

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

**Council Newry, Mourne and Down**

**Date 10/26/16**

<b>ITEM NO</b>	<b>1</b>				
<b>APPLIC NO</b>	LA07/2015/0656/A		Advertiseme	<b>DATE VALID</b>	7/23/15
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>				
<b>APPLICANT</b>	Colm McEvoy Bridge Bar 53 North Street Newry BT34 1DD		<b>AGENT</b>	Milligan Reside Larkin LTD MRL House 56 Armagh Road Newry BT35 6DN 30253755	
<b>LOCATION</b>	53 North street Newry				
<b>PROPOSAL</b>	Shop Sign				
<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>	
	0	0	0	0	
			<b>Addresses</b>	<b>Signatures</b>	<b>Addresses</b> <b>Signatures</b>
			0	0	0

- 1 Having notified the applicant under Article 3 (6) of the Planning (General Development Procedure) Order (Northern Ireland) 2015 that details of the proposed signage – including the materials to be used; the proposed colour of the signage; the type of lettering to be used; & details of the proposed external illumination – are required in order to allow the Council to determine this application, and having not received that information, the Council refuses this application as it is the opinion of the Council that this information is material to the determination of this application.



**Application Reference:** LA07/2015/0656/A

**Date Received:** 23<sup>rd</sup> July 2015

**Proposal:** Signage

**Location:** The proposed site is '*The Bridge Bar*' which is located at 53 North Street, Newry.

**Site Characteristics & Area Characteristics:**

The application site is a large end of terrace building located at 53 North Street, Newry. The main bulk of the building is 3 storeys high with a pitched roof. There is a two storey flat roof annex to the southern side of the building and a large enclosed yard area to the side/rear. The building fronts on to North Street, close to its junction with Abbey Way.

The site is within the settlement development limits of Newry and falls within Newry City Centre, Newry Conservation Area and an Area of Archaeological Potential as designated in the Banbridge, Newry and Mourne Area Plan 2015. The local area is characterised by a mix of commercial and residential properties with several public houses in close proximity to the application site. The site is in close proximity to a number of Listed Buildings that are of special architectural and historic importance.



Image 1 - The Bridge Bar

**Site History:**

- LA07/2015/0655/DCA - Demolition of ladies and mens toilets to the rear of existing licensed premises together with the removal of some internal walls. External timber smoking hut to be removed – Approved 16.06.2016
- LA07/2015/0657/F - Ground floor extensions and internal alterations to licensed premises – Approved 16.06.2016

**Planning Policies & Material Considerations:**

- The Banbridge, Newry and Mourne Area Plan 2015;
- The Strategic Planning Policy Statement for Northern Ireland (SPPS);
- Planning Policy Statement 6 – Planning, Archaeology and the Built Environment; &
- Planning Policy Statement 17 – Control of Outdoor Advertisements

**Consultations:**

No consultations have been issued.

**Objections & Representations**

There is no statutory requirement to advertise or neighbour notify for an application for consent to display an advertisement. As a result no objections or representations have been received.

**Consideration and Assessment:**

Policy BH 13 – The Control of Advertisements in a Conservation Area – of Planning Policy Statement 6 states the Department will not normally grant consent for the display of advertisements in or close to a conservation area which would adversely affect the character, appearance or setting of the conservation area or which would be detrimental to public safety.

Policy AD1 of Planning Policy Statement 17 states consent will be given for the display of an advertisement where:

- i. It respects amenity, when assessed in the context of the general characteristics of the locality; and
- ii. It does not prejudice public safety.

No details of the proposed signage were submitted as part of this application therefore it cannot be fully assessed against the above policy requirements. A letter was sent to the agent on 20<sup>th</sup> May 2016 requesting information on the proposed signage including the materials to be used; the proposed colour of the signage; the

type of lettering to be used; and details of the proposed external illumination. No information was forthcoming therefore a reminder letter was issued to the agent on 5<sup>th</sup> July 2016 giving them 7 days to submit the relevant information or the Planning Authority would decide the application based on the information available. To date no information has been received.

The information requested is material to the determination of this planning application. Having notified the agent that additional information is required to allow the Council to determine the application, and having not received that information, this application is recommended for refusal.

**Recommendation:**

Refusal

**Conditions:**

- i. Having notified the applicant under Article 3 (6) of the Planning (General Development Procedure) Order (Northern Ireland) 2015 that details of the proposed signage – including the materials to be used; the proposed colour of the signage; the type of lettering to be used; & details of the proposed external illumination – are required in order to allow the Council to determine this application, and having not received that 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:** \_\_\_\_\_

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



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

<b>ITEM NO</b>	<b>3</b>		
<b>APPLIC NO</b>	LA07/2015/1317/O	Outline	<b>DATE VALID</b> 12/11/15
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>		
<b>APPLICANT</b>	Paul and Dianne Kelly 39 Conway Park Mullaghbawn Newry BT35 9TS	<b>AGENT</b>	John Richardson 9a Shanecracken Road Markethill BT60 1TS 07752598165

**LOCATION** 25m South of 162 Tandragee Road  
Jerrettspass  
Newry

**PROPOSAL** 1 No. infill 1.5 storey dwelling and garage

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

- 1 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
- 2 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not constitute 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 would, if permitted, result in the creation of ribbon development along the Tandragee Road.
- 3 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and to policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and relies primarily on the use of new landscaping for integration and therefore would not visually integrate into the surrounding landscape.
- 4 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and the dwelling would, if permitted create a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.



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**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2015/1317/O

**Date Received:** 11.12.2015

**Proposal:** 1 No. infill 1.5 storey dwelling and garage

**Location:** 25m South of 162 Tandragee Road, Jerrettspass, Newry

**Site Characteristics & Area Characteristics:**

The site as defined in red on the site location plan takes in a portion of agricultural land adjacent to and South of No162 Tandragee Rd that is to be accessed adjacent to and immediately North of No.144. The land rises towards the west with mature trees and hedging located at the boundaries. The area is rural in character with agricultural being the dominant land use activity. A dwelling is located north and south of the site with a plant hire business located further south again.

**Site History:** No recent site history

**Planning Policies & Material Considerations:**

*Banbridge Newry and Mourne Area Plan 2015*  
*Strategic Planning Policy Statement for Northern Ireland*  
*Planning Policy Statement 21*  
*Planning Policy Statement 3*  
*DCAN 15*  
*Planning Policy Statement 15*

**Consultations:**

*Environmental Health – No objections*  
*Transport NI – Further information required*  
*Rivers Agency –*  
*NI Water – No objections*

**Objections & Representations**

*3 Neighbours Notified and the application has been advertised on 06.01.2016. No objections or representations received.*



**Consideration and Assessment:**Strategic Planning Policy Statement / Banbridge Newry and Mourne Area Plan 2015

*The Strategic Planning Policy Statement is a material consideration for this application however as there is no significant change to the policy requirements for infill dwellings following the publication of the SPPS and it is arguably less prescriptive, the retained policy of PPS21 will be given substantial weight in determining the principle of the proposal in accordance with paragraph 1.12 of the SPPS Strategic Planning Policy Statement / Banbridge Newry and Mourne Area Plan 2015. The site lies within the Rural Area as designated in the Banbridge Newry and Mourne Area Plan 2015. Whilst permission in this area is restrictive the plan does make provision up to 2 dwellings in a gap site where it is in accordance with policy CTY8 of Planning Policy Statement 21 and other planning considerations and policies.*

PPS21 – Sustainable Development in the Countryside

*Policy CTY1 restricts new development in the countryside, but makes an exception for an infill site to accommodate up to 2 dwellings if in accordance with policy CTY8.*

*With regard to policy CTY 8 an exception can be facilitated for the development of a small gap site to accommodate up to 2 dwellings in an otherwise substantial and continuously built up frontage. The policy requires a line of 3 or more buildings along a road frontage without accompanying development to the rear and a respect of the existing development pattern.*

*When considering the proposal from the main Tandragee Rd and facing the site adjacent No.162 a line of 3 or more buildings is not evident. The house and garage at No.162 read as 1 which only leaves the building further south at the plant hire business. No 144 has a frontage on the road behind this and as such cannot be read within this line of development. In addition to this the gap between No 162 and the plant hire business is approximately 188m which is beyond the threshold of a small gap site to accommodate up to 2 dwellings. When considering the site from the proposed access point only 2 buildings can be read with the site and of these buildings only No.144 has a frontage onto the same piece of road. The proposal therefore fails this policy test and as a consequence is contrary to policy CTY8 and CTY1.*

*Given the open and exposed nature of the site integration is an issue for this application. The proposed dwelling would be critically viewed from the main Tandragee Road and appear visually intrusive on the landscape. When viewed with the surrounding buildings the proposed dwelling would contribute to build up and as a consequence have a detrimental impact on the rural character of the area. The proposal is contrary to CTY 13 and CTY 14.*

*Environmental Health was consulted in relation to the sewage arrangements and has responded with no objections in principle. Sewage arrangements are minimal at Outline however a condition could be added to ensure Consent to Discharge is*

*obtained before work commences. The proposal is in general compliance with CTY16.*

*PPS3 – Access, Movement & Parking & DCAN15 – Vehicular Access Standards  
Transport NI was consulted in regard to this policy criteria. Following amended plans they have no objections to the proposal.*

*PPS 15 – Flood Risk*

*As there is an undesignated watercourse bounding the Eastern edge of the site, policy FLD 2 will apply and access for maintenance should be provided. This has not been shown on the plans however this could be rectified at a RM stage.*

**Recommendation:**

*Refusal*

**Refusal Reasons:**

Refusal Reasons

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not constitute a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and would, if permitted, result in the creation of ribbon development along the Tandragee Road.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and to policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and relies primarily on the use of new landscaping for integration and therefore would not visually integrate into the surrounding landscape.
4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and the dwelling would, if permitted create a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.

**Case Officer**

**Authorised Officer**





Richardson Architectural Design

Planning...Building Control...Appeals

Richardson Architectural Design

9 Shanecracken Road

Markethill

Co Anagh

BT60 1TS

Tel: 07756221840

127

17<sup>th</sup> October 2016

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

Your Ref: LA07/2015/1317/O

To whom it may concern

Please accept this request for speaking rights for myself Mr. J Richardson (agent) and the applicant Mrs. D Kelly and see below a written statement in support of the application LA07/2015/1317/O which is due before Newry Mourne and Down Planning Committee of Wednesday 26<sup>th</sup> Oct.

### **Statement in Support of LA07/2015/1317/O**

This application was brought before the Planning Committee on 3<sup>rd</sup> August 2016, however due to the large number of applications on the list that day it was not heard and was meant to be deferred until the 31<sup>st</sup> August where it was supposed to be listed first. It was overlooked and omitted from the 31<sup>st</sup> August agenda and assurances were given to the applicant that it would be on the September agenda. Unfortunately this did not happen leaving Mrs. Kelly very frustrated and annoyed. Nonetheless it is before the council on 26<sup>th</sup> October and I would like to bring to your attention the following points.

Planning permission has been recommended for refusal as the Planning officer does not feel the application meets the criteria set out in PPS 21, CTY 8 for an infill dwelling. We disagree with this recommendation and feel the planning officer has interpreted the policy different to what it actually means. They have stated "the house and garage at No 162 read as 1." This is not the case, No 162 has its own access to the Tandragee Road, and the building adjacent is not a garage, but a stable/outbuilding again with its own access to the Tandragee Rd. (See photos) Nonetheless at recent Planning Appeal, the PAC have ruled the word "buildings" means any structures, no matter if they are garages or other. Therefore going by the PAC determination our proposal has 2 buildings to the North facing boundary with a frontage onto the Tandragee Rd.

In the Planning Officers Site Characteristics and Area Characteristics section they make reference to the site being a portion of agricultural land adjacent and south of No 162 Tandragee Rd and adjacent to and immediately North of No 144 Tandragee Rd. However when they come to judge the site based on Planning Policy they do not deem

No 144 to be adjacent to it and refer to a Plant Hire business some 100m further South. I would like to highlight this discrepancy in the Planning Officers report and ask for clarification.

The officer goes on to further interpret the policy differently to what it actually means. They suggest that from the proposed access point, only 2 buildings can read with the site and of these buildings only No 144 has a frontage onto the same piece of road. Can I draw to the committee's attention that the only reason we are proposing to take the access off the Drumbanagher Wall Road to the rear is for road safety. Similarly this was the case for No 144 and at this point it should be noted that the address is No 144 Tandragee Rd and not Drumbanagher Wall Rd proving it has a frontage to the Tandragee Rd. No 144 Tandragee Rd has in fact a dual access; one onto the minor road to the rear and one through the plant hire business to the front. I can confirm that this site benefits from two buildings with a road frontage to the south (Plant Hire and No 144) and two buildings to the North (No 162 and adjacent outbuilding) with an 88m gap between No 144 and No 162.

Another issue I would like to raise is where the planning officer has made reference to a gap of some 188m between No 162 Tandragee Rd and the existing Plant Hire business. This may be the case however the gap in terms of planning policy stops at 88m where the frontage of No 144 begins. See Attached photos. The curtilage of No 144 stretches from the Tandragee Rd at the front to the Drumbanagher Wall Rd at the rear, with the frontage being the Tandragee Rd and access via both Rd. As a result a 88m gap is created between No 144 and No 162 and the adjacent building which in turn falls in line with Policy for an infill site.

Further minor points I would like to raise are the open and exposed nature of the site. This is not the case and in fact the planning officer contradicts themselves when they make reference to the land rising towards the west with mature trees and hedging located at the boundaries in their site analysis yet when they relate it to policy they say it is open and exposed and can be critically viewed.

The site is bounded on 3 sides with mature hedgerows which can be augmented where necessary with the planting of native species vegetation. It benefits from rising land to the rear and therefore is not open and exposed and critically viewed as stated on the reasons for refusal.

In relation to an undesignated watercourse bounding the eastern edge of the site. This is the case and as such the position of the proposed dwelling would be set back slightly from the edge of the main Tandragee Rd to prevent any flood risk which may occur. As can be seen from the photos I have located a dwelling on the site in question along the line of the 3 buildings.

In conclusion we strongly feel that this application does lend itself to approval under PPS 21, CTY8 Infill and would ask this council to reconsider its recommendation. If they feel it necessary we would suggest a site visit take place for the council to get a better look at the topography and surrounding lands, however we are hopeful from the photos provided this will not be required.

Yours Faithfully

John Richardson.

# TANDRAGEE ROAD. . 129



Photo showing, Outbuilding, No 162, a "gap", No 144 and the Plant Hire business in a line



Photo showing No 162, a "gap", No 144 all facing the main Tandragee Rd in a line

Client	—	Mr and Mrs Kelly
Project	—	1.5 storey infill dwelling and garage
Location	—	25m South of 162 Tandragee Rd Jerrettspass
Job Ref. no	—	
Scale	—	NTS
Drawn	—	J.R.
Date	—	Oct 2016



# TANDRAGEE ROAD. . 130



No 162 and access

Outbuilding

Photo showing, Outbuilding and No 162



No 162 with large rear garden

"gap" site 88m in width from 144 boundary to 162 boundary

Outbuilding

Photo showing "gap site" No 162 with large rear garden and outbuilding

Client	—	Mr and Mrs Kelly
Project	—	1.5 storey infill dwelling and garage
Location	—	25m South of 162 Tandragee Rd Jerrettspass
Job Ref. no	—	
Scale	—	NTS
Drawn	—	J.R.
Date	—	Oct 2016



# TANDRAGEE ROAD. . 131



"gap site" behind Castlewellan gold hedgerow

Mature suburban style Castlewellan gold hedgerow surrounding the curtilage of No 144

Dog pen associated with No 144

No 162

Castlewellan gold hedge planted behind thorn hedge at roadside

Area for football and childrens activities

Photo showing, area in front of No 144 where football is played and a dog pen is located



"gap site" behind Castlewellan gold hedgerow

No 144

Plant Hire business

Outbuilding

No 162

Photo showing Plant Hire business, No 144, 88m wide "gap" site, No 162 and outbuilding in a line

Client	—	Mr and Mrs Kelly
Project	—	1.5 storey infill dwelling and garage
Location	—	25m South of 162 Tandragee Rd Jerrettspass
Job Ref. no	—	
Scale	—	NTS
Drawn	—	J.R.
Date	—	Oct 2016

# T A N D R A G E E R O A D . . 132



Thorn hedge at road side edge of No 144 curtilage

Grass maintained along the entire frontage of No 144

Castlewelan gold hedge running behind roadside thorn hedge along the entire frontage of No 144

Photo showing, view from access of Plant Hire business looking towards Tandragee

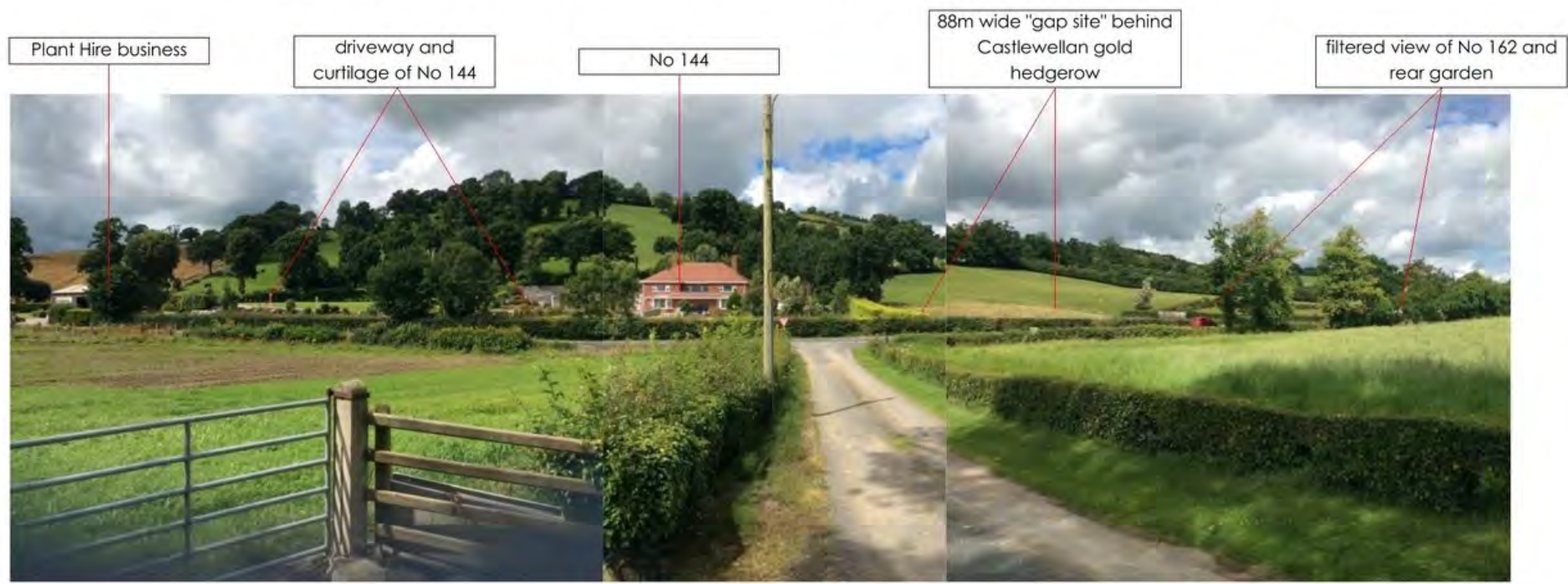


Photo showing, view from access of Plant Hire business looking towards Newry

Client	—	Mr and Mrs Kelly
Project	—	1.5 storey infill dwelling and garage
Location	—	25m South of 162 Tandragee Rd Jerrettspass
Job Ref. no	—	
Scale	—	NTS
Drawn	—	J.R.
Date	—	Oct 2016



# T A N D R A G E E R O A D . .



Photos showing, line of buildings and "gap" site from Ashtree Hill

Client	—	Mr and Mrs Kelly
Project	—	1.5 storey infill dwelling and garage
Location	—	25m South of 162 Tandragee Rd Jerrettspass
Job Ref. no	—	
Scale	—	NTS
Drawn	—	J.R.
Date	—	Oct 2016

# TANDRAGEE ROAD..



Client	—	Mr and Mrs Kelly
Project	—	1.5 storey infill dwelling and garage
Location	—	25m South of 162 Tandragee Rd Jerrettspass
Job Ref. no	—	
Scale	—	NTS
Drawn	—	J.R.
Date	—	Oct 2016



Item 19 – LA07/2015/1317/0 – Paul and Diane Kelly

Planning permission has been recommended for refusal because officers feel there are not at least 3 buildings in a row with a gap in between which is capable of containing a maximum of 2 dwellings. I would query this as there are 2 buildings to the north ( number 162 and an outbuilding/stable block ) and two buildings to the south ( number 144 and a plant hire business ). The gap between 144 and 162 measures 88m. Although it is proposed to take the access off the minor road the buildings and proposed sites should be read from the main Tandragee Rd and as a result an infill site is accommodated. The only reason for taking the access off the minor road is for road safety, similarly to No 144. It is proposed to position the dwelling with the front facing the Tandragee Rd which would further read with No 144 and No 162 which both face this direction.

Officers state that No 162 and a "garage" read as one however this is not the case. The policy states buildings and furthermore it is not a garage adjacent to No 162 but an outbuilding/stable, therefore it is felt these should be classed as two separate buildings. As a result there are therefore two buildings to the north a gap of 88m and two buildings to the south.

Officers have also stated that there is a 188m gap between No 162 and the plant hire business. I would query this as the curtilage of No 144 stretches between the minor road to the rear and the main Tandragee Rd to the front which reduces the gap to 88m as stated above. There is a double hedge facing onto the main Tandragee Rd, with the hedge closest to No 144 being a suburban Castlewellan gold type. This in turn is planted behind a timber post and rail fence which encloses a flat area where children can play.

As a result I feel that this site should be categorised as an infill.

Thanks

Gary Stokes

Mr MC Kay,

I wish to offer this written support for Planning application LA07/2015/1317/O.

Having spoken to Mr and Mrs Kelly, I am satisfied that every attempt was made to adhere to planning policy.

I have spoken to the applicants and they have explained the discrepancy in the distances given by the Planning Service, and those that their agent arrived at, between the proposed dwelling and no [162 Tandragee Road](#).

A further discrepancy arose when the Planning service referred to a garage adjacent to no 162, which is not a garage, but in fact outhouses. The difference in an outhouse and a garage could, and in the past has, determined the success of planning appeals.

The agent and the applicants are convinced that this application should be categorised as an infill, which makes perfect sense to me.

I hope that you will give these arguments due consideration before reaching a decision.

Cllr. Roisin Mulgrew

<b>ITEM NO</b>	<b>5</b>			
<b>APPLIC NO</b>	LA07/2015/1391/O	Outline	<b>DATE VALID</b>	12/21/15
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>			
<b>APPLICANT</b>	Mr Seamus McLoughlin 6 Woodbrook Park Warrenpoint BT34 3HL		<b>AGENT</b>	Cole Partnership 12A Duke Street Warrenpoint BT34 3JY  028 4175 3679

**LOCATION** 70 metres North West of No.10 Mayo Road  
Mayobridge  
BT34 2HA

**PROPOSAL** Proposed dwelling on a farm

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

- 1 The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that:
  - the farm business is currently active and has been established for at least six years;
  - 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; and
  - 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 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 Mayo Road.
- 3 The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape 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 create or add to a ribbon of development and would therefore result in a detrimental change to further erode the rural character of the countryside.





