



July 26th, 2018

**Notice Of Meeting**

You are invited to attend the Planning Committee Meeting to be held on **Wednesday, 1st August 2018** at **10:00 am** in the **Boardroom, Monaghan Row, Newry.**

The Members of the Planning Committee are:-

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

# Agenda

## 1.0 Apologies

## 2.0 Declarations of Interest

## 3.0 Declarations of Interest in relation to Paragraph 19 of Planning Operating Protocol - Members to be present for the entire item.

- Item 11 - LA07/2015/1219/F - Malachy Burns - erection of dwelling and garage on a farm - Kilmonaghan Road, Armagh - **Councillor Harte was not in attendance for the first presentation on 1 March 2017** and cannot therefore take part in the discussion/decision on this application.

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### *Minutes for Confirmation*

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## 4.0 Minutes of Planning Committee Meeting held on 4 July 2018. (Attached)

 *Planning Minutes - 4 July 2018.pdf*

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### *For Discussion/Decision*

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## 5.0 Addendum list - planning applications with no requests for speaking rights or written submissions. (Attached)


 *Addendum list - 01-08-2018.pdf*

*Page 11*

## 6.0 LA07/2017/1261/O - Mr Thomas Mageean - Proposed dwelling and garage - Site abutting 20 Junction Road, Saintfield. (Case Officer report attached)

Rec: REFUSAL

- A request for speaking rights has been received from Sheila Curtin, agent, in support of the application. **(Submission attached)**.
- A written statement of support has been received from Councillor T Andrews. **(Submission attached)**.

 *LA07-2017-1261-O Thomas Mageean.pdf*

*Page 12*

 *Item 6 - submission of support (Thomas Mageean).pdf*

*Page 15*

 *Item 6 - support from Cllr Andrews (Thomas Mageean).pdf*

*Page 18*

**7.0 LA07/2017/1558/O - Mr P McCormack - Farm dwelling - 275m North of No. 35 Tobercorran Road, Downpatrick. (Case Officer report attached)**

Rec: REFUSAL

- A request for speaking rights has been received from Kieran Gilmore, agent, in support of the application. **(Attached)**.

 *LA07-2017-1558-O Mr P McCormack.pdf* *Page 20*

 *Item 7 - submission of support (PMcCormack).pdf* *Page 25*

**8.0 LA07/2018/0190/RM - Mrs Josephine Watson - Dwelling and garage on a farm - Adjacent to 57 Tullyree Road, Kilcoo. (Case Officer report attached)**

Rec: REFUSAL

- Addendum list

 *LA07-2018-0190-RM Josephine Watson.pdf* *Page 26*

**9.0 LA07/2018/0480/F - Parish of Saul & Ballee - Retention of pastor centre/hall - Adjacent to No. 10 St. Patrick's Road, Saul, Downpatrick. (Case Officer report attached)**

Rec: REFUSAL

- A request for speaking rights has been received from Michael Bailie, agent, in support of the application. **(Submission attached)**.
- A request for speaking rights has been received from DEA Councillor Gareth Sharvin in support of the application. **(Attached)**.

 *LA07-2018-0480-F Parish of Saul and Ballee.pdf* *Page 34*

 *Item 9 - LA07-2018-0480-F (Parish of Saul and Ballee).pdf* *Page 40*

 *Item 9 - Cllr. Sharvin (Parish of Saul and Ballee).pdf* *Page 42*

**10.0 LA07/2018/0841/F - Newry, Mourne and Down Council - Proposed play park -35m West of No. 4 Old Road, Mayobridge. (Case Officer report attached)**

Rec: APPROVAL

- Addendum list

**11.0 LA07/2015/1219/F - Malachy Burns - Erection of dwelling and garage on a farm - Lands adjacent and 40m SE of No. 39 Kilmonaghan Road, Armagh. (Case Officer report attached)**

Rec: REFUSAL

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

LA07-2015-1219-F Malachy Burns.pdf

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Item 11 - submission of support (Malachy Burns).pdf

Page 52

**12.0 LA07/2017/0501/O - Ms Jacqueline Magee - Proposed dwelling on a farm - Land adjacent to and East of 15 Commonshall Road, Newry (Case Officer report attached)**

Rec: REFUSAL

- Addendum list

LA07-2017-0501-O Jacqueline Magee.pdf

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**13.0 LA07/2017/0699/O - Brian & Laura Fealy - Proposed dwelling & detached garage on a farm - 130m West of No. 21 Kilkeel Road, Hilltown (Case Officer report attached)**

Rec: REFUSAL

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

LA07-2017-0699-O Brian and Laura Fealy.pdf

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Item 13 - LA07.2017.0699.0 K Sherry Agents submission.pdf

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**14.0 LA07/2017/1198/O - Terence Murphy - Farm domestic dwelling and garage - Opposite & immediately South of No. 40 Hall Road, Lislea, Newry. (Case Officer report attached)**


Rec: REFUSAL

- A request for speaking rights has been received from Terence Murphy, applicant,

and Collins & Collins, agents, in support of the application. **(Submission attached)**.

 *LA07-2017-1198-O Terence Murphy.pdf* *Page 73*

 *Item 14 - submission of support (Terence Murphy).pdf* *Page 77*

 *Item 14 - submission of support (2) (Terence Murphy).pdf* *Page 78*

### **15.0 LA07/2017/1326/F - Mr Peter Morgan - Dwelling and garage on a farm - 30m South of 28 Bog Road, Kilcoo, Newry. (Case Officer report attached)**

Rec: REFUSAL

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

 *LA07-2017-1326-F Peter Morgan.pdf* *Page 79*

 *Item 15 - submission of support (Peter Morgan).pdf* *Page 89*

### **16.0 LA07/2017/1494/O - John Murnion - Proposed one and a half storey dwelling and detached domestic garage - Opposite and North of No. 43 Bryansford Road, Stang, Hilltown. (Case Officer report attached)**

Rec: REFUSAL

- A request for speaking rights has been received from Cormac McKay, agent, and Teresa Murnion, applicant's mother, in support of the application. **(Submission attached)**.

 *LA07-2017-1494-O John Murnion.pdf* *Page 93*

 *Item 16 - submission of support (John Murnion).pdf* *Page 98*

### **17.0 LA07/2017/1625F - Diane Coulter - Self-catering accommodation comprising 8 self-catering units, open space and car parking - Adjacent to 77 Leestone Road, Kilkeel (Case Officer report attached)**

Rec: REFUSAL

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

 *LA07-2017-1625-F Diane Coulter.pdf* *Page 99*

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*For Noting*

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**18.0 Historic Tracking Sheet (Attached)**

Planning HISTORIC TRACKING SHEET - UPDATED 16.07.2018.docx

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**19.0 July 2018 Planning Committee Performance Report (To follow)**

**20.0 Record of Meetings between Planning Officers and Public Representatives (To follow)**

**21.0 July 2018 Appeals and Decisions (To follow)**

# Invitees

Cllr Terry Andrews	<a href="mailto:terry.andrews@nmandd.org">terry.andrews@nmandd.org</a>
Cllr Naomi Bailie	<a href="mailto:naomi.bailie@nmandd.org">naomi.bailie@nmandd.org</a>
Cllr Patrick Brown	<a href="mailto:patrick.brown@nmandd.org">patrick.brown@nmandd.org</a>
Cllr Robert Burgess	<a href="mailto:robert.burgess@nmandd.org">robert.burgess@nmandd.org</a>
Cllr Pete Byrne	<a href="mailto:pete.byrne@nmandd.org">pete.byrne@nmandd.org</a>
Cllr Michael Carr	<a href="mailto:michael.carr@nmandd.org">michael.carr@nmandd.org</a>
Cllr charlie casey	<a href="mailto:charlie.casey@nmandd.org">charlie.casey@nmandd.org</a>
Cllr William Clarke	<a href="mailto:william.clarke@nmandd.org">william.clarke@nmandd.org</a>
Cllr Garth Craig	<a href="mailto:garth.craig@nmandd.org">garth.craig@nmandd.org</a>
Cllr Dermot Curran	<a href="mailto:dermot.curran@nmandd.org">dermot.curran@nmandd.org</a>
Ms Alice Curran	<a href="mailto:alice.curran@nmandd.org">alice.curran@nmandd.org</a>
Cllr Laura Devlin	<a href="mailto:laura.devlin@nmandd.org">laura.devlin@nmandd.org</a>
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Donna Starkey	<a href="mailto:donna.starkey@nmandd.org">donna.starkey@nmandd.org</a>
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Cllr William Walker	<a href="mailto:william.walker@nmandd.org">william.walker@nmandd.org</a>
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## NEWRY, MOURNE & DOWN DISTRICT COUNCIL

**Minutes of the Planning Committee Meeting of Newry Mourne and Down District Council held on Wednesday 4 July 2018 at 10.00am in the Boardroom, District Council Offices, Monaghan Row, Newry**

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**Chairperson:** Councillor M Larkin

**Deputy Chairperson:** Councillor D McAteer

**In attendance:** **(Committee Members)**

Councillor C Casey  
Councillor G Craig  
Councillor K Loughran  
Councillor J Macauley  
Councillor M Murnin  
Councillor M Ruane

**(Officials)**

Ms M Ward	Director- Enterprise, Regeneration & Tourism
Mr A McKay	Chief Planning Officer
Ms A McAlarney	Senior Planning Officer
Ms J McParland	Senior Planning Officer
Ms L Coll	Legal Advisor
Ms E McParland	Democratic Services Manager
Ms C McAteer	Democratic Services Officer
Ms P McKeever	Democratic Services Officer

**P/056/2018: APOLOGIES AND CHAIRPERSON'S REMARKS**

Apologies were received from Councillors Clarke, Devlin, Hanna and Harte

**P/057/2018: DECLARATIONS OF INTEREST**

There were no Declarations of Interest received.

**P/058/2018: DECLARATIONS IN ACCORDANCE WITH PLANNING COMMITTEE PROTOCOL PARA. 19 – MEMBER TO BE PRESENT FOR ENTIRE ITEM**

- **Item No. 6 – LA07/2017/1854/O** – Mr J McIlmail – Councillors Larkin and Harte were not in attendance for the first presentation on 9 May 2018 and Councillors Larkin, Harte, Hanna and Craig were not present at the site visit on 6 June 2018 and as such they would not be taking part in the discussion / decision.

**MINUTES FOR CONFIRMATION****P/059/2018:            MINUTES OF PLANNING COMMITTEE MEETING HELD ON WEDNESDAY 6 JUNE 2018**

Read:                    Minutes of Planning Committee Meeting held on Wednesday 6 June 2018.  
(Copy circulated)

**AGREED:**            **On the proposal of Councillor McAteer, seconded by Councillor Ruane it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 6 June 2018 as a true and accurate record.**

**FOR DISCUSSION/DECISION****P/060/2018:            ADDENDUM LIST**

Read:                    Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 4 July 2018. (Copy circulated)

**AGREED:**            **It was unanimously agreed to remove the following Planning Applications from the Addendum List: -**

- o    **Item 8 – LA07/2017/1558/0 – Mr P McCormack – farm dwelling – 275m north of 35 Tobbercorran Road, Downpatrick**  
**REFUSAL**  
**Removed from the addendum list at the request of Councillor Murnin, for presentation at a future Planning Committee Meeting**
- **Item 12 – LA07/2018/0042/0 – Ciaran O'Higgins – farm dwelling and garage – adjacent to No. 46 Bann Road, Castlewellan**  
**Removed from the addendum list as the agent had advised the application had been withdrawn from the planning process**

**AGREED:**            **On the proposal of Councillor Craig seconded by Councillor Murnin it was agreed to approve the Officer recommendation in respect of the following Applications listed on the Addendum List for Wednesday 4 July 2018.**

- **Item 7 – LA07/2017/1380/0 – Robert McBriar – dwelling and garage – 26m west of No. 45 Manse Road, Crossgar**  
**REFUSAL**
- **Item 16 – LA07/2017/1360/F – Matthew D'Arcy & Company Ltd – refurbishment of existing bar and extension to provide craft micro distillery and visitor centre, function room, restaurant and ancillary features at 17-19 Monaghan Street, Newry**  
**APPROVAL**
- **Item 19 – LA07/2018/0464/0 – Mary Slane – dwelling and garage (amended address) – between No. 34 and 38 Seafin Road, Killeavy, Meigh**  
**REFUSAL**

Councillor Murnin asked if it would be feasible to give Agents more notice regarding the applications to be determined at each meeting.

Mr McKay replied that the application list was produced two weeks prior to the meeting date and if the Agent was not available to attend a specific meeting, a substitute could be nominated. He also advised the dates of the Planning Committee Meetings were published one year in advance and the onus was on the Agent to be aware of the dates and deadlines, however should they have any issues of concern they should contact Planning Officials who would facilitate where possible.

## **DEVELOPMENT MANAGEMENT – PLANNING APPLICATIONS FOR DETERMINATION**

### **P/061/2018: PLANNING APPLICATIONS FOR DETERMINATION**

The following applications were then determined by the Committee:-

(Councillor Larkin and Councillor Craig withdrew from the meeting for discussion on this application – 10.19 am and the Deputy Chairperson, Councillor McAteer assumed the Chair in the absence of the Chairperson).

#### **(1) LA07/2017/1854/0 – Mr J McIlmail**

##### **Location:**

Lands contained between 71 and 73 Lisoid Road, Bright, Downpatrick

##### **Proposal:**

Proposed dwelling and garage

##### **Conclusion and Recommendation from Planning Official:**

Refusal

##### **Speaking rights:**

Sam Hawthorne, Agent, presented in support of the application detailing and expanding upon his written submission that had been circulated to Committee Members.

Ms A McAlarney, Senior Planning Officer, gave a power-point presentation on the application, with supporting information including a site location plan; an aerial view of the site and photographs from various critical views of the site.

Councillor Murnin asked Planning Officials what they would deem to be acceptable in terms of plot size and what would constitute rural settlement.

Ms McAlarney replied that to satisfy the conditions of Policy CTY 8 (infill), the proposed site would have to respect the neighbouring plots and the proposed application failed to do so in terms of size, scale, siting and plot size. She continued, saying the Committee would have to determine if they deemed the application site to be reflective of neighbouring sites when making their decision.

Councillor Murnin proposed and Councillor Loughran seconded to issue an approval contrary to officer recommendation on the basis that the refusal reasons as stated in the Officer

Report had been addressed and the application site was located in a hamlet as opposed to a rural setting.

Ms Coll advised Members that all four reasons for refusal would have to be addressed satisfactorily if the Committee were to decide to overturn the officer recommendation.

Councillor Murnin said, on the basis of the facts presented, and taking account of plot sizes there was not any demonstrable harm to the area from the application as proposed and it would not further erode the rural character of the countryside as the area was essentially a hamlet, rather than open countryside.

Councillor Loughran said the application was for outline permission and the size of plot could be considered at design stage.

Mr McKay said in planning terms the application site was not located within a hamlet.

The proposal was put to a vote by way of a show of hands and voting was as follows:

**FOR: 2**  
**AGAINST: 4**  
**ABSTENTIONS: 0**

**The proposal was declared 'lost'.**

Councillor McAteer proposed and Councillor Macauley seconded to issue a refusal in respect of Planning Application LA07/2017/1854/O as per officer recommendation.

The proposal was put to a vote by way of a show of hands and voting was as follows:

**FOR: 4**  
**AGAINST: 2**  
**ABSTENTIONS: 0**

**The proposal was declared 'carried'.**

**AGREED: On the proposal of Councillor McAteer, seconded by Councillor Macauley it was agreed to issue a refusal in respect of Planning Application LA07/2017/1854/O as per the information and recommendation contained in the Case Officer report presented to Committee.**

(Councillor Larkin and Councillor Craig rejoined the meeting - 10.30 am.  
 Councillor Larkin resumed the Chair.

**(2) LA07/2017/1770F – Mr Patrick King**

**Location:**

11 Bright Road, Downpatrick

**Proposal:**

Proposed detached annex to existing dwelling to be used as a granny flat

**Conclusion and Recommendation from Planning Official:**

## Refusal

### Speaking rights:

A request for speaking rights has been received from Gerry Tumelty, Agent, in support of the application detailing and expanding upon his written submission that had been circulated to Committee Members.

Ms McAlarney Senior Planning Officer, gave a power-point presentation on the application, with supporting information including a site location plan; an aerial view of the site and photographs from various critical views of the site.

The Agent, in his presentation advised that the application had been submitted on PHD forms and it should be noted the current site had permitted development rights which would allow for a large domestic store, greater in height, to be constructed which would not require the submission of a formal application.

