

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

ITEM NO	28				
APPLIC NO	P/2013/0752/F	Full	DATE VALID	10/11/13	
COUNCIL OPINION	APPROVAL				
APPLICANT	Ulster Small Arms Shooting Club 158 Moyad Road Kilkeel		AGENT	Quinn Design and Engineering Services 36 Corrags Road Burren Warrenpoint BT342PY 41772377	
LOCATION	60 metres north west of no 16 Aughnaloopy Road Kilkeel				
PROPOSAL	Erection of shooting shed and alterations to existing banks/slopes with retention of car park and pathway including proposed planting scheme (amended plans / additional information)				
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions	
	6	3	0	0	
			Addresses Signatures		
			0	0	0



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: P/2013/0752/F

Date Received: 11.10.2013

Proposal: Erection of shooting shed and alterations to existing banks/slopes with retention of car park and pathway including proposed planting scheme

Location: 60 metres north west of no 16 Aughnalooopy Road Kilkeel

Site Characteristics & Area Characteristics:

The site is located 60 metres north west of 16 Aughnalooopy Road approx. 1.5km north west of Kilkeel, in the Mourne Area of Outstanding Natural Beauty (AONB). It contains a former agricultural field, part of which has been converted to a shooting range. The site, as outlined in red, measures approximately 0.6 ha. It is orientated from east to west, and the terrain falls in this direction. The change in levels from east to west is approximately 9 metres. The field fronts directly onto Aughnalooopy Road, on its eastern side. A small gravel hard standing has been created adjacent to the roadside to create a car parking area within the field.

The site measures approx. 100 metres deep by 50 metres wide, although the red line includes a small piece of land on the western side of a stream that runs from north to south along the western boundary of the main field that contains the shooting range. A mounded bank has been created in the western corner of the field in order to create a shooting enclosure. The range is approximately 12 metres wide by 37 metres long. The site boundaries are well defined, by mature trees and other large shrubs and bushes. Because of the horizontal alignment of the adjacent road, the rolling terrain, existing buildings and roadside and field boundary vegetation, views into and through the site are limited.

The site is located in a rural area that is classified as open countryside and does not carry any specific land use planning constraints or designations. Whilst the area is in general characterised by a dispersed pattern of settlement, there are a number of residential properties in close proximity to this site, including a recently constructed dwelling approx. 90 metres to the south west. There are approximately ten dwellings within 200 metres of the site. No special land use planning constraints affect this site in particular.

Site History:

2011/E056 Deemed application brought under ground A of Article 69 (3) of The Planning (Northern Ireland) Order 1991. This appeal was dismissed.

P/2010/0611/F - Retention of shooting range including carpark, pathway, portable toilet, portable storage container and soil mounds. Range to be used for up to 28 days annually (including a tree planting scheme) (amended description) – Permission refused - 20.12.2012

Planning Policies & Material Considerations:

The Banbridge and Newry and Mourne Area Plan 2015

The SPPS

PPS 2 Natural Heritage

PPS 8 Open Space & recreation

PPS 3 Access and Movement

PPS 21 Sustainable development in the Countryside

Consultations:**Objections & Representations**

Neighbour notification has been carried out as appropriate and the application has been advertised in accordance with the Planning Department's statutory obligations. There have been 2 letters of objection and four petitions received.

SUMMARY OF OBJECTIONS

- Lack of enforcement action in relation to existing unauthorised shooting range;
- Occurrence of noise pollution due to operation of unauthorised shooting range;
- Unacceptable impact on residential amenity;
- Adverse Impact on local character;
- No need for shooting range at this location combined with the existence of suitable alternatives elsewhere;

CONSIDERATION OF OBJECTIONS

- Enforcement action has been undertaken in respect of the previous unauthorised use of the land, and is not relevant to the determination of this planning application;
- Historical noise pollution occurrences at this location ought not to unduly influence the Planning Department's decision given the different nature of the proposal and the prospect of achieving a reduction in the volume of noise disturbance;
- The concerns of the local residents will be given further assessment throughout the report in relation to the concerns that this proposal will unacceptably diminish their

residential amenity, due to the frequency of gun discharges, the number of days upon which it is proposed to shoot, the timing of the shooting activities, the days upon which it is proposed to shoot, the close proximity to nearby residential properties, and the existing ambient and tranquil conditions at this location;

- Consideration of this proposals impact upon the local character of this area, and the character of the AONB, will also receive further assessment within the report; and
- Consideration of the need for this proposal will also be assessed.

Consideration and Assessment:

Relevant Planning Policies include PPS2, PPS 3, PPS 8, PPS 21, the SPPS and the Banbridge/ Newry Area Plan. All material considerations will be assessed throughout this report.

Policy OS 3 of PPS 8

Subject to the provision of a 5 metre buffer from the adjacent stream, adverse impact can be avoided upon the natural heritage of the area. This buffer is maintained on the submitted drawings and can also be accompanied by a condition that it must be retained thereafter on a decision notice if approval was to be recommended. There are no issues in relation archaeological or built heritage features at this locality.

There will be no permanent loss of the best and most versatile agricultural land and no unacceptable impact on nearby agricultural activities on the basis that noise levels do not exceed recommended guidelines.

I am satisfied there will be no adverse impact on visual amenity or the character of the local landscape and the development can be readily absorbed into the landscape by taking advantage of existing vegetation and/or topography. The site is beneath the level of the road, and it benefits from a backdrop of rising terrain as well as a farm grouping to the west / north west. In this context, the development will not appear out of character.

I believe there will not be an unacceptable impact on the amenities of people living nearby due to excessive noise disturbances occurring, if the proposal is conditioned to have a days and hours of operation condition attached. I recognise that there will be an element of noise disturbance, however this will not be categorised as pollution insofar as it will not exceed recommended guidelines. The applicants have submitted details of the sound proofing which will take place inside the proposed shed. The results of the proposed noise attenuation report shows that the proposed shed is now able to achieve approximately 45dB to the nearest sensitive receptor. The condition is necessary so that there are mitigating measures to the frequency of the noise generating activities, and individual shots, will have a detrimental impact to local residents and would be defined as a loss of residential amenity if this was not conditioned and restricted. In this case it would be proposed that an restricted hours of operations would be 15 Saturdays per year and 15 other weekdays per year (Monday to Friday). The hours of operation will be 10am to 5pm on those days.

Public safety will not be prejudiced, and the development is compatible with other countryside uses in terms of the nature, scale, extent and frequency or timing of the recreational activities as conditioned. My main concern relates to the proposed impact on residential amenity, and the proposal is considered compatible with the agricultural use of the surrounding lands only on the basis that noise thresholds are not to be exceeded and the frequency remains within the proposed conditioned days and times.

The proposed structures are designed to a standard that is typical of this area, and I have no concerns in this respect, particularly in terms of their siting, layout and landscape treatment.

There is evidence that the proposed facility takes into account the needs of people with disabilities and the site has been designed to be accessible by means of transport of a private car. I clearly understand these policy requirements but recognise that some flexibility ought to be applied to these requirements given the site's rural location. In this respect the fact that there would be limited public transport to this facility will be given little determining weight.

The road network can safely handle the extra vehicular traffic the proposal will generate and satisfactory arrangements are provided for access and parking. Roads Service has no objections. The procedure and order for shooting as well as limited viewing space mean that there will only be two sessions of shooters at the facility at one time. There is adequate car parking and access proposed for this amount of people. Drainage and waste disposal are subject to separate consents, outside of the planning system, however pollution is not likely to occur provided a 5 metre buffer from the watercourse is achieved.

In my opinion the proposal complies with the criteria set out in Policy OS 3 subject to a condition restricting the days and hours of operations proposed. Without this condition there is likely to be a significant impact on the amenities of nearby residents by virtue of the frequency of the noise disturbance, and it is significant that a number of local residents have objected to the proposal. I recognise that the applicant has submitted reliable information to suggest that the proposal should not breach relevant noise thresholds, however the type of the noise generated, the frequency of the noise disturbances and the existing ambient quality combine to persuade me that this type of proposal would not be acceptable at this location due to the proximity to neighbouring residents without this restrictive condition proposed.

Policy OS 5

"The Department will only permit the development of sport or outdoor recreational activities that generate high levels of noise where all the following criteria (1 to 3) are met":

The first criteria can be met, subject to the proposed condition being attached which will mitigate against the potential noise issues or nearby residents. Without this condition I consider the proposal will create an unacceptable level of disturbance to people living nearby. In arriving at this conclusion, I note the applicant's suggestion that noise thresholds will not be exceeded, hence my distinction between noise exceeding a recommended threshold, and the frequent discharge of firearms, which will generate a piercing sound. The cumulative effect of multiple gunshots discharging throughout a day, would be disturbing if experienced from within nearby residential properties to the degree hereby proposed.

I recognise the applicant's measures to ensure there is no unacceptable level of disturbance to farm livestock and wildlife and therefore have no concerns in relation to criteria 2.

In relation to the third criteria, I consider there will be a clear conflict with the enjoyment of this environmentally sensitive location of the AONB, which would otherwise have been valued for their silence and solitude, without the necessary mitigating factors which are proposed within the day and time restricting condition.

On that basis of the mitigating condition I consider the proposal to comply with the requirements of Policy OS 5.

NH 6 of PPS 2

NH 6's specific policy requirements relate to design, size and scale, and I do not consider these aspects of this proposal to be unacceptable. However, the justification and amplification to the policy confirm that this policy requires development proposals in Areas of Outstanding Natural Beauty (AONB) to be sensitive to the distinctive special character of the area and the quality of their landscape, heritage and wildlife. It is stated that the quality, character and heritage value of the landscape of an AONB lies in their tranquillity, cultural associations, distinctiveness, conservation interest, visual appeal and amenity value.

Reverting to the PAC Commissioner's findings regarding a proposal of a similar nature, on this site, the PAC stated that "I would accept that it also would have an impact on the overall character of this area of special amenity value and to that extent the Departments concerns in this respect are justified".

I believe that with the amended scheme and the proposed reduce noise levels that this proposal has aimed to be sensitive to the distinctive special character of the area. There are fundamentally more issued to consider in assessing the impact that this proposal will have within the rural area than noise. This proposal will also generate a significant amount of traffic throughout a day within a tranquil rural ANOB area. The impact that 60 days per year would have within the AONB would be detrimental to the sensitive tranquil nature of the surrounding area. The applicant played for my benefit a recording of what 45db sounds like at the nearest sensitive receptor. However this was one shot at a time and not a volley of continuous shots which would be experienced at this location. Therefore little weight was given to the recording. The noise element would also considering its combined repetitive bursts would be alien within the AONB setting. It is for these reasons that the proposal will subject to the proposed condition restricting its use to 30 days per year (15 Saturdays and 15 weekdays 10:00 to 17:00), and as such the character of the AONB, which is in part derived from its tranquillity and amenity value will be not suffer significant detriment by this proposal.

On balance, I consider the proposal to comply with Policy NH 6 subject to conditions.

CTY 13

I am satisfied the proposal complies with Policy CTY 13 because the building will not be prominent. The site does not lack long established natural boundaries and is able to provide a suitable degree of enclosure for the building to integrate into the landscape. The proposal does not rely primarily on the use of new landscaping for integration. Ancillary works will not fail to integrate with their surroundings. The design of the building is not inappropriate for the site and its locality, and it would not fail to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop. Overall, I am reasonably content that the proposal meets the requirements of Policy CTY 13.

CTY 14

The building will not be unduly prominent in the landscape. It would not result in a suburban style build-up of development when viewed with existing and approved buildings. It would not fail to respect the traditional pattern of settlement exhibited in that area and it would not create or add to an existing ribbon of development. The impact of ancillary works will not be unacceptable, and I am satisfied the proposal complies with Policy CTY 14.

Parking Standards & PPS 3

Roads Service has no objections to the proposal, and is satisfied with the access arrangements. I therefore have no concerns in relation to Policy AMP 2 of PPS 3.

In relation to Policy AMP 7 however, I believe that the parking arrangements are adequate. Parking spaces have been clearly identified or dimensioned, and there appears sufficient space set aside for visitor parking. I recognise that the applicant has scope to improve these arrangements. I believe the proposal complies with Policy AMP 7.

Approval is recommended.

Recommendation:

Given the above assessment I am content that the proposal complies with the planning policies set out subject to a restriction on the days and hours of operation of the proposal.

Proposed Conditions:

Time Limit

Hours of operation restricted to 15 Saturdays and 15 other week days from 10am to 5pm to be agreed in writing annually with planning.

Landscaping retained.

Noise at nearest sensitive receptor to be not more than 45dB.

Access conditions.

The written representation for objecting Residents of Aughnaloopy Road.

Proposal: Erection of shooting shed and alterations to existing banks/slopes with retention of a car park and pathway including proposed planting scheme.

Location: 60 metres north west of no 16 Aughnaloopy Road Kilkeel

Our main points:

- Safety and well-being impact on residents including children
- Deterimental noise and impact on residents
- Impact on an Area of Outstanding Natural Beauty
- Increased Road Traffic and Parking concerns

1) As residents of this quiet, rural, residential country area, parents of young families and neighbours to elderly residents, we cannot comprehend why planning is considering approval for this proposed development. We have enjoyed living in a tranquil environment surrounded by the mountains and the sea, only to have it disrupted in 2009 with the unlawful creation of an outdoor shooting range within 50 meters from our back door. I am here today to emphasise that our Human Rights will be violated if this proposal is allowed to proceed. We, as “Humans have the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being”. Since 2009, we the residents, family members and, very importantly, our children have been subjected to significant stress due to this proposed shooting range. Just recently, my

fourteen year old son was showered with pellets while playing football in our garden. This resulted in a terrified son and a call to our local police service. As I parent I am consumed with fear over the detrimental effect this shooting is having on my young children. This experience has had a grave impact on my sons enthusiasm to play sports outside when shots are being fired. If this application were to receive approval, this could result in my son and others feeling confined to their own house possibly on a weekly basis. We have endured years of shooting noise, our lives being regularly disrupted and altered due to the shooting activities. It has affected play, studying, sleeping, family events and social opportunities. Approval of this application would reinstate these negative influences to resident's lives and well being.

