period planning authorities will apply the SPPS and retained planning policy statements. The foremost retained policy document relevant in this case is Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21). Policy CTY1 of this document sets out the types of development that are, in principle, acceptable in the countryside and will contribute to the aims of sustainable development. One of these is a small gap within an otherwise substantial and continuously built up frontage in accordance with Policy CTY8.
4. Policy CTY8 entitled 'Ribbon Development' states that planning permission will be refused for a building which creates or adds to a ribbon of development. Whilst a ribbon is not defined in the policy, paragraph 5.33 of the amplification sets out what can represent ribbon development. It states that a ribbon does not have to be served by individual accesses nor have a continuous building line. It also notes that buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development if they have a common frontage or they are



visually linked. Paragraph 5.32 of the amplification states that ribbon development is detrimental to the character, appearance and amenity of the countryside and has consistently been opposed.

5. Whilst the main thrust is to resist ribbon development, Policy CTY8 exceptionally permits the development of a small gap site sufficient only to 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 sizes and meets other planning and environmental requirements. It goes on to note that for the purposes of the policy the definition of a substantial and continuously built up frontage includes a line of three or more buildings along a road frontage without accompanying development to the rear. To meet this definition the relevant buildings must be along a road frontage. I consider that such a frontage is set apart from the instances of ribbon development for the purposes of CTY8. The representation of what a ribbon can be as set out in paragraph 5.33 provides a basis for establishing generally where a ribbon of development either exists or may arise, which may or may not be perceived as having a common frontage or be visually linked. It is not concerned with defining a substantial and continuously built up frontage. Contrary to the conclusions reached in 2011/A0044, I do not find that there is any ambiguity between the two definitions.
6. The appellant argued there was a substantial and continuously built up frontage along this part of Head Road formed by the buildings associated with Nos. 8, 10 and 12. The curtilage of the property at No.8 abuts the roadside and consists of a dwelling, an associated domestic garage which sits forward of its building line and a shed located to the rear. I consider that in using the word "includes" in the definition of a substantial and built up frontage Policy CTY8 sets a baseline for acceptable forms of infill development. In doing so it does not exclude situations where there is accompanying development to the rear. The garage is located close to the dwelling and is barely discernible approaching from the east. It nonetheless is detached and I therefore accept that it represents a separate building with a frontage to the road as does the dwelling itself.
6. The newly erected replacement dwelling at No.10 sits back approximately 40m from the road. The stamped approved site layout plan accompanying the grant of planning permission in January 2013 showed that the dwelling is to be accessed by a new laneway with the majority of its curtilage separated from the road by a paddock that is to be defined by proposed fencing and a scheme of planting. These landscaping works, required by condition 5 of that permission, have not yet been completed. On completion, the only physical connection of the curtilage of No.10 to the road will be the laneway and a narrow strip of land alongside it. Notwithstanding that there is presently no apparent separation from the road, I consider that the property at No.10 as approved would not form part of the frontage. The adjacent property of No.12 sits back further from the road (70m) and is accessed by a laneway. An aerial photo on Drawing 01 accompanying the appeal application confirmed that the laneway provided the only physical connection to the road with dense fir trees along the laneway of No.12 and around a small lawn to the front of the dwelling. Though part of the leylandii hedge to the front of No.12 has since been removed opening up views of the dwelling, much of the fir trees remain. Though a narrow 5m wide residual strip of land is to be retained along the laneway of No.12 when the landscaping works on No.10 are

completed, I consider that this would not alter the functional and physical separation between the dwelling at No.12 and the road even if the dwelling is more visible. I consider that the property at No.12 does not form part of the frontage. There is therefore not a line of three or more buildings along the frontage of Head Road to meet CTY8's definition of a substantial and continuously built up frontage.