Councillor Murnin asked Ms McAlarney for clarification regarding PHD forms.

Ms McAlarney replied that PHD forms were Householder Development forms used for residential applications with the standard practice condition attached that the proposed building remain ancillary and reliant to the main building. She continued, saying the proposed application was for a detached singular dwelling within the curtilage, but contrary to the requirements of the policy, the proposed building could function independently.

Councillor Craig referred to the garage located on the site and said he was not convinced that it could not be upgraded to bring the insulation value up to the standard required for a dwelling. He asked Ms McAlarney if it could be linked to the main building.

Ms McAlarney replied that the configuration of the buildings on the site would make a link feasible, although the policy only called for proximity to other residential dwellings and therefore it wasn't always necessary to have a link. She said she would dispute that the existing dwelling could not be extended and also that the garage could not be linked.

Councillor Craig proposed and Councillor Macauley seconded to accept the officer's recommendation to issue a refusal in respect of Planning Application LA07/2017/1770/F.

**AGREED:                    On the proposal of Councillor Craig seconded by Councillor Macauley it was unanimously agreed to offer a refusal in respect of Planning Application LA07/2017/1770F as per the information and recommendation contained in the Case Officer report presented to Committee.**

### **(3)    LA07/2017/1797/F – Ann Herron**

#### **Location:**

Land 20m south and adjacent to 25 Saintfield Road, Crossgar

#### **Proposal:**

Conversion of windmill stump to dwelling including single storey rear extension

#### **Conclusion and Recommendation from Planning Official:**

Refusal

**Speaking rights:**

Barry Fletcher, Agent, presented in support of the application detailing and expanding upon his written submission that had been circulated to Committee Members.

Ms McAlarney Senior Planning Officer, gave a power-point presentation on the application, with supporting information including a site location plan; an aerial view of the site and photographs from various critical views of the site.

Discussion took place and there was general agreement among Members that although this was an opportunity to retain an historical building, the design presented was not respectful of the existing windmill stump.

Councillor Craig proposed to defer the application to allow time for the Agent / Applicant and Planning Officials to meet and agree on a more acceptable design, Councillor Macauley seconded this proposal.

**AGREED: On the proposal of Councillor Craig seconded by Councillor Macauley it was agreed to defer Planning Application LA07/2017/1797/F to allow time for the Agent / Applicant and Planning officials to meet and agree on a more acceptable design.**

**It was also agreed that Planning Officers be granted approval to issue the decision under delegated authority but if the opinion continued as a refusal, that the application revert back to Planning Committee.**

**(4) LA07/2018/0394/F – NIHE (South Region)****Location:**

1 Seaview, Ardglass

**Proposal:**

Proposed single storey front, side and rear extension

**Conclusion and Recommendation from Planning Official:**

Refusal

**Speaking rights:**

Councillor Gareth Sharvin, in support of the application detailing and expanding upon his written submission that had been circulated to Committee Members.

Ms McAlarney Senior Planning Officer, gave a power-point presentation on the application, with supporting information including a site location plan; an aerial view of the site and photographs from various critical views of the site.

Discussion took place regarding the proposed site and the fact that the design submitted encroached on to open green space.

Ms McAlarney said the Applicant would have to justify the loss of open green space and that Policy OS1 stated an exception would only be permitted where it was clearly demonstrated that redevelopment would bring substantial community benefits that decisively outweighed the loss of the open space. Additionally, she said the proposed elevations in the design submitted would lead to an undesirable change in character of the existing property and the

area in which it was located, however the design issues could be overcome but the fundamental issue was the loss of the open green space. She said the Applicant, NIHE, had failed to adequately demonstrate need.

Mr McKay said a simplified design would be more appropriate and that considerable value was attached to the protection of open green space, however Planning Officials would endeavour to reach a compromise, but this would require careful consideration and the Applicant should consider carefully if they needed as much of the open space as currently formed part of the application.

Councillor Casey proposed and Councillor Loughran seconded to defer Planning Application LA07/2018/0394/F to allow for further discussions to take place with the Applicant and Planning Officials regarding the design issues and open green space.

**AGREED: On the proposal of Councillor Casey seconded by Councillor Loughran it was unanimously agreed to defer Planning Application LA07/2018/0394/F to allow for further discussions to take place between the Applicant and Planning Officials regarding the design issues and open green space.**

**(5) LA07/2016/1564/F – Mr John McAleavey**

**Location:**

Laneway Lodge Riding Centre, 6 Leitrim Road, Hilltown

**Proposal:**

Proposed conversion of existing hay loft into tourist accommodation

**Conclusion and Recommendation from Planning Official:**

Refusal

**Speaking rights:**

John McAleavey, Applicant, in support of the application detailing and expanding upon his written submission that had been circulated to Committee Members.

Ms J McParland Senior Planning Officer, gave a power-point presentation on the application, with supporting information including a site location plan; an aerial view of the site and photographs from various critical views of the site.

Ms McParland said this application had been made under the Farm Diversification Scheme. The Economic Impact Assessment contained within the papers was new information that had been submitted along with the Agents Speaking Rights submission and therefore had not been considered by Planning Officials.

The Chairperson stated that as Officials hadn't had the opportunity to read this late information, it should not be considered by the Committee when determining the Application.

Ms Coll advised the Committee that a recent decision taken at the High Court had determined that late information should be put before Committee for consideration if it was a material consideration, and failure to do so could result in the decision being challenged.

Councillor Craig said to adhere to legal advice, it would be necessary to consider the late information, however, he expressed concern at the time this would take.

Mr McKay said the Committee should be mindful of the recent court judgements and how late information was to be considered. He continued, saying the application had first been submitted to Planning in 2016 and therefore there had been ample time for the Applicant to have submitted all necessary information. He said to enter into this process now, could be viewed as an attempt to prolong the process even further and he added that if the information was so critical, where had it been since the application was submitted in 2016.

Ms Coll said she appreciated the timeframes and how long this application had been in the Planning system. However she said if it was material, it needed to be considered.

Councillor McAteer asked the Applicant if he could provide evidence that the Riding Centre was an established and fully registered business.

The Applicant said that he had submitted a copy of public liability insurance, copies of DARD Riding School licences dating back to 2009, and horse passports. However as he operated the Riding Centre solely he did not have it registered as a business. He continued, saying the Riding Centre had been registered with NITB since 2009 and was registered with NMDDC's Environmental Health Department and he would have assumed this was enough evidence to have constituted a business.

Ms McParland advised the application had been assessed under recreational policy rather than business policy and the Applicant failed to provide a rateable history. She continued, saying the public liability insurance provided, only covered injuries and did not meet the minimum requirements of the policy, additionally evidence of business accounts and verification from HMRC would need to be submitted to fully comply with the policy.

Councillor Larkin asked the Applicant if he had a Farm Business ID number.

Mr McAleavey replied that he didn't think this was applicable to him as he didn't have stock and he had not claimed the Single Farm Payment supplement, however he said he would be in receipt of a Farm Business ID number within ten days.

Councillor McAteer asked Ms McParland whether this Application should be considered under the Farm Diversification Scheme or Tourism Development Scheme.

Ms McParland replied that a Farm Business ID Number would be beneficial, however the Applicant would have had to be in possession of a Farm Business ID Number for six years for it to be a benefit to this application. With regard to applying under the Tourism Development Scheme, she said the Applicant would have to resubmit a new application with provision for three or more units and suggested that he acquired the professional advice of a qualified Planner if he were to pursue this route.

The Chairperson invited the Applicant to respond to any inaccuracies that had been stated during discussions.

The Applicant stated that his Public Liability Insurance covered all his horses, visitors to the Riding Centre and also covered him when he instructed at other sites. He said he would be agreeable to providing a third unit, should he reapply under the Tourism Development Scheme.



Councillor McAteer proposed to defer Planning Application LA07/2016/1564/F to allow the Applicant to seek professional advice for the best way forward and for Members to have time to consider the Economic Impact Assessment.

The proposal was not seconded.

Councillor Craig proposed and Councillor Larkin seconded to issue a refusal in respect of Planning Application LA07/2016/1564/F on the basis that the Application failed to meet the requirements of the policies and if the Applicant still wanted to pursue the proposed works, a new application would have to be submitted.

The proposal was put to a vote by way of a show of hands and voting was as follows:

**FOR: 7**  
**AGAINST: 1**  
**ABSTENTIONS: 0**

**AGREED: On the proposal of Councillor Craig seconded by Councillor Larkin it was agreed to issue a refusal in respect of Planning Application LA07/2016/1564/F as per the information and recommendation contained in the Case Officer report presented to Committee.**

#### **FOR NOTING**

##### **P/062/2018: HISTORIC ACTION SHEET**

Read: Planning historic action sheet. **(Copy circulated)**

**AGREED: It was unanimously agreed to note the Planning historic action sheet**

##### **P/063/2018: PLANNING COMMITTEE MEETING PERFORMANCE REPORT JUNE 2018**

Read: Planning Committee Performance Report June 2018. **(Copy circulated)**

**AGREED: It was unanimously agreed to note the Planning Committee Performance Report May 2018.**

##### **P/064/2018: MEETINGS BETWEEN PLANNING OFFICERS AND PUBLIC REPRESENTATIVES**

Read: Record of Meetings between Planning Officers and Public Representatives 2017-2018. **(Copy circulated)**

**AGREED: It was unanimously agreed to note the Record of Meetings between Planning Officers and Public Representatives 2017 – 2018.**

##### **P/065/2018: JUNE 2018 APPEALS & DECISIONS**

**Read:** Report re: Appeals and Decisions – June 2018. **(Copy circulated)**

**AGREED:** **It was unanimously agreed to note the Appeals and Decisions June 2018.**

**P/066/2018: PLANNING WORKSHOP**

Councillor Macauley advised she would be unable to attend the Planning Workshop scheduled for 5 July in the Downshire Civic Centre and asked if it could be postponed.

Ms Ward replied that she would prefer the Planning Workshop to proceed but another workshop would be scheduled in advance of the August Strategy, Policy and Resources Committee meeting to update those Members who were unable to attend on 5 July 2018.

The Meeting concluded at 12.25pm.

For confirmation at the Planning Committee Meeting to be held on 1 August 2018.

**Signed:** \_\_\_\_\_ **Chairperson**

**Signed:** \_\_\_\_\_ **Chief Executive**

## Item 5 – Addendum List

### **Addendum list - planning applications with no representations received or requests for speaking rights – Planning Committee Meeting on Wednesday 1 August 2018**

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

- **Item 8** - LA07/2018/0190/RM - Mrs Josephine Watson - Dwelling and garage on a farm - Adjacent to 57 Tullyree Road, Kilcoo. **REFUSAL**
- **Item 10** - LA07/2018/0841/F - Newry, Mourne and Down Council - Proposed play park -35m West of No. 4 Old Road, Mayobridge **APPROVAL**
- **Item 12** - LA07/2017/0501/O - Ms Jacqueline Magee - Proposed dwelling on a farm - Land adjacent to and East of 15 Commonshall Road, Newry **REFUSAL**

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

**ITEM NO** 5  
**APPLIC NO** LA07/2017/1261/O  
**COUNCIL OPINION** REFUSAL  
**APPLICANT** Mr Thomas Mageean 20 Junction Road Saintfield BT24 7JU  
**DATE VALID** 21/08/2017  
**AGENT** 2Plan NI 47 Lough Fea Road Cookstown BT90 9QL  
 028 8676 4492 078  
 0936 4680

Outline

**LOCATION** Site abutting 20 Junction Road Saintfield  
**PROPOSAL** Proposed dwelling and garage

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

1. The proposal is contrary to the Strategic Planning Policy Statement and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm.
3. The proposal is contrary to Policy CTY8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along Junction Road.



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

<b>Application Reference:</b>	<b>LA07/2016/1261/O</b>
<b>Date Received:</b>	<b>21.08.2017</b>
<b>Proposal:</b>	<b>Proposed dwelling and garage</b>
<b>Location:</b>	<b>Site abutting 20 Junction Road Saintfield</b>

Application was re-presented to Planning Committee on 7 March 2018 with a recommendation to Refuse.

Committee agreed that application be deferred for a period of 4 weeks to allow for additional information to be received from DAERA.

Information received by the Planning office on 04 April 2018 by way of letter from DAERA confirming that Mr Thomas Mageean and Mrs Una Mageean of 20 Junction Road Saintfield have been added to the membership of the farm business. This official letter was dated 23 March 2018.

Whilst it is acknowledged that the Planning Committee had deferred the application to allow for this information to be submitted, the Planning Office still hold serious concerns regarding the precedent this would set for future cases involving the deliberate manipulation of farm businesses in order to comply with Policy CTY10 of PPS21.

Planning Policy Statement 21 Policy CTY10 clearly states that planning permission will be granted where all the following criteria are met.

- a) *the farm business is currently active and has been established for at least 6 years;***
- (b) *no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and***
- (c) *the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites***

**available at another group of buildings on the farm or out-farm, and where there are either:**

- demonstrable health and safety reasons; or**
- verifiable plans to expand the farm business at the existing building group(s).**

The farm business of Mr Bernard Mageean, No.17 Junction Road, has now been altered by adding the applicant as an additional member to the business. The applicant's purpose in so doing was to have the applicants buildings at No.20 Junction Road included within the farm business see criterion ( c ) of CTY10. The sole purpose of such was to gain planning permission for a dwelling.

It is my professional opinion that these actions run contrary to the ethos of Policy CTY10. Taken to its extreme interpretation then any person could have their name added to any farm business in order to gain planning permission.

The justification and amplification to Policy CTY10, whilst not policy would hint to this issue

**Para 5.40 Planning permission will not be granted for a dwelling under this policy where a rural business is artificially divided solely for the purpose of obtaining planning permission or has recently sold-off a development opportunity from the farm such as a replacement dwelling or other building capable of conversion. For the purposes of this policy, 'sold-off' will mean any development opportunity disposed of from the farm holding to any other person including a member of the family.**

Whilst it is acknowledged that the current case does not involve the artificial subdivision of a rural business, this case does represent the manipulation of a rural business by adding additional members so as to satisfy Criterion ( c ) of CTY10 with the sole purpose of gaining planning permission.

Therefore the reasons for refusal as previously offered remain

1. The proposal is contrary to the Strategic Planning Policy Statement and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policies CTY1 and CTY10 and CTY13 (g) of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm.
3. The proposal is contrary to Policy CTY8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along Junction Road.

**Recommendation: Refusal**

**Signed** .....

To whom it may concern,

In line with committee protocol and further to my speaking right request submitted yesterday 24 July, please note that I wish to speak in relation to the following:

<b>ITEM NO</b>	<b>5</b>		Outline	<b>DATE VALID</b>	21/08/2
<b>APPLIC NO</b>	LA07/2017/1261/O				
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>				
<b>APPLICANT</b>	Mr Thomas Mageean 20 Junction Road Saintfield BT24 7JU			<b>AGENT</b>	2Plan N Road Cooks BT80 9 028 8676 44 0936 4680
<b>LOCATION</b>	Site abutting 20 Junction Road Saintfield				
<b>PROPOSAL</b>	Proposed dwelling and garage				
<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>		<b>SUP Petitions</b>
	0	1	<b>Addresses</b>	<b>Signatures</b>	<b>Addresses</b>
			0	0	0

1. The proposal is contrary to the Strategic Planning Policy Statement and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that has not been demonstrated that the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm.
3. The proposal is contrary to Policy CTY8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along Junction Road.

The points which I will be discussing are a direct rebuttal to the case officers most recent committee report:

**Concerns regarding Precedence:**

We note the case officers concerns regarding precedence, however we would argue that the application will have very limited precedence, given the limiting factors associated with the land ownership, farming relationship, family relationship and configuration of buildings on the application farm. Each application should and is assessed on its own individual merits. The merits of this application are unique, and it is these merits that we are asking to be considered today.

**Manipulation of farm business:**

We feel that the suggestion that we have deliberately manipulated the farm business is incorrect and unfair, to both the agent and the applicant. At each stage of this application we have worked with the Department to try and seek a resolution to the obstacles which were before us. One of the obstacles being the unusual land configuration and ownership issues of the farm holding. Although the original application was submitted with a supporting statement detailing the ownership configuration, this information did not seem to make its way to the first Committee meeting, which

in turn lead to further confusion during the Committee meeting. The purpose of including the applicant Mr. Thomas Mageean on the DAERA paperwork was to help demonstrate clarity with regards to the ownership and land breakup of the farm holding. The amendments to the DAERA paperwork has only formalised through DAERA the applicants involvement in the holding. The changes to the DAERA paperwork have not altered any legal land ownership details or altered anything on the ground, the situation remains the same as it has for the past 30 years.