- 2) A letter from the Environmental Health office in February 2016 states "the achievement of the appropriate noise limit does not mean that significant adverse amenity impacts may not occur due to noise should it occur regularly and for prolonged periods". So any suggestions that the preventative noise measures planned, offer the appropriate amendments to make this a justified application, is unrealistic given the peace and tranquility we currently enjoy. If approved this application would reflect a planning system that makes decisions based on maps and drawing as opposed to the reality of the close proximity of residents homes to a shooting range. The planning system has been coerced and manipulated to progress this application and if approved will display a overt disregard for residents human rights. It is difficult to comprehend how this application has gotten so far when the original shooting range was erected and operated illegally for a considerable period of time.
- 3) We live at the foot of the Mourne Mountains within the Kingdom of Mourne and Kilkeel coast and this area is one of 130 distinctive locations identified in Northern Ireland as an area of outstanding natural beauty. This fact contradicts approval for an application for a shooting range. Mourne Heritage Trust along with key partners are putting in place an action plan to protect the special qualities of the Mournes. It recognises the importance of sustaining local identity and highlights those

characteristics and features which should be celebrated as part of Northern Ireland's natural and cultural heritage.

- 4) Aughnaloopy Road is a quiet rural residential environmental surrounded by natural beauty. The road is narrow, just passable for two cars and used by locals. A decision of approval would result in increased traffic on this country road in close proximity to residents homes. Children walk home from school on this country road following drop off by local bus services at the junction with the main Moyadd road. Approval for this shooting range will undoubtedly increase the risk of an accident or fatality on the road for users including residents and their families. We, the residents, find it incredulous that through the planning process, the planning department are recommending that this road is able to cope with any increase in traffic. Have they really considered local residents including school children trying to access their homes and the continuous 24-7 need for local farmers to access their agricultural land with appropriate farm machinery? Where will excess vehicles park if the proposed car park is full?

We the local residents strongly object to this proposal for the reasons outlined above.

If this shooting range is approved, it will result in the destruction of a small rural community where the lives of those most affected will have been blatantly discarded in favour of an activity which is available 30 minutes down the road in the urban city of Newry.



Pat Quinn MSc MRTPI
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458

By email to democratic.services@nmandd.org

Democratic Services
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BT35 8DJ

20 June 2016

Dear Madam/Sir

Formal request to speak in support of the application listed below at the 29 June Planning Committee Meeting
Planning reference: P/2013/0752/F
Planning Schedule Item Number: 29
Proposal: Erection of enclosed shooting shed and ancillary development
Location: 60 metres North West of no 16 Aughnaloopy Road, Kilkeel
Applicant: The Ulster Small Arms Shooting Club

I refer to the above application which appears on page 29 of the Planning Schedule which will be considered at the Planning Committee Meeting due to be held on 29 June 2016.

I am the applicant club's planning consultant. I submitted a Statement of Support with the subject application and in keeping with the '*Planning Committee Operating Protocol*' I wish to appear before the committee and present information in support of the above application.

The information which I wish to present is set out below.

Please confirm that my request to appear before the Committee has been granted.

INFORMATION WHICH I WISH TO PRESENT TO THE COUNCIL

This proposed shooting shed is a fully enclosed sound proofed building.

HOW WOULD IT OPERATE?

It would have 6 shooting lanes. Only 1 shooter can shoot in each lane.

When the shooters have fired, their firearms must be checked by the Range Conducting Officer to ensure that they are clear.

When all fire arms are declared clear the shooters advance to the targets to have their score checked and recorded.

After recording the shooters return to prepare to fire again.

Shooting stops at the end of each session to allow for the handover of the shooting lanes to new shooters.

ADVICE TO COUNCIL ON NOISE LEVELS

The Noise specialist from Southern Group Public Health who was working with Newry and Mourne Council's Environmental Health Department (EHD) advised that the shooting noise level could not exceed 55 decibels at the nearest house.

The shed we submitted could achieve a noise level of 52.3 decibels at the closest house.

The Council's Noise specialist commented on the shed in March 2014. He advised that 52.3 decibels was appropriate for this site.

In November 2015 the Council's Planning Department advised the Club and a number of Councillors that even though the shed could achieve a noise level which complied with the guidance they would be proposing that the shooting shed should only be allowed to operate on 15 Saturdays and 15 week days each year.

Under the guidance of our noise specialist Dr Peter Hill the club amended the design of the shed to incorporate more noise suppression material.

THE SHED CAN NOW ACHIEVE 45 DECIBELS

The shooting shed can now achieve a noise level of 45 decibels.

Dr. Hill has pointed out that the Chartered Institute of Environmental Health (CIEH) guidance states in section 6.1 that at shooting noise levels below the mid 50's dB(A) there is little evidence of significant levels of annoyance at any site. He has also concluded that since the shed can now achieve 45 decibels it is highly unlikely that annoyance will occur.

The problem with decibels is that unless you are a noise specialist it is difficult to understand exactly what a 45 decibel noise sounds like. To help everyone appreciate what it sounds like, a representative of the club will play some 45 decibel shots.

However, before doing so I must point out that the 45 decibel sound that we are going to play is described as,

“a piercing sound” in the report that the your planning department has provided. The report also states that little weight should be attached to this sound demonstration.

The 45 decibel shots you are about to hear is the noise at the nearest house.

PLANNING CONDITIONS

The authors of the report have suggested a condition relating to the hours of operation and the number of days the range should be allowed to operate.

This condition is justified on the basis that

Multiple shots make a 45 decibel sound unacceptable, and

Allowing the shooting shed to open more than 30 days would generate an amount of traffic which would impact on the Mourne AONB. The report to the Committee seeks support for this justification in the PAC report on the Enforcement Appeal.

DOE through its Practice Notes sets out the rules that the Council must abide by. Practice Note number 20 deals with planning conditions.

Paragraph 1.2 states that Conditions should only be imposed where they are necessary and reasonable. This Committee must decide if the condition proposed is necessary and reasonable.

THE CONDITION CAN BE APPEALED

The Club can appeal the proposed condition to the Planning Appeals Commission.

It is important to note that the Planning Appeals Commission has already concluded that the appropriate noise level for this site should be towards the 55 decibel level.

CONCLUSION

This Committee is being asked to restrict the operation of the shooting shed to 15 Saturdays and 15 week days per year.

Councillors must decide if the proposed condition is justified. In making their decision Councillors will be mindful that the club can appeal the condition to the PAC and the PAC has already ruled that a noise level towards 55 decibels is acceptable for this site.

Yours sincerely

Signed *Pat Quinn*

SPEAKING Right NOTE FOR COUNCILLOR Glyn HANNA

Planning reference: P/2013/0752/F

Planning Schedule reference:

Proposal: Erection of enclosed shooting shed and ancillary development

Location: 60 metres North West of no 16 Aughnalooey Road, Kilkeel

Applicant: The Ulster Small Arms Shooting Club

I would support this application for a shooting range. Massive efforts have been made to minimise sound impact and the impact on neighbours and the local area.

1. The Noise specialist from Southern Group Public Health who advised Newry and Mourne Council on this application was happy with a noise level of 52 decibels as far back as March 2014.

The shooting shed can now achieve a noise level of 45 decibels which is way below the 52 decibels the noise specialist accepted.

2. You have all heard what a 45 decibel shot sounds like and having heard the noise I believe that it would be totally unreasonable for this Council to apply strict controls to the operation of this shooting shed. And where did this figure of 15 Saturdays and 15 week days come from?

3. How come the Club was offered 15 Saturdays and 15 week days when the noise level was 52 decibels and yet when they reduce the noise level the offer is still the same. This is totally unreasonable. I believe common sense dictates, after the massive efforts to reduce the sound impact, this application should receive more shooting days, taking into consideration that most members of this club work during the week. Saturdays needs to get priority. I fully support this application .

Councillor Glyn Hanna

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

ITEM NO 30
APPLIC NO P/2014/0328/F Full **DATE VALID** 4/7/14
COUNCIL OPINION REFUSAL
APPLICANT Ciaran McEntee 47 Ballsmill **AGENT** Pat McNamee
 Crossmaglen 13 McGinn Park
 Bessbrook
 BT35 7EB
 07801550330

LOCATION To the rear of 47 Ballsmill Road
PROPOSAL Crossmaglen
 Retention of a building for the purposes of Agriculture

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

- 1 The proposal is contrary to The SPPS and Policies CTY 1 and CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the existing agricultural (or forestry holding) is not currently active and established; it is not necessary for the efficient use of the active and established agricultural (or forestry) holding; it visually integrates into the local landscape; there are no suitable existing buildings on the holding or enterprise that can be used; the proposal is sited beside existing farm or forestry buildings; that health and safety reasons exist to justify an alternative site away from the existing farm (or forestry) buildings; that the alternative site away is essential for the efficient functioning of the business.
- 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 and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; the ancillary works do not integrate with their surroundings and therefore would not visually integrate into the surrounding landscape.

Liam Hannaway
Chief Executive



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

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Delegated Application

Development Management Officer Report		
Case Officer: Andrew Davidson		
Application ID: P/2014/0328/F		Target Date:
Proposal: Retention of a building for the purposes of Agriculture		Location: To the rear of 47 Ballsmill Road Crossmaglen
Applicant Name and Address: Ciaran McEntee 47 Ballsmill Road Crossmaglen		Agent Name and Address: Pat McNamee Planning Services 13 McGinn Park Bessbrook BT35 7EB
Date of last Neighbour Notification:		30th April 2014
Date of Press Advertisement:		25th April 2014
ES Requested: No		
Consultations:		
Consultation Type	Consultee	Response
Representations:		
Letters of Support	None Received	
Letters of Objection	None Received	
Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
Summary of Issues:		
Retrospective application for the retention of agricultural shed which has been built without planning permission and has been the subject of an enforcement notice which was upheld at appeal by the PAC.		

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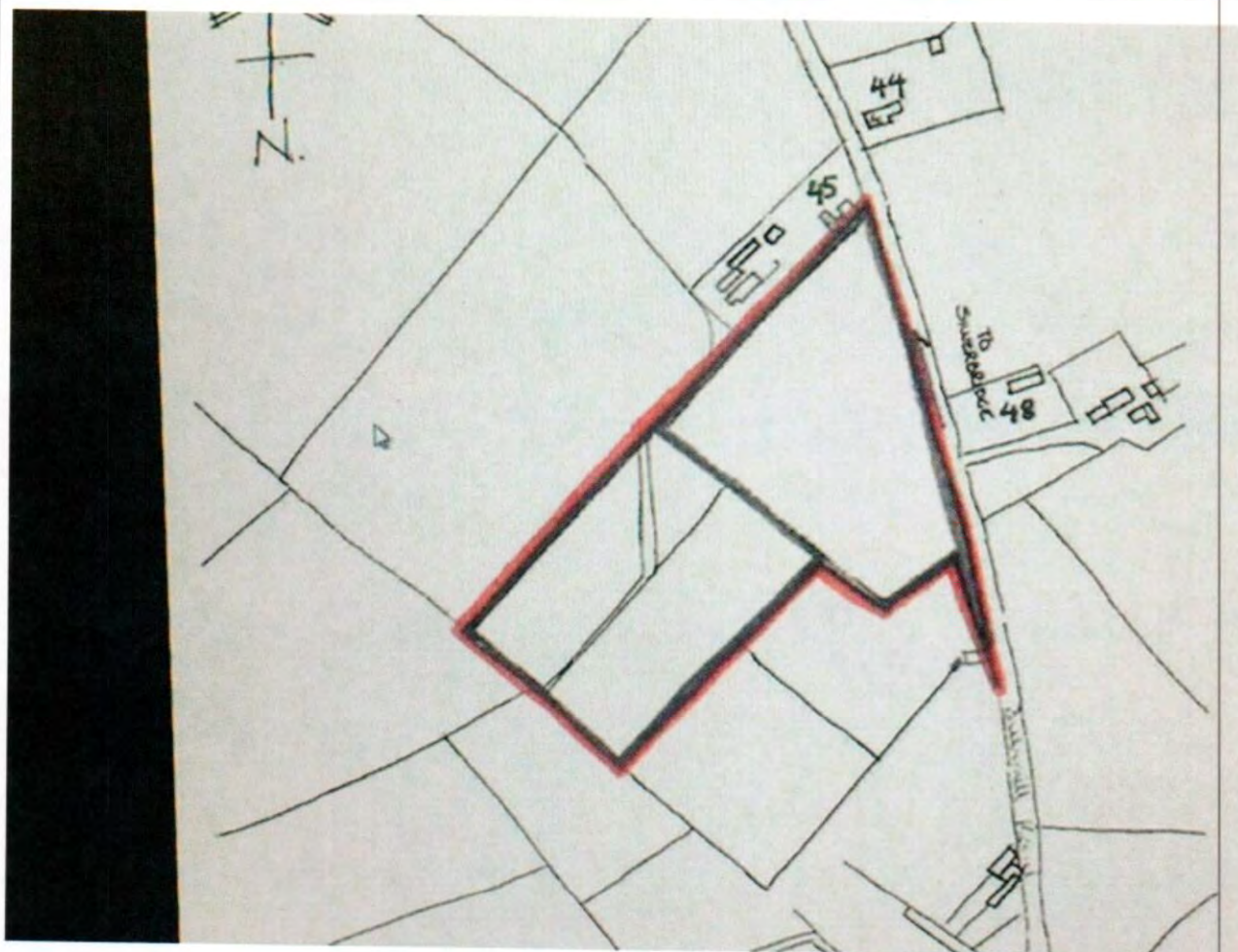
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Site Visit Report

Site Location Plan:



Date of Site Visit:

Characteristics of the Site and Area

The site consists of an L-shaped shed/ block of six stables to the rear of 47 Ballsmill Road. The site is accessed via a laneway which is enclosed by walls, fence and gates. This structure has been erected without the benefit of planning permission. What has been described as a cattle shed has also been constructed and although this is shown on the proposed site plan this building is not mentioned in the proposal description and the agent has claimed that this is not part of this planning application. By way of Area Plan definition, the site is situated in the open countryside outside of any settlement development limit. The proposed build has been the subject of enforcement action by the Department of the Environment, resulting in the service of an enforcement notice. This was upheld by the PAC in decision ref 2012/E052, dated October 8th 2013 and the landowner was given 180 days to comply with the provisions of the enforcement notice.