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**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2015/1391/O

**Date Received:** 9<sup>th</sup> June 2015

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

**Location:** The site is located 0.1Km outside the southern settlement limit of Mayobridge.

**Site Characteristics & Area Characteristics:**

The site is located immediately adjacent to the roadside. The land comprises a section of a larger agricultural field. The roadside boundary is defined by a grass embankment approximately 1.5m high, there are a number of semi-mature trees interspersed along the frontage. The boundary with No. 10 is defined by a post and wire fence and a row of sparse trees. The rear boundary is undefined as it appears that a hedge has recently been removed. The northern boundary is undefined.



The proposed site.



Proposed site



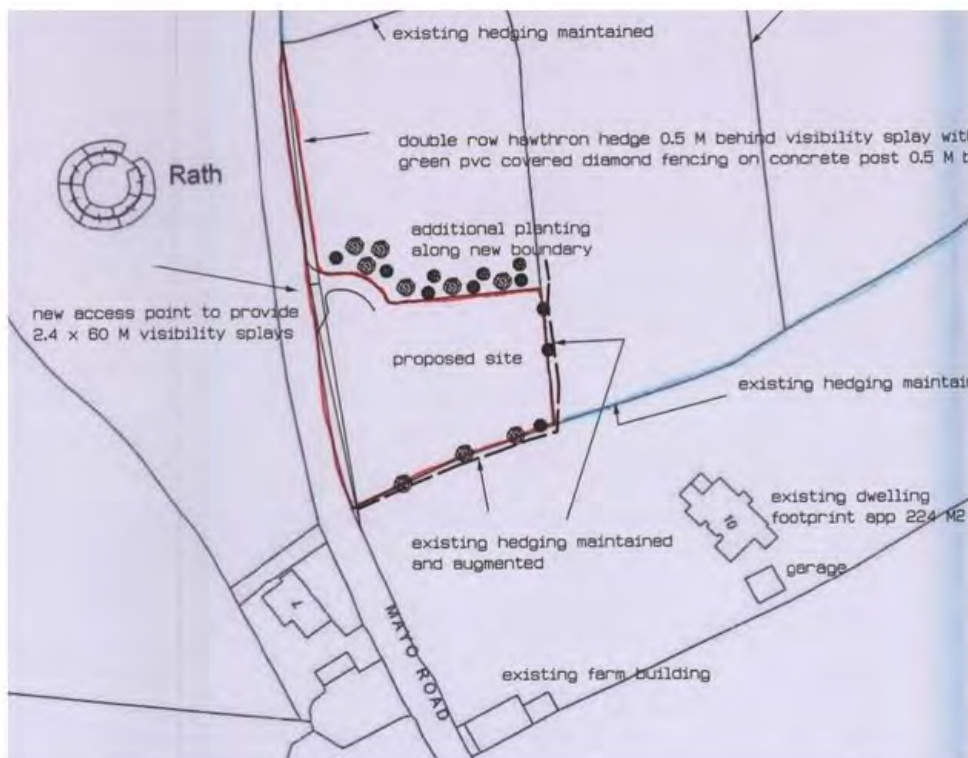
The application site can be seen at the brow of the hill along Mayo Road.



This photograph illustrates the undefined eastern (rear) and northern boundaries of the site.



The elevated nature of the site is evident from this photograph.



This site location map as provided by the applicant. The amount of additional planting shown (outside the red line) is an indication of the lack of integration provided by the site. The rear (east) boundary has been incorrectly labelled as 'existing hedging'. This boundary has been removed,

**Site History:**

Application P/2011/1026/O was refused on 11/12/2012 on land immediately adjacent to the settlement limit of Mayobridge and the farming need was accepted in the case officers report. This application was refused for 4No. reasons. CTY 10 as the proposed site was not visually linked or sited to cluster with an established group of buildings on the farm, CTY 13, integration, CTY 14, rural character and CTY 15 (marring the distinction between the urban area and the countryside).

I note in the hand written section for deferred applications dated 3/7/2012 states "Farming need accepted but the site is poor in terms of integration and would add to the development limit and read as urban sprawl. Case put forward considered but not comparable as this case is contained within an individual development".

**Planning Policies & Material Considerations:**

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

**Consultations:**

DARD - Department of Rural Development Countryside Management Compliance Branch – noted that the farm business ID on form P1C has not been in existence for more than 6 years and that there has been no single farm payments in the last 6 years.

As the land is let out in conacre, no business ID would be attached to the holding.

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

Statutory - Transport NI no objections.

NIEA Water Management Unit had no objections, standard informatives, NIEA Protecting Historic Monuments – no objections

Loughs Agency – no objections, standard advice.

Environmental Health – no objection, standard advice.



## Objections & Representations

No objections received. 5 neighbours were notified on 21<sup>st</sup> March 2016. The application was advertised in 5 local papers on 12<sup>th</sup>, 13<sup>th</sup> and 15<sup>th</sup> January 2016.

## Consideration and Assessment:

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

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

Page 53 relates to dwellings on farms: provision should be made for a dwelling house on an active and established farm business to accommodate those engaged in the farm business or other rural dwellers. The proposed dwelling must be visually linked or sited to cluster with an established group of buildings on the farm holding. It notes that dwellings on farms must also comply with policies regarding integration and rural character. (underlining/bold my emphasis).

Exceptionally an alternative site may be considered where there are health and safety or demonstrable expansion plans.

No evidence to this effect has been presented.

Planning Policy Statement 21 (PPS21) Sustainable Development in the Countryside.

PPS 21 policies CTY 1, CTY 8, CTY 10, CTY 13, CTY14 and 16 apply.

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

## Ribbon Development

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

CTY 10 Dwellings on farms – permission will be granted where

- a) the farm business has been active and established for over 6 years and
- b) no development opportunities have been sold from the farm holding in the last 10 years and
- c) the new building is **visually linked or sited to cluster** with an **established group of buildings** on the farm.

The policy then notes “In such circumstances the proposed site must also meet the requirements of CTY 13(a-f), CTY 14 and CTY 16”.

A planning history search shows that no other sites have been approved for dwellings on the farm (6 fields at Mayo Road 3.721ha in total).

#### **Criterion a) Evidence of the farm business**

- I accept that the applicant is unable to provide a business ID but that he has been letting out the farm land in conacre since at least 2009 based on the letting fees provided from PJ Bradley property services.
- A letter from Shriver Price and Co has been provided to state that Mr Seamus McLoughlin (the applicant) makes annual returns of income from his farm at Mayo Road for more than 6 years.

Recent PAC decisions acknowledge that there is no requirement to provide a business ID under CTY 10, but they have emphasised the need for an applicant to provide the farms DARD business ID number in order to demonstrate that the business is active and established. The PAC position appears to be that in the absence of a business ID number, a holding will not, in most cases, be regarded as an active and established farm holding.

As a result of this approach by the PAC is it difficult for farmers who let out their land in conacre to establish active farms.

#### **Background to the application**

The applicant has stated on form P1C that they own 3.75 hectares of land which is let out in conacre. The applicant has maintained the boundaries and fencing on the farm land. Copies of the letting arrangement have been provided (a number of bills for the letting of land by Bradley Property Services dating from 2009 have been provided, the letting agent has also confirmed that this land has been let on a

conacre basis for over 15 years). The applicant states that he is 76 years old and is not fit to farm the land but lets it out in conacre.

The P1C form states that the farm business was established over 15 years ago and a business number has been provided.

The cover letter also states that the written answer AQW 23412/11-15 PPS21 change to CTY 10 sent on 12<sup>th</sup> June to John McCallister indicates that they are entitled to a dwelling on a farm under CTY 10.

This was a Q&A which was answered on 11<sup>th</sup> June 2013. The response states that an applicant who may lease some or all of his land, but who is still nonetheless responsible for maintaining it in good agricultural and environmental quality can still benefit from a dwelling under CTY 10, subject to being able to satisfy the other requirements of the policy. A key issue to be considered under CTY 10 is whether there is an active and established business for 6 years.

The response also notes that Planning will take all the relevant factors into account in order to give a balanced decision based on the facts of each case and that PPS 21 is subject to a rolling review.

The applicant refers to planning appeal 2014/A0116 in the covering letter. This decision was issued on 24/4/2015. In this decision the Commissioner accepts that policy only requires an applicant to demonstrate that the holding has been active and established for the 6 year period, not that he or she is the farmer. The appeal decision notes at paragraph 6 that "Evidence to demonstrate that the holding is active and established was provided in the form of a letter from an adjacent farmer (Mr Murnion) stating that he had held the appellants holding in conacre from 1991 and that it is part of his active holding for the purposes of claiming his single farm payment, a farm map endorsed by DARD dated 2013 bearing Mr Murnion's DARD business ID number was provided". This appeal was dismissed on integration reasons but had it been allowed, the approval would have been under the farm business number for the tenant farmer (Mr Murnion) and been a 1 in 10 year approval.

Critically, at paragraph 7 of the PAC report the Commissioner notes that criterion c of Policy CTY10 requires that the new building is visually linked or sited to cluster with an established group of buildings on the farm.

There are no buildings on the holding of this planning application. This appeal is only comparable in terms of the acceptance of the 'active and established' farm business.



In light of this PAC decision, a letter was issued to the agent requiring further information on the farm land/business ID of the tenant farmer (Mr Morgan). DARD map information was provided on 7<sup>th</sup> July 2016.

### **Criterion B – development opportunities sold off**

There is no planning history of approvals on the applicants farm land at Mayo Road.

The maps provided by the agent relate to page 7 of 8 and is endorsed with Mr Morgans business ID number and includes the land let out in conacre to Mr Morgan by the applicant.

A search shows that there have been no planning approvals using the business ID number for a farm dwelling. There has been no confirmation whether other development opportunities have been sold from Mr Morgans farm holding.

It is my understanding that the farm business ID number used by the tenant farmer must be provided and P1C form must also be signed by the tenant farmer as any approval on this land would count as a once in 10 year allowance for that farm business ID. Farm maps showing these lands in association with the business ID should also be provided (as was the case in appeal 2014/A0116)

I contend that Mr Morgan would need to sign the P1C form and use his farm business ID on the forms to establish the 'active and established' farm business for this application. Mr McLoughlin is not the owner of the 'farm business'.

### **Criterion c – cluster with an established group of buildings on the farm**

Under CTY 10 the farm dwelling would be required to cluster with buildings on the farm (i.e. Mr Morgans buildings).

The agent provided a case officers report from application P/2011/0264/F where there were no buildings on the farm with which to cluster. I advised the agent that this approach followed guidance issued by DoE in September 2010. This guidance was withdrawn in 2014 and since then both the Council and the PAC require new farm dwellings to cluster with existing buildings on the farm.

The agent requested details of PAC decisions where there were no 'buildings' with which to cluster. I forwarded decision references 2015/A0176, 2015/A0062 and 2015/A0144

Criterion c of CTY 10 requires the new dwelling to be sited to cluster with an established group of buildings on the farm. There are no buildings on the applicants farm holding. This is a significant issue for this planning application. The applicants

address on the P1 form is in Warrenpoint, therefore any new dwelling on this farm land cannot cluster with the farmers dwelling.

### **Integration and Rural Character**

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

CTY 13 assesses the impact this proposal will have on the rural area by reason of design, siting, integration and landscaping. There is insufficient means of enclosure to allow a dwelling to integrate satisfactorily. The removal of the roadside hedge would only exasperate this issue. A new dwelling at this location would rely on new landscaping for the purposes of integration.

CTY 14 assesses the impact this proposal will have on the rural character of the immediate area. It notes that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I consider that a dwelling on this site would be unduly prominent due to the lack of natural screening and the elevated position of the site along the Mayo Road. There are also limited but critical views from the Ballyvalley Road to the east.

A new building will be unacceptable where:

- (a) **it is unduly prominent in the landscape;** or
- (b) it results in a suburban style build-up of development when viewed with existing and approved buildings; or
- (c) it does not respect the traditional pattern of settlement exhibited in that area; or
- (d) **it creates or adds to a ribbon of development (see Policy CTY 8);** or
- (e) the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.

The amplification notes: at paragraph 5.78 that in assessing the cumulative impact of a building on the rural character the following matters should be taken into consideration. These include intervisibility of the building with existing development, the vulnerability of the landscape and the siting of the proposal.

With this in mind it is clear that a dwelling at the proposed location will be clearly viewed along with No. 10 Mayo Road and its associated farm buildings. The siting of the proposal is such that it will add to the existing line of development and therefore further erode the rural character of the area.

This proposal when viewed with the existing buildings surrounding this site will create a ribbon of development along Mayo Road.

The proposed site is elevated, offers little in the way of integration and will create ribbon development along Mayo Road. As such this application fails policies CTY 1, 8, 13 and 14.

PPS 3 Access Movement and Parking Policy AMP 2, access to public roads notes that planning permission will only be granted for a development involving direct access or the intensification of the use of an existing access onto a public road where: a) such access will not prejudice road safety or significantly inconvenience the flow of traffic and b) the proposal does not conflict with Policy AMP3 Access to Protected Routes. Transport NI had been consulted and has no objections.

**Recommendation:**

Consideration of all of the elements of this application lead me to recommend refusal under criterion a, b and c of CTY 10, CTY 8 (ribbon development), CTY 13 (integration) and CTY 14 (rural character – ribbon).

Although it was noted in application P/2011/1026/O that the farming need is accepted it is of little benefit to this application.

The information provided for this application includes copies of annual letting fees and a letter from the accountant confirming an income from lands at Mayo Road.

It is clear from the direction of the PAC where land is let out in conacre, it must be demonstrated that the farm business is active and established. The information provided with this application shows that Mr Morgans farm is active and established and if any permission were to be granted it would relate to his farm business ID. Any new farm dwelling should be clustered with the existing buildings on the farm holding. I would suspect that on such a large holding (8 pages of DARD maps), Mr Morgan would have a more suitable site, beside existing buildings and that offers good integration in keeping with CTY 10, 13 and 14.

It has not been confirmed whether other development opportunities on the farm holding (under Mr Morgan's farm business ID) have been sold off.

In addition, and critically there are no buildings on the land with which to cluster or visually link a new dwelling. Buildings on other holdings cannot be included.

This view is endorsed by the PAC in decisions 2015/A0176, 2015/A0062 and 2015/A0144

Refusal is recommended.



**Refusal Reasons**

1. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that:
  - the farm business is currently active and has been established for at least six years;
  - 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; and
  - 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 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 Mayo Road.
  
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape 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 create or add to a ribbon of development and would therefore result in a detrimental change to further erode the rural character of the countryside.

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

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

**ITEM NO** 10

**APPLIC NO** LA07/2016/0381/O

Outline **DATE VALID** 3/21/16

**COUNCIL OPINION** REFUSAL

**APPLICANT** Mr Matt Burns 107A Kilbroney Road Rostrevor BT34 3BN

**AGENT** Cole Partnership  
12A Duke Street  
Warrenpoint  
BT34 3JY  
028 4175 3679

**LOCATION** Opposite No. 107 Kilbroney Road Rostrevor

**PROPOSAL** Proposed farm retirement dwelling

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

<b>Addresses</b>		<b>Signatures</b>	
0	0	0	0

- 1 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS), 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.
- 2 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 Kilbroney Road.
- 3 The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:  
  
the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape;  
the proposed building relies primarily on the use of new landscaping for integration;  
the proposed building fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop  
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 create or add to 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:** LA07/2016/0381/O

**Date Received:** 15<sup>th</sup> March 2016

**Proposal:** Site for farm dwelling and garage opposite No. 107 Kilbroney Road, Rostrevor.

**Location:** The site is located within the Rostrevor ward of the Crotlieve district and is approximately 3Km north east of Rostrevor.

**Site Characteristics & Area Characteristics:**

The site itself is a cut out of a larger agricultural field, as such there are only two existing boundaries. An agricultural access lane runs along the southern boundary and serves the large shed located to the west of the site. The boundary along the lane is defined by a post and wire fence, the boundary along the Kilbroney Road is defined by a ranch style timber fence. The site is currently used for grazing sheep and slopes at a steady gradient from the roadside to the west towards the large shed which is located outside the red line boundary.

The site is clearly visible when travelling south along Kilbroney Road towards Rostrevor. Due to the lack of any established boundaries around the site, it offers little in the way of integration.





The proposed site and the absence of any long established natural boundaries is clearly visible in this aerial image. No. 107 is located on the opposite side of the road. A dwelling located on lands to the east, close to No. 107 would offer a much better solution in terms of clustering and visual linkage.



Note the lack of established boundaries within the site. The southern boundary of the site (left of photo) is defined by the hedge along the lane serving the building to the west. The actual boundary of the proposed site is a post and wire fence.



The site is a cut out of a larger agricultural field. A post and wire fence runs along the laneway to the south and a timber ranch fence defines the roadside boundary.

#### **Site History:**

Planning application P/2013/0217/O was refused on 9<sup>th</sup> September 2014. There were two reasons for refusal.

- that the application did not demonstrate an 'active and established farm business' and not sited to visually link/cluster.
- fails to meet CTY 13 of Planning Policy Statement 21 in that the site lacks long established boundaries, would rely on new landscaping and a building would fail to blend with the landform and it is not visually linked/sited to cluster with an established group of buildings on the farm and would therefore not visually integrate..

Under Sections 46 and 47 of the Planning Act (NI) 2011 the Council can decline to determine repeat applications within two years under certain circumstances, this application was received on 15<sup>th</sup> March 2016. Upon consideration of the application now submitted and a review of the reasons for refusal with the last application it is clear that the farm business is now active and established which overcomes the first reason for refusal, therefore this application should be determined.



**Planning Policies & Material Considerations:**

- Banbridge, Newry and Mourne Area Plan 2015.
- Strategic Planning Policy Statement for Northern Ireland 2015 (SPPS): Planning for Sustainable Development.
- Planning Policy Statement 3 Access (PPS3), Movement and Parking Policy AMP2.
- Planning Policy Statement 21 (PPS21) Sustainable Development in the Countryside.
- Planning Policy Statement 2 PPS2 – Planning and Nature Conservation

**Consultations:**

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

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

Statutory - Transport NI no objections.

Loughs Agency has no objections, standard informatives

Environmental Health has no objections – standard advice.

**Objections & Representations**

No objections received.

**Consideration and Assessment:**Background and Context of this application

The farm maps provided show that the farm business is separated into two elements, one at Kilbroney Road and one at Sandbank Road, Hilltown. From the documents associated with the previous application (P/2013/0217/O) I understand that the applicants son-in-law owns the large shed to the west of the proposed site.

The applicant has no buildings on the land on the north western side of the Kilbroney Road. His house and shed are located to the eastern side of the road adjacent to No. 107. The shed and yard are used in connection with a furniture business.

I think it is important to note that the farm maps submitted with application P/2013/0217/O included an additional 2No fields adjacent to No. 107 Kilbroney Road. These fields are now outlined in blue on the site location map, indicating that the applicant still has control over these lands but they do not comprise part of the 'farm'.



The applicants other farm at Sandbank Road does not include any buildings. The farm maps submitted with application P/2013/0217/O included an additional 2No fields adjacent to the sawmill business.

The applicant has provided no supporting information with this application so I can only assume that they are relying on the information submitted with file P/2013/0217/O to support the reasons for choosing land at Kilbroney Road rather than Sandbank Road. This is discussed in greater detail in the assessment of CTY 10 of PPS 21.

### **Policy Assessment:**

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

The overarching aim of the SPPS is “that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance” Page 12.

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

Under the BNMAP the site is located in the rural area and is part of the Mourne AONB.

PPS 3 Access Movement and Parking Policy AMP 2, access to public roads. Transport NI has been consulted and has no objections.

Planning Policy Statement 21 (PPS21) Sustainable Development in the Countryside.

PPS 21 policies CTY 1, CTY 3, CTY 8, CTY 10, CTY 13 and CTY14 apply.

CTY 1 Development in the Countryside, assesses the need for this proposal within the rural area.

CTY 8, states “Planning permission will be refused for a building which creates or adds to a ribbon of development”.

I have concerns in relation to ribbon development. There are two dwellings to the north of the site along Kilbroney Road and one to the south. The accompanying text of Policy CTY 8 notes that a ‘ribbon’ does not have to be served by individual

accesses or have a continuous building line. Buildings sited back, staggered at angles and with gaps can still represent ribbon development if they have a common frontage or are visually linked. I consider the proposed site to be visually linked with these other dwellings/buildings to a person travelling in either direction along Kilbroney Road.



The two dwellings to the north of the site are visible in this photograph (the application site is to the left bound along the road by the timber fence)

CTY 10 Dwellings on farms – permission will be granted where

- a) the farm business has been active for over 6 years and
- b) no development opportunities have been sold from the farm holding in the last 10 years and
- c) the new building is visually linked or sited to cluster with an **established group of buildings on the farm**. Exceptionally, consideration may be given to an alternative site where there are no other sites available at a group of buildings on the farm and where there are health and safety concerns or verifiable plans for expansion

The policy then notes “In such circumstances the proposed site must also meet the requirements of CTY 13(a-f), CTY 14 and CTY 16”.

*Previous application P/2013/0217/O*

Under the previous application it was submitted that Mr Burns had a sawmill business as well as his farm and lived on the Leitrim Road over 20 years ago. The sawmill and adjacent house were transferred to his son over 20 years ago when Mr Burns went to live at No. 107 Kilbroney Road. His son has owned and operated the sawmill since then. Mr Burns does not own any of the buildings at Leitrim Road associated with the sawmill.

The large shed west of the application site is owned by Mr Burns son-in-law

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

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

Policy CTY 10 does NOT allow a farm dwelling to cluster with buildings on an adjacent farm holding.

The applicants house is located opposite the site along with a commercial shed for a furniture business. The applicant's daughter and son-in-law own the large shed to the north west of the site. Even though land has been transferred to them and the shed belongs to a family member, under CTY 10 it is not possible to cluster with a new dwelling with buildings on a neighbouring farm holding.

The case officer notes in the previous application P/2013/0217 that the applicant has not demonstrated why it is not possible to site a dwelling to the east/southeast and contended that there was "a tenuous visual linkage between this site and No. 107 and the shed adjacent to it which are located on the opposite side of Kilbroney Road".

I consider the visual link with No. 107 debatable and as such it is important to explore the other exceptions within CTY 10 and apply weight accordingly.

*Criterion c - Health and safety/farm expansion plans*

Under the previous application, land at Sandbank Road was considered inappropriate under application P/2013/0217/O as the access to any site would need to be taken through the sawmill business. Under this application there are 2No. fields omitted that were included on the previous farm maps at Sandbank Road. The land now included on the farm maps rises steeply towards the mountains or falls towards the valley floor and is exposed/not located close to existing buildings.





Aerial image showing the position of the sawmill and the terrain of the land included on the farm.