We also refute the case officers claim that anyone can have their name added to any farm business in order to gain planning permission. This is an incorrect statement, additional members can only be added to a farm business with the consent of the registered farmer. Thus there has to be a willingness for the registered farmer to accept an additional registered member, and in this case the registered farmer is giving up a potential opportunity for a dwelling, given that only one dwelling can be approved under CTY10 every 10 years. The comparison made to 'artificial subdivision of a rural business' is not comparable, the artificial subdivision of rural business would result in numerous opportunities for dwellings, this application is for one dwelling on one farm holding under CTY10, the inclusion of the application on the DAERA paperwork will not result in a second dwelling on this farm holding.

This brings us on to what the report describes as the 'ethos' of Policy CTY10. In the first instance refusal reasons have to be based on policy and not 'ethos'. It is not for the Committee or the case officers to try and establish what the policy makers were thinking when developing PPS21 and SPPS. What is before us today for determination is the exact wording of the Policy. We contend that what is currently before the Committee is an application which is compliant with SPPS and PPS21 -CTY10.

I trust that this is in order, and is sufficient to enable the request for speaking rights to be granted.

Kind Regards,

Sheila Curtin MRTPI

47 Lough Fea Road, Cookstown, Co Tyrone, BT80 9QL

t: 028 8676 4492 | m: 078 0936 4680

e: [info@2planni.co.uk](mailto:info@2planni.co.uk) | w: [www.2planni.co.uk](http://www.2planni.co.uk)



**RTPI**

Chartered Town Planner

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**PLANNING APPLICATION LA07/2016/1261/0 -proposed dwelling & garage 20  
Junction Road , Saintfield , Ballynahinch , Co Down.**

**terry.andrews** to democratic.services

Dear Sir / Madam ,

I am writing to you in connection with the above application that will be tabled at Planning Committee on the 1st August 2018.

I am writing in support of the above and would be more than grateful that this would be taken into account .

The Mageean Family have been farming this land and owned same at the town land of Leggygowan for over 100 years , please see below copy of Census Form that was completed in 1911 showing the Mageean occupants listed at the time , one of them being Daniel , the future Catholic Bishop of Down & Connor .

Am aware that Thomas Mageean the applicant owns the ground / land in question and his brother rents from him and the document from the National Archives in Dublin shows the family connection spanning over a century .Am sure that other additional information will be tabled by others in front of committee at hearing , I would be more than grateful if this also could be taken into account.

Sincerely

Terry

# CENSUS OF IRELAND, 1911.

## FORM A.

Two Examples of the mode of filling up this Table are given on the other side.

No. on Form B. 37

RETURNED BY John J. McNeill

Date of Filling up 20th April 1911.

RETURN of the MEMBERS of this FAMILY and their VISITORS, BOARDERS, SERVANTS, &c., who slept or abode in this house on the night of SUNDAY, the 2nd of APRIL, 1911.

NAME AND BIRTHDAY	RELATION to Head of Family	RELIGIOUS PREFERENCE	EDUCATION	AGE (last Birthday) and SEX		NAME, PROFESSION, OR OCCUPATION	PARTICULARS AS TO MARRIAGE				WHERE BORN	HUSBAND'S NAME	MARRIAGE	MARRIAGE
				Male	Female		Married	Widowed	Single	Divorced				
John J. McNeill	Head	Roman Catholic	Read & Write	45	Male	Farmer	Married	15	5	13	14	15	16	17
Elizabeth McNeill	Wife	Roman Catholic	Read & Write	40	Female	Farmer	Married	15	5	13	14	15	16	17
Thomas McNeill	Son	Roman Catholic	Read & Write	12	Male	Farmer	Single	15	5	13	14	15	16	17
Elizabeth McNeill	Daughter	Roman Catholic	Read & Write	10	Female	Farmer	Single	15	5	13	14	15	16	17
Thomas McNeill	Son	Roman Catholic	Read & Write	8	Male	Farmer	Single	15	5	13	14	15	16	17
Elizabeth McNeill	Daughter	Roman Catholic	Read & Write	6	Female	Farmer	Single	15	5	13	14	15	16	17
Thomas McNeill	Son	Roman Catholic	Read & Write	4	Male	Farmer	Single	15	5	13	14	15	16	17
Elizabeth McNeill	Daughter	Roman Catholic	Read & Write	2	Female	Farmer	Single	15	5	13	14	15	16	17
Thomas McNeill	Son	Roman Catholic	Read & Write	1	Male	Farmer	Single	15	5	13	14	15	16	17
Elizabeth McNeill	Daughter	Roman Catholic	Read & Write	1	Female	Farmer	Single	15	5	13	14	15	16	17
Thomas McNeill	Son	Roman Catholic	Read & Write	1	Male	Farmer	Single	15	5	13	14	15	16	17
Elizabeth McNeill	Daughter	Roman Catholic	Read & Write	1	Female	Farmer	Single	15	5	13	14	15	16	17

I hereby certify, as required by the Act 18 Edw. VII. and 1 Geo. V., cap. 11, that the foregoing Returns are correct, according to the best of my knowledge and belief.

*John J. McNeill*  
Signature of Enumerator

I believe the foregoing to be a true Return.

*John J. McNeill*  
Signature of Head of Family

**ITEM NO** 8  
**APPLIC NO** LA07/2017/1558/O  
**COUNCIL OPINION** REFUSAL  
**APPLICANT** Mr P McCormack C/O Mr C McCormack 12A Manse Road Sealforde BT30 8PD  
**AGENT** Kieran Gilmore 14 Glebe Road Ballynarry Strangford BT30 7AW  
**DATE VALID** 09/10/2017  
**Outline** 07866389973

**LOCATION** 275m North of 35 Tobercorran Road Downpatrick BT30 8HJ

**PROPOSAL** Farm dwelling

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

1. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm (and access to the dwelling is not obtained from an existing lane).
3. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

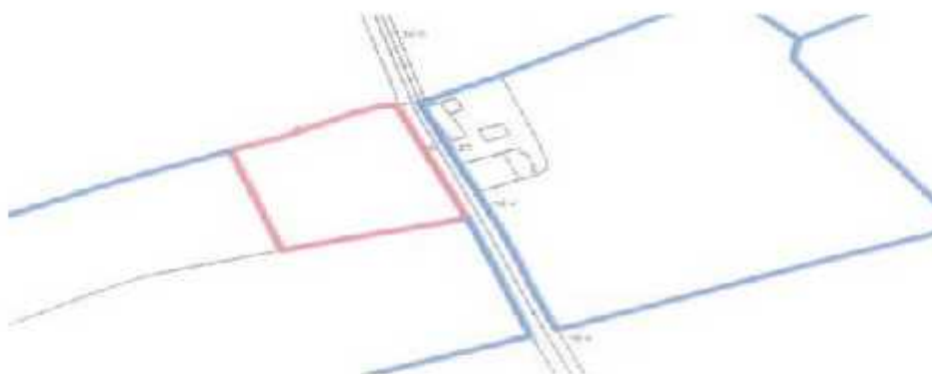
**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2017/1558/O

**Date Received:** 9<sup>th</sup> October 2017

**Proposal:** Erection of Farm Dwelling

**Location:** 275m North of 35 Tobercorran Road, Downpatrick



#### **Site Characteristics & Area Characteristics:**

The site is comprised of a 0.29 hectare of land cut out of a larger agricultural field, currently used for grazing. The site is defined on all sides by mature hedgerows, with exception of that to the rear and west of the site. The site slopes gently down in a westerly direction from the road and appears relatively open given the nature of the road and the surrounding topography.



Opposite the site, it is noted that there are a number of buildings which include an unoccupied dwelling, and two agricultural buildings.



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

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

#### **Site History:**

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

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

I have assessed the proposal against the following relevant policies:

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

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

#### **Consultations:**

Transport NI – No objections

DARDNI – Confirmed 6 years active business and payments claimed

#### **Objections & Representations**

The application was advertised in the local press on 25.10.17.

No representations or objections have been received from third parties of the site.

**Consideration and Assessment:**

The proposal seeks outline planning permission for a farm dwelling on a farm.

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

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

It is noted that the farm on which the dwelling is proposed is registered to the applicant Mr P & Mrs M McCormick of 1 Point Road Tobercorran. The farm has a registered Business ID number 604102 and is comprised of approximately 54 hectares. In consideration of current policy, the Council consulted with Dept of Agriculture, Environment and Rural Affairs (DAERA) who confirmed that the farm business ID 604102 has been in existence for more than 6 years and has claimed subsidies in the past year. For the purposes of the policy, the business is considered to be active and established and thereby complies with criteria A.

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

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

**CTY13**

The proposal seeks outline planning permission for the erection of a farm dwelling. The site benefits from existing vegetation and a suitable designed low elevation dwelling could integrate into the landscape. It has already been established that the site would not cluster and visually link with the farm buildings and therefore the proposal fails the policy on this aspect.

**CTY14**

It is not considered that a suitably designed dwelling would appear prominent in the landscape.

**Summary**

The proposed farm dwelling does not meet the criteria of the SPPS and policy CTY10 or CTY 13 and is therefore recommended for refusal on this basis.

**Recommendation:**

**Refusal**

1. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm (and access to the dwelling is not obtained from an existing lane).
3. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.

**Signed .....**

**Date .....**

**Signed .....**

**Date .....**



**RE: Speaking rights - LA07/2017/1558/0 - Mr P McCormack (Item 7)**

kieran gilmore  Colette.McAteer@nmandd.org

The issues I will be addressing are the refusal of the above application in relation to the planning policy statements 21 . they are CTY1, CTY10, and CTY13

<b>ITEM NO</b>	<b>10</b>				
<b>APPLIC NO</b>	LA07/2018/0190/RM		Reserved		
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>		Matters		
<b>APPLICANT</b>	Mrs Josephine Watson 25 Chicoester Park Belfast BT15 5DR			<b>AGENT</b>	Norman A Quinn 2 Knockmount Gardens Belfast BT5 6
<b>LOCATION</b>	Adjacent to 57 Tullyree Road Kilcoo BT34 5LD				NA
<b>PROPOSAL</b>	Dwelling and garage on a farm				
<b>REPRESENTATIONS</b>	<b>OBJ</b>	<b>Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>
		0	0	0	0
		<b>Addresses</b>	<b>Signatures</b>	<b>Addresses</b>	<b>Signatures</b>
		0	0	0	0

1. The proposal is contrary to The Strategic Planning Policy Statement CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed design and finishes of the building is inappropriate for the site and its locality.
2. The proposal is contrary to the SPPS and policy NH6 of Planning Policy Statement 2: Natural Heritage in that the proposal is unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality, by virtue of the design and choice of materials proposed.



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2018/0190/RM

**Date Received:** 21.03.2018

**Proposal:** Dwelling and garage on a farm

**Location:** Adjacent to 57 Tullyree Road, Kilcoo, BT34 5LD

**Site Characteristics & Area Characteristics:**

The application site is located down a laneway and is setback approx. 137m of Tullyree Road, Kilcoo. The application site located within the redline boundary consists of no.57 Tullyree Road and an agricultural field where the proposed dwelling and garage be located.

The agricultural field is located adjacent and north of no.41A Tullyree Road and adjacent and southwest of no.41 Tullyree Road.

The agricultural field topography sees a continuous slope upwards from northern to southern boundary. The north, east and south boundaries are defined by stone wall and post and wire fence, and the western boundary consists of hedgerow and post and wire fence.

The application site falls outside any settlement development limits as designated within the Ards and Down Area Plan 2015. The site is also located within the Mourne Area of Outstanding Natural Beauty.



*View along northern boundary from private laneway*



*View along the eastern boundary*

### **Site History:**

R/2014/0481/O

Dwelling on a farm and domestic garage

Permission Granted: 23.06.2015

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

Relevant Planning Policies and Development Plans relating to the proposal include:

Regional Development Strategy

Banbridge/Newry & Mourne Area Plan 2015

Strategic Planning Policy Statement of Northern Ireland

Planning Policy Statement 2- Natural Heritage

Planning Policy Statement 3 – Access, Movement and Parking

Planning Policy Statement 21 – Sustainable Development in the Countryside

Building on Tradition: A Sustainable Design Guide for the NI Countryside (BOT)

### **Consultations:**

Transport NI- Has no objections to the proposal subject to conditions.

NI Water- Has no objections to the proposal.

### **Objections & Representations**

10 Neighbours were notified on 13.02.2018 the application was advertised on 21.02.2018. No objections or representations received.

### Principle of Development

Outline planning permission has been granted previously on the site for a dwelling under R/2014/0481/O, this approval expires on 22.06.2018. This application was submitted before this date therefore the application is still live. It is considered that the principle of the development has been established. The proposal is extant and therefore complies with CTY 1 of PPS21.

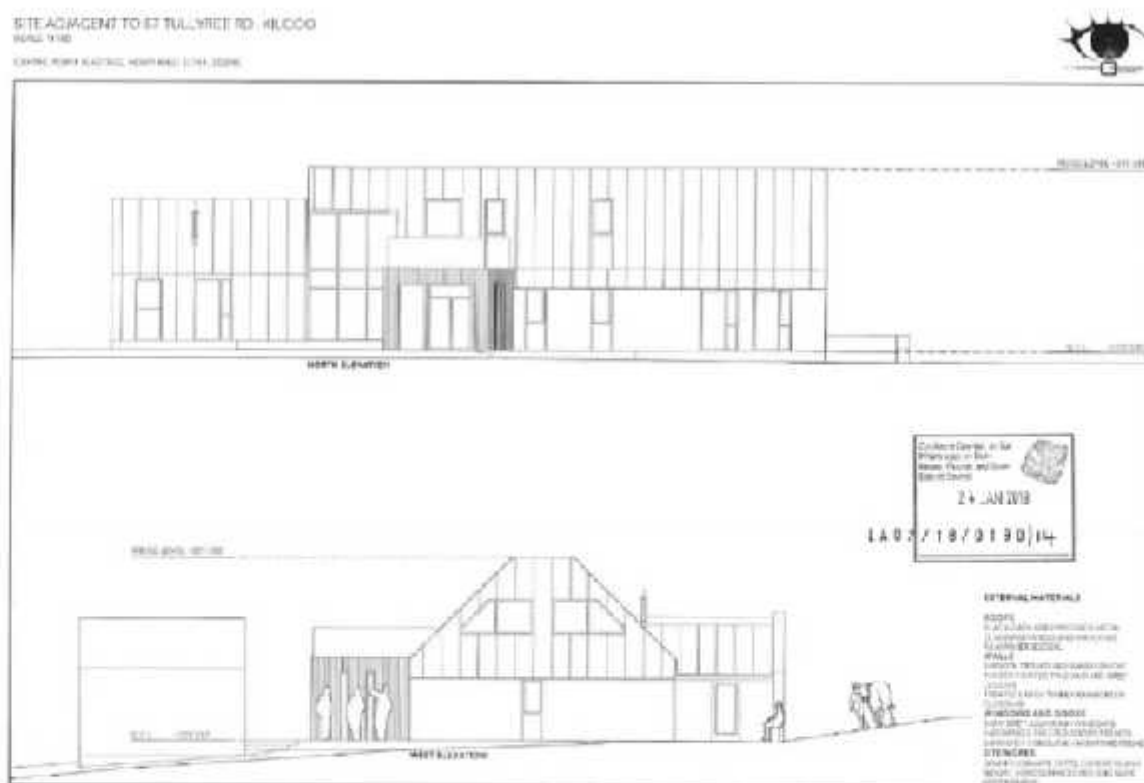
The critical issue with this application is the design and materials proposed.

The Planning Office have provided advice to the agent on numerous occasions and received and assessed a number of revisions to the design of the proposed dwelling.

The Planning office remains concerned at the design and use of materials used in this dwelling at this prominent and highly scenic area of the Mourne AONB.

Outline conditions on approval R/2014/0481/O stipulated a single storey dwelling with a ridge height of < 6m. Whilst this condition has been adhered to, the design of the proposal with poor wall to ratio, expansive floor to roof glazing accentuates the mass and bulk and does not appear to be single storey in form.