Planning Assessment of Policy and Other Material Considerations

As this application is for the retention of a shed in the countryside it will be assessed against Policy CTY 12 – Agricultural and Forestry Development which is contained within PPS 21 Sustainable Development in the Countryside. Under this policy it is stated that planning permission will be granted on an active and established agricultural holding. In the justification and amplification of CTY 12 it is clarified that for the purposes of policy CTY 12 the determining criteria for an active and established business will be that set out under policy CTY 10. Under CTY 10 the criteria is that the farm business is currently active and has been established for at least six years. In considering this criteria it is first necessary to note that this proposal was the subject of an enforcement notice which was upheld at appeal by the PAC in October 2013 (2012/E052). At the appeal, it was noted that the appellant has managed a farm business for his father some 5.7 miles away from the site and had additional lands owned and held by him in conacre on his fathers behalf. The Commissioner concluded that contrary to the appellant's claim otherwise that the fathers farm and the additional lands owned and held in conacre by the appellant are part of the same agricultural holding for the purposes of CTY 12. This holding was found by the Commissioner to have been established and active for at least six years. However, this means that in October 2013, the site in question in this application was part of a larger farm business under the applicants fathers DARD business ID number and the lands were not active and established as an agricultural business in their own right. Under this application, the applicant is using his own business number which was only formed in 2014 after the appeal was heard, and this scenario has the appearance of artificial subdivision of the business for the purposes of obtaining planning permission which is not acceptable under PPS 21. Furthermore, DARD were consulted on the P1C form that was supplied and they have confirmed that the business was only created in 2014 and has not been in existence for more then six years and has not claimed single farm payment within the last six years. A number of documents have been supplied by the agent including a herd list and payments from Creggan Farm Supplies from 2002-2013. However, none of the information shows that the business has been active and established for at least six years and indeed much of the information is irrelevant given that it relates to the period before the planning appeal determined that these lands were part of a larger agricultural business and thus the business at this time was not a business in its own right.

Under policy CTY 12, it is necessary to demonstrate that the proposal is necessary for the efficient use of the agricultural holding. Additionally, as a new building is proposed in this case, it is necessary to demonstrate that there are no suitable existing buildings on the holding or enterprise that can be used and that the proposal is sited beside existing farm buildings. None of the information presented has demonstrated that the proposal is necessary for the efficient use of the agricultural holding. Evidence suggests that this building has not been used for agricultural purposes in the past, rather general storage and reverting back to the former appeal on the site, the Commissioned stated that the building is 'Convenient' rather than 'essential' for the efficient functioning of the business. With regards to demonstrating that there are no suitable existing buildings on the holding or enterprise, this has not been demonstrated and the applicant has not submitted DARD farm maps and thus the extent of farmland/ buildings under this business number has not been clarified. Following on from this, and given the absence of farm maps, it has also not been demonstrated that the proposal is sited beside existing farm buildings. Again, it is not known if there are other buildings on other land under this business number and also, although the house at No. 47 has been deemed lawful by the PAC, the shed, which has been described as a cattle shed to the front of the L- shaped shed under consideration in this proposal, does not benefit from planning permission or a certificate of lawfulness.

As the proposal is not sited beside existing farm buildings and the extent of the farmland is not known, it is necessary to also consider this application under the exceptionality criteria at the foot of policy CTY 12. Under this exceptionality criteria, consideration may be given to an alternative



site away from existing farm buildings, provided there are no other sites available at another group of buildings on the holding, and where: it is essential for the efficient functioning of the business, or there are demonstrable health and safety reasons. It has not been demonstrated that there are no other sites available at another group of buildings on the holding and none of the information has demonstrated that the proposal is essential for the efficient functioning of the business and as mentioned above the PAC previously determined that the proposed building was convenient rather than essential. Also, no demonstrable health and safety reasons have been presented to warrant approval of this application.

The proposal is also considered to be contrary to 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.

It is also considered that the proposal is contrary to policy CTY 13 Integration, in that the ancillary works do not integrate with their surroundings. The gates and walls are visually dominant/prominent in this setting and have an appearance more likely to be found in an industrial setting and not the open countryside. Furthermore, at the PAC appeal, the Commissioner ruled that the proposal was contrary to CTY 13 as the metal palisade gates are of an industrial nature, jarring the character of the countryside at this location.

The proposal is also considered to be contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS).

Following consideration of all material planning considerations, it is recommended to refuse this application as it is contrary to the SPPS and policies CTY 1, 12 and 13 of PPS 21 Sustainable Development in the Countryside.

Neighbour Notification Checked

Yes

Summary of Recommendation

Refusal is recommended as the proposal is contrary to the SPPS and policies CTY 1, 12 and 13 of PPS 21.

Reasons for Refusal:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement Policy (SPPS) and Policy CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:
 - it has not been demonstrated the agricultural holding is currently active and has been established for at least 6 years,
 - it has not been demonstrated that it is necessary for the efficient use of the agricultural holding,
 - it has not been demonstrated that there are no existing buildings on the holding or



enterprise that can be used,

- the proposal is not sited beside existing farm buildings and
 - it has not been demonstrated that the proposal is essential for the efficient functioning of the business or that there are demonstrable health and safety reasons.
3. The proposal is contrary to the Strategic Planning Policy Statement Policy (SPPS) and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the ancillary works do not integrate with their surroundings.

Case Officer Signature:

Date: 14.4.16

Appointed Officer Signat

Date: 14.4.16



ITEM NO 30**APPLIC NO**

P/2014/0328/F

COUNCIL OPINION

REFUSAL

APPLICANT

Ciaran McEntee 47 Ballsmill Road Crossmaglen

AGENT

Pat McNamee Planning Services 13 McGinn Park Bessbrook BT35 7EB

LOCATION

To the rear of 47 Ballsmill Road Crossmaglen

PROPOSAL

Retention of a building for the purposes of Agriculture

REFUSAL REASONS

- 1 The proposal is contrary to The SPPS and Policies CTY 1and CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the existing agricultural (or forestry holding)is not currently active and established; it is not necessary for the efficient use of the active and established agricultural (or forestry) holding; it visually integrates into the local landscape; there are no suitable existing buildings on the holding or enterprise that can be used; the proposal is sited beside existing farm or forestry buildings; that health and safety reasons exist to justify an alternative site away from the existing farm (or forestry) buildings; that the alternative site away is essential for the efficient functioning of the business.
- 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 and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; the ancillary works do not integrate with their surroundings and therefore would not visually integrate into the surrounding landscape.

BACKGROUND

1. There is an ongoing planning enforcement case in respect of the alleged unauthorised erection of the subject building. The case was mentioned in court recently, after a previous adjournment (to await the outcome of this planning application). It would appear that because the case was listed for court hearing in the last 7 days, the application was recommended for refusal.
2. The application's origins lie in an initial complaint to the DOE regarding the alleged unauthorised use of the building for commercial purposes. The DOE then realized the

building itself had no planning permission and proceeded to take planning enforcement action. An enforcement notice was issued and appealed, unsuccessfully, by the applicant. Thereafter, this application was lodged, retrospectively. Despite the passage of a significant period of time and the submission of a wealth of supporting information, no progress has been made.

3. Fundamentally, it would appear that the Council is of the view that:
 - The applicant's farm business has not been established in its own right for the requisite 6 years (as specified in PPS 21);
 - That any new farm buildings should be located beside the applicant's father's farm at Alley Road, Crossmaglen;
 - That the applicant is required to demonstrate that there are no other vacant buildings on his father's holding which could have otherwise been used to accommodate this proposal;
 - The proposal is being treated as an "alternative site" because it is away from the applicant's father's farm buildings;
 - Visually, the proposal is considered not to integrate with the surrounding landscape due to lack of enclosure; and
 - Ancillary works are believed not to visually integrate into the surrounding landscape.
4. Contrary to the Council's belief that this forms part of the applicant's father's holding, this has been proven not to be the case. Information has been submitted to verify that this holding has never formed part of the applicant's father's holding, and the applicant's father has never claimed Single Farm Payment subsidies for this land.
5. The evidence submitted confirms that the applicant acquired this land from his former partner's father, in 2007. Thereafter, he set about constructing a dwelling thereon, along with this building.
6. The applicant was oblivious to the need for planning permission. He assumed that because the shed was not located within 75 metres of a third party residence, planning permission was not required for its construction. At the time the building was erected, planning legislation permitted the erection of agricultural buildings, in certain circumstances. At that time, it was never set out in legislation that planning permission would always be required for the first building on a holding. Subsequent amendments to the relevant legislation have addressed that anomaly however.

7. Google Earth shows a building at the rear of the holding, on 15th April 2008. Although the PAC previously upheld an enforcement notice requiring the demolition of this building, at the hearing it was accepted that the building is agricultural. Therefore, it follows that the appellant was engaged in agricultural operations on his holding at 15th April 2008. Accordingly, his agricultural business is now more than 6 years old.
8. The applicant has obtained a Business ID number from DARD (659236). Although not in receipt of Single Farm Payment subsidies, he holds a number of livestock in his herd (No. 244775). This verifies that the applicant is an active farmer at present.
9. The EU and DARD define agricultural activity as *“the production, rearing or growing of agricultural products including harvesting, milking, breeding animals and keeping animal for farm purposes, or maintaining the land in good agricultural and environmental condition”*. Given the applicant keeps animals for farm purposes he is engaged in active farming at present.
10. The irrefutable evidence is that the applicant obtained this land in 2007. Thereafter he maintained the land in good agricultural and environmental condition, alongside his other agricultural activities.
11. While aerial photographs illustrate that the applicant’s land was extensively improved (agriculturally), this was a lengthy process.
12. In planning appeal 2012/A0241 the deciding Commissioner, in allowing the appeal, recorded that “whilst Policy CTY10 requires that the business be currently active and established for 6 years, **I do not agree with the suggestion this implies that there be a continuous and consistent level of activity over the requisite period of time.** There is no specification of the level of activity that should take place within the policy”. This is significant not least in terms of the improvements to and maintenance of the lands adjoining the applicant’s house.
13. Evidence of the applicant’s agricultural activities was previously accepted by the PAC at the aforementioned appeal relating to the shed to the rear of 47 Ballsmill Road. At that time however, it was suggested that the appellant managed his father’s farm at Alley Road, Crossmaglen, and the PAC would appear to have determined that the new shed should have been erected there (in the absence of verifiable plans to expand that farm or

other reasons justifying an alternative location - at this site). However, the only evidence of agricultural activity presented at that appeal related to the appellant and not to his father. The appellant is not a formal member of his father's farm business. Legally, this farm is a separate entity from the appellant's father's farm at Alley Road, and notwithstanding the previous PAC determination the evidence previously submitted to the Council verifies the longevity of the **applicant's** farm business (as distinct from his father's, which has been registered with DARD for more than 6 years, which claims Single Farm Payment, and which takes additional lands in conacre – that farm has never featured as part of the applicant's farm by way of conacre agreement and vice versa, which is a further indication of the separateness of the two businesses). Given the applicant's farm business is more than 6 years old (distinct, and legally, physically and in all other means separate from his father's farm business) and it is currently active, he fulfils the initial requirement of Policy CTY 10 (criteria a), which is also the test set out within CTY 12.

14. The relevant planning policy requires new buildings to be visually linked or clustered with established groups of buildings on farms.
15. Exceptionally, consideration may be given to an alternative site away from existing farm or forestry buildings, provided there are no other sites available at another group of buildings on the holding, and where:
 - it is essential for the efficient functioning of the business; or
 - there are demonstrable health and safety reasons.
16. This issue was determining in the applicant's previous enforcement appeal pertaining to this building. At that time the Commission believed (erroneously) that this is an outfarm, and that the main farm was located at Alley Road (the applicant's father's farm). However, as outlined above, the applicant has never been a formal member of his father's farm business and this holding is legally and in all other means unconnected with the Alley Road farm. The only association between the two are the father and son relationship and the fact that the applicant previously managed and undertook some activities on his father's behalf at the Alley Road farm. These activities were independent – legally, financially and in all other aspects, from the agricultural operations undertaken in respect of the applicant's own business.
17. Accompanying this application were a substantial number of receipts illustrating that the applicant purchased goods that would typically be purchased by a farmer. Noting that the applicant has no other farm land, one would rightfully have to question why the applicant

would pay for materials for his father's farm business if he was not a formal member and had no legal association or involvement with that business. The inescapable conclusion is that the said invoices related to the applicant's own agricultural business and not that of his Father's.

18. As this folio is the appellant's only farm, there are no issues in terms of buildings at other farms or out-farms. Therefore, this proposal ought to be assessed as a farm building that is adjacent to a farm house.

Visual Impact

19. At the last enforcement appeal that dealt with this building, the DOE attached a number of draft reasons for refusal.
20. The Department's third draft reason for refusal was based on PPS 21 Policy CTY 13 - relating to the integration and design of buildings in the countryside. The only concern expressed at that time related to views of the piers, wall and gate. The Commissioner found that

"the metal palisade gates are of an industrial nature, jarring with the character of the countryside at this point. Pushing the gates farther down the lane is unlikely to mitigate the visual impact". Accordingly, he sustained the Department's third draft reason for refusal, however in this particular case visual integration and enclosure are cited among the concerns laid out in the professional planning report whereas they were not in fact found determining at the time of the original planning appeal.

PRECEDENTS (if this farm business is found not to have been established for 6 years)

21. The following list of approved applications and appeals should be pertinent to this proposal:

K/2012/0509/F – The DOE granted permission for the retention of farm buildings. The "group recommendation" was formulated on the basis that the "Department accepts that for new farm buildings it is necessary to develop holding facilities (sheds etc. for DARD compliance) and on balance therefore the Department accepts these are necessary for the efficient use of the holding" - see professional planning report;



- PAC 2013/A0066** – The PAC granted permission for the retention of sheds on the basis that it appeared to stand on all fours with the Department's approval referred to above;
- PAC 2011/A0084** – Planning approval was granted for the retention of sheds on the basis of "other evidence to prove active farming over the required period" (the applicant's Business ID was not established for more than 6 years);
- PAC 2012/A0128** – Planning approval was granted for the retention of sheds on the basis of "other evidence to prove active farming over the required period" (the applicant's Business ID was not established for more than 6 years);
- PAC 2010/E049** – The PAC granted retrospective permission for sheds on the basis that they recognised a holding was established more than six years ago, in keeping with the appeal referred to immediately above.
22. In one of the precedents quoted above (K/2012/0509/F, which related to the retention of an agricultural shed at Clogher) the Department accepted that for new farm buildings it is essential to develop holding facilities for DARD compliance.
23. The PAC determined that a subsequent planning appeal (2013/A0066, also referred to above) stood on all fours with that decision, and therefore allowed the appeal. The PAC's decision recognised the existence of a precedent, and given the subsequent appeal stood on all fours with it, it was approved. Similarly, this proposal could be considered to stand on all fours with the two cases, and likewise, the precedent should be accepted and the need for this development accepted (particularly given the limited size of the other agricultural building on the holding).
24. The Environment Minister drafted a letter to an MLA on 14th August 2013, reiterating a legal principle that, where appropriate, planning policy can be outweighed by other material considerations such as the need to accommodate livestock/animal welfare, farming equipment or farm produce. He urged flexibility in the application of policy to support the operational needs of a farm enterprise and expressed concern that if policy forced farmers to sell livestock due to there being no suitable buildings on the holding, it would be contrary to the objectives of PPS 21. In allowing the appeal referred to above (2013/A0066) the PAC stated "As the Minister does not differentiate between planning applications for buildings that are submitted prior to their erection or those that seek retrospective consent for their retention, his advice applies to the current proposal. His advice should likewise apply to this proposal.