Farm maps provided showing lands at Sandbank Road

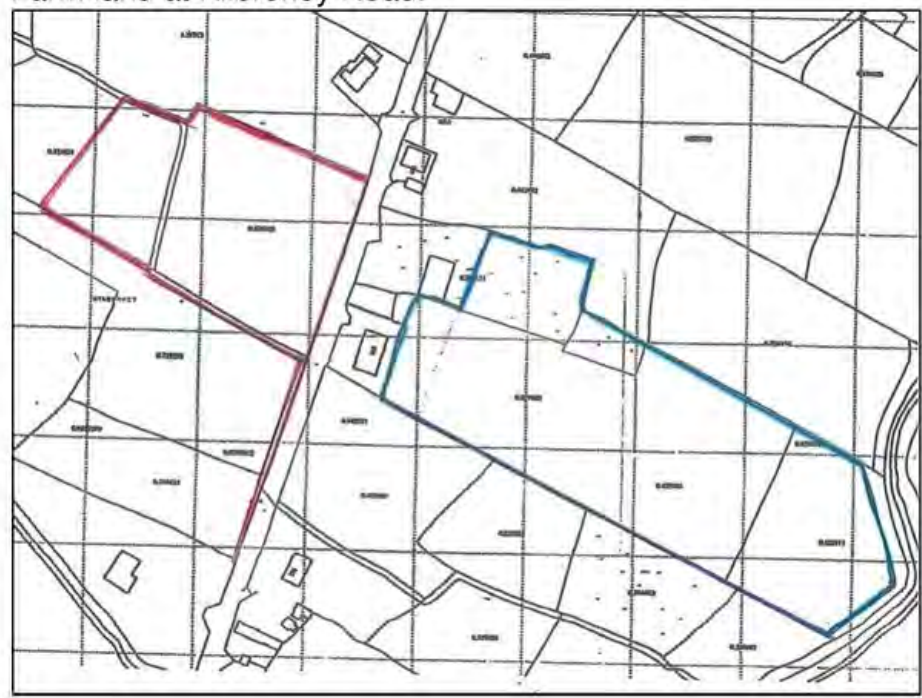
Paragraph 5.40 states "Planning permission will not be granted for a dwelling under this policy where a rural business is artificially divided solely for the purpose of obtaining planning permission....."

The farm maps submitted with application P/2013/0217/O showed several fields to the rear of No. 107 Kilbroney Road within the farm holding. These fields are absent from this new application, although the same land is outlined in blue on the 1:2500 site location map. As these fields no longer form part of this farm holding they cannot be considered under this application as an alternative site.

I would be concerned that this farm has been artificially divided to only include one field on the Kilbroney Road on which to site a dwelling.



Farm land at Kilbroney Road.





Paragraph 5.41 adds “To help minimise impact on the character and appearance of the landscape such dwellings should be positioned sensitively with an established group of buildings on the farm, either to form an integral part of that particular building group, or when viewed from surrounding vantage points, it reads as being visually interlinked with those buildings, with little appreciation of any physical separation that may exist between them (underlining my emphasis)  
 .....It will not be acceptable to position a new dwelling with buildings which are on a neighbouring farm holding”.

The proposed site is not located to cluster with any existing buildings on the farm. No. 107 is directly across the road and although in some instances, farm complexes straddle roads, I don't think the proposed site offers the visual linkage required by CTY 10. The Kilbroney Road represents a significant physical separation between No. 107 and the application site. A dwelling on the proposed site would read as a separate residential unit and would not read together with No. 107. In addition, the works required to provide the visibility splays would have a detrimental and urbanising effect on this part of Kilbroney Road.

Numerous PAC decisions have concluded that policies CTY 13 and CTY 14 are important material considerations in the determination of planning applications for farm dwellings.

CTY 13 assesses the impact this proposal will have on the rural area by reason of design, siting, integration and landscaping.

Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.

A new building will be unacceptable where:

- (a) it is a prominent feature in the landscape; or
- (b) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or
- (c) it relies primarily on the use of new landscaping for integration; or
- (d) ancillary works do not integrate with their surroundings; or
- (e) the design of the building is inappropriate for the site and its locality; or
- (f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; or
- (g) in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.  
 (underlining my emphasis)

The proposed site lacks established boundaries on three sides and as a result it would require significant new landscaping to achieve satisfactory integration. The fact the site is on an elevated portion of a larger field makes the issue even more obvious. A dwelling on this site would always appear to be a section of a much larger agricultural field.





View of the site travelling south towards Rostrevor (No. 107 is located to the left).



View of the site travelling north (No. 107 is located to the right)

The site lacks long established natural boundaries and would require the introduction of significant new landscaping to help a dwelling integrate. Although the vegetation would grow over time, the site would always appear unnatural within this larger field.

Policy CTY 13 (Integration). The critical views are from Kilbroney Road. There are no trees or existing vegetation to help a dwelling integrate as the site is a section cut out of a field. There is insufficient enclosure for a new dwelling and a site should not rely on new planting to make it acceptable under CTY 13.

I would consider a dwelling sited to the east/south east of No. 107 Kilbroney Road to cluster with the farm complex (in the land currently outlined in blue, unfortunately this land it now outside the farm holding for the purposes of the farm business number but was included in the holding under the previous application P/2013/0217/O). A dwelling here would not be prominent and would more easily integrate with the landscape and cluster with the farm complex.

As the site is within the Mourne AONB and Policy NH 6 - Areas of Outstanding Natural Beauty will apply. The policy states that 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. A number of additional criteria are listed relating to siting, scale and design.

### **Recommendation**

Critically for this application the SPPS was published in September 2015 and this policy will carry significant weight as it states that in relation to a dwelling on a farm that dwellings must also comply with policies on integration and rural character. The SPPS states that any conflict between the SPPS and a retained policy must be resolved in favour of the provisions of the SPPS (P7).

In my opinion, the recent PAC decisions for farm dwellings where CTY 13 and 14 are considered to be significant material considerations and the publication of the SPPS highlights the importance of good siting and integration in relation to farm dwellings.

The farm land that was previously included on the holding under application P/2013/0217/O is still included in the 'blue' line on the 1:2500 site location map. I have concerns that this farm has been manipulated/artificially divided solely to obtain planning permission on the proposed site while there are other more appropriate sites within the applicants control. The current farm land leaves a single field on the Kilbroney Road to locate a farm dwelling.

I don't consider the proposed site to visually link/cluster with No. 107 and the adjacent sheds at No. 107A are not part of this farm holding and planning policy does not allow new dwellings to cluster with buildings on neighbouring farm holding.

This is a poor site that offers little to nothing in terms of integration. There are no natural boundaries around the site and a dwelling would be unable to satisfactorily integrate.

Refusal is recommended.

1. 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:  
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.

2. 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 Kilbroney Road.

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

the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape;

the proposed building relies primarily on the use of new landscaping for integration;

the proposed building fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop

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 create or add to a ribbon of development and would therefore further erode the rural character of the countryside.



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

**ITEM NO** 22

**APPLIC NO** LA07/2016/1058/F **Full** **DATE VALID** 8/4/16

**COUNCIL OPINION** REFUSAL

**APPLICANT** C&G Tinnelly & Mr K Morgan 3  
Shore Road Rostrevor  
10 Lower Knockbarragh Road  
Rostrevor

**AGENT** Cole Partnership  
12A Duke Street  
Warrenpoint  
BT34 3JY

028 4175 3679

**LOCATION** 50 metres South of No. 25 Greenpark Road  
Rostrevor

**PROPOSAL** Removal of condition No. 17 (with regard to social housing) on approval No P/  
2007/1732/F

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

- 1 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and designated zoning RR03 of the Banbridge Newry and Mourne Area Plan 2015 in that the key site requirement states that a minimum of 8 dwellings shall be provided for social housing.



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

**Application Reference:** LA07/2016/1058/F

**Date Received:** 29<sup>th</sup> July 2016

**Proposal:** Removal of condition No. 17 (with regard to social housing) on approval No. P/2007/1732/F

**Location:** 50 metres South of No. 25 Greenpark Road, Rostrevor.



**Site Characteristics & Area Characteristics:**

The site is located within the development of Rostrevor along the road frontage of Greenpark Road. It is immediately adjacent to an equestrian facility that is accessed at the southern boundary of the site and sweeps uphill to Rostrevor Equestrian Centre which is located on a flat plateau above the application site. The roadside boundary is defined by a 0.5m stone wall and a 1m post and wire fence. The land is currently used for keeping horses. Opposite the site is a football pitch and its associated car park.

**Site History:**

Planning permission was granted on the application site under ref P/2007/1732/F for the "Erection of 15No. dwellings and 3No apartments (amended scheme). Condition No. 17 of this planning approval states:

*A minimum of 8 residential units within the development hereby approved shall be provided for social rented housing and shall be occupied only by a person or persons who have been selected from the Northern Ireland Housing Executive housing waiting list. The developer shall provide details of the specific units to be allocated for social housing prior to the occupation of any prt of the development hereby permitted.*

*Reason: To serve the social housing need in this area as identified in the Housing Needs Assessment prepared by the NIHE.*

**Planning Policies & Material Considerations:**

- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Banbridge, Newry and Mourne Area Plan 2015

**Consultations:**

NI Housing Executive – the response states:

At 31 March 2015, we identified a projected housing need, to 2020, of 30 social housing units for Rostrevor. The Social Housing Development Programme 2016/19 currently has no schemes programmed for Rostrevor as Housing Associations are experiencing great difficulty in acquiring and progressing sites within the village. We therefore strongly object to the removal of the condition with regard to social housing on this site.

**Objections & Representations**

2 neighbours notified on 15<sup>th</sup> August 2016 and advertised in three local papers on 15<sup>th</sup> August 2016

No objections/representations received.

**Consideration and Assessment:**

Strategic Planning Policy Statement for NI

Pages 69-75 sets out the strategic approach for the provision of housing in settlements.

Page 73 of the SPPS sets out how Local development Pland will facilitate a reasonable mix of housing.

**Housing Needs Assessment / Housing Market Analysis (HNA/HMA** – provides an evidence base that must be taken into consideration in the allocation, through the development plan, of land required to facilitate the right mix of housing tenures including open market and special housing needs such as affordable housing<sup>41</sup>, social housing, supported housing and travellers accommodation. The HNA will influence how LDPs facilitate a reasonable mix and balance of housing tenures and types. The Northern



Ireland Housing Executive, or the relevant housing authority, will carry out the HNA/HMA.

### **Affordable Housing\***

**Paragraph 6.143** states "The HNA/HMA (Housing Needs Assessment)/HMA (Housing Market Analysis) undertaken by the Northern Ireland Housing Executive, or the relevant housing authority, will identify the range of specific housing needs, including social/affordable housing requirements. The development plan process will be the primary vehicle to facilitate any identified need by zoning land or by indicating, through key site requirements, where a proportion of a site may be required for social/affordable housing. This will not preclude other sites coming forward through the development management process.

\* Draft PPS 22 'Affordable Housing' was published for public consultation in June 2014 at the same time as DSD's draft 'Developer Contributions for Affordable Housing' policy. DSD are currently taking forward research which both Ministers will consider before finalising any future policy on Affordable Housing.

It is clear from the provisions of the SPPS that housing allocations are based on a wide range of information, market analysis and input from numerous stakeholders. In relation to Social Housing the NIHE will have a significant input into the final figures agreed for the number of units required over a plan period.

### **Banbridge Newry and Mourne Area plan 2015**

Under the BNMAP the proposed site is identified as providing 8No social housing units and as a committed housing site under designation RR03. In relation to social housing in Rostrevor the plan states at page 154 "Where a social housing need has been identified, a key site requirement has been attached to the following sites to provide housing in the settlement. RR03 Greenpark Road (8 units) and RR04 Warrenpoint Road (28 units).

Zoning RR03 has 4No. key site requirements. The first relates to the provision of 8No. units for social housing.

The applicant has provided a document titled Social Housing Development Programme –Unmet Social Housing Need Prospectus, dated 16/1/2016 bearing the NIHE logo

Inside this document it notes that it has been prepared by Strategic Planning and Research and forms an integral part of the Social Housing and Development Programme. The prospectus provides information for housing associations and developers in respect of locations where there is unmet social housing need.

Page 3 of the document sets out the difference between

- Unmet Social Housing Need (general unmet need)
- Supported Housing Need (as defined by representatives from Health and Social Services Board, Probation Board and NI Housing Executive)
- Travellers Housing Need (NI Travellers unit)

The tables in the document relate to Unmet Social Housing Need November 2015

Page 7 relates to Rostrevor.

Unmet urban need	Unmet rural need	Total unmet
0	21	21

Critically for this application, the issue is not in relation to unmet social housing need, rather it is **supported housing need**.

The NIHE have clearly programmed the 8No. units agreed to be built at Greenpark Road into the future requirements for Rostrevor. The consultation response supports this view.

Contrary to BNMAP – zoning RR 03 which requires a minimum of 8 units for social housing.

NIHE strongly objects to the removal of the condition.

**Recommendation:**

Refusal

The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and designated zoning RR03 of the Banbridge Newry and Mourne Area Plan 2015 in that the key site requirement states that a minimum of 8 dwellings shall be provided for social housing.

<b>Case Officer Signature</b>	<i>L. DeKey</i>
<b>Date</b>	<i>15/9/16</i>
<b>Appointed Officer Signature</b>	<i>[Signature]</i>
<b>Date</b>	<i>18 Sept 2016</i>

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

**ITEM NO** 6  
**APPLIC NO** LA07/2016/0132/F Full **DATE VALID** 1/29/16  
**COUNCIL OPINION** REFUSAL  
**APPLICANT** Mr and Mrs Murphy 35 Ballagh Road Newcastle BT30 0LA  
**AGENT** Matrix Planning Consultancy 29 Old Belfast Road Newtownards BT23 4SG  
 NA

**LOCATION** To the rear of 35 Ballagh Road Newcastle BT33 0LA

**PROPOSAL** Extension to existing camper van site

<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>	
	13	0		0	0
			<b>Addresses Signatures</b>		
			0	0	0

- 1 The proposal is contrary to Policy COU1 of the Banbridge, Newry and Mourne Area Plan 2015 in that the site lies within a Special Countryside Area and the proposal is not of national or regional importance or a consolidation of existing development, so it does not justify relaxation of the strict planning controls exercised in this area.
- 2 The proposal is contrary to paragraphs 6.254 and 6.260 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy TSM6 of Planning Policy Statement 16 - Tourism, in that the extended holiday park is not a high quality and sustainable form of tourism development because it encroaches on the Mournes Special Countryside Area.
- 3 The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the site is within a Special Countryside Area designated in the Banbridge, Newry and Mourne Area Plan 2015 and the proposal does not comply with the specific policy provisions of the above Plan.





Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2016/0132/F

**Date Received:** 29<sup>th</sup> January 2016

**Proposal:** Extension to existing camper van site

**Location:** To the rear of 35 Ballagh Road, Newcastle, BT33 0LA  
The site is located approximately 1 mile south of Newcastle on the main A2 coastal route.

**Site Characteristics & Area Characteristics:**

The site comprises a tiered area to the upper (west) side of an approved motor home site. It is well enclosed by hedging and mature trees including conifers, rhododendrons and a monkey puzzle. It was originally part of the garden of the dwelling to the east and contained a tennis court, though this use was abandoned and the site became overgrown. Areas have now been gravelled to provide level hardstanding for motor homes and there are a number of electric hook up points. An enforcement notice has been served on these operations. The lower part of the site contains a toilet block under construction and an existing dwelling house and outbuildings owned by the applicant. It is accessed from Ballagh Road to the east via a concreted laneway. The land slopes steeply from west to east towards the Irish Sea Coast, over which there are spectacular views from the site.







The site is located in a rural coastal area to the south of Newcastle. This upper section of the site is zoned as Special Countryside Area on the Banbridge, Newry and Mourne Area Plan 2015. It is also within the Mourne and Slieve Croob Area of Outstanding Natural Beauty. The A2 Ballagh Road from which the site is accessed is a Protected Route. The Eastern Mourne SAC and ASSI is to the west of the site. The area is a narrow strip of accessible land between the coast and the high Mourne Mountains. It has a substantial number of detached single houses, though there are some other agricultural and commercial uses including tourist or recreational facilities.

#### **Site History:**

P/2005/1843/F – Provision of new access. Approved 21/12/2005

On 1<sup>st</sup> June 2010 the DOE opened an enforcement case after an anonymous complaint was received that an unauthorised caravan site was being created at 35 Ballagh Road.

P/2010/1041/F – Proposed motor home site (lower section of site). Approved 10/12/2015

The DOE issued a Change of Use Enforcement Notice (EN/P/2010/0210/CA/01) on 4<sup>th</sup> March 2013 relating to unauthorised use of the land for the parking of motor homes/caravans, etc. At a subsequent Enforcement appeal, the appellant withdrew all grounds of appeal except ground (g), and the Commissioner varied the compliance period to 200 days to allow determination of the CLUD application and planning application. Both have now been determined, but the hardstanding and utility connection points on the unauthorised upper area remain. The Council has now taken over responsibility for the enforcement case which remains open and further action will be taken depending on the outcome of the current application.

P/2013/0509/LDE – Existing established curtilage of a dwelling. Refused 4/11/2013  
The use of the upper section of the site as part of a domestic curtilage was considered to have long ceased, so the certificate was refused.

The December 2015 approval permits the parking of motor homes on the lower section of the site, but the enforcement notice remains effective for unauthorised change of use of the upper area which is the subject of this application.

**Planning Policies & Material Considerations:**

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

**Consultations:**

TransportNI – The site relies on an existing access from Ballagh Road. Works have been carried out to provide the southern visibility splay as required under the 2015 approval. Sight lines were provided to the north side in 2010, though they were subsequently blocked by the re-building of a wall by a neighbour. Enforcement action was initiated against this breach of planning control by the DOE. The Enforcement Notice (EN/P/2010/0210/CA/01) was upheld by the Planning Appeals Commission on 27<sup>th</sup> September 2013. Jurisdiction has now passed to the Council and further action is being pursued to ensure that the unauthorised wall is removed. Provided this takes place, there will be a safe access to the site and TransportNI have no objections.

NIEA – Standard advice on sewerage & drainage. Provided the discharge from the septic tank is directed away from any onsite water bodies, there are unlikely to be any adverse effects on natural heritage features. Advice on protected species provided.

Shared Environmental Service – The proposal is not likely to have a significant effect on the selection features, conservation objectives or status of any European site.

Environmental Health – The applicant is currently seeking a Caravan Site License under the Caravans (Northern Ireland) Act 1963. This would require amendment if the extension to the site is granted. No objections provided the site is managed to prevent noise nuisance to nearby properties.

**Objections & Representations:**

The application was advertised in the *Mourne Observer* on 17<sup>th</sup> February 2016 and the two neighbouring properties were notified of the proposal on 11<sup>th</sup> April 2016 as required under Article 8 (1)(b) of the Planning (General Development Procedure) Order (Northern Ireland) 2015.

Letters of objection were received from the residents of 10 properties on Ballagh Road. In addition, a solicitor's letter was received stating that the owner of No. 31 had not given consent for sight lines across the front of their property. Finally, an objection was received from T. A. Gourley Planning Consultancy on behalf of "Ballagh Road Residents". No addresses are given, but it is assumed to be on behalf of a number of the people who had already objected.

The issues raised in the objections and the Council's consideration of them may be summarised as follows:



ISSUE	CONSIDERATION
The present site is operating in non-compliance with planning permission	This is a matter that is being pursued by the Enforcement section
The application should be described as retention of development	While the works may be in-situ, the use as a camper van site is not authorised, so it can reasonably be described as an extension to the approved site
The site is within the Special Countryside Area and does not meet the exceptions where development can be permitted. To do so would set a harmful precedent.	The planning department would agree
Overlooking of adjoining residential properties and gardens	This will not be an issue given the mature vegetation around the site
Trees were removed to facilitate the development	The site remains well screened from public view
Traffic using the access will double	TransportNI is content with this provided the unauthorised wall is removed
Claims that the wall blocking the visibility splay is not the one subject to the Enforcement Notice, but the repaired original wall which was 'maliciously' damaged by the applicant	Whether or not the wall is considered a repair, the PAC have stated that any structure here is development and requires permission as it is within a visibility splay
The planning authority should have redacted allegations made by the agent in his supporting statement	Personal information would be redacted, but as planning is an open and transparent process, other information is made available for public viewing. This does not in any way confer the agreement of the planning authority with all aspects of any representation made, or that any weight is given to these matters in reaching a decision on the application. Any remarks that are considered defamatory should be pursued as a civil matter with a solicitor.
Claims that objectors have been prejudiced because the planning authority has not published an email to the agent dated 10 <sup>th</sup> June along with his response received on 1 <sup>st</sup> July.	It is not feasible for the planning authority to publish every email relating to applications, however, the email was supplied directly to Mr Gourley when he requested it by phone on 19 <sup>th</sup> August (before he submitted his representation) and it is misleading for him to claim that he has been prejudiced in some way by not seeing this.
Complaints about the failure to correctly serve notice on neighbouring landowners under the 2005 application	This is not relevant to the current application and there is no prejudice as relevant neighbours are aware of the proposal and have objected.
Solicitor's letter claims the present application confirms ownership of adjoining land for visibility splays	This is clearly incorrect as the red line only includes the upper section of the site and no visibility splays are shown

ISSUE	CONSIDERATION
Complaint from owner of a property 800m away that he was not neighbour notified	This house is not on neighbouring land within 90 metres and does not fall under the neighbour notification scheme
Application is contrary to PPS12	PPS12 relates to Housing in Settlements and is not relevant to this application
Allegation that the previous planning authority broke their own procedures and was working on behalf of the developer to push the previous application through	This is utterly without foundation and unsubstantiated in evidence
The developer's agent is an ex-senior planner	The developer may employ anyone he wishes to act on his behalf, but this has absolutely no bearing on the decision-making process.
Assertion that the planning department cannot be trusted and will not deal honestly with the application	This is at odds with the professional ethos of all staff in the department
Complaint about signage advertising spaces for tents and caravans in addition to camper vans	These fall into the same type of use as the camper van site and in any case, a tent could be erected on the land without planning permission
There is no need for a large motor home site in the area	Policy no longer requires demonstration of tourist need
The development alienates local people and will therefore harm the tourism industry	The application will be determined on its merits against policy, though the views of local people, where they are in accordance with policy, are a material consideration
The planning system is not transparent because the applicant has not complied with his original permission	Any breaches of planning control by the applicant and others in the area will be investigated and action taken, however, the system is essentially 'reactive' to the actions of individuals as these cannot be pre-empted.
Concern about potential noise and music played on site, especially if there are tents. Noise assessment required.	Environmental Health will require the site to be managed to prevent noise nuisance to nearby properties. They have powers under other legislation to deal with any genuine complaints that arise. They identified no need for a full noise assessment.
The existing access is sub-standard	The only remaining problem with the access is the unauthorised wall built by one of the objectors and the Council is taking action to have this removed.
Adverse impacts on the Eastern Mourne SAC / ASSI	The impact of the proposal on these sites has been assessed by NIEA and SES and no issues were identified.