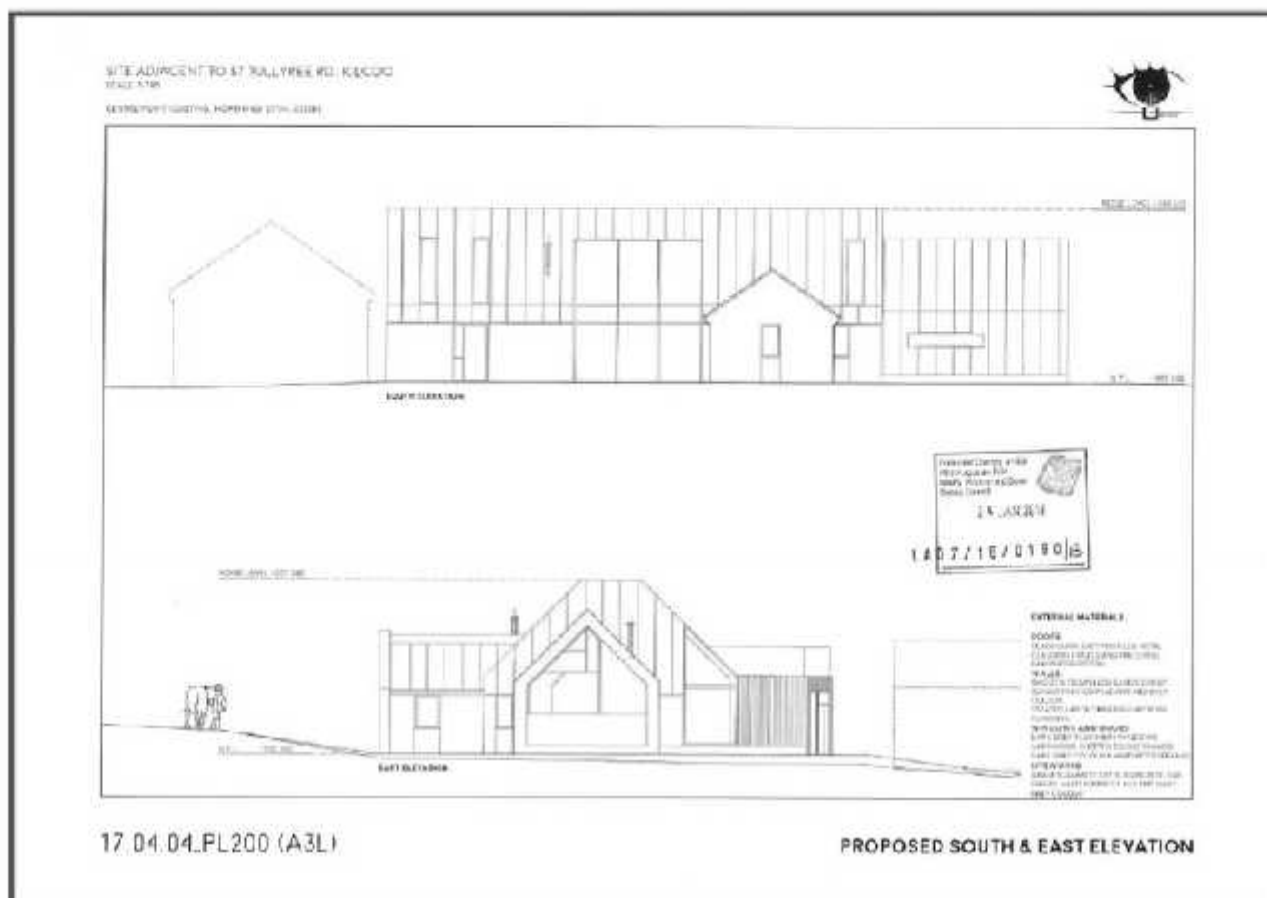
### Original Scheme as Submitted



17 04.04\_PL261 (A3L)



PROPOSED NORTH & WEST ELEVATION



The agent was asked to provide an amended design to address the design concerns. The agent submitted a modestly amended design and whilst the flat roof was amended to a more traditional pitch roof and metal cladding panels were reduced officers did not consider that the proposed dwelling draws upon local/traditional architectural styles and patterns and is not of an appropriate design within an Area of Outstanding Natural Beauty (AONB).

### Scheme as now Proposed and Basis for Refusal



### **CTY 13 – Integration and Design of Buildings in the Countryside**

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

The application site is set back approx. 137m from the Tullyree Road; the site is currently accessed via a private laneway which also is currently used by a number of surrounding dwellings. No (s). 51 and 57 are located between the public road and the application site.

The proposal is for the erection of a dwelling and would have a maximum width of 22.6m, a maximum depth of 15m, and a maximum height of 5.8m from Finish Floor Level (F.F.L). The materials proposed for the dwelling and garage is as follows:

- Walls – to be smooth trowelled sand/cement render painted pale and mid grey colour and treated larch timber rain-screen cladding.
- Windows/doors – Dark Grey Aluminium windows. Hardwood sheeted doors stained dark grey and hardwood frames.
- Roof- Black/ dark grey natural slate and matching rainwater goods.

A detached garage is located along the western boundary of the application site. The garage would have a max height of 5.8m, max width of 10.3m and max depth of 6.5m. An additional store will be located to the front of the dwelling and would have a max height of 4.3m, max width of 5.25m and max depth of 4.2m.

Officers consider that the development would have a detrimental impact upon the character of the area, as the design of the building is inappropriate for the site and its locality and therefore, does not comply with CTY 13. The design fails to take account of the principles of good rural design as enshrined in the BOT Design Guide.

### **Policy NH 6 - Areas of Outstanding Natural Beauty**

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

- a) the siting and scale of the proposal is sympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality; and
- b) It respects or conserves features (including buildings and other man-made features) of importance to the character, appearance or heritage of the landscape; and
- c) The proposal respects:
  - local architectural styles and patterns;
  - traditional boundary details, by retaining features such as hedges, walls, trees and gates; and
  - local materials, design and colour



Officers consider the proposal lacks traditional rural design features, upon site inspection it is noted that the proposal would be particularly visible along the Drumena Road particularly the northern and western elevation of the proposal.

### **Access and Parking**

The proposal must accord with AMP2 and AMP7 of PPS3. Transport NI were consulted on the application and offered no objection. It is considered that there is sufficient space in the curtilage of the dwelling for the manoeuvring and parking of vehicles.

### **Recommendation**

Refusal

### **Refusal Reasons**

1. The proposal is contrary to The Strategic Planning Policy Statement Policy and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed design and materials of the building is inappropriate for the site and its locality.
2. The proposal is contrary to the SPPS and policy NH6 of Planning Policy Statement 2: Natural Heritage in that the proposal is unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality, by virtue of the design and choice of materials proposed.

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date:**

<b>ITEM NO</b>	<b>11</b>				
<b>APPLIC NO</b>	LA07/2018/0480/F	Full		22/03/2018	
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>				
<b>APPLICANT</b>	Parish of Saul & Ballee Patrick's Road Saul Downpatrick BT30 7JG	10 St Patrick's Road Saul Downpatrick BT30 7JG		MB Architectural Design Services LTD 42 Crew Road Ardglass BT30 7TF	

07738854520

**LOCATION**

Adjacent to 10 St. Patrick's Road  
Saul  
Downpatrick  
BT30 7JG

**PROPOSAL**

Retention of pastor centre/hall

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

1. The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the SPPS paragraph 6.12 (setting) and policy BH 11 of the Department's Planning Policy Statement 6: Planning, Archaeology and the Built Heritage (Development affecting the Setting of a Listed Building) in that the proposal does not respect the listed building in terms of scale, height, massing and alignment.



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Newry, Mourne  
and Down  
District Council

**Application Reference:** LA07/2018/0480/F

**Date Received:** 29.03.2018

**Proposal:** Retention of pastor centre/hall

**Location:** Adjacent to 10 St. Patrick's Road, Saul, Downpatrick, BT30 7JG

**Site Characteristics & Area Characteristics:**

The application site is located outside any settlements in the open countryside as designated in the Ards and Down Area Plan 2015. The site is located approximately 3 miles north east of Downpatrick.

The site is located within the curtilage of Saul Parochial House and graveyards, along the north east section of the site. There is a surface car park which is accessed off the St Patricks Road which is surrounded by a stone wall. There is an area of tarmac and pedestrian access to the east which leads to the St Patricks RC Church, a Grade B listed building (HB18/08/116).

The pastor centre was already on the site at the time of the site inspection. Adjacent to the centre is the existing graveyard and a public toilets block. The surrounding area is rural in character and characterised by single dwellings in the countryside.



*Existing pastor centre/hall*

### **Site History:**

#### **LA07/2015/1016/F**

Proposed new pastor Hall

Permission Granted: 01/07/2016- (2 year temporary permission)

#### **R/2009/ 0542/F**

Proposed extension to cemetery including columbarium. 10 St Patricks Roads

Permission Granted: 16.10.2009.

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

Regional Development Strategy

Ards and Down Area Plan 2015

Strategic Planning Policy Statement of Northern Ireland

PPS 3- Planning Policy Statement 3 – Access, Movement and Parking

PPS 6- Planning, Archaeology and the Built heritage

PPS 21- Sustainable Development in the Countryside

### **Consultations:**

Environmental Health- Has no objections to the proposal.

Historic Environment Division (HED)- Consider that the proposal would have an adverse impact on the setting of the listed building when assessed under paragraph 6.12 (setting) of Strategic Policy Planning Statement for Northern Ireland and policy BH 11 (Development affecting the Setting of a Listed Building) of PPS 6.

### **Objections & Representations**

9 Neighbours notified on 04.04.2018 the application was advertised on 11.04.2018. One letter of support was received.

## Consideration and Assessment

Under SPPS, the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. In practice this means that development that accords with an up-to-date development plan should be approved and proposed development that conflicts with an up-to-date development plan should be refused, unless other material considerations indicate otherwise. Any conflict between retained policy and the SPPS is to be resolved in favour of the SPPS.

The application is for the retention of an existing pastor centre/hall. Previously granted temporary approved for a period of 2 years on 01 July 2016. The application had been presented to the 29 June 2016 Planning Committee with an officer recommendation to refuse, this recommendation was overturned and approved with a 2 year temporary permission. The Hall is now in breach of its approval.

The Committee should be mindful of the intent behind granting temporary permissions, is to allow a period of time in which to come up with a permanent and more appropriate solution to the accommodation needs of the Parish.

The perpetual granting of temporary permissions is not considered to represent proper planning or sustainable development and is not in the best interests of protecting the historic significance of St Patricks RC Church and Grounds.

### PPS 6- Policy BH 11- Development affecting the setting of a listed building

The pastoral centre is adjacent to St Patricks RC Church which is a Grade B listed building (HB18/08/116) and is of special architectural and historic importance and is protected by Section 80 of the Planning Act (NI) 2011. St Patricks Church is approx. 0.5km west of St Patricks Monument.

Historic Environment Division, Historic Buildings (HED:HB) have been consulted as part of the application and has considered the impacts of the proposal on the building and on the basis of the information provided, advise that the proposal would have an adverse impact on the setting of the listed building when assessed under paragraph 6.12 (setting) of Strategic Policy Planning Statement for Northern Ireland and policy BH 11 (Development affecting the Setting of a Listed Building) of PPS 6.

The curtilage of the church envelops the parochial house, the graveyard, boundary structures and several ancillary buildings. The existing pastor centre/hall is sited within the curtilage walling adjacent to the parochial house and adjacent to the graveyards. HED: HB reiterates its advice provided in relation to LA07/2015/1016/F:

*The proposal fails to satisfy criteria (a) and (b) of BH11, PPS6:*

- A. the detailed design [should] respect[s] the listed building in terms of scale, height, massing and alignment;*

The relationship between the parochial house and the church is attractive and valuable to the setting, and must be taken into consideration. The massing of the hall is incongruous with the historic setting, particularly the shallow pitched roof coupled with the building depth which interrupts views from the church to the parochial house and vice versa. Studies in the form of diagrammatic massing should assist with successful integration to the group. *And*

**B. The works proposed [should] make use of traditional or sympathetic building materials and techniques which respect those found on the building;**

The details are incongruous with those of an ancillary building within the church's setting, including overhanging eaves, raised ground floor level, fenestration type and pattern and materials.

The impact of the hall on the setting of the listed church can be assessed based on its real physical presence (refer to 'before' and 'after' images above) and therefore previously requested contextual sections and topographical surveys are no longer necessary.

Although relatively minor in scale, HED:HB considers that the rudimentary detailing and squat proportions of this temporary building pose a competing and disharmonious focus within the curtilage group. It is fully cognisant of the necessity for a hall within the vicinity for the local community, however any building introduced to the setting of the church should acknowledge its special architectural and historic importance by being of good quality design and both respectful and subservient to the listed building.



View from church front to site – March 2015



View from church front to site – April 2016

The agent submitted additional information with the application following the comments made by HED:HB on the previous application LA07.2015/1016/F. While views of the site would be limited from the public road due to the screening with mature fir trees of this part of the curtilage of the parochial house, there would still be views of the modular building from within the grounds of the church, which would be considered as a place of public assembly. The Planning office also agree with the analysis of HED:HB and its effect on the setting of

the listed building. The building would detract from both the setting of the listed building and the parochial house due to the scale and proportions and finishes of the building.

The proposal is contrary to policy BH11 of PPS 6 in that the proposal does not respect the listed building in terms of scale, height and massing and alignment; the massing of the proposed building is incongruous with the historic setting, particularly the shallow pitched roof coupled with building depth which interrupts views from the church to the parochial house and vice versa.

While the facility may be needed to serve the local parish population, the need does not outweigh the impact on the listed structures and their setting. The application is therefore contrary to CTY1 OF PPS 21.

**Recommended**

Refusal

**Refusal Reasons**

1. The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the SPPS paragraph 6.12 (setting) and policy BH 11 of the Department's Planning Policy Statement 6: Planning, Archaeology and the Built Heritage (Development affecting the Setting of a Listed Building) in that the proposal does not respect the listed building in terms of scale, height, massing and alignment

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

**LA07/2018/0480/F**

## **Retention of Pastoral Hall/Centre**

**Adjacent to 10 St Patrick's Road, Saul,  
Downpatrick.**



### **In Brief**

This proposal is a repeat of LA07/2015/1016/F, for which Temporary Permission (2 yrs) was granted on 1<sup>st</sup> July 2016.

Planning has tabled the proposal for refusal:-

1. *The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.*
2. *The proposal is contrary to the SPPS paragraph 6.12 (setting) and policy BH 11 of the Department's Planning Policy Statement 6: Planning, Archaeology and the Built Heritage (Development affecting the Setting of a Listed Building) in that the proposal does not respect the listed building in terms of scale, height, massing and alignment.*

This 'refusal' surprised the Agent and a Councillor, each of whom had been assured independently that *'there would be no trouble with a temporary approval, maybe even an unconditional approval.'*

### **Need for Hall/Centre**

There has been a growing need for a pastoral or lay meeting place within the Parish; one to cater for numbers far short of the capacity of the Chapel itself, yet considerably more than the Parochial House could cope with. The Parish was conscious of the following:-

- i. **The need for an identifiable and central location ;**
- ii. **Accessibility for the parishioners and others;**
- iii. **Security;**
- iv. **The 'Listed' status of the Chapel, and the significance of its wider setting; and**
- v. **Respect for dedicated ground within the greater site.**

Whilst not ideal in all respects, the chosen site satisfies best all the material considerations. To minimise the impact on the Listed artefact the building was sited beyond the immediate curtilage of the Church on a piece of enclosed ground with no allotted use - for the record, this was beyond the area of 'Pink Wash' which defines the immediate setting of a listed structure. Furthermore, the Pastoral Hall cannot be seen (without contrivance) from the public domain – i.e. St Patrick's Road.

### **Planning's Consideration**

A reading of the Case Officer's Report reveals that Planning devotes most of its consideration iterating HED:HB's assessment under BH 11 of PPS 6 - *Development affecting the Setting of a Listed Building*, at the expense of considering the needs of those most affected – the parishioners and local community. Indeed, the latter are addressed only in the final paragraph of the Report, and then without elucidation:



*'While the facility may be needed to serve the local parish population, the need does not outweigh the impact on the listed structures and their setting. The application is therefore contrary to CTY1 OF PPS 21.'*

In contrast, HED:HB has provided a full and rational justification of its position, and critically the dilemma of the applicant is recognised and addressed in the closing paragraphs;

*'It is fully cognisant of the necessity for a hall within the vicinity for the local community, however any building introduced to the setting of the church should acknowledge its special architectural and historic importance by being of good quality design and both respectful and subservient to the listed building.'*

*Finally, if council are minded to permit the retention of the hall, HED: HB request that the condition of a two-year time limit is repeated in order that a more appropriate long-term solution is considered.'*

Accordingly, the applicant's response to the proposed refusal of the proposal is summarised herewith;

#### **Rebuttal of reason No 1 .....**

A pastoral centre is not 'footloose', readily located anywhere. By its nature it reflects the close association between Parish and Community, the Parochial House and St Patrick's Church, and the laity. Saul, St Patrick's Country, St Patrick's Monument, the local primary school and sporting clubs and the St Patrick's Church all represent the focus of the Parish. Location of the Pastoral Centre elsewhere would be anathema.