25. In this district, application P/2013/0831/F (agricultural building at Drumcro Road, Kilkeel) was approved on the basis of a pragmatic assessment that recognised a particular individual who had just moved to the district could start a new farm business (weight was also given to the fact that the individual had previously claimed Single Farm Payment for farming activities undertaken in Scotland). In the event that the Council does not recognise the longevity of Mr McEntee's farm business, he should be afforded the same flexibility as has been afforded to the successful applications set out above.

SUMMARY

26. There is considerable evidence of active farming on this land throughout and preceding the relevant 6 year period, not least in the form of aerial photographs that confirmed the extent of improvements to the land etc. The applicant keeps livestock and is recognised as an active farmer now, in his own right, and on balance the proposal is considered to surpass the minimum requirements of Policy CTY 12 of PPS 21.
27. I trust that this submission is sufficient for the purposes of confirming the applicant's status as an active / established farmer. In the event that you require any additional information please do not hesitate to contact the undersigned.

Yours Faithfully,



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

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

ITEM NO	30			
APPLIC NO	P/2014/0649/O	Outline	DATE VALID	8/4/14
COUNCIL OPINION	REFUSAL			
APPLICANT	Mr Joseph Walls c/o P O'Hagan and Associates LTD 10 Trevor Hill Newry BT34 1DN		AGENT	P O'Hagan and Associates LTD 10 Trevor Hill Newry BT34 1DN 02830266011
LOCATION	60 metres east of No.20 Sandbank Road Hilltown County Down BT34 5XU			
PROPOSAL	Site for Farm Dwelling (amended address)			
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions
	0	0	0	0
			Addresses	Signatures
			0	0
			Addresses	Signatures
			0	0

- The proposal is contrary to The 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; or that health and safety reasons exist to justify an alternative site not visually linked (or sited to cluster) with an established group of buildings on the farm or that there are verifiable plans exist to expand the farm business at the existing building groups to justify an alternative site not visually linked (or sited to cluster) with an established group of buildings on the farm.



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

Application Reference: P/2014/0649/F

Date Received: 06.08.2014

Proposal: Site for Farm Dwelling

Location: 60 metres east of No.20 Sandbank Road Hilltown County Down

Site Characteristics & Area Characteristics:

The site to be developed is located at sandbank Road Hilltown. The site encompasses a small part of the farm holding and has a gently sloping topography from the roadside to the site. The requested site is approx 180m north east of the farm dwelling at No.26. This identified site would be accessed via a existing lane way, the site is defined by low post and wire fencing, which has sparse vegetation located along the north western boundary and south western boundary, has significantly more vegetation to it however this would still be relatively low lying. This is open to view when approaching from the north east and a dwelling would be clearly visible on approach in both directions.

The site to be developed is located within the Mournes Area of Outstanding Natural Beauty and Banbridge Newry & Mourne Area Plan 2015. This area has wide open views of the Mournes and is very picturesque. There has been development pressure in and around the applicants farm complex but the majority of immediate development is in the form of large agricultural sheds.

Site History: There is no history on this site outlined in red, however the wider farm site history is discussed below.

Planning Policies & Material Considerations:

The Banbridge & Newry and Mourne Area Plan 2015

The SPPS

PPS 3 Access and Movement

PPS 21 Sustainable Development within the Countryside

PPS 2 Natural Heritage

Consultations:

Environmental Health – No objection

TNI – No objection subject to splays being 2.4 x 80

DARD – No objection

Water NI – No objection

Objections & Representations

No objections

Consideration and Assessment:

This site is located within the open countryside and as such the Banbridge/Newry and Mourne Area Plan has no defining policy and applications located within the rural area will be assessed under the policy provision of PPS 21: Sustainable Development within the Countryside.

The principle of a dwelling on this site has been applied for under Policy CTY 10 of PPS 21 A dwelling on the farm. DARD has been consulted on this application and has confirmed that this Agricultural Business ID has been established for six years and has been claiming SFP or other farming subsidies issued for 6 years. As the agricultural ID has been established for 6 years criteria a of CTY 10 has been met.

No development opportunities have been sold off from a search of the recent planning history of land contained within the farm holding or adjacent to the farm holding. This has been confirmed in a letter to agent on 12 August 2014 requesting information pertaining to applications P/2007/1731/RM, P/2007/1055/RM, P/2010/0575/F, P/2005/0789/F - agent provided land registry documents for the listed applications which satisfy this requirement of CTY 10 criteria b.

The third criteria in which a farm building has to meet is to be located adjacent to buildings on the farm or to give justifiable reasoning in relation to health and safety or verifiable plans to expand the farm business. The applicants agent and Planning Consultant in this case have made numerous attempts at justifying an off site location for the farm dwelling. First of all they suggested that the field closest to the farm building had a fairy tree within it which could not be disturbed. This was not accepted as a valid reason for siting away from the farm buildings. A meeting was then held with the agent, applicant and Margaret Richie MP to discuss reasons why the application did not meet the planning policy. Following this the agent submitted an amended site location plan showing a preferred siting to be 60m east of 20 Sandbank Road. In order to satisfy criteria b above the applicant has information showing the No 20 Sandbank Road is not under Mr Joseph Wall's ownership. Therefore while the planning consultant has made the argument that the proposed site clusters with two buildings on the farm ie No 20 and its garage, given the information on file demonstrating that this development opportunity was disposed of the farm prior to 2008, these buildings cannot be accepted as buildings on the farm holding. This application site does not meet criteria c of CTY 10. The planning consultant has submitted a Health and Safety report siting that the partner of the applicant's daughter is unfamiliar with the health and safety aspects of the farm and that there would be safety dangers in relation to dust, chemicals, noise pollution etc. While these aspects do represent information to be mindful of, having given them consideration, little material

weight has been afforded to them as they are not site specific and can be easily overcome. This is in line with the most recent appeal within the Newry area 2015/A0124 in which the commissioner stated "However, the majority of the concerns raised with locating close to the main farm buildings would be overcome by adherence to basic health and safety rules and regulations which should be applied on any working farm. Furthermore, it was stated that the subject farm is quality assured and complies with DARD safety requirements". The Planning department have also asked if there have been any noise or dust/odour complaints to our Environmental Health Department in relation to the existing business and they have confirmed that there have been none despite there being three dwellings in close proximity to the farm business.

Therefore based on the information provided this application does not meet the requirements of CTY 10 criteria (c) and therefore CTY 1.

The site is situated on a small portion of a large agricultural field which would have three defined boundaries. While these boundaries are low lying there is sufficient set back from the roadside to accommodate and integrate a modest dwelling of single storey height. Therefore the proposal could be acceptable to CTY 13 subject to a condition restricting ridge height, floor area and restricting the permitted development rights. As the site is located within the ANOB this proposal is therefore in compliance with planning Policy CTY 13 and NH 2 subject to appropriate conditions if approval was forthcoming.

This proposal if allowed would result in two buildings located side by side within the rural area. The existing dwelling at No 20 Sandbank Road has a garage that is site back to the rear of the site and is subsidiary to the main dwelling. The proximity and location of this garage reads as one entity with the dwelling, therefore a dwelling sited adjacent to this proposal would not result in the creation of ribbon development when assessed under CTY 8 or represent a suburban form of development when assessed under CTY 14. Therefore this proposal is in compliance with CTY 8 and CTY 14.

CTY 16 assesses the impact this proposal will have on the environment by way of sewage disposal. It is the Planning Authorities opinion that this can be negatively conditioned to meet this policy requirement.

Recommendation:

Refusal is recommended based on CTY 1, CTY 10, the SPPS .

Refusal Reasons/ Conditions:

The proposal is contrary to The 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; or that health and safety reasons exist to justify an alternative site not visually linked (or sited to cluster) with an established group of buildings on the farm or that there are verifiable plans exist to expand the farm business at the existing building groups to justify an alternative site not visually linked (or sited to cluster) with an established group of buildings on the farm.

ITEM NO	31
APPLIC NO	P/2014/0649/O
COUNCIL OPINION	REFUSAL
APPLICANT	Mr Joseph Walls
AGENT	P O'Hagan and Associates LTD
LOCATION	60 metres east of No.20 Sandbank Road Hilltown County Down
PROPOSAL	Site for Farm Dwelling (amended address)

Refusal Reasons

The proposal is contrary to The 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; or that health and safety reasons exist to justify an alternative site not visually linked (or sited to cluster) with an established group of buildings on the farm or that there are verifiable plans exist to expand the farm business at the existing building groups to justify an alternative site not visually linked (or sited to cluster) with an established group of buildings on the farm.

PPS 21 – Policy CTY 10 (Dwellings on Farms)

1. This Policy states that planning permission will be granted for a dwelling house on a farm where all of three criteria (a to c) can be met.
2. The applicant's farm business is active and established, and evidence has been presented to the planning authority to confirm that no development opportunities have been disposed of from the holding since November 2008. Criteria a and b have therefore been complied with.
3. The planning authority indicates that the proposal fails to comply with criteria c. It is of the view that the new building is not visually linked or sited to cluster with an established group of buildings on the farm.

4. However, the case presented to the Council is that the proposal is actually sited so as to visually link and cluster with a dwelling and a garage on the farm. Although it is not clustered with the main group of buildings on the farm, there is in fact no requirement to do so within the Policy. The policy simply advises that a group of buildings (plural) must be clustered with.

The principle of clustering with two buildings

5. It is contended that clustering with two buildings is sufficient to meet the requirements of the Policy in question. I have recently been successful in obtaining planning approval for a dwelling in similar circumstances in Armagh (**LA08/2015/0801/F**). In that case a proposed dwelling was clustered with two small outbuildings, away from the main farm grouping. That planning authority accepted that it was within the spirit of the policy in question to allow a dwelling provided it clustered with more than one building.
6. This position is supported by the PAC's allowing of appeal **2014/A0142** (this involved an applicant clustering a new dwelling with a dwelling and a garage on a farm), while appeal **2012/A0146** was allowed in similar circumstances.

Clustering with an adjacent dwelling and garage – the status of these, for the purposes of “buildings on a farm”

7. The Council has recently indicated that it earlier requested the applicant's agent to confirm that no development opportunities had been disposed of from the farm since 2008. It received confirmation that the dwelling with which this proposal will be clustered was “disposed of” prior to November 2008. In actual fact, the site in question was transferred to the applicant's daughter, a fact that was impressed upon the Council at an early stage after I became involved in this application.
8. The dwellinghouse of a person engaged in agricultural operations on a farm is widely recognised as having an intrinsic connection with a farm business. There is no requirement that the person's engagement in agricultural operations must be full time. In this case, the applicant's daughter is employed as a worker in his farm business, although she also carries out other duties in conjunction with the farm supplies business, while her husband also helps out on the farm. Given this connection with the farm, the adjacent dwelling and garage ought to be recognised as a group of buildings on the farm, with which it is permissible to cluster.





Image 1: Aerial photograph of the site, showing it in relation to the applicant's daughter's house and garage, which, to all intents and purposes, constitute a group of buildings on the applicant's farm.

9. It is contended that the proposal is actually sited as prescribed in PPS 21, i.e. it is clustered with a group (plural) of buildings on the farm. However, in the event that the Council fails to acknowledge this fact, it is pertinent that the applicant has commissioned an independent review to set out the health and safety constraints that preclude the siting of an additional dwelling in close proximity to the main group of buildings on the holding (at 26 Sandbank Road).

Exceptional Circumstances – Instances where it is permissible to site a new dwelling away from a group of buildings on a farm

10. The Policy states that "Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:
 - demonstrable health and safety reasons; or

- verifiable plans to expand the farm business at the existing building group(s).

“In such circumstances the proposed site must also meet the requirements of CTY 13(a-f), CTY 14 and CTY 16” (there is no suggestion that the proposal has failed to meet the requirements of these Policies).

11. As has been outlined above, the applicant commissioned an independent health and safety review of the farm business.

Planning Report

12. The Council has published a planning report outlining the rationale behind the recommendation to refuse permission for the proposal. It is notable that when describing the site, the report makes no mention of the adjacent group of buildings, which are being clustered with.
13. The planning report refers to planning histories on the applicant's farm, acknowledging that the “agent provided land registry documents for the listed applications which satisfy the requirement of CTY 10 criteria b”. It is possible that the planning department has assumed that the adjacent dwelling (No. 20) has been disposed of to a third party, because it is not registered in the applicant's daughter's maiden name but instead it is registered under her married name (although, as outlined above, written correspondence earlier provided by O'Callaghan Planning did in fact point out that No. 20 Sandbank Road is owned / occupied by the applicant's daughter, the Council never sought further confirmation of this). It is acknowledged that had the dwelling and garage been occupied by a third party, and had it not been connected with the farm, then the clustering requirement of Policy CTY 10 would not have been complied with.
14. In the section of the planning report that contained the actual assessment of the proposal this issue was touched upon:

“In order to satisfy criteria b above the applicant has information showing the No 20 Sandbank Road is not under Mr Joseph Wall's ownership. Therefore while the planning consultant has made the argument that the proposed site clusters with two buildings on the farm i.e. No 20 and its garage, given the information on file demonstrating that this development opportunity was

disposed of the farm prior to 2008, these buildings cannot be accepted as buildings on the farm holding”.