In summary, the Council agrees with the concern regarding the site's location within the Special Countryside Area, but cannot give determining weight to the other issues raised.

### **Consideration and Assessment:**

Policy RG4 of the Regional Development Strategy 2035 aims to promote a sustainable approach to the provision of tourism infrastructure. All new or extended infrastructure required to support and enhance the tourist industry needs to be appropriately located and sited with proper regard to tourism benefit and the safeguarding of the natural and built environment on which tourism depends. The site is located in proximity to the Strategic Natural Resource of the Mourne. The principle of the proposal and its impact on the environment will be assessed under existing operational policy below.

The SPPS recognises the vital contribution of tourism to the Northern Ireland economy and seeks to promote a sustainable approach to the provision of tourism infrastructure. With regard to extensions to holiday parks in the countryside, the SPPS simply states at paragraph 6.260 that it must be a high quality and sustainable form of tourism development. Paragraph 6.254 states that sustainable tourism development is brought about by balancing the needs of tourists and the tourism industry with conserving the tourism asset. The previous approval attempted to strike this balance by permitting a small scale motor home park in a location that takes advantage of the tourism asset of the Mourne, while not actually encroaching on this asset. There is no evidence that the approved smaller site is operating at capacity. Now seeking to extend the site into the exceptional Special Countryside Area (SCA) landscape is not considered sustainable and could set a harmful precedent for other tourism operators around the Mourne. The proposal is considered contrary to the sustainable tourism policy of the SPPS.

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. However, of particular relevance to this application is the land zoning of this upper part of the site as Special Countryside Area. This designation is reserved for the most exceptional landscapes in the plan area. It was identified following a process of Countryside Assessment. While noting the agent's comments that the site has always been part of a domestic curtilage and should not be included in the SCA, it was designated through a recognised plan process and it is not for the Council to now query the original designation in a plan that has been adopted. To do so would set a harmful precedent. It is also noted that an application to prove the use of this land as a domestic curtilage was refused in 2013.

Policy COU1 in the Area Plan states that in Special Countryside Areas, planning permission will only be granted to development proposals which are:



- of such national or regional importance as to outweigh any potential detrimental impact on the unique qualities of the upland environment; or
- the consolidation of existing development providing it is in character and scale, does not threaten any nature conservation or built heritage interest and can be integrated with the landscape.

This is a small-scale facility and while it will aim to serve the tourism industry which is of importance to the wider Mourne region and Northern Ireland generally, the proposal cannot of itself be said to be of such national or regional importance that incursion into the special upland environment can be justified. The agent has argued that the proposal meets the second bullet point as a consolidation of existing development. He states that there is no definition of 'consolidation', that there is existing development on the site including a laneway, stone wall and former tennis court (none of which were to be removed under the effective enforcement notice) and that the site is well screened. The High Mourne area is famous for its locally distinctive walls and laneways, but such cannot be used to justify development within the SCA. It is accepted that the site is well screened, but the test here is not primarily a visual one. Instead it concerns the principle of new land uses within an exceptional landscape. The existing approved motor home site is outside the designated area and irrespective of the fact that the site is claimed to be part of the same original domestic curtilage, development outside the SCA cannot be used as a justification for a change of use of land within the SCA. It would not represent consolidation of the approved motor home site, but the introduction of a new land use into an area that the Area Plan states should be preserved in its existing state. If this application was approved, it would set a harmful precedent that could lead to other changes of use of land in the SCA.

As development in the countryside, the proposal must 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 scheme must be considered under that policy. As the SPPS is less prescriptive than PPS16, the retained policy of PPS16 will be given substantial weight in accordance with paragraph 1.12 of the SPPS.

Proposals for extended holiday parks in the countryside will be assessed under policy TSM6 of PPS16. It replicates the requirements of the SPPS in that the proposal must create a high quality and sustainable form of tourism development. As discussed above, this proposal is not sustainable as it encroaches on the exceptional landscape of the SCA and approving it would set a dangerous precedent for other tourism uses across the special landscapes of the plan area. Accordingly, the proposal is contrary to the first paragraph of policy TSM6. There is no conflict between the wording of this paragraph and paragraph 6.260 of the SPPS. The proposal is contrary to both.

Policy TSM6 goes on to list a number of other requirements which the scheme would generally comply with. The site is well landscaped and suitably laid out for the parking of camper vans. While buffer planting was required by condition on the lower section of the site due to the proximity of neighbouring dwellings, no additional landscaping is considered necessary on this upper section. The existing trees would

enable the development to be absorbed into the landscape without adverse effects on visual amenity or rural character. The layout is informal and would lend itself to the provision of generous communal open space above the 15% threshold. There are no ancillary buildings proposed with this application and the concrete laneway to the upper site does not harm the character of the area. There are no archaeological or built heritage features that would be adversely affected by the proposal. Shared Environmental Services has carried out a Test of Likely Significance for effects on European Sites in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features of any European site. With regard to the ASSI designation to the west of the site, NIEA Natural Environment Division has no objections. Existing trees could be conditioned to be retained if the application was approved. Mains water supply is available. As there is no mains sewer, a septic tank can be used.

Tourism development proposals are also subject to the design and general criteria in policy TSM7. There are no particular issues with movement pattern and there are public transport routes running past the entrance to the site. The site is well laid out and landscaped with mature boundaries. There is limited hard surfacing so surface run-off should not be an issue. The site is secure and the change in levels provides opportunities for informal surveillance to deter crime. There is no public art in the proposal. The small scale of the proposal is considered compatible with surrounding residential land uses. The proposed upper section is further away from neighbouring houses and should not harm amenity through noise or loss of privacy. Discharge Consent for the septic tank would be required under other legislation (The Water (NI) Order 1999). There will be no harm to water quality provided the discharge is directed away from any onsite water bodies. The proposal does not constrain access to the coastline or tourism assets.

The related matter of access to the site has been considered in detail during the previous applications and appeals. Policy AMP2 of PPS3 states that planning permission will only be granted for a development proposal involving direct access onto a public road, or the intensification of the use of an existing access where such access will not prejudice road safety or traffic flow. Paragraph 5.16 of Policy AMP2 makes reference to DCAN 15 which sets out the current standards for sightlines that will be applied to a new access onto a public road. In this case, splays of 2.4m x 160m were to be provided in both directions. The southern sight splay is now in situ as required under the previous permission. The northern splay was blocked by the unauthorised rebuilding of a wall by a neighbour. The PAC clearly stated in appeal 2013/E002 that this operation constitutes development and requires planning permission because it obstructs the visibility at an access provided with the benefit of planning permission. The Commissioner varied the Enforcement Notice to extend the period for compliance to 90 days. However, the unauthorised wall has still not been removed. Jurisdiction has now passed to the Council and further action is being pursued to ensure that the unauthorised wall is removed. Provided this takes place, there will be a safe access to the site which does not prejudice road safety or traffic flow and TransportNI have no objections. As the A2 is a Protected Route, policy AMP3 of PPS3 is also applicable. Since the proposal meets the general criteria for tourism development in the countryside (with the exception of its location in a Special Countryside Area), it is considered to fall within the 'other categories of development' where use of an existing access onto a protected route is justified.

The site is within the Mournes and Slieve Croob Area of Outstanding Natural Beauty, so policy NH6 of PPS2 – Natural Heritage is applicable. This policy is essentially a visual test of the application's impact on the protected landscape. The siting and scale of the proposal will not harm the special character of the Mournes area due to the existing natural screening which limits public views. Existing boundary features will be retained.

The agent has highlighted the requirement in Sections 6 and 45 of the Planning Act (Northern Ireland) 2011 that other material considerations are given weight as well as the local development plan, and court judgements that planning policies do not need to be slavishly adhered to. However, the policy framework is now 'plan-led' and the policies of the adopted plan are one of the principal material considerations. SCAs are distinct from the operational policies in force for other areas of the countryside. Policy CTY1 of PPS21 is clear that where a Special Countryside Area is designated in a development plan, no development will be permitted unless it complies with the specific policy provisions of the relevant plan. Notwithstanding the proposal's compliance in principle with other parts of PPS16, the site's location in the SCA is a critical consideration and it is considered entirely appropriate to give determining weight to the provisions of the development plan in this case. On this basis, the application is also contrary to policy CTY1.

**Recommendation:** Refusal

#### **Reasons for Refusal:**

1. The proposal is contrary to Policy COU1 of the Banbridge, Newry and Mourne Area Plan 2015 in that the site lies within a Special Countryside Area and the proposal is not of national or regional importance or a consolidation of existing development, so it does not justify relaxation of the strict planning controls exercised in this area.
2. The proposal is contrary to paragraphs 6.254 and 6.260 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy TSM6 of Planning Policy Statement 16 - Tourism, in that the extended holiday park is not a high quality and sustainable form of tourism development because it encroaches on the Mournes Special Countryside Area.
3. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the site is within a Special Countryside Area designated in the Banbridge, Newry and Mourne Area Plan 2015 and the proposal does not comply with the specific policy provisions of the above Plan.

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date:**



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

**ITEM NO** 26  
**APPLIC NO** P/2014/0769/O Outline **DATE VALID** 9/12/14  
**COUNCIL OPINION** REFUSAL  
**APPLICANT** Mr Kevin Cunningham 10 **AGENT** Cole Partnership  
 Ballynahatten Road 12A Duke Street  
 Kilkeel Warrenpoint  
 BT34 4LG BT34 3JY  
 02841753679

**LOCATION** 210 metres south of no 36 Belmont Road  
 Kilkeel  
 BT34 4LA

**PROPOSAL** Site for dwelling on a farm

<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>	
	0	0		0	0
			<b>Addresses</b>	<b>Signatures</b>	<b>Addresses</b>
			0	0	0
			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 development opportunities have not been sold off from the farm holding within 10 years of the date of the application and it also 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.
- 2 The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks long established natural boundaries, the proposed building relies primarily on the use of new landscaping for integration, the ancillary works do not integrate with their surroundings, 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 impact of ancillary works would damage rural character and would therefore further erode the rural character of the countryside.



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**Newry, Mourne  
and Down**  
District Council

**Application Reference:** P/2014/0769/O

**Date Received:** 12/09/2014

**Proposal:**

Site for dwelling on a farm.

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

**Location:**

210 metres south of no 36 Belmont Road, Kilkeel, BT34 4LA.

The site is located in a rural area approximately 2 miles west of Kilkeel.

**Site Characteristics & Area Characteristics:**

This rural site is part of a larger agricultural field currently used for grazing. The site is to be accessed from the Belmont Road from a new laneway which then joins an existing laneway. The new laneway runs along the southern boundary of an existing building site and through an agricultural field; it is not enclosed. The existing laneway is narrow, laid in stone with grass growing up the middle of it and has mature hedging at either side enclosing it. The site itself measures approximately 42m by 38m and has an agricultural building south of and adjacent to the site, with a yard laid in concrete and the remains of one wall of a dwelling which has been replaced enclosing the farmyard. The western boundary of the site is comprised of a mature hedge, the farm building comprises approximately one third of the southern boundary and the remainder of the southern boundary and the northern and eastern boundaries are all undefined. The site itself is relatively flat, however the landscape in the area is undulating.

The site is located outside of settlement development limits, as defined in the Banbridge / Newry and Mourne Area Plan 2015. The site itself is unzoned although it does lie within the Mourne Area of Outstanding Natural Beauty. There are no historic sites or monuments in close proximity to the site. A building site, currently laid in foundations, is located approximately 40m north-west of the site and no.31A Belmont Lane is located approximately 110m north of the site.

**Site History:**

The site is within the redline boundary of one other planning application:

1. P/2012/0221/O – Proposed replacement dwelling – Granted planning permission on 03/08/2012. Subsequently full permission of the replacement



was granted in LA07/2015/0695/F. The dwelling is currently built to foundation level and is located approximately 40m north-west of the site.

### **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 21 – Sustainable Development in the Countryside.
- The Building on Tradition Sustainable Design Guide.

### **Consultations:**

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

1. Environmental Health – 22/09/2014 – No objections in principle.
2. NI Water – 09/10/2014 – Generic response.
3. DARD – 11/12/2014 – In existence for more than 6 years and claims DARD support.
4. Transport NI – 09/10/2015 – No objections in principle.

### **Objections & Representations**

This planning application was advertised in the local press on 23/09/2014 and there were no neighbours who were required to be notified by letter. No letters of objection or any other representations have been received for 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 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 11/12/2014 that the farm business (Ref: 654989) has been established for more than 6 years and it claims DARD support, 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 of the site history of land in the farm ownership, it was shown that two separate replacement dwellings have been applied for in fields belonging to the applicant with the DARD field numbers 3/089/033/24 and 3/089/033/17. In DARD field number 3/089/033/24 the applicant of this application was granted outline planning permission for a replacement dwelling on 07/08/2012 in P/2012/0221/O and following this approval Mrs R. Morris was granted full planning permission for a dwelling on this site on 04/05/2016 through the planning application LA07/2015/0695/F. The applicant of this planning application was awarded outline planning permission on 03/03/2012 to replace a dwelling north-west of DARD field number 3/089/033/17 through P/2010/1218/O. A further planning application was granted on this site for Gerry and Claire Morgan for a replacement dwelling on 28/01/2014 through P/2013/0705/F. Paragraph 5.40 of PPS 21 states:

*“Planning permission will not be granted for a dwelling under this policy where a rural business is artificially divided solely for the purpose of obtaining planning permission or has recently sold-off a development opportunity from the farm such as a replacement dwelling or other building capable of conversion. For the purposes of this policy, ‘sold-off’ will mean any development opportunity disposed of from the farm holding to any other person including a member of the family.”*

The agent was asked to clarify if the site for planning application LA07/2015/0695/F had been sold off the farm. A solicitor’s letter confirmed the sale of this land completed on 16/04/2015 and the agent states that this was after the date of the application. Policy CTY 10 requires no dwelling or development opportunities to have been sold off from the farm within 10 years of the date of the application. This site has been sold-off within 10 years of the date of the planning application and the proposed development therefore fails to comply with this criterion. The agent was not asked to clarify if the development opportunity in field 3/089/033/17 had been sold-off the farm as it had already been demonstrated that they failed to comply with this criterion, but using the P1 Form of P/2013/0705/F the Certificate of Interest in the land declares Gerry and Claire Morgan as the owners.

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. The policy requires the dwelling to be visually linked to or sited to cluster with an established group of buildings (plural) on the farm. Only one building exists at this area of the farm and therefore the proposed dwelling fails to

comply with this criterion with regards to visually linking to or being sited to cluster with an established group of buildings (plural) on the farm. With regards to using the existing access, the existing lane to Belmont Road cannot be used as the applicant is unable to provide the required visibility splays. It has been proposed that access will be partially provided by the existing access and from a new access which runs through an open field along the southern boundary of the site which obtained planning permission through LA07/2015/0695/F. As discussed below, there will be integration issues with these access arrangements. Overall the proposed dwelling fails to meet the requirements of criterion (c) with regards to visually linking with or being sited to cluster with an established group of buildings (plural).

A dwelling on a farm is required to meet all of the criteria in Policy CTY 10 for planning permission to be granted. The proposed development fails to comply with Criterion (b) and Criterion (c) and therefore the principle of development is not established.

#### Integration and Design

Paragraph 6.73 of the SPPS confirms that "*Dwellings on farms must also comply with LDP policies regarding integration and rural character.*" In the absence of an adopted LDP these considerations must be assessed under policies CTY 13 and CTY 14 of PPS 21.

The design of the dwelling is to be confirmed through a reserved matters application. The imposition of a restricted ridge height of the proposed dwelling would help ensure the proposed dwelling is not prominent in the local landscape. This site lacks long established boundaries and relies primarily on new landscaping for integration. The only existing boundary is the western boundary of the site and as such the proposed development fails to comply with criterion (b) and (c) of Policy CTY 13. As the dwelling does not cluster with nor is it visually linked to an established group of buildings (plural) on the farm, it fails to comply with criterion (g) of Policy CTY 13 as well. Paragraph 5.71 of PPS 21 states, "*New accesses are often a visible feature of new buildings in the countryside and on occasion can be more obtrusive than the building itself.*" The creation of this new access through an open field will be obtrusive and as such the ancillary works do not integrate with their surroundings and would damage rural character. The proposed development therefore fails to comply with criterion (d) of Policy CTY 13 and criterion (e) of Policy CTY 14.

Overall the proposed development fails to comply with criterion (b), (c), (d) and (g) of Policy CTY 13 and criterion (e) of Policy CTY 14. The proposed development therefore will not integrate into the surrounding landscape and will damage or further erode the rural character of the area.

#### Access

The proposed development will involve the creation of a new access onto Belmont Road. Transport NI was consulted and in their response dated 09/10/2015 stated it has no objections to the proposal. Visibility splays of 2.0m by 60m are required to serve this development. Although Transport NI are satisfied with the access arrangements, as discussed above, there are concerns with the proposed access with regards to Policy CTY 13 and Policy CTY 14 of PPS 21.

### Sewerage

The site can accommodate a septic tank and soak-away – subject to obtaining consent to discharge from NIEA. This requirement to satisfy other legislation will be included as an informative. Standard consultation responses were received from Environmental Health and NI Water. Their informatives will be added to the decision.

### Amenity

It is unlikely the proposed development will affect the amenity of other properties. This will be fully assessed through a reserved matters application.

### Impact on the AONB

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 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 development opportunities have not been sold off from the farm holding within 10 years of the date of the application and it also 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.
2. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks long established natural boundaries, the proposed building relies primarily on the use of new landscaping for integration, the ancillary works do not integrate with their surroundings, 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 impact of ancillary works would damage rural character and would therefore further erode the rural character of the countryside.

### **Case Officer Signature:**

### **Date:**



**Appointed Officer Signature:**

**Date:**

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

<b>ITEM NO</b>	<b>12</b>			
<b>APPLIC NO</b>	LA07/2016/0523/F	Full	<b>DATE VALID</b>	4/22/16
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>			
<b>APPLICANT</b>	Ms Naiomh Morgan 38 High Street Newry BT34 1HB		<b>AGENT</b>	J Lynam RIBA 11 Newry Road Mayobridge Newry BT34 2ET 028 30851125
<b>LOCATION</b>	Adjacent to No 13 Crieve Road Newry BT34 2JT			
<b>PROPOSAL</b>	Dwelling House			
<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 Policy QD 1 of PPS 7, Quality Residential Environments, in that the layout of the proposed development fails to respect the orientation of existing dwellings in the area, the site width is substantially less than site widths in the established residential area and the proposed access arrangements are out of character for the area.
- 2 The proposed development is contrary to Policy LC 1 of the Addendum to PPS 7, Safeguarding the Character of Established Residential Areas, in that the pattern of development is not in keeping with the overall character of the established residential area.



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**Newry, Mourne  
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District Council

**Application Reference:** LA07/2016/0523/F

**Date Received:** 22/04/2016

**Proposal:**

Dwelling House.

The applicant seeks to develop a single storey dwelling on the garden of no.13 Crieve Road, Newry.

**Location:**

Adjacent to No 13 Crieve Road, Newry BT34 2JT.

The site is located in an urban area within the settlement development limits of Newry. The site is located in the north-eastern area of Newry.

**Site Characteristics & Area Characteristics:**

This narrow elongated site is currently part of the garden to no.13 Crieve Road. The site is predominantly laid in lawn, although a small section to the rear is a flower bed. The gradient of the site increases towards the south away from the Crieve Road. The western boundary with no.11 Crieve Road is comprised of a mature hedge which is over 2m tall, the southern boundary comprised of a wall and mature trees and the northern boundary with the Crieve Road is comprised of a small hedge and five trees. There is no definable boundary to the east. No.13 Crieve Road is located east of and adjacent to the site. The property is a bungalow with plastered walls painted white, a grey granite porch, black slate roof and black UPV windows and guttering.

The site is located within the settlement development limits of Newry, as defined in the Banbridge / Newry and Mourne Area Plan 2015. The site itself is unzoned and is outside the Mourne Area of Outstanding Natural Beauty. The historic monument DOW 046:052 (prehistoric occupation site) is in close proximity to the site. This is a residential area with a number of different house types along Crieve Road. The dwellings on the southern side of Crieve Road are predominantly single storey and the dwellings on the northern side of the road are predominantly built over two storeys.

**Site History:**

Two previous planning applications have been submitted on this site:

1. P/1976/0420 – Proposed extension to bungalow – granted 02/07/1976.



2. P/2014/1062/F – Extension and alterations to dwelling and new detached garage – granted 22/06/2015.

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

This planning application will be assessed under the following policies:

- Regional Development Strategy 2035.
- Banbridge / Newry & Mourne Area Plan 2015.
- Strategic Planning Policy Statement for Northern Ireland (SPPS).
- PPS 3 – Access, Movement and Parking.
- PPS 6 – Planning Archaeology and the Built Heritage.
- PPS 7 – Quality Residential Environments.
- The Addendum to PPS 7 – Safeguarding the Character of Established Residential Environments.
- Creating Places guide.
- DCAN 8 – Housing in Existing Urban Areas.
- DCAN 15 – Vehicular Access Standards.

### **Consultations:**

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

- Environmental Health – 06/05/2016 – No objections in principle.
- Historic Environment Division – 20/05/2016 – Content the proposal satisfies PPS 6 policy requirements, subject to conditions and the implementation of a developer-funded programme of archaeological works.
- Rivers Agency – 26/05/2016 – Site does not lie in the 1 in 100 year fluvial flood plain.
- Transport NI – 05/09/2016 – No objections.

### **Objections & Representations**

This application was advertised in the local press on 03/05/2016 and seven neighbours were notified by letter. No letters of objection or any other representations have been received.