#### **Rebuttal of Reason No 2 .....**

The Parish appreciates the concerns expressed by HED:HB. However, the site was chosen by process of elimination ... of consecrated ground, *colum baris*, security, accessibility, 'Pink Wash', etc., ... and the nature of the building reflects the rapidly changing focus of the Church towards lay activity, as well as current 'scarce' resources.

### **Concluding Comments**

This is an application for a facility essential for the well-being of a broad community base. Its need arises out of a rapidly changing relationship between Church and laity. The community has benefited greatly from the success of the present provision and, with that experience, is now in a position to better assess future needs. With that in mind the Council is asked to approve the proposed Pastoral Hall/Centre.

**LA07/2018/0480/F - Parish of Saul and Ballee**

My speaking points for Saul application next week:

1. Importance of facility to the parish community and an enabler to tackle rural isolation.
2. Historic monuments clearly stating their support for a temporary extension to the application, to work through a permanent solution.
3. Main road view of the church and outbuilding.

These are just some of the points.

Many thanks,

Gareth Sharvin

<b>ITEM NO</b>	<b>12</b>				
<b>APPLIC NO</b>	LA07/2018/0841/F				
<b>COUNCIL OPINION</b>	<b>APPROVAL</b>		Full	<b>DATE VALID</b>	06/06/2018
<b>APPLICANT</b>	Newry, Mourne and Down Council Downshire Civic Centre Ardglass Road Downpatrick BT30 6GQ			<b>AGENT</b>	Newry, Mourne and Down Council Downshire Civic Centre Ardglass Road Downpatrick BT30 6GQ
<b>LOCATION</b>	35m West of No. 4 Old Road Mayobridge Newry				0300 013 2233
<b>PROPOSAL</b>	Proposed play park				
<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>	
	0	0	0	0	
	<b>Addresses</b>	<b>Signatures</b>	<b>Addresses</b>	<b>Signatures</b>	
	0	0	0	0	



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**Newry, Mourne  
and Down**  
District Council

**Application Reference:**

LA07/2018/0841/F

**Date Received:**

01 June 2018

**Proposal:**

Proposed Play Park

**Location:**

The application site is located 35m West of No. 4 Old Road, Mayobridge, Newry.

**Site Characteristics & Area Characteristics:**

The application site is a small portion of open space located in front of the playing field and to the west of the existing youth club. The site is relatively flat and located back from the public road.

**Site History:**

Reference	Proposal	Application Status
LA07/2017/0522/F	Removal of sports equipment store for construction of multi-purpose sports facility.	Permission granted
LA07/2015/0616/F	Renewal of full planning permission for the erection of new play area	Permission granted
P/2010/0408/F	Erection of new play area	Permission granted
P/2007/0286/F	Improvements to access.	Permission granted
P/2003/2022/F	Retention of existing wall and fencing.	Permission refused
P/1998/0625	Extension and improvements to Youth and Community Centre	Permission granted
P/1987/0455	Extension to St Patricks G A A Club	Permission granted
P/1982/0186	Extension to clubrooms	Permission granted

Reference	Proposal	Application Status
P/1982/0763	Proposed change of use from clubrooms to social club	Permission granted
P/1974/0583	Proposed new youth club	Permission granted

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

This application is assessed against the Banbridge Newry and Mourne Area Plan 2015, the SPPS and PPS 8.

### **Consultations:**

- DFI Roads – No objection
- Environmental Health - No objection in principle. Advised to install an acoustic fence along Owen Roe development side. Consider this unreasonable as the previous two approvals did not stipulate that an acoustic fence is installed.

### **Objections & Representations**

Six neighbour notifications were issued on 12 June 2018 and the application was advertised in the local press on 20 June 2018. No representations were received.

### **Consideration and Assessment:**

Section 45 of the Planning Act (NI) 2011 requires the Council to have regard to the Local Development Plan (LDP), so far as material to the application and to any other material considerations. The relevant LDP is the Banbridge, Newry and Mourne Area Plan 2015. The application site is located in the settlement development limit of Mayobridge. It is located within an existing area of open space and is adjacent to the existing youth club and community centre.

The proposal accords with the criteria set out in Policy ECU 1: Education, Health, Community and Cultural uses. The plan states unforeseen demand for new community facilities may arise over the lifetime of the plan and accordingly a flexible approach is required in considering such development within the settlement limits in order to make the most effective use of existing facilities. I am satisfied there is a demand for the development and the need has been identified by the Council, therefore in the interests of overriding public interest I consider that the loss of car parking spaces to allow for the development is not critical. The users of the youth club are children and teenagers who are generally dropped off and picked up by parents/guardians, I consider there to be an ample number of car parking spaces (45) for the youth club to continue to do this. The proposal will have an overall wider community benefit for Mayobridge and it is of a suitable location for this type of community activity scheme proposed. In addition the application site has two approvals for similar development P/2010/0408/F and LA07/2015/0616/F.

**Recommendation:**

Approval

**Conditions:**

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

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

**Case Officer Signature:**

**Date:** 10 July 2018

**Authorised Officer Signature:**

**Date:**

### Council Newry, Mourne and Down Date 01/08/2018

<b>ITEM NO</b>	<b>1</b>				
<b>APPLIC NO</b>	LA07/2015/1219/F	Full		13/11/2015	
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>				
<b>APPLICANT</b>	Malachy Burns 39 Kilmonaghan Road Newry BT35 6QD		<b>AGENT</b>	ERES Limited Mourne House 41-43 Downshire Road Newry BT34 1EE	02830250135
<b>LOCATION</b>	Lands adjacent and 40m South-East of No 39 Kilmonaghan Road Armagh				
<b>PROPOSAL</b>	Erection of dwelling and garage on a farm				
<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>	
	0	0	0	0	0
			<b>Addresses</b>	<b>Signatures</b>	<b>Addresses</b>
			0	0	0
					<b>Signatures</b>
					0

- The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the farm business is currently active and has been established for at least six years and that other dwellings/development opportunities have not been sold off from the farm holding within 10 years of the date of the application.

2. **The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape. The proposed dwelling would also, if permitted, rely primarily on the use of new landscaping for integration and therefore would not visually integrate into the surrounding landscape.**
3. **The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along Kilmoneaghan Road.**
4. **The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings, create a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.**





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**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2015/1219/F

**Date Received:** 13.11.2015

**Proposal:** The applicant seeks Full Permission for the erection of a dwelling and garage on a farm.

**Location:** 40m South-East of No.39 Kilmonaghan Road. The site is located approximately 2 miles North West of Newry City in the rural countryside.

**Site Characteristics & Area Characteristics:**

The site includes a roadside portion of a larger steep agricultural field. The area is rural in character with a number dwellings and farm buildings evident in the area.

**Site History:**

P/1994/0001

Kilmonaghan Road (Adjacent to No. 41) Jerrettspass

Erection of Dwelling

Permission Granted: 03.06.1994

P/1992/1397

ADJACENT TO (IMMEDIATELY NORTH-WEST OF) 39 KILMONAGHAN ROAD,  
GORAGHWOOD, NEWRY

Site for Dwelling

Permission Granted: 05.02.1993

P/1997/0990

ADJACENT TO NO41 GORAGHBANK HOUSE KILMONAGHAN ROAD GORAGH  
NEWRY

Erection of two storey dwelling

Permission Granted: 05.11.1997

**Planning Policies & Material Considerations:**

Banbridge Newry and Mourne Area Plan 2015

Strategic Planning Policy Statement for Northern Ireland

Planning Policy Statement 21

Planning Policy Statement 3 / DCAN 15

Building on Tradition

**Consultations:**

Environmental Health – no objections although recommends dwelling should be moved at least 75m from farm dwellings.

Transport NI – following amendments no objections subject to conditions

NI Water – Generic

DAERANI – most recent and relevant response – Business set up in 2015 and no claims have been made.

NIEA – No objections

**Objections & Representations**

No objections or representations received. Application advertised on 02.12.2015.

**Consideration and Assessment:**

There are no specific objections to the proposal with regard to the SPPS and Area Plan.

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

Following amendments Transport NI has no objections to the proposal with regard to the above policy criteria.

**PPS21 – Sustainable Development in the Countryside**

Policy CTY1 restricts new development in the countryside, but makes an exception for farm dwellings which are acceptable if in accordance with policy CTY10.

CTY 10 (a) DAERA has confirmed the farm business has not been established for the last 6 years or has claimed any subsidies in the last year. In June 2018 DAERA goes on to confirm the business was set up in 2015 with no claims made to date. Regardless of receipts and con acre agreements submitted for dates prior to July 2015, the farm business has only been established in July 2015. The farm business has therefore not been active and established for the requisite 6 years. The application fails (a) of this policy.

CTY 10 (b) A solicitors letter has been received to confirm that no sites have been sold or transferred from the applicant's farm holding situated at 39 Kilmonaghan Road or anywhere else in his ownership in the last 10 years. This satisfies criteria (b).

CTY10 (c) It is considered the proposal will group / visually link with existing buildings at 39 Kilmonaghan Road. The proposal meets (c) of this policy criterion

CTY8 – the proposal will create ribbon development along the Kilmonaghan Road when read with the buildings at No.39. The proposal fails this policy criterion.

CTY13 – The hedging along the front of the site will have to be removed for visibility. The site therefore lacks long established boundaries and will rely heavily on new planting for integration. The views of the site particularly when travelling from the

north will be critical to the site. The design, on balance, is considered acceptable. The proposal fails (b) and (c) of policy CTY 13.

As previously discussed the proposal will create ribbon development along Kilmonaghan Road which is contrary to (d) of CTY14. The proposal also when considered with existing buildings West, North and South of the site will contribute to a build-up of development and have a detrimental impact on rural character. The proposal is also contrary to (b) of this policy.

Any approval notice would contain a negative condition for the applicant to provide the Council with the consent to discharge before work commences. The proposal is in general compliance with CTY16.

### **Recommendation: Refusal**

#### **Refusal Reasons:**

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the farm business is currently active and has been established for at least six years.

2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape. The proposed dwelling would also, if permitted, rely primarily on the use of new landscaping for integration and therefore would not visually integrate into the surrounding landscape.

3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along Kilmonaghan Road.

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

#### **Case Officer:**

#### **Authorised Officer:**



**Reference:** LA07/2015/1219/F  
**Applicant Name:** Malachy Burns  
**Proposal:** Erection of dwelling and garage on a farm  
**Site Location:** Lands adjacent to and 40m South-East of No 39 Kilmonaghan Road, Armagh

Refusal Reasons:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the farm business is currently active and has been established for at least six years and that other dwellings/development opportunities have not been sold off from the farm holding within 10 years of the date of the application.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape. The proposed dwelling would also, if permitted, rely primarily on the use of new landscaping for integration and therefore would not visually integrate into the surrounding landscape.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along Kilmonaghan Road.
4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings, create a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.



### Preliminary Matters

The application was deferred at the Planning Committee on **Wednesday 1 March 2017** with the following agreement:

"**AGREED: On the proposal of Councillor McAteer seconded by Councillor Casey it was agreed to defer Planning Application LA07/2015/1219/F for one month to obtain legal written confirmation on what constitutes a legitimate farm business ID, and if activity such as maintenance works meet the policy.**"

We have been advised that a legal opinion was received on this request however to date we have been unable to receive any details from the Planning Authority on the content of the legal advice. This is perplexing especially considering the opinion would inform agents on how the Council will assess an existing farm business.

### Assessment

The Case Officer's report confirms that a solicitor's letter (See attached) has been received confirming that no sites or development opportunities have been sold off from the farm holding within 10 years of the date of the application. The case officer confirms that this part of Policy CTY10 has been met. It is therefore unclear why this has been added as a refusal reason in this instance.

Section 45 (1) of the Planning Act (NI) 2011 requires that regard must be had to the local development plan, so far as material to the application. Section 6 (4) of the Planning Act states that where, in making any determination, regard is to be had to the local development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The Banbridge, Newry & Mourne Area Plan 2015 is the statutory local development plan for the proposal. In it, the site lies within the countryside and outside any designations. The BNMAP offers no policy or guidance in respect of the proposed development. The policy context for determining the appeal is provided by Planning Policy Statement 21 'Sustainable Development in the

Countryside' (PPS21) and the recently published Strategic Planning Policy Statement for Northern Ireland (SPPS).

Paragraph 1.12 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) indicates that any conflict between the SPPS and retained policy must be resolved in favour of the SPPS in this transitional period. It goes on to say that where the SPPS is silent or less prescriptive on a particular planning policy matter, this should not be judged to lessen the weight to be afforded to the retained policy. The policy for dwellings on farms has changed in the SPPS. It indicates that dwellings on farms must comply with Local Development Plan (LDP) policies regarding integration and rural character. There is no LDP in place at the moment. Accordingly, and in line with paragraph 1.12 of the SPPS, retained policy as set out in Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS21) should be afforded greater weight in determining the application.

The site lies in the countryside and Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS21) applies to the development. Policy CTY1 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development. One of these is the erection of a dwelling on a farm in accordance with Policy CTY 10. It follows that if the development satisfies Policy CTY10 it will also satisfy Policy CTY1 of PPS21.

Planning Policy CTY10 states that planning permission will be granted for a dwelling house on a farm where three identified criteria are met. The first of these, Criterion (a), requires that the farm business is currently active and has been established for at least 6 years.

CTY10 Dwellings on Farms (Page 27) - Justification and Amplification states in paragraph 5.38 – "New Houses on farms will not be acceptable unless the existing farming business is both established and active. The applicant will therefore be required to provide the farm's DARD business ID number along with other evidence to prove farming over the required period."

The planning policy test of CTY 10 (a) does not explicitly require the farm business ID number to be established for a period of six years, the test which is material to the assessment and consideration of the policy is that the "Farm Business" is currently active and has been established



for at least 6 years. In further consideration of paragraph 5.38 applying the justification and amplification to policy test CTY10(a), the applicant is required to provide the farm's DARD Business ID number along with other evidence to prove active farming over the required period, that being a required time period of 6 years.

There are numerous examples of farm dwellings being approved where no business ID has been presented, for example in established horticulture businesses, pig farming and equine businesses. There are also many farmers throughout northern Ireland who do not have a farm business ID due to the nature of their farming enterprise, e.g. using lands for silage, which is then sold on to other farmers.

The applicant has let his land in conacre for more than 6 years to an adjacent farmer, Mr Dennis Patterson who uses the lands for silage, while Mr Burns is charged with maintaining the lands in good agricultural condition. This is in line with the European definition for active farming where a 'farmer' is a person, group of people, or business that does at least one of these on their holding:

- produces, rears or grows agricultural products – including harvesting, milking, breeding animals and keeping animals for farming purposes
- keeps some land in a state suitable for grazing or cultivation by keeping it clear of any scrub that can't be grazed.

The farm business has therefore been established for more than 6 years.

This approach is similar to appeal to this application 2015/A0165 (see attached), where the appellant had let her land out to two separate farmers for more than 6 years. The Commission accepted that although the lands were let out the farm holding and business were still nonetheless existing, established and indeed active for the requisite 6 year period. It was stated "The policy does not require the appellant to play a part in actively farming the holding herself only that the holding is active and established. The land on the holding which contains the appeal site was bought in 2007 and has been farmed by Mr O Kane and Mr Montague for a period of seven years."

It is therefore felt that our client's situation should be treated in the same way as the above mentioned appeal which indicates how these types of application should be assessed. A significant amount of



information has been already submitted to the Planning Authority in the form of receipts for works carried out on the holding for more than 6 years which indicate the applicant's commitment to maintaining the lands in good agricultural condition. See attached invoices which provide details on the activities on this farm holding for more than the past 6 years. The invoices are all site specific and addressed to the registered farm address.

This coupled with the letting of the lands in conacre provide substantial evidence that this farm business is both active and established. The application therefore meets the specific policy requirement of Policy CTY10, which is permissive in context and therefore planning permission should be forthcoming.

As the proposal is visually linked with the existing group of buildings a lesser test for integration should be employed in this instance. This is established through case law and given these circumstances it is clear that this application requires further investigation before a decision can be reached.