15. As has been outlined above, the fact that No. 20 is not under the applicant’s ownership is not determining: No. 20 is owned by his daughter and her husband, who were gifted the site by the applicant, and who are engaged in agricultural operations on the farm. Their connection with the farm is such that their dwelling must be recognised as a group of buildings on the farm, irrespective of the fact that the site was gifted to the applicant’s daughter prior to November 2008.
16. The Council’s stance on this particular issue is peculiar. In fact, it is the polar opposite of the stance adopted by the Council in the case of planning application P/2013/0190/F (a site at Newtown Road, Cloghogue). That refusal was recently upheld by the Planning Appeals Commission. The facts of that case were that the applicant owned a field, which did not contain any farm buildings. However, the Council and the PAC argued that the holding contained a group of buildings (at a different location). The applicant provided evidence to verify that the other lands were owned by his grandmother, and given he did not own that land, he could not erect a dwelling thereon. Nonetheless, the Council and the PAC held that

“The appellant has argued that the appeal site is the only part of the holding that he and his father own. Policy CTY10 requires assessment of the farm business in its entirety and part ownership would not justify setting aside the thrust of the policy to site a dwelling with an established group of buildings on the farm. The LPA has sustained its objection in respect of the proposed siting of the dwelling on the holding”.

17. Applying that logic, it is unreasonable not to recognise the status of Mr Walls’ daughter’s house as a building on his farm.
18. The planning report has attempted to trivialize the arguments presented to justify departure from the main farm grouping, in particular by focusing upon an early reference to a fairy tree to the front of the main farm complex.
19. The planning report then proceeds to justify the failure to attribute substantial / determining weight to the Health and Safety Report submitted in support of the decision to site the new dwelling away from the main farm grouping.

20. The report indicates that the concerns outlined in the H&S report “do represent information to be mindful of”, however little weight was attached to the issues “as they are not site-specific and can be easily overcome” (the H&S report highlighted a number of issues which affect farms in general, but it also confirmed that many of those risks were identified on the applicant’s main farm grouping).
21. The failure to attach significant weight to the concerns outlined in the H&S report was further justified on the basis of a recent planning appeal regarding another site in the area (although the two cases were not comparable, in particular because an independent H&S risk assessment had not been provided for the proposal that was the subject of the unsuccessful appeal).
22. The Council attached weight to the PAC’s finding (**2015/A0124**) that “the majority of the concerns raised with locating close to the main farm buildings would be overcome by adherence to basic health and safety rules and regulations which should be applied on any working farm. Furthermore, it was stated that the subject farm is quality assured and complies with DARD safety requirements”. However, no such claims have been made in respect of this farm.
23. The PAC’s conclusion was arrived at on the basis that adherence to basic health and safety rules and regulations, which “should be applied on any working farm”, would avoid conflict. However, one of the cornerstones of planning practice is that planning authorities will base their decisions on planning applications on planning grounds alone. They should not use their planning powers to secure objectives achievable under non-planning legislation, e.g. Building Regulations, the Water Act or Health and Safety at Work legislation. In any case, the key issue herein is that an H&S risk assessment has been undertaken. This indicated that no matter how well the risks are managed, there is still a possibility that an accident will occur in the event that this new dwelling is sited to cluster with the main farm grouping at 26 Sandbank Road. Adherence to basic health and safety practices on farms is one matter, however it is impossible to expect the occupiers of this proposed dwelling, and their children (in due course) to fully comply with health and safety legislation that is not pertinent to the enjoyment of their dwelling house.
24. The Planning department queried if there had been any noise or dust/odour complaints to the Council’s Environmental Health Department in relation to the applicant’s existing

business. It was indicated that no complaints of nuisance had arisen, despite there being three dwellings in close proximity to the farm business. It would appear that substantial weight was attributed to the absence of complaints regarding nuisance, in concluding that siting the new dwelling in close proximity to the main farm grouping would not result in reduced amenity level. That rationale is flawed, since there would be a low likelihood of any of the three dwellings referred to lodging complaints with Environmental Health, given they are all occupied by the applicant's family. In any case, the absence of complaint is not of itself an indicator that the proposed dwelling would benefit from an appropriate amenity level in the event that it was sited in close proximity to the established group of buildings at the main farm complex.

25. The final point to be made in relation to the applicant's need to site the new dwelling away from the farm grouping concerns the advice routinely tendered by the Council's own Environmental Health department. Consultation responses typically point out that proposed dwellings should be sited a minimum of 75 metres from farm buildings, and vice versa.

The Environmental Health consultation response to this particular application was set out as follows:

Comment

No Environmental Health objection in principle.

INFORMATIVE

Farms have the potential to cause public health nuisances from odour, noise and pests. This department recommends that the proposed dwelling is situated a minimum of 75m from farm buildings. The applicant should be made aware that occupants of the proposed dwelling may experience noise, odour and pests from the nearby farm.

Date: 19.02.13

This response has been provided on behalf of John Farrell, Director of Environmental Health, Newry & Mourne District Council

26. The formal consultation response displayed on the planning portal would therefore appear supportive of this proposal, contrary to the informal advice tendered to the Council's planning staff (which is not displayed on the planning portal). Environmental

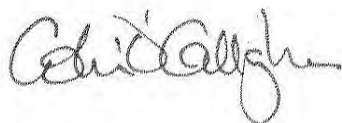
Health have been consistent in citing concerns regarding reduced amenity if new dwellings are sited less than 75 metres from working farm buildings, e.g.:

- LA07/2015/0067/F;
- P/2014/0396/O;
- P/2013/0462/F;
- P/2013/0348/O; and
- P/2013/0352/O

CONCLUSION

27. In light of the above anomalies, and the facts that actually support the approval of this application, the Council is respectfully requested to reverse this current recommendation to refuse this application.

Yours Faithfully,



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

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

ITEM NO	31				
APPLIC NO	R/2013/0208/F		Full	DATE VALID	5/7/13
COUNCIL OPINION	APPROVAL				
APPLICANT	Liam Lavery 76 Main Street Pomeroy BT70 2QP			AGENT	Building Design Solutions 76 Main Street Pomeroy BT70 2QP 87759292
LOCATION	Lands immediately north west of Woodlodge Stables Drumbuck Road Castlewellan				
PROPOSAL	Proposed change of use from horse training facilities to campsite and caravan park with associated amenity facilities				
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions	
	0	1		0	0
				Addresses Signatures	
				0	0 0 0



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: R/2013/0208/F

Date Received: May 2013.

Proposal:

Full planning permission is sought for a change of use from horse training facilities to campsite and caravan park with associated amenity facilities, on lands immediately north west of Woodlodge Stables, Drumbuck Road, Castlewellan

Applicant: Liam Lavery

Location:

The site is located in the countryside between the settlements of Castlewellan and Annsborough, in an AONB and Area of Constraint on Mineral Developments as identified in the Ards and Down Area Plan 2015. The site also adjoins the listed home and established grounds of Woodlodge while the grounds of Castlewellan Forest Park are also located to the far side of the Drumbuck Road. The site is also outside and located some distance from Castlewellan Conservation Area.

The application site and surrounding lands are generally rural in character with the exception of Woodlodge Home and associated buildings/grounds which are immediately to the south of the application site.

Site Characteristics & Area Characteristics:

The site outlined in red comprises a rectangular shaped roadside plot along Drumbuck Road which is currently used as a horse riding track/facility at present. This site adjoins the established grounds of Woodlodge Nursing Home which includes the main home building, several dwellings, stables and other ancillary buildings, all of which are within the blue line. The application site opens onto the Drumbuck Road whereby the levels fall away from the road to the far boundary. This site is bounded by a mix of stone ditches, fencing and planting.

Site history

A history search has been carried out for the site and surrounds whereby several previous approvals were observed the most relevant of which included the original change of use to a home and subsequent extensions (R/1982/0628, R/1988/0838),

erection of new dwellings and change of use and extension to stables to form riding school, trekking and holiday riding centre.

There has also been recent permissions for a large extension to the rear of the existing nursing home (R/09/1044/F and R/09/1052/LBC), which is currently seeking to renew this permission (LA07/16/0011/LBC and LA07/15/0059/F).

Representations

No representations in opposition to the proposal have been received to date (08-06-16).

An email in support of the application has been received from Cllr P Clarke, while Cllr Devlin has also previously enquired about the application.

As part of the processing of this application, having account the extent of the red line and ownership of the application, no neighbour notification has been carried out as part of this application, although the application was advertised in both May 2013 and 2014.

Consultations-

Having account the nature of this proposal, and constraints of the site and area, consultations were carried out with Transport NI, NIW, NIEA (WMU, PHB, PHM), Environmental Health and Rivers Agency as part of this application.

As outlined above this application was received in 2013, at which time PHB and PHM formed part of NIEA. These bodies are now located in Historic Environment Division (HED), where Historic Buildings (PHB) have recommended refusal, while Historic Monuments (PHM) offer no objections.

PHB initially advised the proposal is contrary to policy BH11 (Development affecting the setting of a listed building) of PPS6 due to the use and design of the development proposed (response dated July 2013).

An office meeting was facilitated with the agent in Jan 2014 at which time the concerns of PHB were discussed. A representative from PHB was also in attendance at this meeting. Additional supporting information was also submitted from the agent in Dec 2013 including visuals.

A further consultation was undertaken with PHB following the office meeting in Jan 2014, who subsequently advised their original opinion and concerns remain (final comments July 2014).

Transport NI initially had concerns with this proposal however following the submission of further information (changes to the road frontage and footpath link to Mill Hill) now offer no objections subject to conditions.

It is also considered NIW, Rivers Agency, NIEA (WMU) and Environmental Health offer no objections in principle.

Consideration of consultee comments:

The concerns and position of PHB is noted however having account the existing condition of this site and associated buildings and facilities, the sizeable 2 storey extension which was recently approved to the rear of the existing listed building, low lying nature of the site and also nature of the proposal and associated site layout whereby the proposed buildings are located towards the rear and lower lying portion of the site, and proposed planting, it is considered a refusal cannot be sustained on the grounds raised by PHB.

Policy: RDS, Ards and Down Area Plan 2015, SPPS, PPS2, PPS3, PPS4, PPS6, PPS11, PPS15, PPS16, PPS21.

As stated above the site is located in the countryside between the developments of Castlewellan and Annsborough, in an AONB and Area of Constraint on Mineral Developments as identified in the Ards and Down Area Plan 2015. The site also adjoins the listed home of Woodlodge while the grounds of Castlewellan Forest Park are also located to the far side of the Drumbuck Road.

As the site is located in the countryside PPS21 applies, whereby Policy CTY1 outlines the range of types of development which in principle may be permitted in the countryside.

Taking into account the description of this proposal it is considered this is a tourism proposal/development whereby PPS16 is the key policy.

(This policy supersedes Tourism Policies SP10 and TOU1 to TOU4 of the PSRNI and also CTY1 of PPS21 as it relates to tourism development and the tourism policies of PSRNI).

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

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

Proposals for holiday park development must be accompanied by a layout and landscaping plan (see guidance at Appendix 4) and will be subject to the following specific criteria:

- (a) The site is located in an area that has the capacity to absorb the holiday park development, without adverse impact on visual amenity and rural character;
- (b) Effective integration into the landscape must be secured primarily through the utilisation of existing natural or built features. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist its integration with the surrounding area;
- (c) Adequate provision (normally around 15% of the site area) is made for communal open space (including play and recreation areas and landscaped areas), as an integral part of the development;

- (d) The layout of caravan pitches / motor homes is informal and characterised by discrete groupings or clusters of units separated through the use of appropriate soft landscaping;
- (e) The design of the development, including the design and scale of ancillary buildings and the design of other elements including internal roads, paths, car parking areas, walls and fences, is appropriate for the site and the locality, respecting the best local traditions of form, materials and detailing;
- (f) Environmental assets including features of the archaeological and built heritage, natural habitats, trees and landscape features are identified and, where appropriate, retained and integrated in a suitable manner into the overall design and layout;
- (g) Mains water supply and sewerage services must be utilised where available and practicable.

Finally, TSM7 (Criteria for Tourism Development), states that proposals for tourism uses, are subject to further design and general criteria (a-o), in addition to the other policy provisions as outlined above.

Assessment

The application site is vacant at present, comprising a single rectangular shaped field, currently in use as a horse riding track/facility. This field adjoins and is associated with the grounds of Woodlodge home, which includes stables, whereby these adjoining lands are outlined in blue.

As stated above the site comprises a roadside plot adjoining Drumbuck Road and is readily visible for a stretch of this road in either direction, whereby longer distant views are available when travelling south along Drumbuck Road. This field sits below road level and continues to slope gently away from the road to the far boundary, however due to the open nature of the site and surrounds it is readily visible.

As part of this application a P1 form, site location plan, site layout and detailed plans have been submitted.

Supporting information was also submitted in Dec 2013, with additional text attached to the site layout plan.

Having account the location of the site which is immediately adjacent to Castlewellan Forest Park, while also being located close to Tollymore Forest Park, Mourne Mountains and the tourist town of Newcastle, it is considered there is an identified tourist need for this proposal, and having account the details and proposals submitted it is considered it complies with the requirements of PPS16 (Tourism). It is noted the agent has made reference to policy TSM2 (Tourist Amenity in the Countryside) in the supporting information, however it is considered this policy is not applicable, as this proposal is not a tourist amenity, rather it is a new facility/park. The most recent site layout plan (March 2016) indicates a new footpath and wall will be constructed along the roadside with separate belts of trees and hedging behind, whereby planting will continue around the remaining site boundaries, thus reducing the impact of the development and assist in its integration into the site and surrounds.

The recently published SPPS (published Sept 2015) also includes reference to tourism whereby the aim is to manage the provision of sustainable and high quality tourism developments in appropriate locations. It is considered the proposal does not offend the contents of the SPPS.

This proposal includes separate travelling caravan/tourer area, static caravan/mobile home area, and camping area, with central shower/toilet facilities, indoor entertainment building and small gate lodge reception building at the entrance. The existing field gate access point is to be retained and improved with internal access roads (grass block surface) and also cycle trails.

Each element of this proposal has been allocated specific areas within the site, whereby the camping is adjacent to the road, the travelling caravan/tourer area is in the centre, while the static caravans/mobile homes are located to the bottom lower lying end of the site.

The proposed buildings (toilet and shower block and indoor entertainment building) will also be centrally located, convenient for all, and will be single storey with ridge heights of approx 5.5m, while the small gate lodge building (reception/office) at the entrance will also be single storey with a ridge height of approx 4.3m.