### **Consideration and Assessment:**

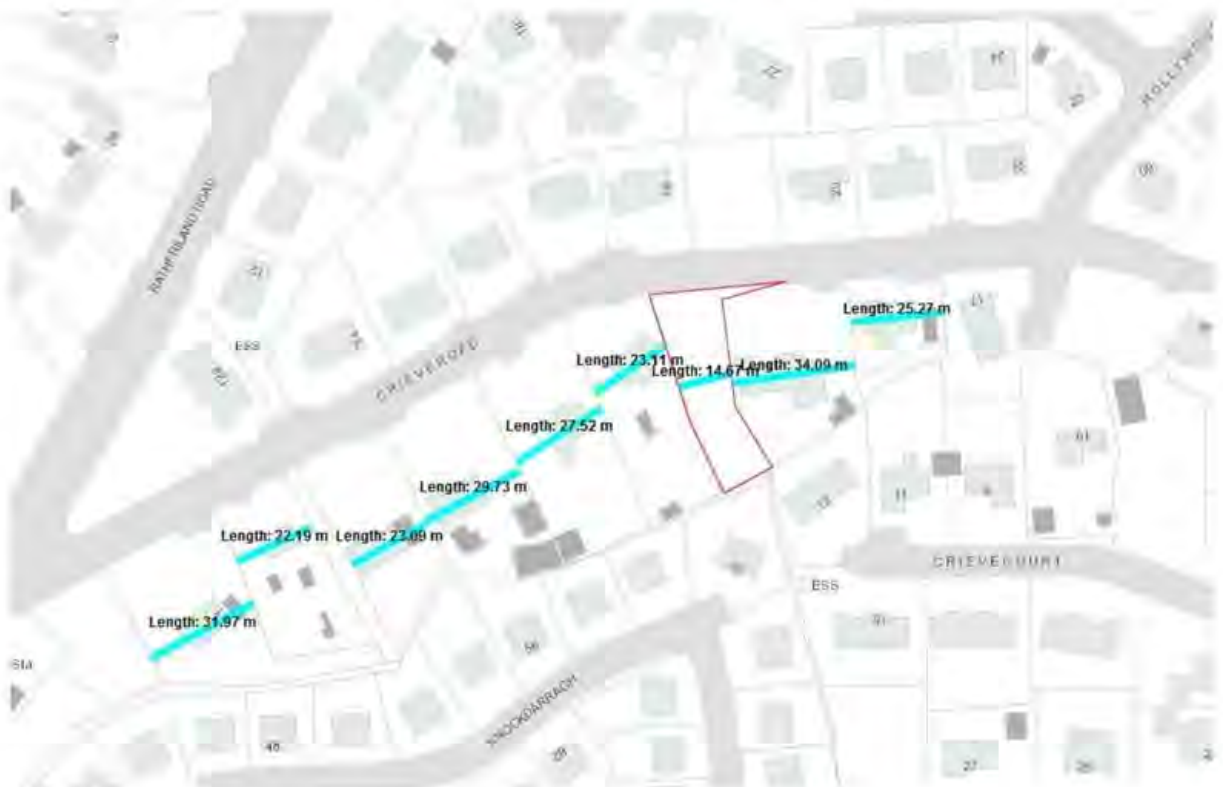
#### Banbridge / Newry and Mourne Area Plan 2015

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. The site is located inside the settlement development limit of Newry but is the site itself is unzoned. The Banbridge / Newry and Mourne Area Plan 2015 identifies that housing development may occur on windfall sites as a result of the subdivision of an existing plot. As there are no specific policies in the plan that are relevant to the determination of the application, the principle of the application will be considered under the operational policies of the SPPS, PPS 7 and the addendum to PPS 7 – Safeguarding the Character of Established Residential Environments.

**PPS 7 – Quality Residential Environments**

Policy QD 1 identifies nine criteria that new residential development is expected to conform with:

- a. The proposal fails to respect the surrounding context. The width of the site is not representative of other dwellings in the area as shown in Figure 1 below:



**Figure 1**

Using Spatial NI mapping software, the approximate width of the site is 14.67m. The lowest existing width along the section of Crieve Road is currently 22.19m at no.3 Crieve Road which shows that the proposed site is too narrow in the context of the area. Generally the curtilage of dwellings in the area is long and narrow; however the proposed site is too narrow within the context of the area as it is well below the average site width of 26.13m (excluding the application site and no.13 Crieve road).

The site appears to be crammed and the design of the building reflects this with an unconventional foot print designed to ensure the dwelling fits on the site. There is little separation between the proposed dwelling and no.11 Crieve Road, which is approximately 2.75m east of the proposed dwelling, and no.13 Crieve Road which is approximately 2.35m from the proposed dwelling. Within the area the existing dwellings are generally well separated from one another, so this proposal would not be in keeping with the area.

The orientation of dwellings in the area is that generally the front elevation is long and the side elevation is shorter. The proposed dwelling is the opposite of this trend with a shorter elevation to the front and a longer side elevation. The side elevation of the proposed dwelling is approximately 25.0m long which is much longer than the

side elevations currently in the area and this is also demonstrates how the development fails to respect the surrounding context.

The proposed access from Crieve Road is not in keeping with the area, Each dwelling along this section of Crieve Road has its own access from the main road. The proposed dwelling will be accessed immediately adjacent to the access from no.13 Crieve Road and its access sweeps across the front garden of no.13 Crieve Road. Visually this access does not respect the surrounding context and will appear unsightly.

b. The application site is in close proximity to a Neolithic occupation site (DOW 046:052). HED were consulted and in their response dated 20/05/2016, Historic Monuments Section confirmed that they are content that that proposal satisfies the policy requirements of PPS 6, however this is subject to conditions and the agreement and implementation of a developer-funded programme of archaeological works. The archaeological works will be conditioned.

c. Given the scale of the proposed development, there is no requirement for the provision of public open space. Within the proposed development provision is made for private open space with a front garden providing approximately 156m<sup>2</sup> and private space to the rear providing approximately 306m<sup>2</sup>. A hedge exists along the western boundary of the site which is to be retained and a new boundary erected at the east of the site separating the site from no.13 Crieve Road.

d. The provision of local neighbourhood facilities is not applicable to this application given the scale of development.

e. Given the scale of the development, a movement pattern is not required. It is proposed that a new vehicular and pedestrian link will be created onto the existing pavement. The road access arrangements are assessed under PPS 3.

f. The proposed development will provide off-street parking for two cars and a turning circle to assist with the manoeuvring of vehicles. Transport NI has raised no concerns over these arrangements.

g. Within the local area a range of different house types are present. The proposed dwelling is a single storey bungalow which will have blue/black natural slates on the roof, smooth rendered walls painted white and charcoal grey aluminium windows. With regards the form of the proposed dwelling, it differs to the form of dwellings already present in the locality (as discussed above). The materials and detailing would not create any conflict with those already present in the area.

h. As discussed above, the orientation of the proposed dwelling differs to those already in the area. The western elevation of the proposed dwelling is approximately 25m and the northern section of this elevation is close to no.11 Crieve Road. It is unlikely that any adverse effect on this property would be cause in terms of overlooking, loss of light, overshadowing, noise or other disturbance. Windows exist



of the western elevation, but the retention of the landscaping would ensure the privacy of no.11 Crieve Road is maintained. Therefore it will be conditioned that the hedging on the western boundary is retained.

i. The proposed development is built backing onto another dwelling and should deter crime and promote personal safety as discussed in Policy QD 1.

The proposed development fails to meet criterion (a) and as residential development is expected to conform to all the criteria, the proposal fails to meet the requirements of Policy QD 1.

#### Addendum to PPS 7 – Safeguarding the Character of Established Residential Environments

In addition to the nine criteria of Policy QD 1 in PPS 7 that new dwellings in urban areas must conform to, Policy LC 1 identifies another three criteria that must be met by dwellings infilling sites (including garden areas):

a. The proposed density is not to be significantly higher than that already found in the area. The Addendum to PPS 7 identifies density in this context as a calculation of dwellings per hectare. Having reviewed the site location map, it is clear that the proposed density is higher than that experienced in the surrounding properties. The existing site at no.13 Crieve Road is generous; however the proposed application site is not a suitable size to be developed at a density that is the norm in this area. Although I contend that the proposed density is higher, it is not significantly higher than that found in the established residential area.

b. The pattern of development is not in keeping with the overall character and environmental quality of the established residential area. The orientation of the proposed dwelling differs from the orientation of the existing dwellings and the plot width is substantially less than the plot width of the existing dwellings, as detailed above. The access arrangements, as discussed above, also are not in keeping with the character of the area. The proposed development therefore fails this criterion.

c. The floor space of the proposed dwelling is 150.60m<sup>2</sup>. Annex A requires a 5 person and 3 bedroom single storey dwelling to provide, as a minimum, 80/85m<sup>2</sup> of floor space. The proposed dwelling therefore meets this criterion as the floor space provided exceeds the minimum requirement.

The proposed dwelling can only meet two of the additional three criteria of LC 1 and therefore fails to meet the policy. The pattern of development is not in keeping with the character and environmental quality of the established residential area.

#### PPS 3 – Access, Movement and Parking

The proposed access has been assessed under PPS 3 and Transport NI, in their response dated 05/09/2016, stated it has no objections to the proposal. Visibility splays of 2.0m by 60m can be obtained for this site. While the access arrangements meet the requirements for Transport NI, the method by which they are obtained, as discussed above, is not in keeping with the character of the area and will look unsightly.

**Recommendation:**

*Refusal*

The application is contrary to Policy QD 1 of PPS 7 and Policy LC 1 of the Addendum to PPS 7.

**Refusal Reasons/ Conditions:**

1. The proposal is contrary to Policy QD 1 of PPS 7, Quality Residential Environments, in that the layout of the proposed development fails to respect the orientation of existing dwellings in the area, the site width is substantially less than site widths in the established residential area and the proposed access arrangements are out of character for the area.
2. The proposed development is contrary to Policy LC 1 of the Addendum to PPS 7, Safeguarding the Character of Established Residential Areas, in that the pattern of development is not in keeping with the overall character of the established residential area.

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date:**

# J. Lynam

## CHARTERED ARCHITECT

'Carrick House', 11 Newry Road, Mayobridge, Co. Down, BT34 2ET.

tel no: (028) 3085 1125 fax no: (028) 3085 1129

e-mail: joe@joelynamarchitects.com



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Our Ref. JL/BL/6444

Your Ref. LA07/2016/0523/F

Date: 18<sup>th</sup> October 2016.

Newry, Mourne & Down District Council Planning Committee  
O'Hagan House  
Daisy Hill  
Newry  
BT35 8DJ.

Re: Proposed New Dwelling Adjacent to No. 13 Crieve Road, Newry, BT34 2JT.  
For: Ms. Naiomh Morgan.

Dear Sirs,

As Architects to the above Applicant and we note the Proposed Refusal of the Full Planning Application above referenced. To that end we wish to apply under the new procedures to the Planning Committee for Speaking Rights at the next Committee to represent our Client.

There are two proposed Refusal reasons as follows.

1. The proposal is Contrary to Policy QD of PPS 7, Quality Residential Environments, in that the layout of the proposed development fails to respect the orientation of existing dwellings in the area, the site width is substantially less than site widths in the established area and the proposed access arrangements are out of character for the area.

We propose to rebut these comments by showing that in the vicinity that the orientation of the buildings for both those directly adjoining and beyond does not have a common orientation and that there are sites of vintage nature of similar width and areas. Indeed the site is at a turning point on the Crieve Road and the Proposal accommodates an orientation angle between the immediate neighbours. Further the access arrangements have been changed from those originally proposed within the Application to adhere to the requirements of Transport NI from a road safety perspective. Additionally the paired proposal reflects the original entrances at this section of the Crieve Road, in their 1950's format.

2. The proposed development is contrary to Policy LC 1 of the Addendum to PPS 7, Safe Guarding the Character of Established Residential Areas, in that the pattern of development is not in keeping with the overall character of the established area.

We propose to rebut these comments in that it is our opinion that there is no particular established Character of the Established Residential area nor is there a firm pattern within same. The general area has been subject to extensive development since the 1960's and the design presented in the Application reflects the general portions and finishes of the 1950's adjoining dwelling to the immediate west which is of the longest standing in the area.

Yours faithfully,

J. Lynam.



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

<b>ITEM NO</b>	<b>16</b>			
<b>APPLIC NO</b>	LA07/2016/0716/F	Full	<b>DATE VALID</b>	5/23/16
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>			
<b>APPLICANT</b>	Peter Collins 18 Pats Road Ballymartin Kilkeel BT34 4NX		<b>AGENT</b>	
<b>LOCATION</b>	Main Road Ballymartin east of junction with Wrack Road BT34 4NY			NA
<b>PROPOSAL</b>	Replacement Dwelling			
<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>
	0	0	0	0
			<b>Addresses</b>	<b>Signatures</b>
			0	0
			<b>Addresses</b>	<b>Signatures</b>
			0	0

- 1 The proposal is contrary to the policy provisions of the Strategic Planning Policy Statement for Northern Ireland and Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there is no structure that exhibits the essential characteristics of a dwelling.
- 2 The proposal is contrary to Policy AMP 3 of Planning Policy Statement 3 – Access, Movement and Parking in that the A2 Main Road is a Protected Traffic Route and the application does not fall within the exceptions listed in the policy as there is no building to be replaced and the proposal would result in the creation of a new vehicular access onto a Protected Traffic Route.



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**Newry, Mourne  
and Down**  
District Council

**Application Ref:** LA07/2016/0716/F

**Date Received:** 23<sup>rd</sup> May 2016

**Proposal:** This application seeks full planning permission for a replacement dwelling

**Location:** The proposed site is located along Main Road, Ballymartin - immediately to the east of its junction with Wrack Road.

**Site Characteristics & Area Characteristics:**

The application site is located along Main Road, Ballymartin - immediately to the east of its junction with Wrack Road, approximately 0.9km south west of Ballymartin and 0.7km east of Kilkeel. This section of the Main Road has recently been widened as part of a road improvement scheme. The site is an undefined right trapezoid plot within a large agricultural field situated along the Main Road. The field slopes from the north-west corner down to the south east. The field boundaries are defined by a post and wire fence along the Main Road frontage and eastern boundary; a mature hedgerow which is classified as NI Priority Habitat along the Wrack Road boundary; and by hedgerow and sporadic trees along the southern boundary. The Mullagh River is located approximately 120m to the east of the application site.

The proposed site is located in a rural area that is classified as open countryside. It is within the Mournes Area of Outstanding Natural Beauty, an Area of Scientific Interest and an Area of Constraint on Mineral Developments as designated in the Banbridge, Newry and Mourne Area Plan 2015.



Satellite Image of Application Site

**Site History:**

- P/1987/1324 - Site for Replacement Dwelling – Granted outline permission on 08.12.1987
- P/1990/1149 - Site for replacement dwelling (Renewal of Outline Planning Permission) – Granted outline permission on 14.02.1991. There was an informative attached to this approval which states: *“The Department would advise that as the dwelling to be replaced has now been removed it is unlikely that any further renewals of outline planning permission will be granted as the site lies within an area of strict planning control.”*
- P/1994/0164 – Erection of bungalow – Reserved Matters approval granted on 30.06.1994. Condition number 01 of this approval states: *“As required by Article 35 of the Planning (Northern Ireland) Order 1991 the development to which this approval relates must be begun by whichever is the later of the following dates:  
(i) The expiration of a period of five years from the grant of outline planning permission; or  
(ii) The expiration of a period of two years from the date hereof.”*
- The later date for commencement was 30.06.1996
- P/1996/0764 - Erection of replacement dwelling – This application was received on 26.06.1996 and granted full planning permission on 27.05.1997. The application was initially recommended for refusal on the basis that there was no dwelling to replace, the design was inappropriate and the proposal was contrary to Main traffic Route Policy. However as the application was received prior to the expiration date (30.06.1996) of the previous Reserved Matters approval, the application was considered to be a change of house type application and was subsequently granted permission. A condition was attached to the approval stating the development must be begun not later than the expiration of five years from the date of approval.
- P/2006/1613/O - Site for replacement dwelling – Outline permission was granted on 04.11.2010. This application was received 4 years after the previous approval had expired and was initially recommended for refusal. The reasons for refusal were based on the fact there is no dwelling to replace and the proposal involved the creation of a new access onto a Protected Route. The application was reassessed and subsequently granted approved.



P/2013/0267/RM - Replacement dwelling – Reserved Matters approval was granted on 16<sup>th</sup> May 2013. Condition number 01 of this approval states:

*“As required by Article 35 of the Planning (Northern Ireland) Order 1991 the development to which this approval relates must be begun by whichever is the later of the following dates:-*

- i. The expiration of a period of 5 years from the grant of outline planning permission; or*
- ii. The expiration of a period of 2 years from the date hereof.*

*Reason: Time limit.”*

The later date for commencement was 04.11.2015.

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

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

### **Consultations:**

Transport NI - If the proposed dwelling to be replaced could be reasonably occupied at present or following minor modifications Transport NI has no objection to the application subject to conditions. However the A2 is a Protected Traffic Route and Planning must be satisfied that this application falls within the exceptions listed in the policy relating to new accesses onto protected routes. If this application does not fall within the exceptions listed then it should be refused.

NIEA - Records of hedgerow habitat occurring within or adjacent to the site that is classified as NI Priority Habitat. A biodiversity Checklist will help identify potential impacts arising from the proposal. NIEA to be re-consulted if deemed necessary.  
*If the application is to be approved the agent will be asked to submit a completed biodiversity checklist.*

NI Water - Standard Response.

### **Objections & Representations**

3 neighbour notification letters were issued and the application was advertised in the local press the week beginning 13<sup>th</sup> June 2016. No objections or representations have been received to date.

### **Consideration and Assessment:**

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is currently within the remit of the Banbridge, Newry & Mourne Area Plan 2015. There are no specific policies in the Plan relevant to the determination of the application and it directs the decision-maker to the operational policies of the SPPS, PPS 2, PPS 3 and PPS 21.

As there is no significant change to the policy requirements for a replacement dwelling following the publication of the SPPS, 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.

#### Planning Policy Statement 21 – Sustainable Development in the Countryside

Policy CTY1 states there are a range of types of development which are acceptable in principle in the countryside. This includes replacement dwellings if they are in accordance with Policy CTY 3. Policy CTY 3 states 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.

There is an extensive history of applications for a replacement dwelling on this site dating back to 1987, the details of which have been outlined above. According to a written statement submitted by Clive Henning Architects in support of application reference P/2006/1613/O, planning approval for a replacement dwelling (P/1996/0764) resulted from a proposal by the Roads Service to improve the alignment and visibility on Newcastle Road, Kilkeel - west of its junction with Wrack Road. Implementation of the improvement works required the removal of a house and land around a farmyard. Mr James Martin was the owner of the land at that time and it was claimed in the statement of support to P/2006/1613/O that as part of the compensatory measures for the demolition of the dwelling, planning permission was granted to Mr Martin for a replacement dwelling. The land appears to have been sold at least once, possibly twice since the date of the original 1987 approval.

Further correspondence on P/2006/1613/O from Clive Henning Architects (dated 16<sup>th</sup> April 1999) states there was an existing dwelling owned by Mr James Martin who obtained permission for a replacement on the 27<sup>th</sup> May 1997 (P/1996/0764). The correspondence goes on to state that the only change in circumstances from the approval of P/1996/0764 and the submission of application P/2006/1613/O were the demolition of the original dwelling and the publication of draft PPS 21. However according to the planning history this appears to be factually incorrect. The original

dwelling appears to have been demolished prior to the approval of planning application P/1990/1149, hence the inclusion of the informative stating:

*“...as the dwelling to be replaced has now been removed it is unlikely that any further renewals of outline planning permission will be granted as the site lies within an area of strict planning control.”*

Although the planning history is a material consideration, there is no extant approval on this site. The date for commencement of the most recent planning approval (P/2013/0267/RM) was 4<sup>th</sup> November 2015. As this application was received on 23<sup>rd</sup> May 2016 all of the previous permissions had since expired and the development has not commenced.

This planning application will now be assessed against prevailing planning policy. Policy CTY 3 clearly states 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. As the original 1987 outline application file was decided nearly 30 years ago the documents have since been destroyed in line with the Departments Disposal of Records Schedule. There is no record of the condition of the original dwelling prior to its demolition therefore there is no guarantee that it would meet the above policy requirements for replacement had it not been demolished. Nevertheless, as the dwelling was demolished almost 30 years ago there is no building to be replaced.

In addition to the above, proposals for a replacement dwelling will only be permitted under Policy CTY 3 where all of a number of additional criteria are met.

- Criterion 1 requires the proposed dwelling to be sited within the established curtilage of the existing building unless either (a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or (b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits. There is no building on site to be replaced and due to the passage of time it is not clear where the original dwelling was sited. As the original dwelling was demolished for road improvements an off-site replacement may have been the only option.
- Criterion 2 - There is no record of the size, scale, mass or position of the original dwelling prior to its demolition. As a result it cannot be determined if the new dwelling would have a visual impact significantly greater than the original dwelling. However as there has been no building on the site for almost 30 years the provision of a new dwelling on this site would have a significant visual impact on the surrounding landscape, especially when viewed on approach from the east along the A2 Main Road.



- Criterion 3 - The design of the dwelling is the same as that previously approved under reference P/2013/0267/RM and would be considered acceptable.
- Criterion 4 – All necessary services can be provided without significant adverse impact on the environment or character of the locality.
- Criterion 5 – There is good visibility in both directions, however the A2 Main Road is a Protected Route and access onto it must comply with the policy requirements of PPS 3.

### PPS 3 – Access, Movement and Parking

Policy AMP 3 of PPS 3 states planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access onto a Protected Route in a number of cases, one of which is for a replacement dwelling. The building to be replaced must meet the relevant criteria for development and should utilise an existing vehicular access onto the Protected Route. As discussed above, there is no building to be replaced and there is no existing vehicular access. The proposed development does not fall within the exceptions listed in the policy relating to new access onto protected routes and is therefore contrary to the policy requirements of AMP 3 of PPS 3.



Image 1 - View of the Application Site

**Recommendation:**  
Refusal

**Refusal Reasons:**

1. The proposal is contrary to the policy provisions of the Strategic Planning Policy Statement for Northern Ireland and Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there is no structure that exhibits the essential characteristics of a dwelling.
2. The proposal is contrary to Policy AMP 3 of Planning Policy Statement 3 – Access, Movement and Parking in that the A2 Main Road is a Protected Traffic Route and the application does not fall within the exceptions listed in the policy as there is no building to be replaced and the proposal would result in the creation of a new vehicular access onto a Protected Traffic Route.

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

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

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

20<sup>th</sup> September 2016

Dear Sir / Madam,

**Your Ref:** LA07/2016/0716/F  
**Applicant:** Peter Collins 18 Pats Road, Ballymartin, Kilkeel  
**Proposal:** Replacement Dwelling  
**Location:** Main Road, Ballymartin, east of junction with Wrack Road

1. I refer to the above planning application, which is to be presented to the Council's planning committee on 28<sup>th</sup> September 2016.
2. The reasons for refusal are:

The proposal is contrary to the policy provisions of the Strategic Planning Policy Statement for Northern Ireland and Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there is no structure that exhibits the essential characteristics of a dwelling.

The proposal is contrary to Policy AMP 3 of Planning Policy Statement 3 – Access, Movement and Parking in that the A2 Main Road is a Protected Traffic Route and the application does not fall within the exceptions listed in the policy as there is no building to be replaced and the proposal would result in the creation of a new vehicular access onto a Protected Traffic Route.

3. The second reason for refusal is directly relevant to the principle of development. If a new dwelling is deemed acceptable in principle, the second reason for refusal will be addressed automatically. Therefore, the key issue is the principle of development.



**RTPI**  
Chartered Town Planner





4. O'Callaghan Planning has only just received formal instructions in respect of this matter, and the Council is therefore, respectfully, requested to refrain from determining this application until a meeting is held with senior planning officials, in order to allow me an opportunity to address the refusal reasons. Until this time, the applicant has had no professional representation.

#### **Background**

5. There is an extensive planning history on this site and associated with this proposal. The earliest planning approval was for a replacement dwelling and this dated back to December 1987.

#### **Chronology:**

P/1987/1324 – Outline permission granted for replacement dwelling

P/1990/1149 – Renewal of outline permission.

- i. At this time, the dwelling to be replaced was already demolished and an informative comment on the planning approval advised that it was unlikely any further renewals would be granted. However, in short, permission was granted to replace the dwelling notwithstanding that there was no dwelling to replace.

P/1994/0164 Approval of reserved matters was granted for the erection of a dwelling. This permission expired on 30<sup>th</sup> June 1996.