7. The circumstances in this appeal differ from that in 2011/A0189 where, though the buildings were set back, extensive landscaped gardens swept down to the road. None of the other appeal decisions referred to by the appellant are directly comparable to the appeal proposal. None of the noted examples in the guidance document 'Building on Tradition' illustrate that buildings without frontage to the road can constitute part of a substantial and built up frontage. Whilst the appellant referred to other planning decisions for infill sites between buildings by other planning authorities in Northern Ireland which appeared to show that some of the buildings considered had no common frontage to the road, I do not consider that these justify arriving at a different decision in respect of the circumstances in this case. Each proposal must be assessed on its own particular merits and in its own unique context. The ministerial statement of July 2013 did not change policy. The comment made in this statement in respect of additional flexibility in how gap sites are defined for the purposes of Policy CTY8 is not explained. Until the policy is changed or superseded, Policy CTY8 must be applied as it is expressed in PPS21.
8. Given my conclusion above, the appeal site, whatever its size, cannot be a small gap site as defined in Policy CTY8. In any case, even if I accepted that No.10 in its present state of incompleteness was part of a substantially built up frontage along with the two buildings at No.8, the existing gap between the buildings at each property extends to approximately 80m. Taking into account the existing development pattern, the gap would not be small as it could potentially accommodate more than a maximum of two houses. Paragraph 5.34 of the amplification of Policy CTY8 states that many frontages in the countryside have gaps between houses or other buildings that provide relief and visual breaks in the developed appearance of the locality. I consider that the lands between Nos. 8 and 10 is such a gap and the proposal would visually link the existing development when travelling in either direction along Head Road. Accordingly it would extend ribbon development on this part of the road to the detriment of rural character. The proposal does not comply with Policy CTY8 and it is not one of the specified types of development considered to be acceptable in principle in the countryside under Policy CTY1. Policy CTY1 also states that other types of development will be permitted where there are overriding reasons why that development is essential and could not be located in a settlement. There is no evidence to demonstrate that the proposal is essential. The proposal is therefore contrary to Policy CTY1. The planning authority has sustained its first reason for refusal.
9. Policy CTY13 requires that buildings visually integrate into the surrounding landscape. The site rises up from the road and is defined by a stone wall to front and the rear with a hedge along its western boundary. While the mountains provide a backdrop when approaching from the west, there is no backdrop when approaching from the east and a new building on the site would be viewed as prominent from this perspective. The site is open to the road and there is inadequate vegetation to provide a suitable degree of enclosure in order to visually integrate even a modest sized dwelling. New planting would be required which

would take some time to mature, and in the interim, such planting would not mitigate the visual impact of the proposal. The proposal therefore fails to comply with Policy CTY13. The planning authority has sustained its second reason for refusal.

12. The appeal site acts as an important visual gap between existing developments. Approval of the appeal dwelling and garage would consolidate built development along this part of Head Road, resulting in a suburban style build-up of development, irrespective of new planting or the design and siting of the dwelling in question. It would also create ribbon development and appear visually prominent for reasons outlined earlier. Given these issues, the appeal development would cause a detrimental change to the rural character of the area. Policy CTY14 is not met and the planning authority's third reason for refusal is therefore sustained.
13. The site lies within the Mourne Area of Outstanding Natural Beauty (AONB). Policy NH6 of Planning Policy Statement 2: Natural Heritage, which sets out policy for new development proposals within AONBs states that planning permission will only be granted where the proposal is of an appropriate design, size and scale for the locality. Whilst this is an outline application and I do not have detailed drawings to consider, planning permission is sought for new development within the AONB. The policy in general relates to the protection of the character of the AONB and of the particular locality wherein the development is proposed. As concluded above, the proposal would extend ribbon development and it would result in suburban style build up within the Mourne AONB which would adversely affect its special character in general and the appearance of the local area. The proposal would therefore not comply with Policy NH6. The planning authority has sustained its fourth reason for refusal.

This decision is based on the drawing submitted with the planning application and stamped Drawing 01 showing 1:1000 scale site location and 1:500 scale block plan.