As stated above the site is located in an AONB, whereby policy NH6 of PPS2 applies, and it is considered the proposals do not offend this policy.

It is considered this low lying site and area has the capacity to absorb this development without adversely impacting on the character of this area which is rural in character, which will be enclosed by belts of planting, with sufficient provision for soft landscaping and open space, whereby the main buildings are set back from the road on the lower lying portion of the site, and will be connected to the existing mains.

While it is noted PHB have concerns regarding this proposal, while the site is also located in a sensitive area being located in an AONB, and also adjacent to a listed building and Conservation Area, taking into account the above, on balance it is considered a refusal cannot be sustained on these grounds, while the proposal is not considered to offend any other remaining policy requirements. Accordingly Approval is recommended.

Recommendation: Approval.

This application had originally been recommended for refusal in Nov 2013 being contrary to PPS16, PPS6 and also due to a lack of info being received, whereby the Council agreed with this recommendation in Dec 2013.

However following receipt of further supporting information in Dec 2013 and more recently amended site plan, office meeting in Jan 2014 and re-consideration of the proposals, approval is now recommended.

As this recommendation of Approval is at odds with an objection from a consultee (PHB) it is considered the application needs to be presented to the Planning Committee in line with the agreed Scheme of Delegation, although the site area measures approx 3 hectares thus is classified as a Major application and requires to be automatically presented to the Planning Committee.

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

ITEM NO	32				
APPLIC NO	R/2014/0576/F	Full	DATE VALID	10/27/14	
COUNCIL OPINION	REFUSAL				
APPLICANT	Mr D Orr C/O Agent		AGENT	G T Design 10 Comber Road Carryduff BT8 8AN NA	
LOCATION	West of 109 Barnamaghery Road Crossgar				
PROPOSAL	Erection of wintering shed for livestock and retention of existing fodder storage shed on part foundation of original shed on site.				
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions	
	0	1	0	0	
			Addresses Signatures		
			0	0 0 0	

- 1 The proposal is contrary to Policy CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the existing agricultural is not currently active and established.
- 2 The proposal is contrary to Policy CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that the sheds are necessary for the efficient use of the active and established agricultural holding.
- 3 The proposal is contrary to Policy CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development, if permitted, would result in a detrimental impact on the amenity of residential dwellings outside the holding or enterprise by reason of potential noise/ smell /pollution etc.
- 4 The proposal is contrary to Policy CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the farm business used for the purposes of this application is located at lands at Thornyhill Road and it has not been demonstrated that it is necessary to locate a building associated with this business away from the related lands.
- 5 The proposal is contrary to policy CTY12 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that it has not been demonstrated that there are no alternative sites available at another group of buildings on the holding and that health and safety reasons exist to justify an alternative site away from the existing farm buildings.



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

Application Reference: R/2014/0576/F

Date Received: 27th October 2014

Proposal: Erection of wintering shed for livestock and retention of existing fodder storage shed on part foundation of original shed on site.

Location: West of 109 Barnamaghery Road, Crossgar.

Site Characteristics & Area Characteristics:

The site is located to the rear of an existing dwelling house, the house sits up from the road and the shed is on lower grounds to the rear of that site. The shed sits off the Barnamaghery Road on agricultural lands. Between the shed and dwelling to the east of the site there is an evergreen hedge.

The area is a rural area not located within any settlement development limits as defined in the Ards and Down Area Plan 2015. The land is within an Archaeological site and monument – standing stone.

Site History:

R/2013/0369/F 40m SW of 109 Barnamaghery Road – dwelling and garage on a farm – refused – 18-09-2015

R/2002/0023/F –to the rear of 109 Barnamaghery Road, Crossgar – erection of an agricultural Shed (Mrs Jeanette Orr) – granted.

R/2013/0041/CA

Planning Policies & Material Considerations:

Ards and Down Area Plan 2015, PPS 3, PPS21 and SPPS would be considered.

Consultations:

Consultation responses

NIEA Protecting Historic Buildings – No objections

NIEA Water Management Unit – no objections however advice given.

DARD – comments made – no objections.

NI Transport – No objections

Environmental Health – refusal recommended if shed not re located.

Objections & Representations

Neighbour notification was carried out 7th November 2014, and the application was advertised on 19th November 2014 and again 18th may 2016. No letters of objection have been received.

Consideration and Assessment:

The application is considered against Ards and Down Area Plan 2015, SPPS and PPS 21 Sustainable Development in the countryside.

634557 is the business number given however the business number used in relation to application is 658560. DARD was contacted in relation to the application and their response.

634557 is associated with Desmond Orr 29 Thornyhill Road Killinchy and was established on 9/11/2004 and according to DARD records show this farm business number relates to 2 fields at Thornyhill Road and no record of any stock kept. 658560 is registered to Jeanette Orr 29 Thornyhill Road and was established 21/08/2013 4 fields at Barnamaghery are registered to this business number and again there is no record of livestock kept.

The application is considered against CTY 12 Agricultural and Forestry development

A building will be permitted if it can demonstrate that it meets with all sections of CTY 12

A letter was submitted as part of the application advising that the holding at Barnamaghery has presently no shelter within the holding for winter shelter of livestock, the only structure on the ground is for a fodder store.

Additional photos have been submitted by the agent to show a part built structure on the site with dates varying from 2008, 2010 and current, the pictures are of poor quality and would not confirm that the building has been on the site for the time frame claimed by the applicant/agent. Maps checked on Google would show no sign of any structure on the site from 2009-2012. The first evidence of a structure was in 2013, therefore it is not considered that this structure would have been to replace an existing structure on site, especially an approval from 2002 when there is clearly no sign of such a structure on site from 2009 -2012. Therefore no weight is placed, or at least there is not enough information to satisfy the Council that this is merely a replacement of an existing building. Additional information submitted in relation to the shed in relation to R/2013/0369/F has been considered, attention was brought to this in a letter submitted by the agent on 9th March 2015.

This application must be treated as a new building assessed under PPS 21 CTY 12. In an e-mail addressed to the agent on 27th July 2015 the agent was asked for clarification in relation to how the shed is necessary for the efficient use of the agricultural holding and in response to this the following information was submitted:

- An extract from the code of practice for the welfare of horses, ponies, donkeys and their hybrids – highlighted is a section relating to when horses etc may need stabling.
- An e-mail stating that the shed had been stolen in 2008 and that the shed was required for the wintering of Beasts. The e-mail is from Gary Thompson.
- The original letter submitted along with the application dated 24th October 2014.

The information submitted does not satisfy the criterion of CTY 12 in that it has not been demonstrated that the shed is necessary for the efficient use of the agricultural holding or forestry enterprise.

There are two buildings proposed, one sits on the site at present and a second building is proposed, it is noted that the shed in place at present is located to the rear of a dwelling that does not appear to be associated with the lands in question. Therefore to allow the establishment of an agricultural shed to the rear of an existing building would not be considered good practice, generally Environmental Health would recommend at least 75m clearance between houses and sheds, the proposed shed sits directly behind, though noted on lower grounds than the dwelling. consideration is given to the hidden nature of the shed due to the location however it would not be acceptable to locate or allow 2 sheds to the rear of an un associated dwelling would not be considered appropriate to its location.

The shed would visually integrate as it is located on low grounds to the rear of other development, it is noted that there are adequate boundary treatments and the lay of the land will allow the shed to be accommodated.

There are no constraints to suggest that there would be any impact on the natural or built heritage.

It is considered that there could be a detrimental impact on the amenity of residential dwellings outside the holding, namely 109 Barnamaghery Road as if the shed was used to full farming capacity there would be the potential for problems arising from noise, smell and pollution. Environmental Health was asked for comments in relation to the proposal and the response given was that a minimum of 75m is given between sheds and non-associated residential properties and if this was not possible then a refusal is recommended.

In cases where a new building is proposed applicants will also need to provide sufficient information to confirm all of the following:

On the lands associated with this DARD map and application there are no other buildings on the lands.

The only shed on the lands at present is the shed that is already in position without the benefit of planning permission; no other sheds exist on the lands associated with the DARD maps submitted. There does not appear to be any other buildings on the lands suitable for use.

The design and materials to be used are sympathetic to the locality, the materials are the consistent with those used for agricultural buildings, the size and scale is considered small.

The proposal is not sited adjacent to existing agricultural buildings as there are none on this holding to site adjacent to, consideration is given to an the exception that there are no other sites available at another group of farm buildings on the holding, however it has not been demonstrated that this building is needed for the efficient functioning of the business, the P1 is states the application is for the wintering of livestock and P1cs have been submitted, it is noted however that this is for horse breeding and training however it is not approached as being on a domestic scale therefore as it is being approached as an agricultural business the above policy is relevant.

As it has not been demonstrated that this is needed for the efficient functioning of a farm business and the structures are in extremely close proximity to a dwelling not associated with the business it is not considered that this application is acceptable in principle as it has not been demonstrated that the buildings are needed for the efficient functioning of the business.

It is also not acceptable as it is bad practice to allow a farm structure, particularly where the structures are the first, to be positioned in within 75m of a building not

associated with the business or agriculture, there are exceptions to this rule however it is noted that Environmental Health would back this up

The proposal would be acceptable in terms of CTY 13 as due to the lay of the lands the building will integrate into the surrounding landscape and would not have any demonstrable impacts on the landscape or setting however has not been sited adjacent to existing buildings on the farm and therefore fails this part.

The business number that has been used relates to lands at 29 Thorny hill Road and does not relate to the lands in question, there are buildings at 29 Thorny Hill Road and DARD confirms 2 fields but no record of any stock being kept.

This application is contrary to policy as it has not been demonstrated that the shed is necessary for the efficient and necessary functioning of the farm, there does not appear to be any activity as confirmed by DARD and the farm business used as part of this application is not related to these lands and relates to lands and buildings at Thorny Hill Road. The farm business number that does relate to these lands has only been operational since 2013 and again DARD have no record of any animals being kept.

It was necessary to re advertise the application as the address had previously referred to a shed existing in the site address however it became apparent that this application did not have planning permission therefore the application was re advertised with the address noted as West of 109 Barnamaghery Road, Crossgar. This advertisement expires 01-06-2016.

Case officer – recommendation – refusal as it has not been demonstrated that the shed is necessary for the efficient functioning of the holding and there are risks of noise pollution and smell from the shed affecting the adjacent property. It is also noted that the business ID used and the DARD map supplied do not correspond and in fact the business ID associated with this parcel of land has only been in operation since 2013.

The agent was written to on 10th March 2016 advising that the Authority had concerns with the proposal including the lack clarity around the farm business numbers and use. The agent was given until 23rd March to submit additional information however additional information was submitted on 16th March 2016, much of which was a repetition of the previous and is not considered acceptable to overcome the issues raised in relation to this application. Therefore a recommendation of refusal is still recommended.

Recommendation:

Refusal

Refusal Reasons/ Conditions:

- The proposal is contrary to Policy CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the existing agricultural is not currently active and established.
- The proposal is contrary to Policy CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that the sheds are necessary for the efficient use of the active and established agricultural holding.
- The proposal is contrary to Policy CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development, if permitted, would result in a detrimental impact on the amenity of residential dwellings outside the holding or enterprise by reason of potential noise/ smell /pollution etc.
- The proposal is contrary to Policy CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the farm business used for the purposes of this application is located at lands at Thornyhill Road and it has not been demonstrated that it is necessary to locate a building associated with this business away from the related lands.
- The proposal is contrary to policy CTY12 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that it has not been demonstrated that there are no alternative sites available at another group of buildings on the holding and that health and safety reasons exist to justify an alternative site away from the existing farm buildings.

On 14 Jun 2016, at 13:06, "G.T.Design" <info@gtdesign.biz> wrote:

----- Original Message -----

Subject: Planning application R/2014/0576/F

Date: 2016-06-14 11:28

From: "G.T.Design" <info@gtdesign.biz>

To: info@nmandd.org

For the attention of the elected councillors

Dear Councillor

with reference to the above planning application ref: R/2014/0576/F for a wintering shed at the Orrs out-farm on Barnamaghery Road you are informed as follows. The Orrs keep pedigree horses on the holding and there are no relevant wintering facilities on the holding. There is one fodder store but no wintering shelter for the livestock. The above application is to provide the necessary shelter as required by DARD and in the interest of good husbandary for the welfare of livestock. You will remember the very severe winter of a number of years ago when numerous farm livestock were lost as a result of no suitable shelter. In an attempt to prevent loss of livestock the proposal is a necessary response. Fortunately the last few winters have been mild that is since the application was lodged some 20 months ago. We now understand that the planning officer, in spite of the overwhelming evidence provided, is recommending the application for refusal. In this respect we would implore the elected representatives to provide some semblance of "common sense" and use their influence in this case to ensure that this necessary proposal is not refused but gains permission. Thanking you in anticipation of your help and assistance in this matter.

Gary Thompson

on behalf of Mr and Mrs Orr

--

G.T.Design

02890 813 784

10 Comber Road
Carryduff
Belfast
BT8 8AN

On 14 Jun 2016, at 13:06, "G.T.Design" <info@gtdesign.biz> wrote:

----- Original Message -----

Subject: Planning application R/2014/0576/F

Date: 2016-06-14 11:28

From: "G.T.Design" <info@gtdesign.biz>

To: info@nmandd.org

For the attention of the elected councillors

Dear Councillor

with reference to the above planning application ref: R/2014/0576/F for a wintering shed at the Orrs out-farm on Barnamaghery Road you are informed as follows. The Orrs keep pedigree horses on the holding and there are no relevant wintering facilities on the holding. There is one fodder store but no wintering shelter for the livestock. The above application is to provide the necessary shelter as required by DARD and in the interest of good husbandary for the welfare of livestock. You will remember the very severe winter of a number of years ago when numerous farm livestock were lost as a result of no suitable shelter. In an attempt to prevent loss of livestock the proposal is a necessary response. Fortunately the last few winters have been mild that is since the application was lodged some 20 months ago. We now understand that the planning officer, in spite of the overwhelming evidence provided, is recommending the application for refusal. In this respect we would implore the elected representatives to provide some semblance of "common sense" and use their influence in this case to ensure that this necessary proposal is not refused but gains permission. Thanking you in anticipation of your help and assistance in this matter.