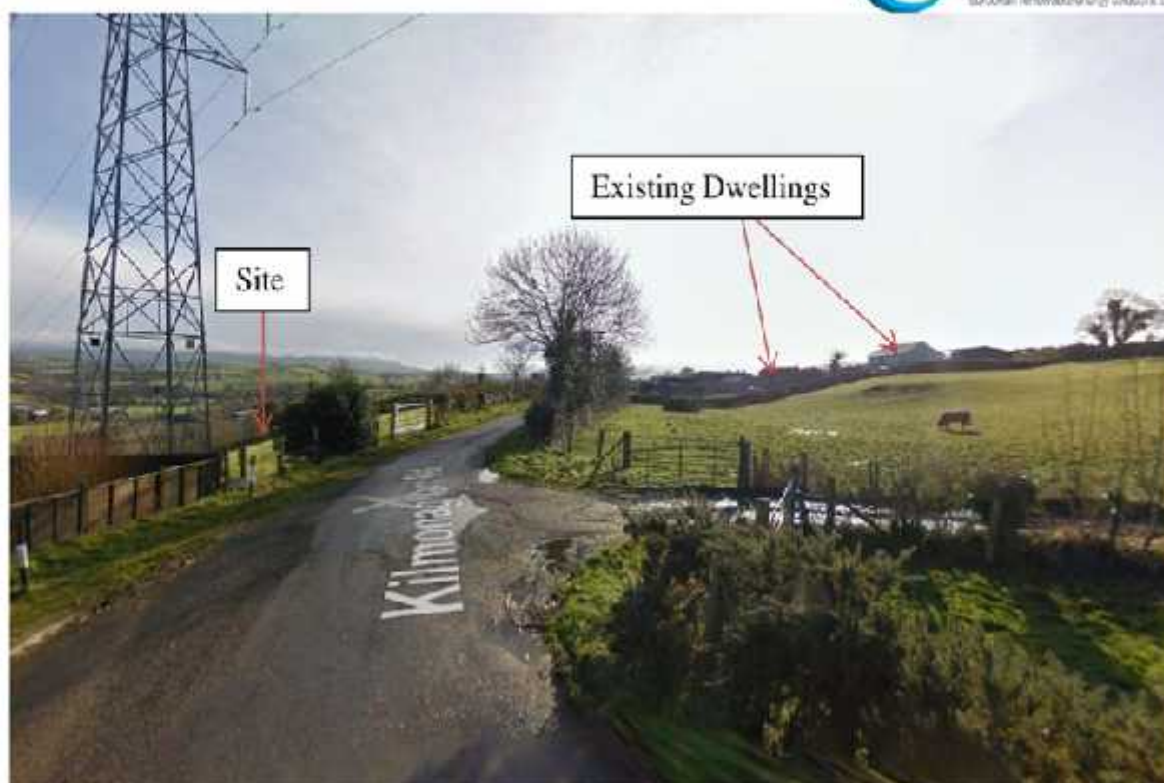
It is felt that the nature of the area has already been changed with the existing of substantial build-up of development which also includes a scrap yard. It is therefore contended that the erection of this modest farm dwelling will not have a significant detrimental impact on the landscape.





**Figure 1. Local Development**

The proposed dwelling will rest below the road level and although the existing roadside hedgerow will be removed to facilitate visibility splays, this will be replaced and indeed augmented with additional trees. It is felt that the dwelling will have less of an impact on the landscape than other existing buildings in the immediate vicinity as evidenced in the image below, which identifies dwellings on high and exposed sites, with little or no means of integration. In contrast to this, our client's site will be sited beside existing buildings and has a rising backdrop to the rear.



**Figure 2.** Other Development in the locality

It is therefore contended that this application meets all of the relevant policy criteria and it is respectfully requested that this recommendation is overturned and the application approved.

<b>ITEM NO</b>	<b>2</b>				
<b>APPLIC NO</b>	LA07/2017/0501/O		Outline	<b>DATE VALID</b>	30/03/2017
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>			<b>AGENT</b>	
<b>APPLICANT</b>	Ms Jacqueline Magee Commonshall Road Newry BT34 2PL	15			
<b>LOCATION</b>	Land adjacent to and East of 15 Commonshall Road Newry BT34 2PL			NA	
<b>PROPOSAL</b>	Proposed dwelling on a farm				
<b>REPRESENTATIONS</b>	<b>OBJ</b>	<b>Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>	<b>SUP Petitions</b>
	0	0	0	0	0
		<b>Addresses</b>	<b>Signatures</b>	<b>Addresses</b>	<b>Signatures</b>
		0	0	0	0

1. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the farm business is currently active.



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**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2017/0501/O

**Date Received:** 22<sup>nd</sup> March 2017

**Proposal:** Proposed dwelling on a farm

**Location:** Land adjacent to and East of 15 Commonshall Road, Newry, BT34 2PL

**Site Characteristics & Area Characteristics:**

The proposed site is an agricultural field which lies to the rear of no.15 Commons Hall Road, a detached single storey roadside dwelling. The field is undulating and rough grazing ground. The boundaries are defined by post and wire fencing and hedging. Low elevation farm buildings are located to the west of the main farm house. The site lies within the rural countryside just outside the settlement limits of Newry.



**Site History:**

LA07/2016/0372/O – application for farm dwelling and garage on land adjacent to/north of 15 Commons Hall Road for the same application which was withdrawn following a recommendation to refuse on CTY 1, CTY 10 grounds (no exceptional case in that proposed new dwelling is not sited to cluster with an established group of buildings on the farm and access to the dwelling is not obtained from an existing lane) and; contrary to CTY 8 of PPS 21 in that if permitted it would result in the addition of ribbon development along Commons Hall Road.

It was stated that the preferred site for a farm dwelling to cluster with the existing farm sheds/house would be to the rear/east of no.15 (i.e. the site subject of this current planning application).

LA07/2016/0371/O – planning permission approved for an infill dwelling at lands adjacent to and east of no.11a Commons Hall Road, Newry for Jacqueline Magee (land which forms part of the farm holding) 26<sup>th</sup> September 2016.

**Planning Policies & Material Considerations:**

Banbridge Newry and Mourne Area Plan 2015

SPPS – Strategic Planning Policy Statement

PPS 21 – CTY 1 (Development in the Countryside) which outlines a number of development types which are considered acceptable in principle to contributing to the aims of sustainable development and one such type is a dwelling on a farm in accordance with CTY 10.

CTY 8 (ribbon development) CTY 13 (Integration) CTY 14 (Rural Character) and CTY 16 (Development relying on non-mains sewerage).

**Consultations:**

Transport NI – No objections in principle – subject to RS1 form compliance condition

NIW – standard generic response

Loughs Agency – No objections

DAERA – Yes to farm being in existence for more than 6 years but No to claiming Single Farm Payment (SFP), Areas of Natural Constraint (ANC) Payment or Agri Environment Scheme Payment in the last year.

**Objections & Representations**

2 neighbours notified – 15a and 6 Commons Hall Road. Application advertised in 3 local papers on the 12<sup>th</sup>, 14<sup>th</sup> & 21<sup>st</sup> of April 2017. No representations made to either.

**Consideration and Assessment:**

Article 45 of the Planning Act (NI) 2011 states that subject to this Part and section 91(2), where an application is made for planning permission, the Council or, as the case may be, the Department, in dealing with application, must have regard to the local development plan, so far as material to the application, and to any other material considerations. As per the current development plan – The Banbridge Newry and Mourne Area Plan 2015, the site lies outside any defined settlement and within the rural countryside of Newry.

In September 2015, the Strategic Planning Policy Statement (SPPS) was produced which applies to the whole of Northern Ireland. It must be taken into account in the preparation of Local Development Plans (LDP) and is material to all decisions on individual planning applications and appeals. However a transitional period will

operate until such times as a Plan Strategy for the whole of the council area has been adopted. Para 1.12 of SPPS states that any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in favour of the provisions of the SPPS i.e. where there is a change in policy direction, clarification or conflict with the existing policies then the SPPS should be afforded greater weight. However, where the SPPS is silent or less prescriptive on a particular planning policy matter than the retained policies this should not be judged to lessen the weight to be afforded to the retained policy.

The determining material consideration in this case is current planning policy including The SPPS and Planning Policy Statement 21 – Sustainable Development in the Countryside. Policy CTY 10 of PPS 21 however is more prescriptive than the SPPS therefore it will carry significant weight in the determination of this application.

The applicant previously applied for a dwelling under CTY 10 in 2016 (LA07/2016/0372/O) however it was deemed unacceptable on grounds that it did not cluster with an established group of buildings on the farm, the access was not obtained from an existing lane and if approved would result in the addition of ribbon development along Commons Hall Road. It was suggested that a better option would be the field subject of this current application. In terms of CTY 13 and CTY 14 the subject site is more appropriate, ensuring a low elevation dwelling would be suitably integrated into the countryside, would not be prominent or erode rural character and it will cluster with existing farm buildings and utilise an existing farm access for the purposes of CTY 10 (c). With regard to CTY 16 (septic tank), this would be applied for separately and conditioned that the Planning Authority is furnished with a copy of the consent to be agreed in writing by the Council prior to the commencement of any development on the site.

Unlike the previous application, the current issue with this new application is whether the farm business still meets the requirements of CTY 10 in terms of being active and established. The consultation with DARD in the previous application asked whether the farm business ID identified on Form P1C has been in existence for more than 6 years (YES) and if the business has claimed SFP, Less Favoured Area Compensatory Allowances (LFACA) or Agri Environment Schemes in the last 6 years to which DARD responded Yes. In this current application, the DARD/DAERA response states the farm business has been in existence for more than 6 years however; when asked whether the business has claimed SFP, ANC or Agri Environment Scheme Payment (AESP) within the past year which help to prove its activeness DARD/DAERA stated No. This more recent consultation with DARD/DAERA highlights that the business may not be currently active as none of those payments are claimed therefore the onus lies with the applicant to demonstrate that it is in order to comply with criterion (a) of CTY 10.

The applicant on request submitted letters from her accountant relating to tax returns which stated that HMRC following changes in 2015 have not required the submission of a formal tax return due to the low level of profitability and accepted low risk to HMRC in terms of tax liability – no return is required as no loss to the exchequer. It further states that Ms Magee has continued to receive farm income in the interim and from the submitted conacre agreement she has with another farmer it would appear income generated from this could form part of it. Also submitted were two receipts addressed to the applicant making reference to work carried out June/July 2017 at

lands to the rear of Commons Hall Road Newry including repairs to fencing, digger work carried out, cleaning drains and fitting pipes (receipt dated 1<sup>st</sup> September 2017) and; (2) purchase of land drain (no indication for where) receipt dated 5<sup>th</sup> June 2017. These however are not site specific and do not prove that the work undertaken was on this farm holding.

In a similar case where the appellant leased the land in conacre and previously made subsidy claims, appeal decision 2016/A0147 (decided 20<sup>th</sup> March 2017) in paragraph 12 states that the onus is on the applicant to demonstrate that the farm business is currently active as well as established for the last 6 years. With regards to this current application, it is unclear when the last subsidy claim was made but DARD/DAERA's records indicate nothing within the past year. New evidence was submitted 3<sup>rd</sup> May 2018 showing a new claim having been lodged by the applicant (Basic Payment and Greening 3.59 Ha) for the same farm business number as on current P1C form. This claim has not however been agreed and therefore does not prove the farm business is currently active.

The earlier receipts submitted by the applicant refer to work done within the latter half of 2017 but no other receipts were submitted to cover the whole year or previous period. The conacre agreement dated 1<sup>st</sup> November 2016 – 31<sup>st</sup> October 2017 would suggest that it is this other farmer who has been actively farming the all parcels of land identified within the farm maps within the past year. No details however have been provided to indicate if this farmer has a farm business ID and has been claiming farm SFP/ANC or AESP with regard to this land. The farm maps however would suggest that only fields 23 and 27 can claim SFP as the rest are ineligible vegetation.

At the time of my site inspection (30<sup>th</sup> November 2017) there were no animals present on the land and the farm buildings were empty.

With regard to criterion (b) of CTY 10, the site history confirms that planning permission was recently granted for an infill dwelling by the same applicant on land identified within the farm maps. A Solicitors letter has been received confirming and certifying that there has been no sale, transfer or disposal whether voluntary or for full monetary consideration passing within 10 years of the date of the application.

**Recommendation:**

Refusal – Contrary to CTY 10 (a)

**Refusal Reasons/ Conditions:**

The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the farm business is currently active.

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



<b>ITEM NO</b>	<b>3</b>	<b>DATE VALID</b>	11/05/2017
<b>APPLIC NO</b>	LA07/2017/0699/O	<b>AGENT</b>	Karl Sherry 103 Rostrevor Road Hilltown BT34 5TZ 028 4063 8336
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>		
<b>APPLICANT</b>	Brian & Laura Fealy 14 Bryanford Road Hilltown		
<b>LOCATION</b>	130m West of No. 21 Kilkeel Road Hilltown		
<b>PROPOSAL</b>	Proposed dwelling & detached garage on a farm.		
<b>REPRESENTATIONS</b>			
	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>
	0	0	0
	<b>Addresses</b>	<b>Signatures</b>	<b>Addresses</b>
	0	0	0
	<b>Signatures</b>	<b>Addresses</b>	<b>Signatures</b>
	0	0	0

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

the farm business is currently active and has been established for at least six years;

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

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



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**Newry, Mourne  
and Down**  
District Council

**Application Reference:**

LA07/2017/0699/O

**Date Received:**

11/05/2017

**Proposal:**

Proposed dwelling and detached garage on a farm

**Location:**

130m West of No. 21 Kilkeel Road, Hilltown

**Site Characteristics & Area Characteristics:**

The site is located approximately 1.4 miles east of Hilltown, some 300m off Kilkeel Road and is accessed via an existing laneway serving one dwelling (No.21) and surrounding farm lands. No.21 Kilkeel Road (a replacement bungalow dwelling) is sited approximately 130m east of the site. The site itself comprises a field which is relatively level and which is bound by hedgerow and post and wire fencing along four existing boundaries, with the addition of mature trees augmenting the northern and western boundaries. There is a small watercourse running adjacent to the southern site boundary. There is also an existing block structure located in the south western area of the site, which is fenced off from the remainder of the field.

**Site History and History on the farm holding:**

The farm maps provided (dated 02/08/2013) indicate that this farm holding (business reference 655357) has 1.84 hectares of land registered to it, over three fields. Planning records indicate there have been no previous applications on the site or respective farm holding to date.

**Planning Policies & Material Considerations:**

- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- The Banbridge / Newry and Mourne Area Plan 2015 (BNMAP2015)
- PPS 2 'Natural Heritage'
- PPS 3 'Access, Movement and Parking'
- PPS 6 'Planning, Archaeology and the Built Environment'
- PPS15 'Planning and Flood Risk'
- PPS 21 'Sustainable Development in the Countryside'

**Consultations:**NI Water:

No objections, standard  
informatives.(23/08/2017.)

DfC Historic Environment Division:

Historic Monuments has assessed the application and on the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements (23/08/2017.) Proximity of site to designated graveyard and church (DOW048:019)

DfI Transport NI:

No objections, subject to conditions  
(06/09/2017)

DAERA :

Farm Business ID 655357 (category 3 business) has been in existence for more than 6 years and has not claimed subsidies in the past year (12/09/2017)

DfI Rivers Agency:

Policies FLD2, FLD3 and FLD5 of PPS15 apply to this site. Conditions and informatives attached (18/09/2017)

**Objections & Representations**

- 4 Neighbouring property notified on 22/08/2017 (No's 14, 17, 21, 22 Kilkeel Road) statutory expiry date 05/09/2017
- Application advertised in 3 local newspapers (statutory publication end 08/06/2017)
- 0 objections / representations received

**Consideration and Assessment:**

The site is located out with settlement development limits as identified by the BNMAP 2015. It is also within the designated Mourne AONB. This proposal seeks outline planning permission for a farm dwelling. As there is no specific policy within the BNMAP relative to this site and given there is no significant change to the policy requirements for dwellings on farms following the publication of the SPPS and it is arguably less prescriptive, the retained policy of PPS21 will be given substantial weight in determining the principle of the proposal in accordance with paragraph 1.12 of the SPPS.

Principle of Development

The proposed farm dwelling is applied for against the merits of farm business ID 655357. The applicant does not appear to be a formal member of this farm business however the associated P1C form has been signed by both the applicant and the

respective farm business owner, as required. PPS21 makes provision for dwellings in the countryside. Policy CTY1 outlines a number of developments which are acceptable in principle, provided the required policy criteria are met, this includes farm dwellings that are in accordance with Policy CTY10.