P/1996/0764 This full application was approved on foot of an extant reserved matters approval. It was initially recommended for refusal since there was no dwelling to replace and due to purported failure to comply with protected routes policy. However, greater weight was ultimately given to the fact that there were ten days remaining of the RM approval at the date of this application's submission. This approval received the standard 5 year time limit, notwithstanding that the dwelling to be replaced was no longer in situ and that this permission effectively extended the previous permission's time limit, contrary to advice previously tendered.



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Chartered Town Planners



P/2006/1613/O This outline application was submitted four years after the previous permission expired. Despite being initially recommended for refusal (because there was no dwelling to be replaced) the application was approved on foot of a file note signed by the Area Planning Manager (Appendix 1).

The rationale that justified the granting of outline permission is no less relevant then than it is now.

P/2013/0267 Approval of reserved matters was granted on 16<sup>th</sup> May 2013. The latter date for the commencement of development was 04<sup>th</sup> November 2015.

It would appear that development had not commenced on the site and that the new application was submitted almost seven months after the expiry of the original approval.

6. Since the date upon which the original approval was granted, the ownership of the site has changed at least twice. Two previous owners have in effect benefitted from pragmatic planning decisions that allowed the replacement of a dwelling that was no longer in situ. In these narrow circumstances it would be unreasonable to deny the current applicant the same opportunity to build a dwelling on the site.
7. In 1990, when permission was sought to renew the earlier outline permission, the date of submission of an application for approval of reserved matters had passed. Therefore, the submission of an application for full permission within the 5 year lifetime of the outline permission (the only way the application could have been granted) required the dispensation of a special degree of flexibility. One might argue that it is only right that such flexibility and goodwill be extended towards individual applicants on occasion, and that such courses of action should not be repeated. However, in 2010, a different landowner benefitted from a planning approval with precisely the same justification as before, only this time the reasons for so doing were formally laid out on the Area Planning Manager's summary of the reasons for the approval. As the circumstances pertaining at the present time are in effect unchanged from those pertaining at the dates of the earlier decisions, to refuse permission now would in effect be unreasonable, since it would be a significant departure from the pragmatic attitude directed to previous landowners.



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8. In 2010, when outline permission was granted for a replacement dwelling, the previous application had expired by four years. In this case, the delay submitting the current application was but a mere seven months.
9. The previous area planning manager's decision cannot be dismissed lightly or brushed off as a "mistake" or an error in the application or disapplication of policy. The key fact is that the previous planning manager's decision was entirely lawful.
10. If the members of the Planning Committee have any fears in relation to approval of this application (i.e. that such a course of action could be construed as unlawful, or ultra vires) I would point to the long held point of planning practice, enshrined in planning case law, that it is perfectly lawful to depart from or to disapply a planning policy.
11. Planning policy does not need to be adhered to slavishly, particularly where planning authorities' wider goals are not compromised. In this respect, the *Lamont* judicial review is particularly relevant. Therein, it was stated that:

"Of course, the Planning Service need not 'slavishly' follow the policy. The policy is one of many under the Planning Policy Statement 21 which focuses on sustainable development in the countryside. Within PPS21 a number of like situations are grouped together, for example, proposals for dwellings on farms. The policy indicates the preferred approach to these like cases in order to achieve the broader social and environmental goals relating to development in the countryside. However, the policy itself, and much case law on this and similar issues, acknowledges that no policy can take into account the myriad considerations that may arise in individual fact scenarios that arise in the broad policy area. No planning policy can anticipate the personal, environmental, logistical etc. circumstances of all the individual planning applications made under the policy that need to be considered. However, what is contained in the policy, which cannot be ignored is the thrust of the desired result of the policy".

"In short compass, the policy should be adhered to where possible. It can and should be disapplied in circumstances where there is good reason to do so for example if strict adherence to the policy would damage some other important interest unacceptably and a balance needs to be struck. It is entirely lawful for



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the department to choose to disapply or modify a policy. The key test for when a department can be said to have lawfully disappplied a policy is found in ***EC Gransden + Co. Ltd and Falkbridge Ltd. v Secretary of State for the Environment:***

- i. ... It seems to me, first of all, that any policy, if it is to be a policy which is a proper policy for planning purposes, must envisage that in exceptional circumstances the minister has the right to depart from that policy. If the situation was otherwise it would not be a statement of policy but something seeking to go beyond that and, bearing in mind the terms of section 29 of the Town and country Planning Act of 1971, it would be an improper attempt to curtail the discretion which is provided by the Act, which indicates that in determining planning applications regard is not only to be had to the provisions of the development plan so far as material, but also to any other material considerations."

12. The Council wrote to the applicant on 13<sup>th</sup> September 2016, confirming that the application had been recommended for refusal for the two reasons set out above. The Council planning officer's professional planning report summarises the Council's assessment of the case thus far. This assessment points out that "although planning history is a material consideration, there is no extant approval on the site". However, the Council's assessment of the case made no attempt to examine the reasons why two previous permissions were granted in circumstances similar if not identical to those that pertain at the present time. The failure to explain why it was appropriate to depart from policy on two previous occasions but not to depart from policy now renders the Council's assessment of this proposal incomplete, Wednesbury unreasonable, and administratively unfair towards the current applicant. In light of the above, the Council is respectfully requested to reconsider its assessment of the proposal. If not outwardly minded to approve the application, the Council should as a minimum give some thought to the reconsideration of the proposal in light of this new evidence.



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13. In light of the late stage of my involvement, it would be reasonable to afford some additional time to address the issues of concern and in that respect I look forward to hearing from you.

Yours Faithfully,

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





### APPENDIX 1

File note: Previous Chief Planning Officer's justification for approval of application P/2006/1613/O







### Divisional Planning Office

Marlborough House  
Central Way  
Craigavon  
Co. Armagh  
BT64 1AD

**P/2006/1613/0**

## Replacement Dwelling at Main Road, Ballymartin for Mr G Coulter

I have reviewed this case and am of the opinion that in this particular case it would be appropriate to grant permission for a dwelling.

I have reached this conclusion for the following reasons:

- a strict reading of current policy would indicate that this should be refused permission as there is no dwelling to be replaced. However, the purpose of policy is to give guidance and as the applicant has indicated all particular and peculiar circumstances cannot be covered as exceptions – this is a matter of judgement.
- The dwelling was removed in the public interest and permission granted and renewed for the replacement. The presence of a dwelling was not in these circumstances an issue and had the owner been timely in renewing his permission, the Department would not now need to make a judgement on the issue. The application was received in August 2006 and the previous approval expired in May 2002.
- The site remains within the AONB and accesses onto the MTR. However, PPS21 has now removed the status of greenbelt/GPA.

Given that the circumstances of this application have not changed since the dwelling was demolished. I feel that it would be perverse to now refuse the replacement simply because a renewal of permission had been *missed* in 2002.

**IAN McALLISTER**  
Divisional Planning Manager

4 August 2010



Application ID: P/2006/1613/O

Case Officer: Mr P Fitzsimons

## Development Control Officer's Professional Planning Report

<b>Case Officer:</b> Mr P Fitzsimons		<b>Application ID:</b> P/2006/1613/O	
		<b>Application Type:</b> Outline	
<b>Applicant Name and Address:</b>	Mr G Coulter M.B.E. 125 Harbour Road Kilkeel BT34 4AT	<b>Agent Name and Address:</b>	Mr C Henning Clive Henning Architects 4 Carleton Street Portadown Co.Armagh BT62 3EN

**Location:** Main Road, Ballymartin, east of junction with Wrack Road

**Development Type:** Replacement

**Proposal:** Site for replacement dwelling

**Date Valid:** 10th July 2006

**Statutory Expiry Date:** 9th October 2006

**Date of last Neighbour Notifications:** 25th August 2006

**Date of District Council Consultation:** 6/3/08 defer  
7/10/10 agree

**Date of A31 Determination & Decision:** No

**EIA Determination:**

**Date First Advertised:** 8th September 2006

**Date Last Advertised:** 8th September 2006

### Consultees

Newry and Mourne District Council ( COUNCIL ), Monaghan Row, NEWRY

Roads Service - Downpatrick Office ( DEPARTMENTAL ), Rathkeltair House, DOWNPATRICK, BT30 6EA

Water Service - Downpatrick Office ( DEPARTMENTAL ), Cloonagh Road, DOWNPATRICK, BT30 6ED

### Notified Neighbours

The Owner/Occupier ( NEIGHBOUR ), 181 Main Road, Ballymartin, Kilkeel, Co. Down

The Owner/Occupier ( NEIGHBOUR ), 185 Main Road, Ballymartin, Kilkeel, Co. Down

NEIGHBOUR, 40 Main Road, Ballymartin, Kilkeel, Co. Down

### Representations

**Application ID: P/2006/1613/O****Case Officer: Mr P Fitzsimons**

Clive Hennings ( UNSOLICITED ), Clive Henning Architects, 4 Carleton Street, Portadown, Co Armagh, BT62 3EN

KOMRADE ( UNSOLICITED ), Dr A W Mitchell (Chairman), 18 Ballyardle Road, Kilkeel

Letter, Non-committal, Clive Hennings (UNSOLICITED), Clive Henning Architects, 4 Carleton Street, Portadown, Co Armagh, BT62 3EN

Letter, Non-committal, KOMRADE (UNSOLICITED), Dr A W Mitchell (Chairman), 18 Ballyardle Road, Kilkeel

**08 Consultations Summary**

No data found

**Consultation Summary**

No data found

**Consultation replies text**

Newry and Mourne District Council

Roads Service - Downpatrick Office

Water Service - Downpatrick Office

**Consultee replies**

Newry and Mourne District Council, Monaghan Row, NEWRY (COUNCIL), Substantive Reply, Letter, 18th September 2006

Roads Service - Downpatrick Office, Rathkeltair House, DOWNPATRICK, BT30 6EA (DEPARTMENTAL), Add Info Requested, Letter, 8th September 2006

Water Service - Downpatrick Office, Cloonagh Road, DOWNPATRICK, BT30 6ED (DEPARTMENTAL), Statutory, Letter, 5th September 2006

**Site History**

P/1987/1326

Mr H Magill

6 Flagstaff Road Newry

Erection of bungalow

70 METRES WEST OF NO6 FLAGSTAFF ROAD NEWRY

Full

Erection of Building(s)

Local Authority decision

Approval (historical)

11-JAN-88

P/1990/1149

Mr J Martin

No17 Anthonys Road Ballymartin Kilkeel

Site for replacement dwelling (Renewal of Outline

Planning Permission)

DC0901MW



Application ID: P/2006/1613/O

Case Officer: Mr P Fitzsimons

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 MAIN ROAD (EAST OF JUNCTION WITH WRACK ROAD) BALLYMARTIN KILKEEL

Outline

Erection of Building(s)

Local Authority decision

Approval (historical)

14-FEB-91

P/1992/1222

C E Stevenson &amp; Sons

No74 Newcastle Road Kilkeel

Extension to sand and gravel works

OPPOSITE NOS181 &amp; 185 NEWCASTLE ROAD KILKEEL

Full

Engineering Operation

Local Authority decision

Approval (historical)

14-SEP-93

P/1994/0164

Mr James Martin

Erection of bungalow

MAIN ROAD (EAST OF JUNCTION WITH WRACK ROAD) BALLYMARTIN KILKEEL

R M

Erection of Building(s)

Local Authority decision

Approval (historical)

30-JUN-94

P/1996/0764

Mr James Martin

17 Anthony's Road Ballymartin

Erection of replacement dwelling

MAIN ROAD, BALLYMARTIN (EAST OF ITS JUNCTION WITH WRACK ROAD)

Full

Erection of Building(s)

Local Authority decision

Approval (historical)

27-MAY-97

P/2002/0718/Q

Coulter Industries Ltd.

c/o Agent

Tourist Development

Kilkeel - Annalong Road, Kilkeel

Pre App Preliminary Enquiry

Erection of Building(s)

22nd May 2002

**Constraints**

AONB/0013 - Mourne (N&amp;M)

Newry and Mourne

AONB - Environment Areas

Declared

**Application ID: P/2006/1613/O**

**Case Officer: Mr P Fitzsimons**

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ASI/028 - Mullartown Point  
Newry & Mourne District  
ASI - Environment Areas  
Designated

SD - South Down  
South Down  
Parl Constituency Boundary - RESIDUAL ITEMS  
Effective

**Representations – including objections**

1. Brief Summary of Issues – see below.
2. Consideration of Issues – see below.

**Policies**

APB/P/003 - Mourne Area Plan Boundary  
Newry & Mourne District  
Area Plan Boundary - PLAN POLICIES  
Adopted

SUBA/P/003 - Mourne Area Plan Boundary  
Newry & Mourne District  
Area Plan Boundary - PLAN POLICIES  
Adopted

APB/P/002 - Newry & Mourne District Rural Area Subject Plan Boundary  
Newry & Mourne District  
Area Plan Boundary - PLAN POLICIES  
Adopted

SUBA/P/002 - Newry & Mourne District Rural Area Subject Plan Boundary  
Newry & Mourne District  
Area Plan Boundary - PLAN POLICIES  
Adopted

CPA/P/002 - Zone B  
Mourne AONB  
CPA - PLAN POLICIES

DC0901MW

**Application ID: P/2006/1613/O****Case Officer: Mr P Fitzsimons**

Adopted

DB/P/001 - Newry &amp; Mourne District Council Boundary

Newry &amp; Mourne District

District Boundary - PLAN POLICIES

Statutory

**Case Officer Report****Date of Site Visit:** 4/9/07

## SITE VISIT DETAILS/DESCRIPTIONS

**1. Characteristics of Site**

The application site is an undefined rectangular plot within a larger roadside field. It is located on the southern side of the main road. The field is bounded to the front by a roadside hedge and post & wire fence. To the west it is bounded by a steep bank with gorse bushes which rises up to Wrack Road.

The field falls gradually towards the SE, away from the main road. The site boundaries are undefined – cut out of the larger field.

**2. Characteristics of Area**

This is a rural area within the Mourne AONB. The field is low lying relative to Wrack Road and it was probably an old sand extraction site. There is a traditional cottage to the east and a number of single storey cottages further to the west of the site.

**3. Description of Proposal**

The proposal seeks outline planning permission for site for replacement dwelling – the application is accompanied by a letter referring to the planning history on the site and explains that the application is to renew a planning permission for a replacement dwelling granted to Mr James Martin on 27 May 1997 under reference P/1996/0764.

## ASSESSMENT OF POLICY AND OTHER MATERIAL CONSIDERATIONS

## Site History:

There have been permissions on this site since 1987 on the basis of replacement of a house, the demolition of which was required to facilitate road improvement works. The house was demolished and the works carried out. The applicant was advised under reference P/190/1149/O that there would be no further grant of outline planning approval as the building had been demolished. A reserved matters approval was obtained in 1994 under reference P/1994/0164/RM.

Despite the above, the Dep't granted planning permission for the erection of a replacement dwelling under reference P/1996/0764/F, approved 27/5/1997. This application was initially recommended for refusal on the basis of no dwelling to replace, inappropriate design and contrary to Main Traffic Route Policy. It was



**Application ID: P/2006/1613/O****Case Officer: Mr P Fitzsimons**

ultimately approved because the RM permission expired on 30/6/96 and the full application was submitted on 24/6/96 and was effectively a change of house type application.

Policies relevant in the determination of this application include:

- PPS1 General Principles
- PPS3 Access, Movement and Parking
- SP6, HOU8, DES5, DES6, DES7 and PSU4 of A Planning Strategy for Rural Northern Ireland
- The Newry and Mourne District Rural Area Subject Plan 1986-1999
- The Banbridge/Newry and Mourne Draft Area Plan 2015

A draft version of PPS14 Sustainable Development in the Countryside was published on 16<sup>th</sup> March 2006. This publication bears substantial weight in the determination of all applications received after this date. This application was submitted on 7/6/06.

Policy CTY 1 of draft PPS 14 states that there will be a presumption against new development in the countryside with the exception of a limited number of types which are as follows:-

- a farm dwelling in accordance with Policy CTY 2;
- a dwelling for a retiring farmer in accordance with Policy CTY 3;
- a dwelling to meet the essential needs of a non-agricultural business enterprise in accordance with Policy CTY 4;
- a replacement dwelling in accordance with Policy CTY 5; or
- the development of a small gap site sufficient only to accommodate one house within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 12.

There is no dwelling on the site to be replaced. There is relevant history, however, the Dep't made it quite clear early on that there would be no further outline permissions granted on this site. The former dwelling was demolished approx. 20 years ago.

In the Newry and Mourne District Rural Area Subject Plan 1986-1999 the site is located within the Kilkeel Green Belt. In the draft Banbridge/Newry & Mourne Area Plan 2015, the site is located within the proposed Kilkeel Green Belt. On this basis Prematurity to the draft plan is not an issue. In any case, the application can be considered under policy CTY5 of Draft PPS14.

The applicant purchased the site from Mr Martin (previous applicant). It is not stated when the purchase occurred. The present applicant put in a preliminary application inquiry under reference P/2002/0718/Q. He may have owned the site at this time. The inquiry was submitted on 19/4/02. The Full permission granted under P/1996/0746/F expired on 27/5/2002. The present application for outline planning permission is intended as a renewal of a full permission. It was submitted on 7/6/06, that is, just over four years after the full permission expired.

Having considered the planning history, it is my recommendation that this application warrants a recommendation for refusal. The dwelling was demolished about 20 years ago and it was made clear that no further outline permissions would be granted for the replacement of the former dwelling. The permission issued in 1997 was on the basis of a change of house type application given that it was submitted before the previous RM application had lapsed.

In terms of siting, the site is road frontage and is visible on approach from the east. The site does not have sufficient screening vegetation to allow a dwelling to be satisfactorily integrated on this site.

The Environmental Health Department of Newry and Mourne District Council have no basic objections in relation to this proposal subject to consent to discharge.

Water Service has no objection subject to standard informatives.

Application ID: P/2006/1613/O

Case Officer: Mr P Fitzsimons

Roads Service had requested confirmation that this is a genuine replacement. Also requested confirmation of the access location approved under P/1996/0764. When advised of recommendation to refuse, i.e. no dwelling to be replaced, Roads Service advised that a refusal reason based on Protected Routes Policy should be included – reason M01.

No objections received, however, a standard representation has been received from KOMRADE.

Recommendation: Refusal is recommended on the grounds of:

- Contrary to policy CTY5;
- CTY 10 (lack of integration); and
- M01 (Protected Route Policy)

### Recommendations

Refusal - Recommendation

### Recommendations

Refusal - Recommendation

Case Officer

### Brief Summary of Reasons for Recommendation

### Brief Summary of Conditions

### Case Officer's Recommendation

Case Officer

Recommendation - Refusal

### Refusal Reasons

1 - A18B ( HOUSING - Policy CTY 5 - Other Dwellings/ Buildings to be Replaced )

The proposal is contrary to Policies CTY1 and CTY5 of Draft Planning Policy Statement 14, Sustainable Development in the Countryside, and the accompanying Ministerial Statement and does not merit being considered as an exceptional case in that no dwelling exists on the site.

2 - A19 ( HOUSING - Policy CTY 10 - Integration and Design of Buildings in the Countryside )

The proposal is contrary to Policy CTY10 of Draft Planning Policy Statement 14, Sustainable Development in the Countryside, and the accompanying Ministerial Statement in that the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape. *omit.*

3 - M01 ( PPS3 - ROADS CONSIDERATIONS )

The proposal is contrary to Policy AMP3 of Planning Policy Statement 3, Development Control: Roads Considerations in that it would, if permitted, result in the creation of a new vehicular access onto a Main Traffic Route (Protected Route), thereby prejudicing the free flow of traffic and conditions of general safety.

Application ID: P/2006/1613/O

Case Officer: Mr P Fitzsimons

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**Conditions**

No data found

**Informatives**

No data found

DC Officer's Signature:



Date:

12/2/08



Application ID: P/2006/1613/O

Case Officer: Mr P Fitzsimons

Brief Summary of DC Group Discussion

Refuse as per PCO recommendation.

D.C. Group Signatures:

P. Lacey  
E. Duggan  
P. Fitzsimons

Date:

15 Feb 08

Council View

- No Comment
- Agree
- Disagree
- Defer
- Referral

Application ID: P/2006/1613/O

Case Officer: Mr P Fitzsimons

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**Late Items**

1. *Amended Plans -*
- 2.
- 3.
- 4.
5. *Additional/Outstanding Consultations*
- 6.
- 7.
- 8.
9. *Late Representations*

Application ID: P/2006/1613/O


Case Officer: Mr P Fitzsimons

Deferred Application – Consideration

Reassessed under PPS 21 (Final Version).  
Given the planning history associated with this proposal, on balance Approval.

- 1. Any new material factor(s) raised? YES/NO
- 2. Any different weight attached to planning judgement? YES/NO
- 3. Changed opinion? YES/NO

D.C. Group Signatures:

  
 M. Wade  
 S. Green  
 P. Chapman

Date:

22/9/10



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

**ITEM NO** 27  
**APPLIC NO** P/2015/0136/F Full **DATE VALID** 1/30/15  
**COUNCIL OPINION** REFUSAL  
**APPLICANT** Mr L Magennis **AGENT** O'Callaghan  
 Planning Unit 1  
 Monaghan Court,  
 Newry  
 BT35 6BH  
 02837511714

**LOCATION** 43 Forkhill Road  
 Ellisholding  
 Newry.

**PROPOSAL** Use of existing first floor offices for Class A (2) Use (Financial and Professional Services)

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

1. The proposal is contrary to Paragraph 6.273 of the Strategic Planning Policy Statement in that the proposal seeks change of use to Class A2 offices in a countryside location and it is not a type of development considered appropriate in a rural area.
2. The proposal is contrary to the Local Development Plan as it falls outside the Town Centre Boundary / retail area as designated in the Banbridge / Newry and Mourne Area Plan 2015.



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:**

P/2015/0136/F

**Date Received:**

19.02.2015

**Proposal:**

Use of existing first floor offices for Class A (2) Use (Financial and Professional Services).

**Location:**

The site is located at 43 Forkhill Road, approx. 2 miles SW of Newry City Centre.

**Site Characteristics & Area Characteristics:**

The site is a commercial yard located North of Newtowncloghogue. At the Northern section of the yard is a large building which houses a window business and an exhaust business. A car sales business is located to the south. The site is located in a rural area which has become under significant development pressure for commercial activity within the site itself and in the immediate vicinity.



Image 1 – Application Site

**Site History:**

- P/2013/0064/F - Retention of change of use of part of vehicle workshop to business for manufacture and supply of windows and doors. 43 Forkhill Road, Newry. Permission granted on 22.08.2013.
- P/2013/0140/F-Retention of and change of use of land for car sales. 43a Forkhill Road, Newry. Under consideration.
- LA07/2015/0579/F-Proposed retention of existing buildings for the retail selling of household fuel and vehicle fuel and fuel pump. Permission refused on 05.05.2016.