Gary Thompson

on behalf of Mr and Mrs Orr

--

G.T.Design

02890 813 784

10 Comber Road
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Belfast
BT8 8AN

ITEM NO 34

APPLIC NO	LA07/2016/0643/NMC
COUNCIL OPINION	REFUSAL
APPLICANT	Una Walls
LOCATION	10 Manse Road Dundrum BT33 0NE
PROPOSAL	Entrance as existing, no canopy, altered windows plus alterations

- 1. The proposal is contrary to Section 67 of the Planning Act (Northern Ireland) 2011 in that the extent of the works proposed does not constitute a non-material change to a previous planning permission.**



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2016/0643/NMC

Date Received: 13th May 2016

Proposal: Entrance as existing, no canopy, altered windows and alterations.

Location: 10 Manse Road, Dundrum.

Site Characteristics & Area Characteristics:

This site detail would remain as was under the previous application LA07/2015/0366/F

Site History:

LA07/2016/0366/F – 10 Manse Road, Dundrum – proposed relocated entrance, new porch, sun room and covered terrace, altered windows and internal alterations to existing dwelling – granted – 11-04-2016.

Planning Policies & Material Considerations:

This is a non material change so consideration is given to if the application is materially different to what was previously approved.

Consultations:

It is not necessary to carry out any consultations as part of this non material change.

Objections & Representations

Non material changes are not advertised nor are neighbour notifications sent.

Consideration and Assessment:

- The application site remains the same as the original application.
- The nature of development while remains largely the same does alter the overall appearance of the building, this potential change in character around the gable end would need to be given further consideration in context to the overall area.

- The amendment may not result in the fundamental alteration of the appearance of the building however it will change the appearance of the building.
- The overall structure will decrease in size compared to the previously approved no part of the development is significantly increased.
- The height of the building is not increased and the development does not move in any direction by more than 1m.
- No part of the development will move closer to the boundaries than existing development.
- The alterations do make changes to windows and openings both increases and reductions and the balcony area has been altered. In a built up area full assessment would be required to ensure that there would be no overlooking as a result of the changes.
- No objections were received on the previous application.
- There is nothing to indicate that there will be significant impacts of an environmental nature.
- The scheme will not conflict with any adopted plan.
- The proposal will not impact on any conditions placed on the previous approval.
- There has been no formal enforcement action taken on the lands.

Recommendation:

This application is not considered acceptable as the changes do quite visibly alter the overall appearance of the building and introduce aspects that it is felt full consideration would be required including neighbour notification.

Refusal Reasons/ Conditions:

The works submitted do not constitute a minor amendment.

ARCHITECTS
ckarchitects

5 Wateresk Road,
Dundrum,
Co. Down,
BT33 0NL
t: 028 437 51136
m: 0782 885 1686
e: info@ckarchitects.co.uk

17th June 2016

Planning Downpatrick
Downshire Civic Centre
Ardglass Road
Downpatrick
BT30 6GQ

Fao: Fionnuala Murray

Dear Fionnuala,

10 Manse Road, Dundrum. REF: LA07/2016/0643NMC

I am writing as instructed by my client, Mrs Una Walls, to **withdraw the above mentioned application.** I trust this is acceptable and would appreciate written confirmation of same.

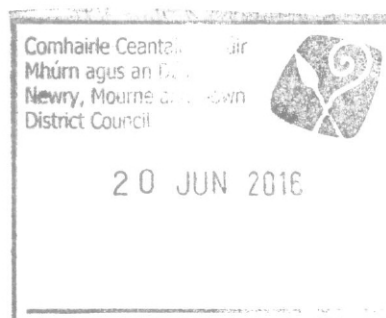
If you have any queries please do not hesitate to contact us.

Yours Sincerely



Colette Maze

CKA



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

Council Newry, Mourne and Down Date 6/29/16

ITEM NO	D1			
APPLIC NO	R/2012/0081/F	Full	DATE VALID	2/8/12
COUNCIL OPINION	APPROVAL			
APPLICANT	Oaklee Homes Group Ltd		AGENT	RPP Architects Ltd 155-157 Donegall Pass Belfast BT7 1DT 028 9024 5777
LOCATION	Sites 2 and 4 Donard Street Newcastle Co Down BT33 0AW			
PROPOSAL	15 no apartments and 1no house			
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions
	23	0	3	0
			Addresses	Signatures
			146	174
			Addresses	Signatures
			0	0



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Deferred Application Consideration

Application Reference: R/2012/0081/F

Proposal: 15 no apartments and 1no house

Location: Sites 2 and 4 Donard Street Newcastle Co Down

The application was presented to Planning Committee on the 25 November 2015, with a recommendation to Approve, Planning Committee requested that amendments be sought in relation to the impact of the proposed single dwelling on the adjacent property on No.4 Park Lane and improved boundary planting between Site 4 and No.6 Donard Street. The Planning Committee also agreed the imposition of planning conditions to minimise impact of noise during construction.

Amended plans were received by the planning office on the 18 May 2016. The plans propose a change in house type from a 2 storey dwelling adjacent to No.4 Park Lane to a low elevational 2 bedroom 3 person bungalow on approx the same footprint.

The bungalow measures 4.6 to the ridge, has no openings on the elevation with No4 Park Lane, there are 2no roof lights providing light to the kitchen/dining/living room.

Objections & Representations

Neighbour notification was undertaken on the amended plans on the 24 May 2016. This expired on the 07 June 2016. 2no letters of representation were received in response to this notification exercise. One from Ann Maginn of 6 Donard Street whom attached previous letters of objection and reiterated her opposition to the proposed scheme in its totality.

Representation received on 13 June 2016 on behalf of No.4 Park Lane raising issues of loss of light, overlooking and overshadowing. Issues regarding finishes of the proposed development, parking and amenity space for the single dwelling.

The footprint of the proposed bungalow mirrors that previously proposed however the dwelling now represents a bungalow with a blank elevation to No.4 Park Lane as opposed to a two storey dwelling. There is a two storey care takers building on site at present which abuts the gable with No.4 Park Lane, albeit doesn't run the full gable length of No.4. This 2 storey building already affects the level of light entering the gable windows to No.4. While the footprint of the proposed bungalow sits closer to Park Lane, the proposed bungalow is low elevation with no windows. It is not anticipated that there will be any increased loss of light, overshadowing or loss of privacy from the bungalow proposed.

Finishes proposed are quite in keeping with surrounding buildings finishes. Parking is provided on a 1 to 1 basis which has been accepted. The level of amenity space while low is acceptable given the town centre location which is in close proximity to an array of outdoor recreational spaces.

There is a pedestrian gate proposed from the bungalow to Park Lane, this remains unchanged from the original proposal as presented to the Committee. This would facilitate free movement and increased accessibility to the bungalow which would be welcomed.

The issue of asbestos has been raised, I understand that this is a site management issue with the Developer before development commences on site.

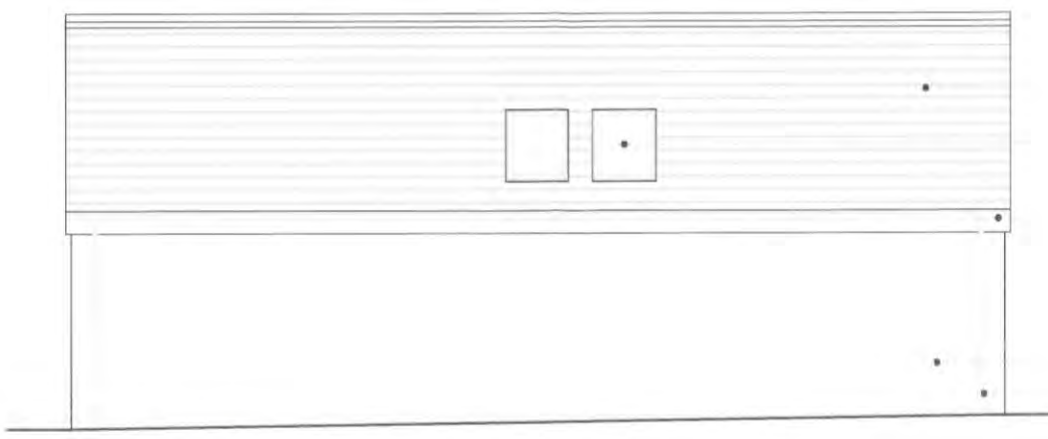
Representation received from No. 4 Park Lane's solicitor on the 26 November 2015. Representing No.4 Park Lane concerns in relation to the entire development but in particular the 2 storey dwelling adjacent to the property, raising issues of light, privacy and enjoyment of the property.

These concerns have now been addressed through the reduced submission for a bungalow on the site adjacent to No.4 Park Lane.

Consideration and Assessment:

Consideration will be confined to the proposed amendments on the scheme of 18 May 2016 namely the replacement 2 storey dwelling with a bungalow adjacent to No.4 Park Lane and with the proposed landscape boundary with No. 6 Donard Street.





REAR ELEVATION

The amendments propose betterment to the living environment to No.4 Park Lane, with the replacement of a 2 storey dwelling with a low elevational bungalow. There are no window/door openings with No.4 Park Lane which could cause any residential amenity impacts. Parking provision remains unaltered for the proposal. The amendment to this house type is acceptable against policy PPS 7.

The other element to the amendment was the improved boundary treatment to No.6 Donard Street. The amendment proposes a minimal increase in landscaping at the boundary, however given the constrained nature of the site with the necessary access driveway, the opportunity to strengthen this boundary was always going to be difficult to implement. The proposal does include an additional 2 no trees along the boundary. I believe this to be acceptable when taken with the associated fencing proposed and the existing situation on site.



Recommendation:
Approval

Additional Condition requested by Committee:

The site shall not be operational outside of the following times: Monday to Friday: 8am to 5pm. And at no time on a Saturday, Sunday or Public Holiday.

Reason: To safeguard the amenities of nearby residential properties.

Signed

Dated

Signed

Dated

Cllr Laura Devlin
SDLP Councillor for The Mournes District Electoral Area
C/o 8 Railway Street, Newcastle, BT33 OAL
Tel: 028 437 22443 / 07918 147060
Follow: @lauradevlinSDLP
Like: [Facebook.com/lauradevlinSDLP](https://www.facebook.com/lauradevlinSDLP)
www.lauradevlin.com

Pat,

Re: Planning Application R/2012/0081/F – Oaklee Housing – Donard Street, Newcastle

As you are aware, I was involved in the above named planning application during my time as a Councillor in the legacy Down Council and as such will be removing myself from the Planning Committee meeting when this application is next up for discussion.

Further to a site visit by the Committee some months ago amended plans have been submitted to the Council's Planning Department. Along with local residents I remain concerned about this application.

The amendments seems to relate to the proposed dwelling which is adjacent to Number 4 Park Lane – the home of Mrs Callen, who has consistently opposed such a dense development at this site.

I understand that her agent Mr Davis has submitted additional information on her behalf.

I wish to ask the committee to consider Mr Davis' report and to focus on the adverse impact that these amended plans will have on Mrs Callan's residential amenity due to Dominance, Overshadowing, Loss of Light, additional noise and general disturbance.

I also feel that the proposed dwelling lacks necessary private amenity space.

I made a submission to the Council's Briefing Panel back in October 2015 which I attach for ease of reference. In this report I highlighted very real concerns regarding a lack of adequate in-curtilage parking. Other applications within Newcastle for private developments have been refused for this very reason so I disagree that there is a difference between social and private housing in this regard. As a Mournes Councillor and specifically representing the Newcastle area – we already have a huge demand for available spaces, particularly from April to September, so I wholeheartedly object to any application that would exacerbate this issue further.

I ask that members of the Committee take these points on board.

Yours sincerely,
Cllr Laura Devlin

Application Number: R/2012/0081/F – Oaklee Housing – 15 Apartments and 1 dwelling at 2+4 Donard Street, Newcastle

Councillor's Name: Laura Devlin

Reason(s) for requesting application appear before the Planning Committee:

I am making this submission as a Councillor and not a member of the Planning Committee. I have been involved with the objectors to this application during my time on the Legacy Council so will be removing myself if/when this application comes before the full Committee for Decision.

I am fully supportive of social housing but feel that this location remains inappropriate for development of this size and scale. I continue to support the local objectors on this issue.

I along with a number of other elected representatives have had concerns about this application from the onset.

I would ask the panel to consider the lack of **private and public amenity space** in this proposal.

The area identified for amenity space at site 2 faces the Donard Bar and taxi rank. The local taxi rank operates some nights as late as 5am. I do not feel that this location is in keeping with the requirements of PPS7, as I do not feel that this will provide for suitable family living space.

Loss of Light and overlooking

Number 4 will be adversely affected by this development in that her sole source of light to her front sitting room will be lost as the dwelling has been moved forward 9.2m and she will be overlooked. This is not fair and has a massive impact on her residential amenity. Has the privacy of number 2 and 4 Park Lane been given full consideration give the views that the new tenants will have on 3 separate neighbouring floors?

Parking

This proposal allows for only 15 car parking spaces. From experience Transport NI have always made a stipulation of 1.5 car spaces per unit so in this application, the developer falls drastically below what is required. I would also challenge the applicants assumption that their tenants may not all have cars. Given that Oaklee housing works off the NIHE's common Housing waiting list they have no control over which individuals get allocated a property and whether or not they have access to a vehicle or maybe even two vehicles.

Transport NI have also stated "I assume full off-street parking has been provided as any overspill onto the public road at this location will not be permitted."

Why does there appear to be one rule for social housing parking and one for private? I think it is unfair to make the assumption that the parking requirements will be less with no knowledge of the individual tenant.

For this reason alone this application should be recommended for refusal.

Traffic

There have been issues with this application from the onset in that the Roads Report which was initially provided did not reflect the new road network in Newcastle. From the portal, I see the roads report is dated 2012 – is this the new one that reflects the revised layout in Newcastle? This isn't clear.

I also note that the Roads Report makes reference to road works at 22 Dromore Road?? There is no Dromore Road in the vicinity of this proposed development. Has there been an error?

I am in Newcastle every single day and traffic flow is an issue – even in the depths of winter. During the summer the town is more often than not at a standstill so I would again ask Transport NI to demonstrate how this additional traffic can be accommodated especially given the comments above re parking, I have grave concerns about this application.

I feel that this application warrants a full interrogation of detail at the full Planning Committee and respectfully request that it be approved by the panel to proceed to Committee.