There are three criteria to be met to comply with Policy CTY10:

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

The respective P1C form stipulates that this farm business was allocated its business ID number in 2011. DAERA in their consultation response dated 12/09/2017 confirm that the respective farm business has been in existence for more than 6 years, verifying that it has been in existence for at least 6 years.

In terms of farming activity, DAERA has noted that the farm business has not claimed subsidies in the past year, the initial test for current 'activity.' There is no requirement under CTY10 to be a 'full-time' farmer, however sufficient evidence must be provided to demonstrate the economic viability of the farm business. Paragraph 5.38 of PPS21 also requires evidence to prove active farming over the required 6 year period.

A response was received from the appointed agent explaining that the farm owners do not apply for subsidies, with a copy of their herd register details provided to evidence farming activity. Upon initial viewing, the herd register appears to detail that there have been 3 cattle on this holding dated back to June 2011, although these records have been crossed off as mistaken records. There appear to be a number of incomplete cattle records since 2011, with no dates provided to indicate when they were moved onto this holding. There are however complete records from May 2016 to April 2017 in relation to 10 cattle. From the information provided, I am satisfied that the farm is 'currently active,' however there is no persuasive evidence of farming activity from 2011 until these more recent herd movements in May 2017.

Policy CTY10 (a) requires active farming over the 'required period,' i.e. the 6 years. This interpretation has been included by a Commissioner in a recent appeal decision (2016/A0048) where it was noted the longevity of the holding is critical and the onus is on the agent / applicant to provide sufficient information to demonstrate compliance with the policy in this regard. The agent has made reference in the written response to an illness experienced by the farmer during 2013 and 2014 to explain the gaps in farming activity however no evidence of this has been provided. Furthermore, as herd register is incomplete, it does not indicate activity from 2011.

From the information that has been provided (following request,) I am satisfied that the farm business has existed for more than 6 years and is currently active, but am

not persuaded that it meets the test of activity over the required period. Criteria (a) is not therefore considered to be met on the basis of the information on file.

**Criterion (b) seeks to confirm that no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application:**

The planning history as listed above demonstrates that there have been no previous development opportunities on this holding, this criterion is therefore met.

**Criterion (c) requires the new building to be visually linked or sited to cluster with an established group of buildings on the farm:**

The farm is registered to an address within the settlement limits of Hilltown. A site inspection of the holding in its entirety shows that the only building on this holding is the concrete block building, located in the south western area of the site as shown below. According to planning records, this building does not appear to benefit from planning approval, nor has there been a Certificate of Lawfulness submitted to verify its legal status as a building on the holding.



The agent was made aware of these anomalies and given the opportunity to provide evidence that the building has been erected for more than five years to prevent any enforceable action and to satisfy criteria c) of CTY10. A written response has been received stipulating that this building was constructed during 2010 and 2011 as a

shelter for cattle, with a cattle crush also on site, both required for the purposes of keeping cattle. It is widely accepted by the Planning Appeals Commission, that where the legal status of a building is uncertain, and in the absence of a Lawful Development Certificate to demonstrate it is lawful, it cannot be weighed into the consideration of the relevant policy requirement. (for example appeal reference 2016/A0129.) The application therefore fails to meet the requirements of Policy CTY10 (c.)

Where the proposal meets all of the criteria of CTY10, it must also meet the requirements of CTY13, CTY14 and CTY16. Despite the application in its current form failing to meet the requirements of Policy CTY10 (a) and (c), for the purposes of completion, the additional policy requirements are considered below.

#### Design, Integration and Rural Character

The critical views of this site are considered to be when travelling along the Kilkeel Road in both directions. The site is set back approximately 300m from the road and there is surrounding mature foliage further west of the site which help to screen the site. Policy CTY13 requires a dwelling to be sited to cluster or visually link however with an established group of buildings on a farm, which this site fails to meet. In terms of Policy CTY14, if the concerns against Policies CTY10 and CTY13 were overcome, a single storey dwelling could be integrated into the site without appearing unduly prominent in the landscape. This would be subject to the requirements of Policy NH6 of PPS2 given the site is located within the Mourne AONB, the details of which would be assessed through a Reserved Matters application in the event the above issues are overcome. Any dwelling on this site would be required to comply with both the 'Building on Tradition' and 'Dwellings in the Mournes' design guidance.

#### Access, Movement and Parking

The P1 application form indicated the intent would be to alter the existing access to Kilkeel Road. Transport NI do not object to this in terms of PPS3 requirements, with attached conditions requiring visibility splays of 2.4m x 80m. Policy CTY10 would seek to ensure that access is obtained using the existing laneway in the event the policy concerns are overcome.

#### Sewerage / Service Provision

The proposed dwelling would seek to connect to mains water supply, with the installation of a septic tank to dispose of foul sewage and stone sump soakaways to deal with surface water. NI Water have attached standard informatives in this regard. The applicant would be required to obtain the necessary consents to discharge from the relevant authority prior to submitting any Reserved Matters Application to ensure the requirement of Policy CTY16 can be achieved.

**Recommendation:** Refusal

**Reasons for Refusal:**

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

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

Planning Committee Meeting – 1 August 2018

Planning Application: LA07/2017/0699/O

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**STATEMENT IN RELATION TO LA07/2017/0699/O PROPOSED DWELLING AND DETACHED GARAGE ON A FARM 130M WEST OF 21 KILKEEL ROAD HILLTOWN COUNTY DOWN FOR MR BRIAN AND MRS LAURA FEALY**

The above application is to be presented to the Local Council Planning as a refusal .

**Reasons for refusal**

**1. Farm Business for at least 6 years has not been established**

Reply:- A Farm Business Number was granted on the 21st April 2011 which is now over 7 years established. The DARD number is 655357

**2. New building to be linked with established farm buildings.**

Reply:- On the proposed site there is a shed with a cattle crush. This is the only farm building on the holding and the new dwelling application is sited beside this complex.

**Submission and to agree with Policy CTY 10**

**I have proved that there is an established farm business for at least 6 years**

**No dwellings or sites have been sold off the farm within the past 10 years**

**The new dwelling will be visually linked with the only farm building within the farm complex**

**The site will be served via an existing lane**

**There are no other sites available**

**I trust that all Planning Criteria for a dwelling on a farm has been met and that approval should be given**

**Yours faithfully**



**Karl Sherry MCIAT  
Chartered Technologist**



<b>ITEM NO</b>	4	<b>DATE VALID</b>	09/08/2017
<b>APPLIC NO</b>	LA07/2017/1198/O	<b>AGENT</b>	Collins & Collins 18 Margaret St Newry BT34 1DF
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>		
<b>APPLICANT</b>	Terence Murphy 4 Milltown Road Listlea Newry BT35 9UF		
	Outline		
<b>LOCATION</b>	Opposite & immediately South of no. 40 Hall Road Listlea Newry		028 3026 6602
<b>PROPOSAL</b>	Farm domestic dwelling and garage		
<b>REPRESENTATIONS</b>	<b>OBJ</b>	<b>OB J Petitions</b>	<b>SUP Petitions</b>
	<b>Letters</b>	<b>Addresses</b>	<b>Addresses</b>
	0	0	0
	<b>SUP Letters</b>	<b>Signatures</b>	<b>Signatures</b>
	0	0	0

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



Comhairle Ceantair  
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agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2017/1198/O

**Date Received:** 09.08.2017

**Proposal:** The application seeks Outline Permission for the erection of a dwelling and garage in accordance with policy CTY 10 of Planning Policy Statement 21.

**Location:** Opposite & immediately South of no. 40 Hall Road, Lislea, Newry. The site lies within the Ring of Gullion AONB in S. Armagh.

**Site Characteristics & Area Characteristics:**

The site takes in an existing laneway that connects to the Hall Road and also 2 portions of larger agricultural land with buildings noted to the entrance of the laneway. The area is rural in character however a number of buildings and temporary structures are noted in the surrounding area.

**Site History:**

LA07/2016/1248/O

Dwelling & garage

60m South East of No. 40 Hall Road Lislea Newry

Permission Refused: 09.05.2017

P/2013/0777/F

Adjacent to and 33 metres east of 2 Milltown Road Lislea Co Down BT359UF.

Provision of new Agricultural Shed

Application Withdrawn: 23.09.2014

P/2012/0444/O

Replacement of existing mobile home with new dwelling house

No4 Milltown Road Lislea Camlough Newry

Appeal dismissed: 15.11.2013

P/2012/0145/F

Retention of existing agricultural storage and hardstanding area

Lands immediately adjacent to and east of 2 Milltown Road, Lislea, Newry

Withdrawn: 08.03.2013

P/1999/0736

Erection of replacement dwelling.

LANE OPPOSITE NO 40 HALL ROAD LISLEA NEWRY  
 Permission Granted: 05.08.1999

**Planning Policies & Material Considerations:**

Banbridge Newry and Mourne Area Plan 2015  
 Strategic Planning Policy Statement for Northern Ireland  
 Planning Policy Statement 21  
 Planning Policy Statement 3 / DCAN 15  
 Planning Policy Statement 2  
 Building on Tradition

**Consultations:**

NI Water – Generic Response

Transport NI – No objections subject to the access being in accordance with RS1 form.

DAERA – DAERA number has been in existence for at least 6 years however no subsidies have been claimed in the last year – Cat 3 business. Further confirmation that the Flock Number started in 2014 with activity only registered in 2014, 2015 and 2017.

Health and Safety Executive - no objections

GNI (UK) – no objections

**Objections & Representations**

2 neighbours notified on 29.08.2017 and the application was advertised on 07.09.2017. No objections or representations received.

**Consideration and Assessment:**

The site lies within the AONB/Rural Area as designated in the Banbridge Newry and Mourne Area Plan 2015. There are no specific objections to the proposal with regard to the Area Plan.

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

Transport NI has confirmed they have no objections to the proposal with regard to the above policy criteria subject to compliance with the attached RS1 form. The proposal meets these policy criteria.

**PPS21 – Sustainable Development in the Countryside**

Policy CTY1 restricts new development in the countryside, but makes an exception for farm dwellings which are acceptable if in accordance with policy CTY10. DAERA has confirmed the Business ID submitted with the application has been in existence for more than 6 years however with no subsidies claimed in the last year the agent was asked to provide evidence of agricultural activity over a 6 year period.

The information received included receipts, bills and letters which in most cases were not site specific and a number not even applicant specific. More specifically, information regarding the applicants flock number has been received. However DAERA has confirmed (email on file) this flock number started in 2014 with activity in the years 2014, 2015 and 2017. This does not show irrefutable agricultural activity at this site for at least the last 6 years. On this basis the proposal falls part (a) of policy CTY 10.

There is no evidence of the potential for any development opportunities sold from the holding. This satisfies part (b) of policy CTY10.

Given the existence of the buildings at the entrance of the site, a dwelling could visually link or cluster with an established group of buildings on the farm. The application satisfies this policy criterion.

A modest, low level dwelling, clustered with the existing buildings and the retention of the vegetation would on balance be likely to integrate on this site. Ribbon development, prominence and built up and not considered fatal to the application. The proposal, on balance, complies with policies CTY8, CTY13 and CTY14.

Any approval notice would contain a negative condition for the applicant to provide the Council with the consent to discharge before work commences. The proposal is in general compliance with CTY16.

As the proposal does not fully meet the exception at CTY 10 and with no over-riding reasons why the development is essential and could not be located in a settlement the proposal fails the policy criteria of CTY 1.

#### Planning Policy Statement 2: Natural Heritage

Policy NH6 of Planning Policy Statement 2 is applicable as the application is located within the Ring of Gullion AONB. The siting is not considered fatal to the AONB designation and therefore is considered acceptable against this policy criteria.

Health and Safety Executive / GNI (UK) has no objections with the proposal with regard to the proximity of the north/south gas pipe line.

#### **Recommendation:**

Refusal

#### **Reason:**

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

#### **Case Officer:**

#### **Authorised Officer:**

MARGARET ELLIOTT, CBE, LL.B., LL.D.  
GERARD TRAINOR, LL.B., LL.M., F.C.I. Arb.\*  
ARLEEN ELLIOTT, LL.B.

JOHN MURPHY, LL.B.  
RYAN ELLIOTT, LL.B.  
RONAN CUMMINGHAM, LL.B.  
COLLIN TRAINOR, LEGAL EXECUTIVE  
MONICA DUFFY, OFFICE MANAGER

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www.etpsolicitors.com

Our Ref:

JM/CON/MURP244/4

24 JULY 2018

Your Ref:

NEWRY MOURNE AND DOWN DISTRICT COUNCIL  
PLANNING DEPARTMENT  
MONAGHAN ROW  
NEWRY  
CO DOWN  
BT35 8DJ

By e-mail - [planning@nmandd.org](mailto:planning@nmandd.org) FAO: ASHLEY DONALDSON

Dear Sirs

RE: OUR CLIENT – TERRENCE MURPHY  
APPLICATION NUMBER – LA07/2017/1198/O

We refer to the above matter and the proposal that permission be refused for the outline planning permission.

Our client is not in agreement with the decision to refuse outline planning permission.

Firstly, the Council have clearly applied the wrong test in deciding the refusal, and have refused the application on the basis that the applicant has not shown “irrefutable agricultural activity at this site for at least the last 6 years”. This is not the test as set out in Policy CTY10. The test in Policy CTY 10 is twofold, and states that:

1. The farm business must be currently active; and
2. The farm business has been established for at least 6 years.

The business ID for the farm has been in existence for more than 6 years, therefore the farm business has been established for at least six years. The Applicant maintains that the farm business is currently active, and has additional documentation which will confirm both the current activity of the farm business and the length of time that it has been established. Any such documentation will be provided in due course.

Furthermore, the applicant submits that the appropriate standard of proof is “on the balance of probabilities”, rather than “irrefutable”, as suggested by the Council.

Our client wishes to be present at the meeting on 1<sup>st</sup> August 2018 in respect of the discussion about this application, and we would be obliged if you would confirm the time and location of this meeting to us as soon as possible.

Yours faithfully

  
**THE ELLIOTT-TRAINOR PARTNERSHIP**

John Murphy LL.B., LL.M.

[john.murphy@etpsolicitors.com](mailto:john.murphy@etpsolicitors.com)

**Surveyors & Assessors  
Architectural & Development Consultants  
Structural & Civil Engineering Consultants**

a: 2 Marcus Street, Newry, Co.Down, BT34 1AZ  
t: 028 3026 6602 / 0460 f: 028 30260467  
e: info@collinscollins.biz w: www.collinscollins.biz

**collins**  
& collins

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Our ref; JC.TM.11970

Date; 25 July, 2018.

[Democratic.services@nmandd.org](mailto:Democratic.services@nmandd.org)

Dear Sirs

Re; Farm domestic dwelling and garage opp and immed. south of 40 Hall Rd, Lislea, Newry.

For; Mr T Murphy - Planning Reference - LA07/2017/1198/O

We refer to the above planning application which is listed for refusal at the meeting to be held on the 1<sup>st</sup> August, 2018.

We enclose for your attention a selection of invoices from suppliers. We wish to advise that we are awaiting a letter from DARD in support of this application and we should have same at the meeting.

We wish to request speaking rights on the above application.

Kind regards



.....

Collins & Collins

enc

**ITEM NO** 6  
**APPLIC NO** LA07/2017/1326/F  
**COUNCIL OPINION** REFUSAL  
**APPLICANT** Mr Peter Morgan 14 Kirk Lane  
 Kilcoo  
 Newry  
**DATE VALID** 30/08/2017  
**AGENT** Ewart Davis 14 Killynure  
 Avenue  
 Carryduff  
 Belfast  
 BT8 8ED  
 07969919145

**LOCATION** 30m South of 28 Bog Road  
 Kilcoo  
 Newry

**PROPOSAL** Dwelling and garage on a farm

**REPRESENTATIONS**  
**Letters** 1  
**OBJ** 0  
**Addresses** 0  
**Signatures** 0  
**Addresses** 0  
**Signatures** 0

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and to Policies CTY1 and CTY10 and CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm.
2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along Bog Road.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS), PPS 2 NH6 and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the design of the proposed building is not appropriate nor sympathetic to this Area of Outstanding Natural Beauty.



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2017/1326/F

**Date Received:** 30.08.2017

**Proposal:** The application is for full planning permission a dwelling and garage on a farm.

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



site location



**Site Characteristics & Area Characteristics:**

The application site is a roadside plot which is roughly square in shape. The plot lies adjacent to an existing farm shed. There are walls and pillars located along the roadside which allow access to the shed where the area has been stoned. Part of the northern boundary comprises a post and wire fence which it bounds with a laneway adjacent to No 28. The site is cut from the larger agricultural field and thus the remaining boundaries are undefined.