Refusal reasons:

1. The proposal is contrary to Paragraph 6.279 of the Strategic Planning Policy Statement in that the proposal seeks to carry out the retail sale of fuels in a countryside location and it is not one of the types of retailing considered appropriate in a rural area.
  2. The proposal is contrary to the Policy PED 3 of the Department of the Environment's Planning Policy Statement 4, Planning and Economic Development, in that the development does not involve the utilisation of existing, authorised buildings on the site.
- P/2012/0175/CA-Change of use to car wash, vehicle fuel sales and ancillary shed. 43 Forkhill Road, Newry. Court action being pursued.
  - P/2009/0013/CA - Use of part of commercial yard for car sales and installation of ancillary workshop and office buildings.43a Forkhill Road, Newry. Court action being pursued.

**Planning Policies& Material Considerations:**

This planning application has been assessed under the Banbridge, Newry and Mourne Area Plan 2015, the Strategic Planning Policy Statement (SPPS) for Northern Ireland and Planning Policy Statement 21, Sustainable Development in the Countryside.

**Consultations:**

The consultation responses are outlined below:

- Transport NI – 27.05.2016 content subject to conditions.
- Newry Mourne and Down District Council Environmental Health Department – No objections. (5 August 2016).

**Objections & Representations**

Three neighbour notifications were issued on 04 August 2015 and the application was advertised in the local press on 04 March 2015. No representations were received.

**Consideration and Assessment:**



### **Banbridge Newry and Mourne Area Plan 2015**

Section 45 of the Planning Act (NI) 2011 requires the Council to have regard to the Local Development Plan (LDP), so far as material to the application and to any other material considerations. The relevant LDP is Banbridge, Newry and Mourne Area Plan 2015 as the Council has not yet adopted a LDP. The site is located outside the settlement limits of Newry City and Newtowncloghogue as illustrated on map 3/01. There are no specific policies in the Plan relevant to the determination of the application which directs the decision maker to the operational policies of the SPPS.

### **Strategic Planning Policy Statement (SPPS) for Northern Ireland.**

In this instance the proposal is change of use to Class A2 offices. Class A2 offices is defined in the Planning (Use Classes) Order (Northern Ireland) 2015 - "*Class A2 - Financial, professional and other services use for the provision of services which it is appropriate to provide in a shopping area, where the services are provided principally to visiting members of the public including— (a) financial services; or (b) professional services.*" The definition specifically refers to Class A2 as providing services to visiting members of the public in shopping areas. A shopping area is not defined in the legislation although as a rule of thumb I would consider town centres to fit the definition of shopping areas. Therefore the relevant section of the SPPS which is applicable to this application is Town Centres and Retailing. Paragraph 6.273 states planning authorities must adopt a town centre first approach for retail and main town centre uses. In this instance the proposal falls within the category of main town centre uses. The application site as outlined above is outwith the settlement limit of the nearby village of Newtowncloghogue and Newry City and thus contrary to the thrust of this policy. There is no policy support in the SPPS for the proposed development in a countryside location, therefore refusal is recommended.

### **Recommendation:**

Refusal

### **Refusal Reasons:**

1. The proposal is contrary to Paragraph 6.273 of the Strategic Planning Policy Statement in that the proposal seeks change of use to Class A2 offices in a countryside location and it is not a type of development considered appropriate in a rural area.
2. The proposal is contrary to the Local Development Plan as it falls outside the Town Centre Boundary / retail area as designated in the Banbridge / Newry and Mourne Area Plan 2015.

**Case Officer Signature:**

**Date:**13th September 2016

**Authorised Officer Signature:**

**Date:**

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

21<sup>st</sup> September 2016

Dear Sir / Madam,

**Your Ref:** P/2015/0136/F  
**Location:** 43 Forkhill Road, Ellisholding, Newry  
**Proposal:** Use of existing first floor offices for class A(2) use (Financial and Professional services)

1. The above planning application has been recommended for refusal and it is to be presented to the Council's planning committee on 28<sup>th</sup> September 2016. The reasons for refusal are set out as follows:

The proposal is contrary to Paragraph 6.273 of the Strategic Planning Policy Statement in that the proposal seeks change of use to Class A2 offices in a countryside location and it is not a type of development considered appropriate in a rural area.

The proposal is contrary to the Local Development Plan as it falls outside the Town Centre Boundary / retail area as designated in the Banbridge / Newry and Mourne Area Plan 2015.

2. I believe that a number of important considerations have been overlooked or given insufficient weight in the assessment of the proposal, hence this request for re-consideration. I would also point out that the Council's failure to display the professional planning report on the planning portal has also impacted adversely upon my ability to address the actual refusal recommendation in full.



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### **Delays experienced in processing the application**

3. At the outset, I must emphasise the considerable delay that has affected this application. The application involved a minor change of use of a small part of an existing building. There had been a previous enforcement case undertaken in respect of this use, and the landowner ultimately complied with the planning authority's enforcement team. However, the speed and vigour with which the enforcement case progressed have not been replicated in the handling of the present application.
4. This application was preceded by an earlier, unsuccessful, application. However, it was considered that the planning policy context had changed considerably since the date of the previous case, hence the submission of this application.
5. Around eight months after this application was submitted, the Strategic Planning Policy Statement was published.
6. It is clear that the Council considers the SPPS should be applied to each individual planning application throughout the open countryside. This issue will be addressed in due course. However, it is respectfully contended that the Council should exercise flexibility in the handling of this case, and recognise that had the application been processed in a timely manner the SPPS would not have been a material consideration. The Council is empowered to take such a course of action, as a matter of practice.

### **Initial Rationale behind Submission of Application**

7. After the last application was refused on this site, it became apparent that the local planning authority had exercised the provisions of Policy CTY 4 of PPS 21 in granting permission for the change of use from a commercial unit to a day nursery at Unit 7/8 Cloghogue Business Park, Forkhill Road, Newry (P/2013/0578/F, approved on 16<sup>th</sup> January 2014).
8. Like this site, the approved development referred to is located in the open countryside, within an established business park. The professional planning report P/2013/0578/F outlines the Department's rationale for the approval. It is notable that the Department did not feel the need to assess the original building's suitability. In the event that suitability would be a consideration under this proposal, this submission has outlined how there is no defined typology of building that is suitable for conversion (which





explains why the Department did not deem it necessary to carry out such an appraisal within the above mentioned approval).

9. In the above case appropriateness was a consideration, however the Department found that the proposed use was appropriate since it involved a community facility that would serve the local rural population. Notwithstanding that this proposal may not necessarily be considered equitable on that basis, appropriateness falls to be determined on a case by case basis. The DC group recommendation noted that "this application proposes a change of use from a commercial unit to a day nursery within an existing business park. This is considered acceptable in this location".
10. The precedent value of the above application is significant. In planning terms, while precedent is frequently cited as a reason to oppose a proposal (in cases where repeat decisions would undermine a particular asset, feature, policy or strategy), conversely, the granting of a planning approval can frequently generate a legitimate public expectation that where such circumstances prevail then planning permission may subsequently be granted for the same reasons. Refusal to grant permission for a proposal under circumstances similar to those which allowed another approval to be granted is generally considered administratively unfair, and in this case it is contended that the approval granted in Cloghoge Business Park lends substantial weight to my assertion that Policy CTY 4 contains the appropriate justification for this proposal. On that basis, the application could have been approved long before the SPPS was first published, and the Council's delay in processing the application has unfairly prejudiced this applicant.

#### **Weight to be attributed to a planning policy**

11. There appears to be a common perception in this Council that where the SPPS does not explicitly mention a specific type of development, then there is in fact no provision for that type of development. However, planning policy does not need to be adhered to slavishly, particularly where planning authorities' wider goals are not compromised. In this respect, the *Lamont* judicial review is particularly relevant. Therein, it was stated that:

"Of course, the Planning Service need not 'slavishly' follow the policy. The policy is one of many under the Planning Policy Statement 21 which focuses on sustainable development in the countryside. Within PPS21 a number of like



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situations are grouped together, for example, proposals for dwellings on farms. The policy indicates the preferred approach to these like cases in order to achieve the broader social and environmental goals relating to development in the countryside. However, the policy itself, and much case law on this and similar issues, acknowledges that no policy can take into account the myriad considerations that may arise in individual fact scenarios that arise in the broad policy area. No planning policy can anticipate the personal, environmental, logistical etc. circumstances of all the individual planning applications made under the policy that need to be considered. However, what is contained in the policy, which cannot be ignored is the thrust of the desired result of the policy”.

“In short compass, the policy should be adhered to where possible. It can and should be disapplied in circumstances where there is good reason to do so for example if strict adherence to the policy would damage some other important interest unacceptably and a balance needs to be struck. It is entirely lawful for the department to choose to disapply or modify a policy. The key test for when a department can be said to have lawfully disapplied a policy is found in *EC Gransden + Co. Ltd and Falkbridge Ltd. v Secretary of State for the Environment*:

... It seems to me, first of all, that any policy, if it is to be a policy which is a proper policy for planning purposes, must envisage that in exceptional circumstances the minister has the right to depart from that policy. If the situation was otherwise it would not be a statement of policy but something seeking to go beyond that and, bearing in mind the terms of section 29 of the Town and country Planning Act of 1971, it would be an improper attempt to curtail the discretion which is provided by the Act, which indicates that in determining planning applications regard is not only to be had to the provisions of the development plan so far as material, but also to any other material considerations.”

#### SPPS

12. I would emphasise the fact that while the SPPS superseded PPS 5, it is an overarching, strategic framework document. It does not set out prescriptive tests, unlike other Planning Policy Statements, and its provisions have not been intended for application on



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a case by case basis, pending the adoption of Local Development Plans. The SPPS does not detail the limitations to the types of development that will be acceptable in the open countryside nor does it set out an exhaustive list of typologies (or indeed policy requirements to be complied with). Instead, and until such times as a Plan Strategy for the Newry, Mourne and Down Council area has been adopted, a transitional period will operate. Within this period, in instances where the SPPS is silent or less prescriptive on a particular planning policy matter than retained policies this should not be judged to lessen the weight to be afforded to the retained policy.

13. While the SPPS is less prescriptive than PPS 5 in terms of retailing in the open countryside, PPS 5 is not a "retained Policy". Within PPS 21, which has been retained, there is no operational presumption against small scale office use in the open countryside, when it comes to proposals involving the conversion of established buildings, particularly those located wholly within the confines of long established rural enterprises. Consequently, the SPPS' relative silence in relation to particular form of development means that greater weight should automatically be attributed to the retained policy (i.e. Policy CTY 4 of PPS 21).
14. Although PPS 1 is no longer a retained Policy, subsequent to the publication of the SPPS, its presumption in favour of development has also been retained within the SPPS. This is confirmed in the SPPS' paragraph 3.8, where it is stated that the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted unless the proposed development will cause demonstrable harm to interests of acknowledged importance. Consequently, where there is doubt in relation to any issue, or an apparent gap in policy coverage, the balance must be tipped in favour of an applicant.
15. In this particular case, the SPPS is silent in relation to this proposal, whereas Policy CTY 4 of PPS 21 does not preclude this type of development. Therefore, any doubts surrounding the SPPS' perceived lack of support for this specific proposal need not be given determining weight as a material consideration in the determination of this planning application.
16. Critically, the SPPS "does not seek to promote any one of the three pillars of sustainable development over the other. In practice, the relevance of, and weight to be given to social, economic and environmental considerations is a matter of planning judgement in any given case".



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17. The SPPS is relevant to retailing insofar as it directs retail uses to town centres, while it states that “the development of inappropriate retail facilities in the open countryside must be resisted”.
18. The refusal reason states that the proposal is contrary to para. 6.273 of the SPPS. However, this simply states that “planning authorities must adopt a town centre first approach for retail and main town centre uses”. This does not equate to a moratorium on small office development, within an existing commercial complex in the open countryside.
19. The reason for refusal indicates that the proposal is not a “type of development considered appropriate in a rural area”. Equally, it is not prescribed as an inappropriate form of development in a rural area. In this respect, the SPPS would appear to be silent, or less prescriptive, than the retained Policy (CTY 4 of PPS 21) and thus that policy’s permissive provisions can justifiably be engaged to approve this proposal, in the same manner this policy formed the justification for the approval of a commercial unit in a nearby commercial complex, (as detailed in this submission).
20. It follows that since the Policy is not prescriptive, what should be considered appropriate must be determined on a case by case basis.
21. At the heart of this matter is the supposition that the countryside is not an appropriate location for unfettered urban uses. However, this proposal does not fall into that category because it is located within an existing commercial building that is surrounded by other commercial / waste operations, and the use of the premises could also be further controlled by way of condition, to prevent the sale of convenience goods or similar, as necessary.
22. Additional safeguards could be imposed if necessary, to prevent the future subdivision of the premises, or the change to another use falling within the same categorisation (to prevent the premises from changing to an unfettered use in the future).
23. The proposal is contained wholly within an existing / established building. It would have no impact whatsoever upon the vitality and viability of the nearest settlement’s town centre, and it has not caused nor is it likely to cause a change to the rural character of this area of countryside.



24. Pragmatic approaches to the determination of complex planning applications recognise the limitations of assessing a proposal against a single policy, or attributing determining weight to a single policy owing to some purported shortcoming in respect thereof. A well-established principle in planning practice dictates that it is not necessary to slavishly follow or adhere to a single policy and an application can often succeed due to a combination of factors.

#### **Rural Brownfield Development / Previously Developed Land**

25. In land use planning, special dispensation is frequently given in the consideration of proposals involving brownfield development in urban areas, because this is a more sustainable form of development. Unfortunately, planning publications do not extend such provisions into the consideration of proposals involving the re-use of previously developed land in the open countryside.
26. The Council has a duty to secure the orderly development of land in urban and rural areas, and to promote the rural economy. Notwithstanding this proposal's small scale, there are clearly economic benefits to be accrued through the approval of this application. Importantly, approval of the application would not prejudice the rural amenity of this area of countryside. Attached to this submission is an example of a senior planning manager taking a decisive action and approving an application despite the failure to comply with planning policy.
27. It would not be in the public interest for the subject building to lie vacant or not to be used to its full potential. The scale of the development is modest and it is not unreasonable to suggest a use that can be contained wholly within an existing building, which will, in turn secure its maintenance and upkeep. In these circumstances I believe that approval of the application can be justified without fear of establishing a precedent that would force the approval of other applications that are purportedly contrary to planning policy.



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28. In the event that you require any additional information, please do not hesitate to contact me.

Yours Faithfully,



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



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Chartered Town Planner







## APPENDIX 1

AREA PLANNING MANAGER'S CONSIDERATION OF APPLICATION P/2010/0537/F



<b>ITEM NO</b>	<b>18</b>			
<b>APPLIC NO</b>	LA07/2016/0802/O	Outline	<b>DATE VALID</b>	6/13/16
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>			
<b>APPLICANT</b>	Darren O'Hagan 11a New Line Road Hilltown Newry		<b>AGENT</b>	Quinn Design and Engineering Services 36 Carrogs Road Burren Warrenpoint BT34 3PY 41772377
<b>LOCATION</b>	60m NE of 11a New Line Road Hilltown Newry			
<b>PROPOSAL</b>	Site for dwelling and 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</b>	<b>Signatures</b>
			<b>Addresses</b>	<b>Signatures</b>

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

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

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.

2 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:

the proposed building is a prominent feature in the landscape;

the proposed site lacks long established natural boundaries/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 proposed building fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop

3 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:

the building would, if permitted, be unduly prominent in the landscape;

and would therefore result in a detrimental change to the rural character of the countryside.





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agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:**

LA07/2016/0802/O

**Date Received:**

13/06/2016

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

**Location:** 60m NE of 11A New Line Road, Hilltown, Newry

**Site Characteristics & Area Characteristics:**

The site is located on New Line Road, 1.2 miles South East of Hilltown in a designated rural area which forms part of the Mourne Area of Outstanding Natural Beauty. Views towards Hilltown and the surrounding countryside are enjoyed to the north. Opposite the site is the principal farm dwelling, No.11A, an established bungalow. A temporary timber home is also present within the curtilage of 11A. Further along from 11A are the associated farm buildings which include a cluster of 4 agricultural buildings, including 1 large and 3 relatively sized buildings. Adjacent to these is No.15, a two storey traditional farm house belonging to the applicant's family. Surrounding land uses are primarily agricultural, with some single dwellings which vary in architectural style.

The site itself, a portion of a larger open field, slopes down from the road continuously. There is an access laneway opposite which runs along the eastern boundary of the site, leading to an agricultural access. The site is bound along three edges by indigenous hedgerow, with mature trees set in behind the site towards the north eastern corner. The rear and northern boundary of the site is not currently defined, with the the remaining part of the field forming a boundary further back. An overhead electricity pole is located within the western boundary of the site.







Above from left: view along New Line Road looking east, view into the site from the NE corner



Above from left: view towards No.15 and farm buildings, view through the site

#### Site History:

**P/1992/0013** - 11 KV O/H line – permission granted

#### Relevant Surrounding Site History:

No.11A

**LA07/2016/1017/F** - Proposed infill dwelling with detached garage – application received 01/08/2016

Adjacent to 11A

**P/1983/0056** – Proposed erection of dwelling, granted,

#### Planning Policies & Material Considerations:

The planning policies and material considerations relevant to the proposal include:

- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- The Banbridge / Newry & Mourne Area Plan 2015
- PPS2: Natural Heritage
- PPS3 : Access, Movement and Parking
- PPS21: Sustainable Development in the Countryside.
- The 'Building on Tradition' Sustainable Design Guide will also be considered.
- 'Dwellings in the Mournes: A Design Guide.'
- Planning History

#### Consultations:

- **NI Transport** - no objections subject to conditions later listed
- **NI Water** – no objections, generic response received

- **DAERA Countryside Management Compliance Branch** (formerly DARD)– confirmed the Business ID has been in existence for more than 6 years and has claimed Single Farm Payment, Less Favoured Compensatory Allowances or Agri Environment Schemes in the last 6 years.

### **Objections & Representations**

3 Neighbour notifications issued 14/07/2016 (expires 28<sup>th</sup> July 2016)

No responses received

### **Consideration and Assessment:**

#### SPPS

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

#### Banbridge / Newry & Mourne Area Plan 2015 (BNMAP)

The site is located out with settlement development limits as identified by the Banbridge / Newry and Mourne Area Plan 2015. It is also within the designated Mournes Area of Outstanding Natural Beauty.

#### PPS 2 Natural Heritage

Policy NH6 Areas of Outstanding Natural Beauty outlines the criteria which must be met for new development within an AONB. As this development is for Outline Planning Permission, the design, size and scale of the proposal will be assessed at either Reserved Matters or Full application stage, if approved, under these criteria.

#### PPS3: Access, Movement and Parking

Transport NI in their consultation response dated 9 August 2016 state there are no objections in principle to this proposal, provided a scale plan and accurate site survey is submitted as part of the Reserved Matters application showing the access to be constructed and other requirements in accordance with the attached RS1 form. This requirement will be added as a condition to this decision, if approved.

#### PPS 21: Sustainable Development in the Countryside

PPS21 Policy CTY1 states that a number of developments are acceptable in principle in the countryside. This includes farm dwellings which are in accordance with Policy CTY10. There are three criteria to be met:

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

DARD Direct in their consultation response dated 3 August 2016, have confirmed that the relevant farm business ID 612842 has been in existence for more than 6 years and has also claimed Single Farm Payment, Less Favoured Area

Compensatory Allowances or Agri. Schemes in the last 6 years. This information is sufficient to satisfy criterion (a.) in terms of 'active and established.'

**Criterion (b) seeks to confirm that no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application (This provision only applies from 28<sup>th</sup> November 2008.)**

Having completed a thorough history check of planning records against the subject farm business and associated lands, there have been no prior development opportunities attached with this farm. As such, there is an opportunity available for a dwelling on a farm against this farm business 612842, provided the other policy criteria are met.

**Criterion (c) requires the new building to be visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane.**

The established group of buildings on the farm includes the 4 mentioned agricultural buildings which are separated from the subject site by a public road. Additionally, the primary farm dwelling, No.11A is separated from these buildings by 17 metres, with a field intervening between. In considering the development of this proposed site from critical viewpoints, which in this case are along New Line Road, the separation distance between the farm buildings and a potential dwelling on this site would be 20-25metres at a minimum, and thus visually removed from the existing farm buildings. A recent PAC decision (appeal reference 2016/A0009) reiterates the above point in that although the proposed buildings would be seen in proximity to the farm group, the physical separation between them would be readily apparent. The proposal does not therefore satisfy requirement (c.) The issue of access provision is therefore superfluous, though there is an existing lane adjacent to the site.

#### PPS21 CTY 13: Integration and Design of Buildings in the Countryside

Under PPS21 CTY 13, a new building will be unacceptable where:

**(a) It is a prominent feature in the landscape;**

The site slopes gradually downwards from the roadside to the rear. In terms of enclosure, there is currently hedgerow approximately 1.5m in height along the road side boundary of the site. The existing vegetation is unable to provide a suitable degree of enclosure to ensure satisfactory integration. On approach from New Line Road heading east, (as shown below) the building would be increasingly visible and would appear as prominent in the skyline.





View captured from No 11A, New Line Road, Hilltown on 15/09/2016.



View captured 01/08/2016 from the laneway looking through the site towards No. 11A New Line Road



View captured 01/08/2016 from the laneway looking towards the group of farm buildings and No.11A New Line Road

**(b) The site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape;**

The site is defined by mature hedgerow on two of its edges, with the absence of rear and western boundaries. As such, the site lacks three established boundaries and is relatively exposed when viewed from New Line Road. Whilst 1.5m high roadside hedgerow exists and the site gradually slopes, this existing vegetation, together with the lack of visual backdrop would not provide a suitable degree of enclosure on this site. The proposal relies on new landscaping to define the curtilage and provide a suitable degree of enclosure.



SITE



**(c) It relies primarily on the use of new landscaping for integration;**

As mentioned above, the existing road side vegetation along this site would not be enough to offer successful enclosure of a new dwelling in this location. As such, further landscaping would be required along the roadside, west and rear boundaries to not only define the curtilage but to aid integration into the existing landscape. The site chosen is not considered to provide a natural degree of enclosure which is required to satisfactorily integrate a new dwelling in the Mourne AONB.

**(d) Ancillary works do not integrate with their surroundings;**

This application is for the principle of development only, therefore this matter should be considered through a Reserved Matters or Full application.

**(e) The design of the building is inappropriate for the site and its locality**

This application is for the principle of development only, therefore this matter should be considered through a Reserved Matters or Full application.

**(f) It fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop;**

Having considered the character and surrounding attributes of the site, a dwelling on the SE corner of the site would not naturally blend with the land form in that there is currently no back drop to the site. Additionally, the degree of natural enclosure provided would not be suitable without the reliance on new landscaping, particularly to the roadside, west and rear boundaries.

**PPS21 CTY14: Rural Character**

Under this policy, a new building will be unacceptable where it is unduly prominent in the landscape. For reasons outlined above under the assessment of CTY13, it is considered that a new dwelling on this site would result in prominent skyline development which would further erode the rural character of the area. In order to maintain the rural character, the new building should integrate sensitively with the group of existing farm buildings, something which this site is unable to achieve.