**COMMISSIONER BRIGID McGLINCHEY**

**List of Appearances**

Planning Authority:- G Kerr  
K Elder

Appellant:- C O'Callaghan, Agent

**List of Documents**

Planning Authority:- C1 Statement of case

Appellant:- A1 Statement of case



# Appeal Decision

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<b>Appeal Reference:</b>	2016/A0084
<b>Appeal by:</b>	Patsy Malone
<b>Appeal against:</b>	The refusal of outline planning permission
<b>Proposed Development:</b>	Replacement dwelling
<b>Location:</b>	Approximately 110m NE of 151 Ballydugan Road Downpatrick
<b>Planning Authority:</b>	Newry, Mourne & Down District Council
<b>Application Reference:</b>	LA07/2015/0342/O
<b>Procedure:</b>	Written representations and Commissioner's site visit on 25 November 2016
<b>Decision by:</b>	Commissioner Brigid McGlinchey dated 12 December 2016

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## Decision

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

## Reasoning

2. The main issues in this appeal are whether:
  - the existing building represents a replacement opportunity;
  - the proposal would result in intensification of an existing access onto a protected route.
3. The site lies in the open countryside as defined in the Ards & Down Area Plan 2015 (ADAP). The access to the site is to be taken from a stretch of the A25 (Ballydugan Road), a protected route noted and shown on Map No.3/001b of ADAP. There are no specific policies in the plan relevant to the appeal proposal. The Strategic Planning Policy Statement (SPPS) is material to decisions on individual planning applications and appeals. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. It goes on to indicate that during this transitional period planning authorities will apply existing policy contained within identified retained policy documents together with the SPPS. In this case, Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) and Planning Policy Statement 3: Access, Movement and Parking provide the relevant policy context for the appeal proposal.
4. Policy CTY1 of PPS21 sets out the types of development which are, in principle, considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. One of these is a replacement dwelling in accordance with Policy CTY3. The first paragraph of Policy CTY3 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. For the purposes of this policy all references to 'dwellings' will include buildings previously used as dwellings.

5. The building has a roof and all its external walls are intact. It displays domestic type features characteristic of a dwelling namely a chimney, door and window openings and internal wooden ceiling. It is apparent however that substantial internal and external structural works have been carried out on the building. The appellant confirmed that works were carried out to the building in 2005 involving the complete replacement of the southern gable wall, unspecified repairs on the northern gable, removal of an internal central chimney stack, replacement of internal trusses, removal of two dormers and reinforcing of window lintels. Whilst he stated these works were carried out to maintain the building's structural integrity, it is evident that other works have also taken place including construction of a block firestack from floor to roof on the northern gable, blockwork around two windows on the front elevation and above the lintel, erection of internal walls, installation of wooden floor joists between universal beams to create a first floor and new concrete floor. The building was the subject of an enforcement investigation at that time by the then planning authority, Department of Environment. The reporting Enforcement Officer on visiting the building in May 2006 noted the works carried out and described the building as an "agricultural outbuilding". His conclusion was that the physical appearance of the building had been altered to create by deception a residential unit. Though the works were deemed to be unauthorised, the enforcement case was closed in June 2009 as it was considered that it was not expedient to pursue enforcement action as it was judged that planning permission would have been granted to convert the structure to residential use.
  
6. Notwithstanding the above, the appellant contends that the building was always a dwelling and that no change of use ever occurred. In its present altered state, it is difficult to ascertain what the original form, configuration and condition of the building was prior to 2005. The building is located along a laneway in the corner of a field and appears to have a curtilage commensurate with that shown on the site location plan. Though the appellant stated that the "openings are the same size and position as always", I consider that the horizontal emphasis of two window openings on the front elevation are not consistent with that seen on traditional rural buildings and are therefore new features. I nonetheless note a number of features which appear to be original including the door openings and the other window openings on the front and rear elevations. These have the low proportion of void to mass seen on traditional buildings and are domestic in scale. Notwithstanding the stated work on the gables and removal of dormers, there is no substantive evidence to dispute the appellant's claim that the roof was not removed to carry out the works undertaken in 2005. I therefore accept that the wooden panelling extending across much of the ceiling is original especially as the location of the former dormers is clearly evident and that the roof light on the rear roof plane appears original. There is evidence of paintwork on what remains of the original internal walls. I consider that the combination of these features is consistent with a former residential use and not an agricultural use. None of these features were mentioned in the enforcement officer's assessment in 2006.
  
7. The two submitted witness statements provide details of the historic ownership in respect of a "Dwelling House at Ballydugan Road" and its occupation up to 1974. These statements are not corroborated by any official deeds or other documentation and are not conclusive proof of themselves. Nonetheless, when these statements are taken along with the remnants of the noted original features remaining, I accept that they relate to the appeal building. Taking account of the evidence on the ground, supported by the testimonies I am persuaded that the building was previously a dwelling and in its present state displays the essential characteristics of a dwelling. In this respect it complies with Policy CTY3.