Thank you.

Briefing Panel Decision:

Ewart Davis BA MSc MRTPI
Town Planner
14, Killynure Avenue
Carryduff
BELFAST BT8 8ED

Tel:028 90813084
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Newry Mourne & Down Council
Planning Office
Downshire Civic Centre
Ardglass Road,
DOWNPATRICK,
BT30 6GQ

22nd June 2016

Re: Anne Callan Objection to R/2012/0081/F submitted 12th June 2016, which included the original objection of 24th August 2015.

Please find enclosed the following supplementary points of concern.

1. Anne Callan has resided at 4, Park Lane since 1989 and has already stated she is concerned that the proposal will entail loss of existing residential amenity due to loss of light, overlooking, over bearing, noise and disturbance.
2. Until 2010 there was a S.E.R. Technical College on the north side of Park Lane. This was a non-residential facility essentially open 8:30am to 4:00pm Monday to Friday with evening classes from 7:30pm to 9:00pm two days per week.
The current proposal will entail overlooking by 3 floors of apartments seven days per week, every week of the year. Thus the impact on her residential amenity will be considerably increased.
3. In my initial objection of 24th August 2015 I included extracts from Appeal 2007/A0536 (copy attached) regarding Bryansford Place, Newcastle, heard 22nd May 2009. This appeal concerned apartment development originally approved in 2002 and no increase in the number of apartments was entailed. The appeal was dismissed essentially due to loss of residential amenity in adjoining properties due to over dominance and overlooking.
In the above mentioned development there was approval for 8 apartments. The current proposal at Donard Street is for 15 apartments and 1 house. However as there is no mention of this appeal in the Case Officer's Professional Report I can only deduce that no account was taken of this decision when assessing the Oaklee proposal.
4. As previously pointed out there is a taxi rank (open to 4:00am) outside the Donard Hotel. The hotel has a ground floor outside smoking facility and a first floor function room. These various elements are not conducive to the siting of residential accommodation close by.
5. I have raised the fact Newcastle is a tourist resort and the application is sited near a main entry point into the town. The context and character of the locality exhibits a traditional style characterised by bay windows at ground and first floor, plain or partly rendered facades, hipped roofs and tall chimneys. I understand Council has obtained some £14 million public funding to undertake improvements to the promenade and

Main Street. Surely this would be an additional reason to require any new buildings are in context with their surrounds.

Ewart Davis

22nd June 2016

Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
F: 028 9031 2536
E: info@pacni.gov.uk

Appeal Reference:	2007/A0536
Appeal by:	KMB Developments Limited against the refusal of full planning permission.
Development:	Retention of apartment development as built which includes variations to the previously approved application (Ref: R/2001/1268F)
Location:	1, 1A, 3, 5 and 7 Bryansford Place, Newcastle.
Application Reference:	R/2005/1143/F
Procedure:	Written Representations and Commissioner's Site Visit on 22 nd April 2009
Decision by:	Commissioner D S Dunlop, dated 22 nd May 2009

Decision

1. The appeal is dismissed and full planning permission is refused.

Reasons

2. The main issue in this appeal is the effect of the proposal on the living conditions of adjoining residents with particular regard to overlooking and dominance.
3. Planning permission was originally granted in 2002 for the erection of 8 apartments on the appeal site. The development has not been constructed in accordance with the approved plans and has resulted in an increase in the ridge height of the development by some 0.85m. Furthermore, 11 additional windows have been added in the elevation which 'fronts' onto the rear of properties situated on Bryansford Road.
4. I accept that the increase in height of the building provides uniformity with the adjoining constructed apartment development. However, in my opinion, this increase in height and its proximity, in particular, to Nos 16-18 Bryansford Road results in a degree of over dominance which would adversely affect the living conditions of the occupiers of those properties. Planning Policy Statement 7, 'Quality Residential Environments' is clear that development which results in over dominance of neighbouring properties is unacceptable.
5. Turning to the additional windows, I agree with the appellant that the additional windows inserted in the ground floor would not result in overlooking due to the intervening 3.2m high boundary wall. Similarly, I note that the Department take no

issue with the additional windows on the second and third floors as they contain obscure glass. With regards the additional window on the first floor, however, I consider that this would result in additional overlooking of the property to an unacceptable degree. Whilst I note the appellant's proposal to increase the height of the intervening boundary wall with a screen or trellis, I agree with the Department that this would lead to a further over dominant element and affect the living conditions of local residents particularly those in 16-18 Bryansford Road. I also note the objector's comment that the increase in the number of windows leads to a perception of additional overlooking and loss of privacy. Whilst I can understand the concerns raised, I do not consider that this by itself represents a reason to dismiss the appeal.

6. I note the appellant's comments that the owner of No.18 Bryansford Road does not live in that property and that it is rented. Whilst that may be the case, the planning system seeks to ensure that third party interests are not adversely affected. I have concluded that the living conditions of the occupiers (be it owner or tenants) of 18 Bryansford Road would be adversely affected for the reasons outlined above. The Department has sustained its reason for refusal.
7. Finally, I note the comments made by the appellant which included the perceived shortcomings in the permitted design, incidence of flooding in Newcastle since the original permission was granted, the various permissions for redevelopment granted at Nos 18a to 22 Bryansford Road, the cost of the works involved in lowering the building and infilling the windows as well as the downturn in the property market.
8. The appellant constructed the building knowing that it was not in accordance with the approved plans. No discussions took place with the Department regarding any shortcomings in the design. I find it difficult to understand these shortcomings given the protracted length of negotiations in securing the permission. With regards flooding, I have no evidence from the relevant statutory consultee that flooding is an issue with respect to this development or site. I note the various permissions and development that has taken place on Bryansford Road, however, there are no permissions in place in respect of Nos 16-18 Bryansford Road. Finally, with regards the costs of altering the building and the downturn in the property market, the proposals are unacceptable and whilst I acknowledge the costs that will have to be borne by the appellants to rectify the position, these and the other matters outlined do not outweigh the harm I have identified above.

This decision is based upon Plan Numbers 01, 02, 03, 04 date stamped refused 5th April 2007.

COMMISSIONER DESMOND DUNLOP



Newry Mourne & Down Council
 Planning Office
 Downshire Civic Centre
 Ardglass Road,
 DOWNPATRICK,
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12th June 2016

Re: R/2012/0081/F – 15 Apartments and 1 house at 2 & 4 Donard Street, Newcastle

On behalf of my client Mrs Anne Callan of 4, Park Lane, Newcastle, BT33 0AR, I hereby table the following objections to this amended proposal.

1. Impact of Infill Dwelling on Anne Callan's Home, No.4, Park Lane

No.4 is set back 4m from the south side of Park Lane, 2m from the boundary with the proposal and 4m from the existing caretaker's store.

As Photo 1 shows, No.4 has 4 windows and a velux along its eastern gable. At the frontage there is a 0.7m deep bay window providing the sole source of light to Mrs Callan's front sitting room. The bay window provides direct sunlight in the morning and evening. To the rear are in sequence, three gable windows providing the sole light source for her computer room / spare bedroom, main bedroom and shower room. At the back of her house is her kitchen which benefits from the velux window.



Photo 1

At present No.4 is adjoined to the east by a caretaker's store set 10.4m back from Park Lane. As Photo 1 shows, this set back means that there is direct sunlight to all the windows in No.4's eastern gable. However the proposal will bring the infill house forward in front of No.4's building line and also move it closer by 0.6m. The separation distance will be reduced to only 3.4m. In Mrs Callan's view this is unacceptable on the grounds that it is:

- (i) **Contrary to Addendum to PPS7** entailing loss of Residential Amenity due to Dominance, Overshadowing and Loss of Light
- (ii) **Contrary to PPS7 QD1 (b)** in that it creates Conflict with Adjacent Properties due to Overlooking, Loss of Light, Noise and Disturbance.
- (iii) **Contrary to Policy QD1(c)** – the infill dwelling has been allocated a mere 24m² private amenity space. The optimum standard advised in Creating Places is 70m² with the comment that for any individual house less than 40m² will be unacceptable. This allocation would be reduced further if the car parking standard was met.
- (iv) **Contrary to Policy QD1 (g)** in that the design does not draw on the best traditions of form, materials and detailing. The local Newcastle vernacular comprises roughcast or painted render finishes and the use of bay windows and hipped roofs. The submitted details make no attempt to be sympathetic to the existing houses in the vicinity – rather use is made of red clay facing brick and standard anywhere fenestration.
- (v) It is noted the infill dwelling has only 1 car parking space. This does not meet the DOE normal parking standards.
- (vi) As a concerned resident Mrs Callan attended public meetings regarding this proposal. At one such recent meeting it was agreed that there would be **no** vehicular and pedestrian access provided directly onto Park Lane. She would point out the infill house has a pedestrian access to Park Lane.

2. Apartment Blocks on Sites 2 & 4 Donard Street.

The proposals for these sites have not been amended. They remain for apartments finished in pale tan/orange clay facing brick finishes, with standardised fenestration and roofs pitched sometimes parallel and sometimes at right angles to the street. This is in stark contrast to the houses within the site context. These comprise roughcast or painted render finishes, bay windows and hipped roofs sited parallel to the street with tall visually prominent chimneys. (See Photos 2, 3, 4 & 5)



Photo 2 – Main Street



Photo 3 – Bryansford Avenue



Photo 4 – Shimna Road



Photo 5 – Railway Street

The objections tabled 25th August 2015 are still valid. In synopsis they are:-

- (i) The impact on Nos.4 & 6 Donard View by a 2 ½ storey apartment block is contrary to both **Policy QD1 (h) & the Addendum to PPS7** in terms of loss of residential amenity due to dominance and overshadowing.
- (ii) **Contrary to QD1 (a) Context and Character**
- (iii) **Contrary to ADAP Policy NE14** in terms of architectural and streetscape character
- (iv) **Contrary to QD1 (c)** in terms of Private and Public Amenity Space
- (v) **Contrary to QD1 (f) Parking**
- (vi) **Contrary to QD1 (g)** Best Local Traditions of Form, Materials and Detailing

3. Additional Concerns

1. Newcastle is a major tourist resort and this proposal is close to the main entry point to the town centre. As detailed in Photos 2-5 the locality has a traditional Newcastle character characterised by plain or partly render facades, bay windows at ground and first floor and hipped roofs. This proposal presents an opportunity to tie in with this traditional character. This could be achieved by using local traditions of form, materials and detailing without any loss of apartment numbers. This is an expectation of PPS7, Development Control Advice Note 8 and Creating Places, the ADAP 2015 and PPS12. Elsewhere throughout the British Isles the Planning Authority would normally require such conformity. Perhaps councillors could lobby for this in the interests of securing Newcastle's distinctiveness and attractiveness for visitors.

2. The Strategic Planning Policy Statement for N.I. (Sept 2015) requires that:-
"Within established residential areas.....the form, scale massing and layout of new housing development will respect local character and environmental quality as well as safeguarding the amenity of existing residents."

This proposal does not attempt to meet the above requirements. Given the recent E.U. award to Housing Associations it is felt that a Newcastle design solution for this proposal could be undertaken.

3. The Consultation Advice from Council's Environmental Health Department is quite negative regarding the suitability of proposed amenity spaces, particularly along Donard Street. Donard Street is a "rush hour rat run" and remains busy all day. It also has a pub and smoke room directly opposite the proposal. Perhaps Planning should investigate any issues raised.

4. The proposed Layout Plan does not make it clear where residents' bins will be stored, together with the servicing arrangements for bins, oil, etc. Also arrangements for bicycle parking are not shown.

5. It has been reported to Mrs Callan that the existing buildings contain asbestos. Council should check if this is the case and what arrangements have been made for its removal.

6. The Proposed Layout Plan shows indicative tree planting. Is there a tree planting schedule and maintenance agreement?

I trust you will take full account of the points raised when considering this amended planning application.

Yours faithfully
 Ewan E Davis

Dear Sirs

Re: R/2012/0081/F - Oaklee Housing Planning Application 15 apartments & 1 house

As a Councillor I wish to again reiterate my continued and total opposition regarding a planning application submitted originally back in February 2012 by Oaklee Housing to build 15 apartments and 1 house for social housing at 2-4 Donard Street in Newcastle which is now being considered on 29th June by the Council Planning Committee.

As a former Newcastle Councillor on the legacy Down District Council I was contacted many times since February 2012 by both very concerned local businesses and residents within the vicinity of Donard Street, some of which are senior citizens who have resided in their places of residence near Donard Street for decades and feel this type of planning application for social housing is totally unsuitable for being located at Donard Street.

Both I and other elected representatives also attended a large public meeting held in Newcastle Centre and a petition of concern was submitted to Planning Service in March 2012 regarding the total unsuitability of the proposed town centre scheme because of poor access, parking, density, traffic problems and social issues. As a Councillor I have again been contacted by anxious residents following recent media coverage regarding the town centre social housing scheme and I am totally dismayed that this controversial planning application is now coming before the Council Planning committee on 29th June with a recommendation by planning officers for granting full planning approval.

The planning application to build on the former location of Newcastle Technical College, is against the backdrop of a huge swell of local opposition and concern due to the total unsuitability of the former College site for social housing which would be very close to Donard Street, and late night businesses such as Bars, taxi depots, and residential housing. The evidence of this opposition is clearly articulated from the widespread letters of objection submitted to Planning since February 2012 which have indicated major planning concerns and reservations to this type of social housing application being built in a part of Newcastle which would not be conducive to housing families near a busy business and tourism area as well as retired residents living in nearby Railway Street, Park Lane and Donard Street.

The many concerns raised by numerous elected politicians including myself is also largely attributed to Oaklee Housing wishing to house 15 apartments and one house on a small site that is totally unsuitable and will not provide proper open green space for recreational purposes for families as well as adequate parking provision. Added to this the design of the proposed apartments and house is totally out of keeping with the local area and the aesthetic design and look is not reflective to the area of Donard Street.

I therefore remain totally unconvinced that the recommendation being proposed by planning officers for full planning approval on June 29th at the Council Planning Committee meeting against ongoing protracted public opposition by local businesses, residents and politicians against this type of planning application for social housing on such a small site at 2 - 4 Donard Street already enclosed by residential and business properties would be best served and in the public interest I would implore Councillors to oppose this planning application at this late stage.

Yours

Councillor Patrick Clarke

Councillor Patrick Clarke, LL.B

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