**PPS21 CTY16: Development relying on non-mains sewerage**

The application proposes to use a septic tank to dispose of foul sewerage. A standard consultation response has been received from NI Water. If approved, a condition will also be attached to this decision requiring the applicant to submit a copy of consent to discharge for the proposed site, to be agreed in writing by the Planning Authority.

**Planning History**

Despite having established that there is an opportunity for a dwelling on farm attached to business ID 612842, the site selected must be suitable. Following an assessment of the proposal under CTY10, CTY13 AND CTY14, it is considered that the proposed site is unsuitable in terms of visual linkage with the existing farm





buildings, integration and the detrimental impact on rural character. The DARD farm maps provided do not convey legal ownership and demonstrate only the verified lands on the holding. The maps provided show a number of other sites on the holding. It is considered that there are other suitable sites on the holding to allow for a farm dwelling which would satisfy the criteria of CTY10, CTY13 and CTY14.

Additionally, the Planning Statement accompanying this application points out that any dwelling sited beside the farm buildings on the southern side of New Line Road would automatically be forced onto higher ground, resulting in issues of prominence and against this background the applicant has opted to apply against the subject site.

Despite these points raised in the Supporting Statement, a full planning application (reference LA07/2016/1017/F) was submitted on 1<sup>st</sup> August 2016 for an infill dwelling on lands between No11A and the existing group of farm buildings which is

also in the ownership of this applicant, as certified by Certificate A on this P1 application form.

### **Recommendation:** Refusal

**Summary of recommendation:** This proposal is contrary to the SPPS as well as policies PPS21 CTY1, CTY10, CTY13, and CTY14. It is considered that there are other suitable sites for this proposal which would comply with the above policies.

### **Reasons for Refusal:**

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

2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:
  - The proposed building is a prominent feature in the landscape;
  - The proposed site lacks long established natural boundaries/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 proposed building fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop
  
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:
  - The building would, if permitted, be unduly prominent in the landscape; and would therefore result in a detrimental change to the rural character of the countryside.

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

# Quinn Design and Engineering Services

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Statement in support of planning application  
LA07/2016/0802/O

Proposal: Site for dwelling and detached garage

Location: New Line Road, Hilltown

Applicant: Darren O Hagan



## Background

The Case Officer (CO) has set out the reasoning as to why the application should be refused. The Case Officer's Report (COR) contains no input from any senior planning officer, therefore, I must assume that the content of the COR alone has totally influenced the planning department's decision to recommend this application for refusal.

The planning department has openly accepted that the applicant's family farm is "entitled" to a new dwelling ie, the farm is active, it has been active for more than 6 years and that no development opportunities have been sold off within the past 10 years.

### Case Officer's Consideration Of Policy CTY 10.

The first sub reason in refusal reason no 1 as published advises that the new dwelling is unacceptable as it has not be demonstrated that

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

The following 2 sub reasons inside refusal reason no 1 stem for the CO's reasoning that the new dwelling will not cluster or link visually with the group of buildings on the farm.

For this reason, if the Planning Committee accepts that the siting as submitted will cluster or link visually with the group of buildings on the farm, Policy CTY 10 will be complied with and all sub refusal reasons relating to CTY 10 will be aside.

As shown below the buildings at the farm yard consist of 2 dwelling houses, 3 large sheds, an open silage pit & an open air slurry tank in a feeding yard.



The land beside the farm buildings rises steeply to the south and as such any application which seeks permission to build on the land elevated above farm buildings would be refused on grounds of integration and prominence. *This point is elaborated on later.*

The siteplan sketch confirms that the new dwelling would be located opposite New Line Road, 26m from the closest farm building and 22m from the open air tank. To locate the dwelling any closer to cattle sheds, feeding yard with internal and external underground tanks would in my opinion lead to a situation where odour from the applicant's own cattle sheds and silage pit could affect his amenity in his new dwelling.

### **Will The New Dwelling Have A Visual Link To The Existing Buildings At The Farm Yard?**

At paragraph 3 on page 4 of the COR, the CO advises "*the separation distance between the farm buildings and a potential dwelling on this site would be 20-25metres at a minimum, and thus visually removed from the existing farm buildings*".

The CO has simply decided that a 20-25m prevents the new dwelling from linking visually.

The CO continues to quote a recent PAC decision on an appeal at Ballycoshone Road, Rathfriland (*appeal reference 2016/A0009*) where an appellant was seeking Outline Planning Permission for a dwelling on his farm under CTY 10 with the new dwelling sited on the opposite side of the road from the farm buildings.

The CO quotes the commissioner "*the proposed buildings would be seen in proximity to the farm group, the physical separation between them would be readily apparent. Therefore, the proposal does not satisfy this requirement*".

Ballycoshone Road in the vicinity of the appeal site is almost twice as wide as New Line Road + it has significant grass verges either side of the road. When approaching the appeal site from the north a road user would see only the farm buildings, the dwelling which was proposed would not be visible in conjunction with the farm buildings. It would only have been visible with 1 existing dwelling.

In comparison, New Line Road including the road verge is only 4.4m wide (approx 14 feet) between the hedges in the vicinity of the site. The new dwelling, if approved will never be viewed in isolation.

For these reasons I feel there are significant differences between the 2 sites to prevent the Ballycoshone Road appeal decision being used as a precedent in this case.

The CO has clearly placed determining weight in the fact that a single commissioner when deliberating on a completely different site has decided that a proposed dwelling on the opposite side of a very wide road from farm buildings would simply not cluster or link visually with the farm buildings.

The CO has I fear has become sidetracked by the fact that the proposed dwelling will be on the opposite side of the road, 26m from the farm buildings and has in my opinion erroneously taken support for this stance from a single commissioner appeal decision relating to a site that doesn't "*sit on all fours*" with the site at New Line Road.

The Ballycoshone appeal wasn't a landmark decision by the Commission, it was simply an appeal decision made by a single commissioner on a site with different circumstances to the one we are discussing. Furthermore, I would strongly contend that relying on single commissioner's decisions or advice relating to specific siting is never helpful as no two sites are the same.

### **Where Will The New Dwelling Be Viewed From?**

The CO advises that the critical views of the proposed dwelling will be from New Line Road and a lane off New Line Road adjoining the site.

The following recently taken photographs confirm that the new dwelling will only be visible from a short section of New Line Road.

When visible from New Line Road travelling in either direction, the new dwelling will be visually linked to the buildings at the farm in that it will be impossible to view the dwelling without viewing the buildings at the farm.





Photograph showing the view when travelling towards the site from Sandbank Road. Photograph taken 55m from site, 100m from proposed siting. Proposed dwelling completely hidden from view by no 15 New Line Road.



Photograph taken from the corner of no 15, 60m from the proposed dwelling. Dwelling to be located directly opposite the farm buildings. It will be impossible to view the new dwelling isolation from the farm buildings.



Photograph taken from New Line Road, 55m from proposed dwelling at the point where the new dwelling would come in to view. Again the new dwelling will be visible directly opposite the farm buildings and will not be viewed in isolation from the farm buildings.

The 3 previous photos show that the new dwelling will only be visible from a section of New Line Road 125m in length. It will be impossible to view the dwelling in isolation, therefore I strongly contend that the new dwelling will be “*visually linked*” to the existing buildings when viewed from New Line Road.

### **Will The New Dwelling Be Visually Linked When Viewed From Additional Vantage Points?**

Notably, the CO makes **no comment** as to how the new dwelling will link visually with the existing farm buildings when viewed from either Leitrim or Kilkeel roads.

The stretch of Kilkeel Road between Doran’s Pub & Bann View and a short stretch of Leitrim Road close to the junction with Rostrevor Road will both offer long distant views of the new dwelling.

When viewed from either road, the new dwelling will appear in front of and well below the existing farm buildings. In fact it will be **impossible** to view the dwelling in isolation from these 2 roads; therefore it will have a strong visual link to the farm buildings to the rear when viewed from Leitrim and Kilkeel roads.



## Did The Case Officer Ever Consider If The New Dwelling Will Cluster With The Existing Farm Buildings?

Criterion C requires that the new dwelling “*visually linked or sited to cluster with an established group of buildings on the farm*”.

The policy doesn't require both visual linkage and clustering. The presence of the word **OR** confirms this.

The CO has explained why the dwelling in her opinion will not link visually with the existing buildings, however, the COR does not explain how the 26m separation prevents clustering.

Paragraph 1 on page 4 of the COR contains the consideration against criterion C. As is good practice, the CO quotes the requirements of the policy and then continues to consider the proposal. The following consideration **doesn't** actually include the word “*cluster*” or “*clustering*”.

Has the CO has erroneously imposed a new test which requires the new dwelling to cluster & visually link with the buildings on the opposite side of the road?

In the last paragraph on page 7 and to summarise matters, the CO advises “*it is considered that the proposed site is unsuitable in terms of visual linkage with the existing farm buildings*”. Again the words “*cluster*” or “*clustering*” don't appear in this summation.

I strongly contend that the CO has introduced 2 tests, one of clustering and one of visual linkage. There is only 1 test.

## Conclusion To The Consideration Against Criterion C Of CTY 10

Criterion C of Policy CTY 10 simply requires that “*the new building is visually linked or sited to cluster with an established group of buildings on the farm*”

Paragraph 5.41 which follows Policy CTY 10 advises “*To help minimise impact on the character and appearance of the landscape such dwellings should be positioned sensitively with an established group of buildings on the farm, either to form an integral part of that particular building group, or when viewed from surrounding vantage points*”

None of the advice quoted above implies that a new dwelling must be built **right beside** a group of buildings at the farm in order to comply with CTY



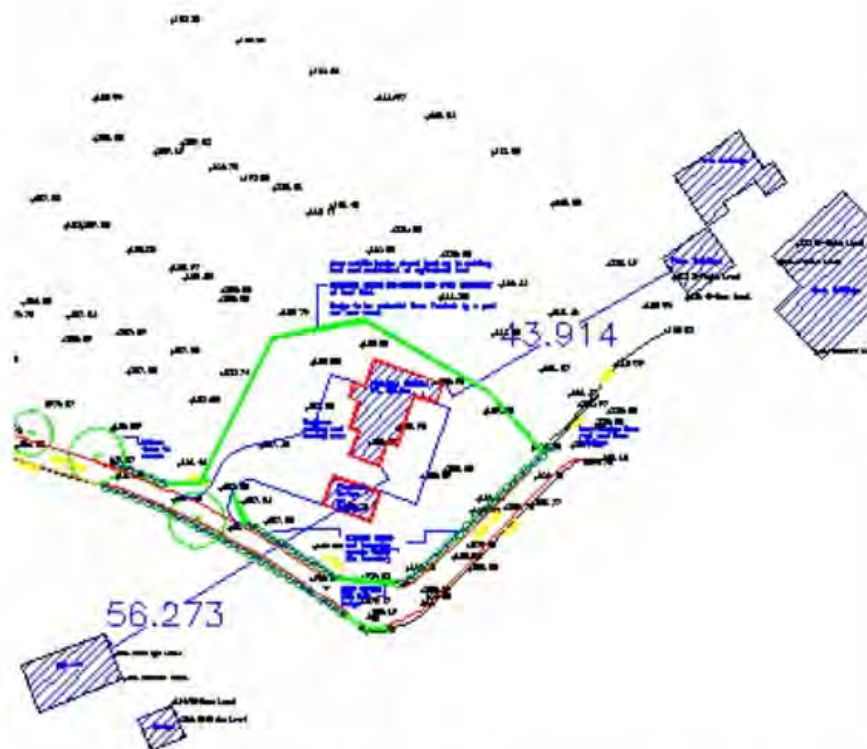
10. Furthermore, none of the advice requires a new dwelling to be built on the same side of the road as the existing buildings.

Against this background, I strongly contend that the proposal fully complies with Policy CTY 10.

### Administrative Fairness And Inconsistency Of Approach

I have shown below and overleaf my own siteplan sketches which were accepted by the Council on 2 recent occasions where applicants were seeking OPP for a dwelling under CTY 10.

LA07/2015/1100/O, Silverbridge Road, Silverbridge.

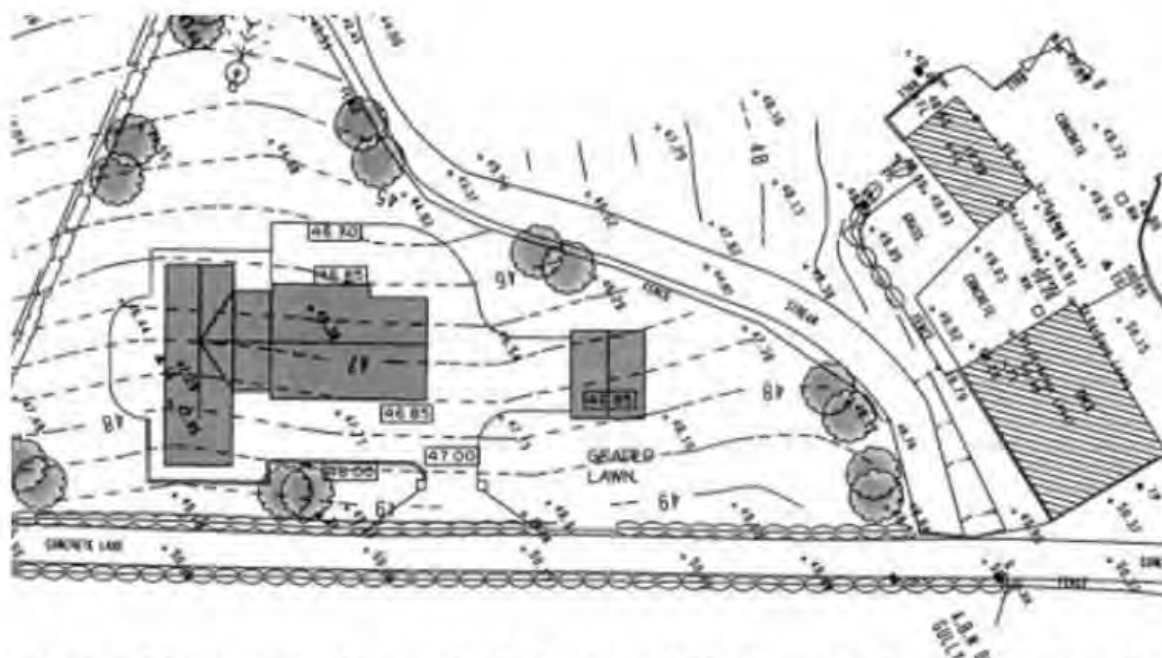


Site for a new dwelling approved by the Council a few months ago with the dwelling located almost 44m from the closest farm building and just over 56m from the garage associated with the main farm dwelling. The new dwelling will be clearly viewed from the main Newry to Crossmaglen Road.

LA07/2015/0889/O, Stang Road, Cabra, Hilltown



Site for a new dwelling approved by the Council in March past with the dwelling located almost 31.5m from the closest farm building. The dwelling will be clearly visible from the Newry to Downpatrick Road.



The Council has recently granted Reserved Matters on the Stang Road site. The image immediately above was taken from the approved siteplan and shows that the new dwelling will actually be located 44m from the closest farm building.

In all quoted cases, there was more than ample space to site both dwellings much closer to the farm buildings, however, the planning department was

very content that siting new dwellings approximately 44m from existing farm buildings still allowed the dwellings to link visually or cluster with the farm buildings.

Against that background, the Council has in my opinion acted very inconsistently.

The Council in defending their inconsistency of approach might advise that "*No two sites are the same*" and they might also be correct to do so.

However if we apply this same logic to the site at New Line Road, then the single commissioner appeal decision at Ballycoshone Road relating only to siting once again inherits a large degree of insignificance.

### **Consideration Against Policies CTY 13 & 14.**

In relation to Policy CTY 13, the CO advises that the proposal offends criteria A, B, C & F of CTY 13. Any proposal which offends criterion A of CTY 13 also offends criterion A of CTY 14.

Helpfully, the CO does not consider that approving this application would lead to a change in rural character due to there being too many buildings in the area.

The CO mentions that the roadside hedges along New Line Road are 1.5m high. The hedges alone coupled with a FFL which will be min 2m below road level at the point from where the proposed dwelling begins to come into view will ensure that much of the new dwelling will remain hidden when viewed from New Line Road.

The CO has used photographs taken from the narrow farm lane to the north of the site. I fail to see how these vantage points are in any way relevant given that the lane serves only 4 fields owned by the applicant's family.

The CO fails to mention how the curvature of the road to the north east of the site coupled with the high ground to the south and east of Leitrim Road and the existing dwellings/buildings close to or at the farm yard will completely hide any dwelling from view when approaching from the Sandbank Road direction until a road user is within 60m of the site.

Finally, as mentioned previously, the Kilkeel Road to the north of the site offers views of the proposed site. Whilst the Kilkeel Road is quite far away from the application site, views from it should also be considered "*critical*" as the road is very heavily trafficked.



I would perhaps go as far as to say that a higher volume of people will see a new dwelling on this site from Kilkeel Road than those who will see it from New Line Road or indeed the narrow farm lane serving 4 fields to the north of the site.

Views from Kilkeel and Leitrim Roads will see the new dwelling nestled in below the farm buildings which sit on higher ground to the rear.

### **The Planning Committee's Consideration Of A Similar Application.**

On 29<sup>th</sup> June past, the planning committee deliberated on application LA07/2015/0936/O at Burren Road, Warrenpoint where the applicant was proposing a new dwelling away from the farm yard and buildings due to health, safety and access reasons.

After deciding that sufficient information had been provided to warrant a new dwelling that was not sited beside the farm yard and its buildings, the planning committee promptly set aside the 3 refusal reasons relating to Policies CTY 8, 13 & 14.

In setting aside the refusal reasons relating to Policies CTY 8, 13 & 14 the Planning Committee reasoned that ensuring that a new dwelling could be built on the farm was more important than the concerns the Planning Department had raised in relation to the stated policies.

My client, who is to be married next year runs the family farm with his father, Connor. My client is named on the DARD Herd Number associated with their cattle. A new dwelling is required on the farm to allow the applicant to continue to remain heavily involved with the family farm and to be on hand to assist with night calving, sick animals etc as and when required.

I would ask that the Planning Committee consider the need for a new dwelling on the farm to being the determining factor in the consideration of this case in the same way the committee considered the Burren Road application.

### **Are There Any Other Sites On The Farm that Would Comply With CTY 10, 13 & 14**

Regardless of how many hectares of land a farmer owns, compliance with criterion c of CTY 10 requires a new dwelling to be sited close to buildings on the farm.

The image below was extracted from the DARD maps already submitted. As you will see the application site is located in field no 1, directly opposite the farm buildings.

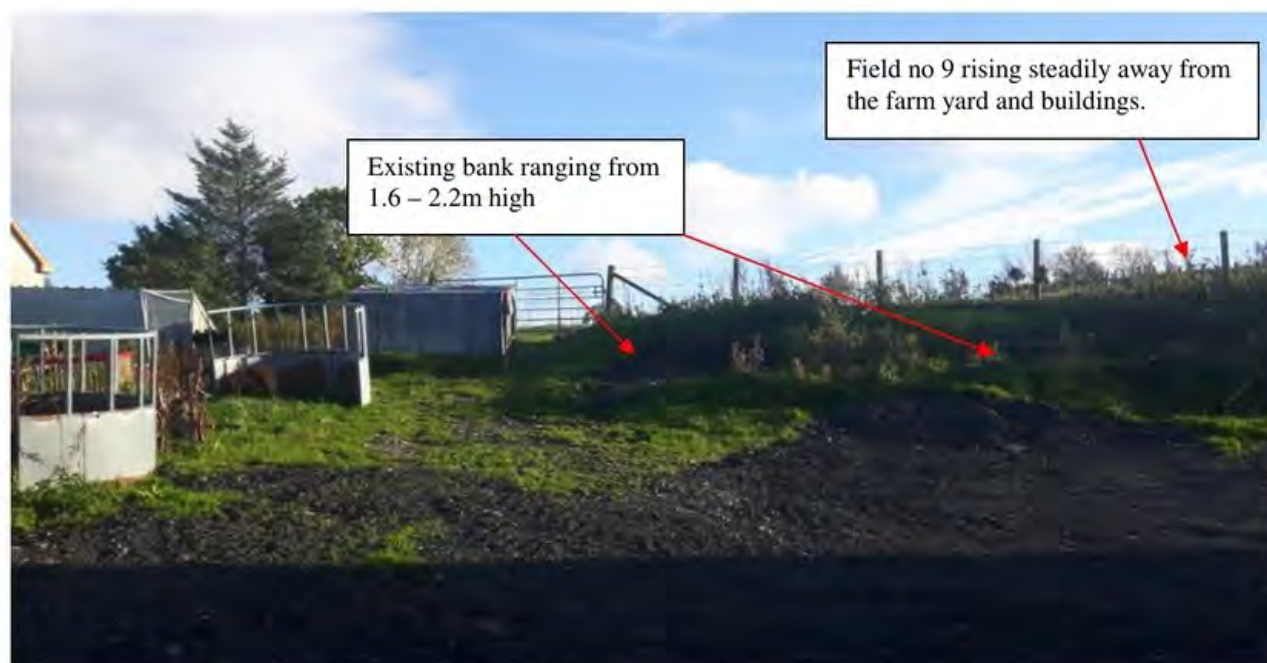


The buildings between the main farm dwelling and no 15 are the only buildings on the farm. This being the case, the only other field which adjoins the farm buildings is field no 9, to the south of the farm buildings.

The 2 photos over leaf were taken from the entrance to the farm yard. The first photograph shows that field no 9 is actually 1.5m above FFL in the largest farm buildings and that no 9 continues to rise steadily away from the farm buildings.

The second photograph shows a 1.6-2.2m high bank where the farm yard, (which is already rising) slopes dramatically upwards to meet field no 9. Again field no 9 continues to rise away from the farm yard.





In the first paragraph on page 8 of the COR advises "*The maps provided show a number of other sites on the holding. It is considered that there are other suitable sites on the holding to allow for a farm dwelling which would satisfy the criteria of CTY10, CTY13 and CTY14*".

Any new dwelling sited in field no 9 which would cluster or link visually with the existing farm buildings would simply have to be located on ground much higher than the farm buildings. Against that background and given that there are no other buildings on the farm, the applicant and I are struggling to understand how a dwelling sited well above the existing farm buildings would not be prominent and therefore not offend criteria A of both Policies CTY 13 & 14.



## Conclusion

I strongly contend that the new dwelling will link visually and cluster with the buildings at the farm.

The applicant and I are concerned that no explanation has been provided as to why the planning department considers that the proposal will not cluster with the existing buildings.

The appeal used by the planning department is not “on all fours” with this case.

The new dwelling will sit well below road level and will only be visible over a short section of New Line Road.

The new dwelling will never be viewed in isolation.

Views from Kilkeel and Leitrim Roads will see the new dwelling nestled in below the farm buildings which sit on higher ground to the rear.

There are no other sites on the farm which will comply with the required policies in PPS21.

The applicant is more than content to accept a condition which requires any new dwelling to be single storey in appearance with a 5.5m ridge height.

As such I would ask the members of the planning committee to overturn this recommendation and grant outline planning permission.

Brendan Quinn  
BSc Hon's  
ICIOB