8. Policy CTY3 specifically requires that as a minimum, all external walls should be substantially intact. Notwithstanding that the roof may have remained in place, I consider that the extent of works which have taken place indicate to me that the all the external walls of the original dwelling are not substantially intact. Nonetheless, the application relates to the dwelling in its current condition. Whilst the works had been the subject of enforcement action, the case was closed and no subsequent development has taken place on the dwelling since 2005. In the specific circumstances of this case, I consider that the dwelling is not at odds with the thrust of Policy CTY3 and represents a replacement opportunity. It therefore represents one of the acceptable forms of development that are acceptable in principle in the countryside under Policy CTY1. The planning authority has not sustained its first reason for refusal.
9. The proposed access is from an existing laneway leading from Ballydugan Road which is a protected traffic route. The Clarification of Policy AMP3 in Planning Policy Statement 3: (Clarification) Access, Movement and Planning indicates that planning permission will only be granted for a development proposal involving direct access or the intensification of the use of an existing access in exceptional circumstances. A replacement dwelling is one of the exceptions. I am therefore satisfied that the proposal would not prejudice the free flow of traffic and conditions of general safety. The planning authority has not sustained its second reason for refusal.
10. All replacement applications considered under Policy CTY3 must meet additional criteria. These criteria assist in determining the conditions that should apply on the grant of an outline planning permission. The first criterion is that the proposed replacement dwelling should be sited within the established curtilage of the existing building. The existing curtilage of the dwelling as shown on the site location plan is restricted in that it fronts almost directly onto the laneway. The suggested condition permitting the siting of the proposed replacement dwelling within a larger curtilage as shown on the site location map submitted by the planning authority addresses this matter. To achieve the access from the laneway to the proposed repositioned dwelling, the demolition of the existing dwelling would be required. The Justification and Amplification of the policy indicates that all permissions for a replacement dwelling granted under the policy will be subject to a condition requiring demolition of the existing dwelling. I therefore consider that the proposed condition in this regard is necessary.
11. The second criterion requires that the overall size of the new dwelling should allow it to integrate into the surrounding landscape and not have a visual impact significantly greater than the existing building. The site slopes upwards from the laneway. Given the height of the replacement building and its location at the lowest level within the site and that the proposed re-sited dwelling could potentially be sited at a higher level, I consider that the a plan indicating floor levels of the proposal relative to existing ground levels would be necessary. To assist with integration, a landscaping plan detailing the existing vegetation to be retained and additional planting would be appropriate.
9. The third criterion is that the design of the replacement dwelling should be a high quality appropriate to its rural setting and have regard to local distinctiveness. 'Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside' provides assistance to all those involved with sustainable development in the Northern Ireland countryside to understand the requirements of PPS21. In order to achieve a quality and sustainable building design, the planning authority's condition requiring the proposal to be in accordance with this guidance is appropriate.

**Conditions**

- 1) Except as expressly provided for by Conditions 2 and 3, the following reserved matters shall be as approved by the Planning Authority – the siting, design and external appearance of the dwelling and the means of access thereto.
- 2) The proposed dwelling shall be sited within the crosshatched area shown on the attached site location plan marked PAC1.
- 3) The existing dwelling coloured green on Drawing PAC1, shall be demolished and all resultant rubble removed from the site prior to the commencement of any development on the site.
- 4) No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by the Planning Authority.
- 5) The dwelling hereby permitted shall be designed in accordance with the guidance set out in 'Building on Tradition: A Sustainable Design Guide for the NI Countryside'.
- 6) No development shall take place until there has been submitted to and approved by the Department a landscaping scheme showing trees and hedgerows to be retained and the location, numbers, species and sizes of trees and shrubs to be planted within the site. The scheme of planting as finally approved shall be carried out during the first planting season after the commencement of the development.  
  
Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Department gives written consent to any variation.
- 7) Application for approval of the reserved matters shall be made to the Planning Authority before the expiration of three years from the date of this decision.
- 8) The development shall be begun before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

This decision approves the Drawing 01 1:2500 scale Site location plan marked PAC1

**COMMISSIONER BRIGID McGLINCHEY**



**List of Documents**

Planning Authority:-	C1 Statement of case C2 Comments
Appellant:-	A1 Statement of case A2 Comments



# Appeal Decision

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<b>Appeal Reference:</b>	2016/A0077
<b>Appeal by:</b>	Tracy McKenzie
<b>Appeal against:</b>	The refusal of outline planning permission
<b>Proposed Development:</b>	Site for dwelling and garage (infill)
<b>Location:</b>	Adjacent and north of 9A Corcreechy Road, Newry.
<b>Planning Authority:</b>	Newry, Mourne and Down District Council
<b>Application Reference:</b>	P/2014/1049/O
<b>Procedure:</b>	Written representations and accompanied site visit on 15 November 2016.
<b>Decision by:</b>	Commissioner Pauline Boomer dated 29 November 2016.

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## Decision

1. The appeal is dismissed.

## Reasons

2. The main issues in the appeal are whether the proposal is acceptable in principle in the countryside and its effect on rural character.
3. Section 6 (4) of the Planning Act 2011 states that determination under this Act must be made in accordance with the plan, unless material considerations indicate otherwise. The appeal site is within the countryside in the Banbridge Newry and Mourne Area Plan 2015 which has no material policies for dwellings in the countryside. Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21), as one of the policy documents identified for retention by the SPPS, provides the policy context for the appeal.
4. Policy CTY1 of PPS21 specifies a range of development types considered to be acceptable in principle in the countryside. One of these is the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY8.
5. Policy CTY8 is entitled Ribbon Development and it states that planning permission will be refused for a building which creates or adds to a ribbon of development. However, the policy goes on to say that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage, provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. The policy defines a substantial and built up frontage as including a

line of three or more buildings along a road frontage without accompanying development to the rear.

6. The appeal site comprises a large portion of an agricultural field which lies on the southern side of the main Corcreechy Road which runs from west to east. This plot is dual fronted as it also abuts that section of the Corcreechy Road running from north to south. The road junction and signage indicates that there are two distinct road frontages, despite sharing the same road name. To the east of the appeal site there are four dwellings and a group of farm buildings all fronting onto that section of road. Immediately south of the appeal site are two dwellings fronting onto the minor road. To the west of the crossroads there is a large concrete and block manufacturing facility with seven dwellings located further west.
7. The appellant argues that there is an existing line of development extending 730m along the main Corcreechy Road from west to east which incorporates 11 dwellings from No 5 to No 19a as well as farm buildings and manufacturing buildings within the concrete works. The Local Planning Authority (LPA) acknowledges that the four dwellings and farm buildings to the east of the appeal site do read as an existing ribbon of development as do the 7 dwellings to the west of the concrete works. However the LPA consider that as these represent two distinctive built up frontages, the appeal site lies within the substantial gap which separates them.
8. The appellant's argument is based on his assessment that the entire curtilage of the concrete works forms part of the extensive frontage onto Corcreechy Road and that the appeal site comprises a small gap site within a substantially and continuously built up frontage. The minor road running south from the crossroads provides a break in development along the frontage of the main Corcreechy Road and therefore development further west cannot be taken into account. Even if it was, there is a pond used for storing water in the northeastern corner of the manufacturing plant's curtilage with piles of sand and other materials immediately to the west of it. In accordance with Paragraph 5.34 of the amplification text to Policy CTY8, it is the gap between buildings that falls to be considered here. The LPA argues that the structures within the manufacturing plant which lie closest to the appeal site are not buildings but even if considered as a building, the nearest silo lies 200m west of the farm buildings at No 17 which was not disputed by the appellant. Whilst there is an awareness of the silo when viewed from the frontage of No 17, the significant separation distance and intervening vegetation ensures that it does not read as a continuous line of development as suggested by the appellant. It does not represent a small gap site but rather is of sufficient size to accommodate more than two dwellings.
9. As I conclude there is no substantially and continuously built up frontage along this section of Corcreechy Road and that the appeal site does not represent a small gap site, the appeal site does not meet the criteria for an infill site. I agree with the LPA that the appeal site provides relief and a visual break in the developed appearance of the locality which Policy CTY8 seeks to protect.
10. The appellant also argues that the appeal site reads as a gap site when viewed with Nos 9a and 9b to the south. However as there are only two buildings to the south, to achieve the policy requirement of three or more dwellings, the appellant must rely on frontages onto both sections of Corcreechy Road. The exception in

Policy CTY8 does not apply to more than one frontage and therefore with its dual frontage, the appeal proposal does not find support in policy. In this respect, it is directly comparable to Appeal 2013/A0210.

11. In failing to form part of the substantial and continuously built up frontage, the appeal site is not an exception to the requirements of Policy CTY8. As it does not represent a small gap site, it is not an acceptable form of infill development and the second reason for refusal is therefore sustained.
12. I have found no policy support for the appeal proposal in Policy CTY8. There is no evidence to suggest that the appeal proposal falls into any other types of development that are listed as acceptable in principle in the countryside under Policy CTY1 or that there are overriding reasons why the development is essential and could not be located in a settlement. Whilst I acknowledge that the appellant seeks to live close to her family, this does not justify setting aside the policy objections to the proposed development. The LPA has sustained its first reason for refusal based on Policy CTY 1.
13. The LPA also considers that the proposed development offends Policy CTY14 as the introduction of an additional dwelling and garage here would have a detrimental change to the character of the area by virtue of build up. The development of the appeal site would result in an extension to the existing ribbon of development which lies to the east, increasing the visual linkages with No's 9a and 9b to the south. I am persuaded that the introduction of a dwelling and garage on the appeal site would further erode the rural character of the area. The third reason for refusal is therefore sustained.
14. As all three reasons for refusal have been sustained, the appeal must fail.

This decision is based on the 1:2500 site location plan stamped refused by the Council on 10 March 2016.

**COMMISSIONER PAULINE BOOMER**

**List of Appearances**

Planning Authority:- Mr Gareth Kerr  
Mr Kyle Elder

Appellants:- Mr Toirleach Gourley  
Ms. Tracy Mckenzie

**List of Documents**

Planning Authority:- LPA1 Statement of Case  
LPA2 Rebuttal

Appellant:- APP1 Statement of Case  
APP2 Rebuttal

**Planning Committee (January 2017 to May 2018)**

<b>Date</b>	<b>Closing date for speaking rights/written submissions</b>
Wednesday 18 January 2017	5.00 pm on Wednesday 11 January 2017
Thursday 2 February 2017	5.00 pm on Thursday 26 January 2017
Wednesday 15 February 2017	5.00 pm on Wednesday 8 February 2017
Wednesday 1 March 2017	5.00 pm on Wednesday 22 February 2017
Wednesday 15 March 2017	5.00 pm on Wednesday 8 March 2017
Wednesday 29 March 2017	5.00 pm on Wednesday 22 March 2017
Wednesday 12 April 2017	5.00 pm on Wednesday 5 April 2017
Wednesday 10 May 2017	5.00 pm on Wednesday 3 May 2017
Wednesday 7 June 2017	5.00 pm on Wednesday 31 May 2017
Wednesday 5 July 2017	5.00 pm on Wednesday 28 June 2017
Wednesday 2 August 2017	5.00 pm on Wednesday 26 July 2017
Wednesday 30 August 2017	5.00 pm on Wednesday 23 August 2017
Wednesday 27 September 2017	5.00 pm on Wednesday 20 September 2017
Wednesday 25 October 2017	5.00 pm on Wednesday 18 October 2017
Wednesday 22 November 2017	5.00 pm on Wednesday 15 November 2017
Wednesday 20 December 2017	5.00 pm on Wednesday 13 December 2017
Wednesday 17 January 2018	5.00 pm on Wednesday 10 January 2018
Wednesday 14 February 2018	5.00 pm on Wednesday 7 February 2018
Wednesday 14 March 2018	5.00 pm on Wednesday 7 March 2018
Wednesday 11 April 2018	5.00 pm on Wednesday 4 April 2018
Wednesday 9 May 2018	5.00 pm on Wednesday 2 May 2018

Please note extra Planning Meetings have been scheduled up until the end of March 2017. A review will be held at the end of March to decide if the Committee can revert back to monthly meetings. Therefore this schedule of dates could be subject to change from April 2017 onwards.