### Site History:

R/2011/0346/O 30 Metres South Of No 28 Bog Road, Kilcoo, Proposed 2 No Infill Dwellings And Garages Permission Refused 25.04.2013

R/1998/0738 26 Tullyree Road, Dromena, Kilcoo Replacement Dwelling Permission Granted

R/1984/0701 Drumena Kilcoo Mv O/H Line Permission Granted

R/1983/018601 Bog Road, Kilcoo, Newry Erection Of Dwelling Permission Granted

R/1983/0186 Bog Road, Kilcoo Bungalow And Garage Permission Granted

### Planning Policies & Material Considerations:

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

### Consultations:

NI water – No objections

Transport NI – No objections subject to conditions

NIEA Water management – No objections

DAERA – Yes farm is established for 6 years or more, applicant claims SFP or equivalent

### Objections & Representations

In line with statutory requirements three neighbours have been notified on 14.09.2017. One letter of objection has been received in relation to the application

from Mr Brogan of Bog Road. The application was advertised in the Mourne Observer 13.09.2017.

The letter of objection relates to,

- Applicant has previously sold sites to self-builders at 30 and 30a creating a linear form of development.
- Previous refusal on the site and this should also be refused
- Applicant has more suitable sites elsewhere

### **Consideration and Assessment:**

The Strategic Planning Policy Statement for Northern Ireland 'Planning and Sustainable Development' (SPPS) which came into effect in September 2015 is material to all decisions on individual planning applications and appeals.

Other than an update in the definition of what constitutes "*agricultural activity*" there is no conflict or change in policy direction between its provisions and those of Planning Policy Statement 21: '*Sustainable Development in the Countryside*' (PPS 21) regarding dwellings on farms. The SPPS is therefore most recent expression of policy and until a new plan strategy for the Council area has been adopted, thus the policies contained in PPS 21 are material to the assessment of this application.

#### **PPS 21 - Sustainable Development in the Countryside**

Policy CTY 1 states that a range of types of development are acceptable in principle in the countryside. Planning permission will be granted for an individual dwelling house in the countryside in the following cases which are listed, a dwelling on a farm in accordance with policy CTY 10 is one such instance. Integration and design of buildings in the Countryside CTY 13 and Rural character CTY 14, CTY 16 will also be considered.

#### **Policy CTY 10 - Dwellings on farms**

Planning permission will be granted for a dwelling on a farm where all of the criteria can be met. As part of this application a P1, P1C form and farm maps, site location plan and road layout have been submitted.

Criterion (a) of Policy CTY10 requires that the farm business is currently active and that it has been established for at least 6 years. Paragraph 5.38 of the Justification and Amplification to Policy CTY10 states that new houses on farms will not be acceptable unless the existing farming business is both established and active. It goes on to state that the applicant will therefore be required to provide the farm's (DARD (previously known)) business ID number along with other evidence to prove active farming over the required period.

Department of Agriculture, Environment and Rural Affairs (DAERA) have been consulted regarding the proposal and the applicant has had a business ID number

for more than 6 years, and single farm payment or similar has been claimed within the last 6 years.

The policy, however, allows for other evidence to prove active farming over the required period. No other evidence in terms of receipts/invoices etc were presented.

The total area of land claimed is 34.92 ha. This land is located at Cross, Clonachullion and Drumena. These are the only sheds indicated on the farm maps and for quite a sizeable holding, there was no evidence of any machinery or animals being stored/housed at the sheds at the time of the site visit. The applicant resides at 14 Kirk lane (below) where there does not appear to be any farm buildings.



On balance, however, and on the basis of the above information it has been demonstrated that the farm business has been active and established for 6 years.

Part (b) requires that no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. Having undertaken a history search of the land owned on the submitted DARD farm maps I am satisfied that there does not appear to be any evidence of selling off any dwellings or development opportunities on the land after 25 November 2008 under policy CTY10. The applicant has confirmed this under Q5 of P1C form.

Criterion (c) of CTY 10 requires the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. It goes on to say 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)". Form P1 indicates that the farm business is registered to Mr Peter Morgan of 14 Kirk Lane, Moyadd, Kilcoo.

Two farm buildings have been identified on the land at Cross where the site is proposed to be located. One building is located along the roadside (with its own access onto Bog Road, with an area to the side which has been stoned) whilst the other building is located 50m SW of this building and is accessed via an existing concrete laneway which also serves No 26. The main views of the site are along the roadside coming from both directions. In terms of CTY 10 (c) the site proposal would read as being visually linked with one of the established building group buildings on the farm with little appreciation of the physical separation that would exist between them. While the site is visually linked/clusters with the singular shed at the roadside, there is no linkage or clustering with the other buildings, hence it is contrary to policy. Thus it would be contrary to CTY (c). The requirements of Policy CTY 8, 13, 14 and 16 also need to be met.

Policy CTY13 of PPS21 relates to the integration and design of buildings in the countryside. The Justification and Amplification to Policy CTY13 indicates at paragraph 5.62 that a group of existing buildings, such as a farm complex may provide an opportunity to sensitively integrate a new building provided this does not adversely impact on rural character. Paragraph 5.41 of the Justification and Amplification to Policy CTY10 acknowledges that the existing farm group or the application site may not be well landscaped and allows the presence of vegetation to be discounted in assessing visual linkage. In offering advice on the general topic of integrating with the landscape, Building On Tradition suggests that developers should look for sites with at least two boundaries and preferably three. It suggests linking with hedges and trees only where the dwelling is to be located away from the existing farm cluster. The site has very limited integrating features with some vegetation along the roadside, and only a post and wire fence along the laneway to the north of the site. There is an existing access in place (with wall and pillars) which serves the existing agricultural building (all unauthorised). However, two of the site boundaries are undefined and the landform slopes from the road offering only limited enclosure. The proposal would visually link with only one of the existing sheds, and would fail to cluster with an established group of *buildings* (my emphasis) on the farm as stated in CTY 10. When taking into account the relevant policy and guidance on this matter, the proposal fails to meet the integration requirements required for farm dwellings under Policy CTY10.

Policy CTY8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. While the policy does not provide a comprehensive definition of ribbon development, paragraph 5.33 gives examples of instances that can represent ribbon development. It states that a ribbon does not necessarily have to be served by individual accesses nor have a continuous or uniform building line. Buildings sited back, staggered or at angles and with gaps

between them can still represent ribbon development, if they have a common frontage or they are visually linked.

There was a previous appeal on the site for two infill dwellings and garages 2013/A0041. No significant changes on the ground have taken place since this appeal. Within the appeal it was found that as there was no substantial and continuously built up frontage, no infill opportunity arose on the appeal site. It went on to state that "The proposal would result in the creation of a row of at least three roadside buildings stretching south from, and including, No.28. This would be perceived as another ribbon of development and would fall foul of policy CTY 8" 2013/A0041. Paragraph 5.32 of policy CTY8 states that "Ribbon development is detrimental to the character, appearance and amenity of the countryside".

The same circumstances apply in this case, a dwelling on this road frontage plot would have common frontage with and visually link with the farm building and No 28 to create a ribbon of development. This would result in a built up appearance as it would extend development along the road frontage. The proposal would result in the creation of a row of at least three roadside buildings stretching south from and including No 28. This would be perceived as a stretch of ribbon development and would be contrary to CTY 8.

### CTY 13

#### Design and Scale

The design of the dwelling shall be assessed against CTY13 criteria (a)-(g) from Planning Policy Statement 21 which requires that the new dwelling be visually integrated into the surrounding landscape and be of an appropriate design.

Design: The dwelling has a ridge that measures 6.5m in height above FFL, dropping to 5.3m to the elements to the side. Finishes to the dwelling include white roughcast rendered finish to walls with granite plinth and window sills. The roof is to be finished blue/black natural slate. Windows are painted hardwood sliding sash, with black aluminium rainwater goods. The stonework to the front and rear is locally sourced granite. These materials would all be deemed suitable for the rural locality, given the mix of houses types in the immediate area.

The proposed dwelling measures 20.4m in length and has a variable gable depth gable width of 5.8m and 7.5m. There is accommodation over two floors. The design includes a single storey front porch, The design incorporates the main dwelling with a lower ridge elements to the side. A full second floor is proposed on the lower ground to accommodate, a garage, gym, playroom, sauna, and store. While there is a change in levels over the site, it has not been fully demonstrated how so much accommodation could be achieved at lower ground level without impacting on the landscape and I think further sections and information is required from the applicant to demonstrate this. As the principle of a dwelling has not been accepted, this

further information regarding the impact of the lower ground has not been requested. The proposal is located within the Mourne AONB and therefore PPS 2 Natural heritage is applicable, Policy NH6 refers to Area of Outstanding Natural Beauty and requires development in such sensitive locations to be sympathetic and appropriate, for the above reasons the proposed dwelling and its siting is not considered to contribute to the AONB, in fact it detracts from the special character of the locality and the AONB in general. Thus the design is inappropriate for the site and is contrary to CTY 13.

Policy CTY14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to or further erode the rural character of the area. The introduction of a dwelling that would visually link with the established farm buildings would not be unduly prominent. However, the proposal would create ribbon development when viewed with the existing buildings. Therefore, it is contrary to Policy CTY14 and Policy CTY8.

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

Having discussed the application as submitted with the agent as the application was being recommended for refusal, amended plans were then submitted 10 April 2018. This shows the access now coming to the rear of the agricultural shed onto the existing concrete laneway and not directly onto the Bog Road as previously shown. The amended plans have not addressed the concerns as previously raised regarding CTY 10, CTY 8 and CTY 14.

#### Conclusion

Based on careful consideration of all the relevant material planning considerations including the objection, it is contended that the proposal does not meet with policy.

#### **Recommendation:**

Refusal

#### **Refusal Reason:**

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and to Policies CTY1 and CTY10 and CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm.

2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS), PPS 2 NH6 and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, , in that the design of the proposed building is not appropriate nor sympathetic to this Area of Outstanding Natural Beauty.
  
3. The proposal is contrary to Policy CTY8 and CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along Bog Road.

Case Officer Signature

Date

Appointed Officer Signature

Date



**Re: LA07/2017/1326/F – Dwelling and Garage on Farm to South of 28, Bog Road, Kilcoo for Peter Morgan**

This application has been scheduled as Item 6 to the 1<sup>st</sup> August Council Meeting with an opinion to refuse.

The applicant wishes to make the following points in favour of his proposal.

Mr Peter Morgan of 14, Kirk Lane Kilcoo owns a sheep farm with a flock of some 350 ewes. When DAERA were consulted they verified that he owned an active farm business which for the past 6 years was in receipt of Single Farm Payments for 34.92ha. Council were happy that no dwellings or housing opportunities had been sold off the holding since 25 November 2008.

Mr Morgan lives at 14 Kirk Lane but there are no farm sheds or yard at this location. The holding was originally farmed from 26, Bog Road where there are 8 fields totalling 4.943ha, two sheds and a yard. The 2 sheds set beside No.26 have always been used for the holding's tipping, lambing and storage of food, vitamins and medicines.

Full account has been taken of Council's assessment of the initial proposal and amendments undertaken as follows:-

**Re Policy CTY10**

In addition to meeting the need, any proposal must satisfy CTY10's siting and access requirements. In this instance as the proposed dwelling will be sited at the edge of the farmyard within 7m of the larger shed, 30m of the smaller shed and 42m of No.26, it will be visually clustered with all three. Access will be proposed via the existing laneway serving No.26.

**Re Policy CTY8**

Council expressed concerns that the proposal would create a ribbon of development along Bog Road. To redress this the dwelling has been moved to the back (west) of the site and re-sited directly to the rear of the large shed. Its frontage to Bog Road has been reduced from 21m to 15m. Additional planting is proposed along Bog Road to reduce views of the dwelling travelling along Bog Road.

**Suitable Design for an AONB Location**

A house design has been undertaken which is appropriate for its AONB location. A simple pitched roof finished in natural slate, roughcast walls painted white, polished hardwood doors and sliding sash windows and black seamless aluminium rainwater goods is proposed.

**Re Policy CTY13 Integration into the Countryside**

As the dwelling has been set on lower ground to the rear of the large shed its FFL will be some 1m lower. Additional planting along the western boundary and Bog Road frontage will assist integration viewed from Tullynaree Road from where it will be seen as part of a farmyard cluster. The rising land to the east side of Bog Road will further assist integration by providing a visual backcloth.

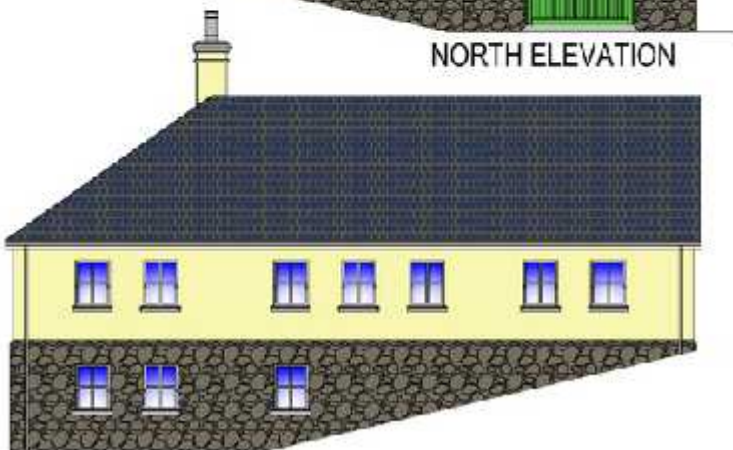
I trust Council will take full account of these amendments when assessing the merits of the scheme.



NORTH ELEVATION



EAST ELEVATION

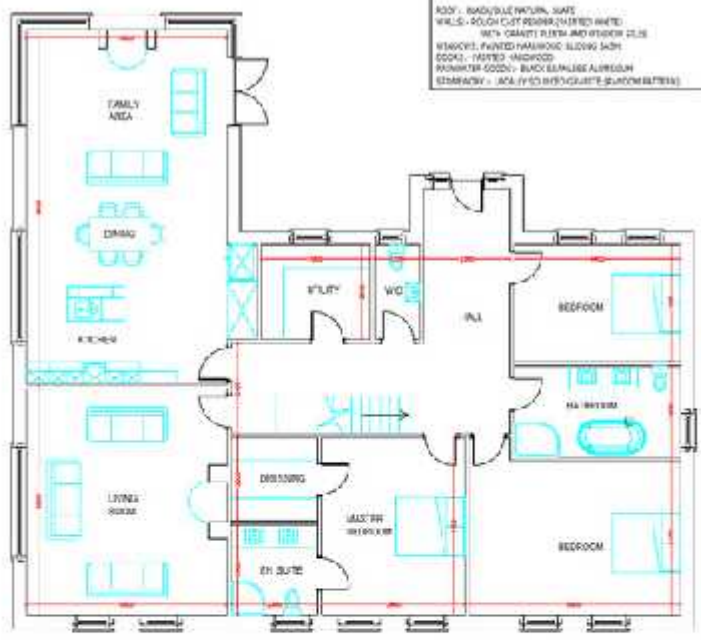


SOUTH ELEVATION



WEST ELEVATION

**SCHEDULE OF FINISHES**  
 ROOF - DARK BLUE WOOLN SLATE  
 WALLS - SOUGH CAST RENDER (PAINTED WHITE) WITH GRABTI PLASTER AND STONE CHIPS  
 WINDOWS - PAINTED PINEWOOD SLIDING SASH  
 DOORS - PAINTED PINEWOOD  
 FLOORING - POLISHED ALUMINIUM  
 STAIRCASE - POLISHED PINEWOOD (SLIP-RESISTANT)



GROUND FLOOR PLAN



LOWER GROUND FLOOR PLAN

REV	DATE	BY
1	23-7-20	PM

Job:  
 FARM DWELLING AT 30M SOUTH OF  
 N220 B20 ROAD, KILCOO, MARY  
 B135 DIZFLRNR P MORGAN

Dwg:  
 FLOOR PLANS & ELEVATION

Eng. No:  
 01.0

Scale:  
 1:100

Date:  
 23-7-20



# ACEmap® Single

Printed: 18/08/2017 Customer Ref:

Centre Point (Easting, Northing): 329732, 333109

28 BOG ROAD, MOYAD, KILCOO, 187657646 BT34 5JW

Scale 1:1 250

Order no. ORD43873

Plan No. 25408NW

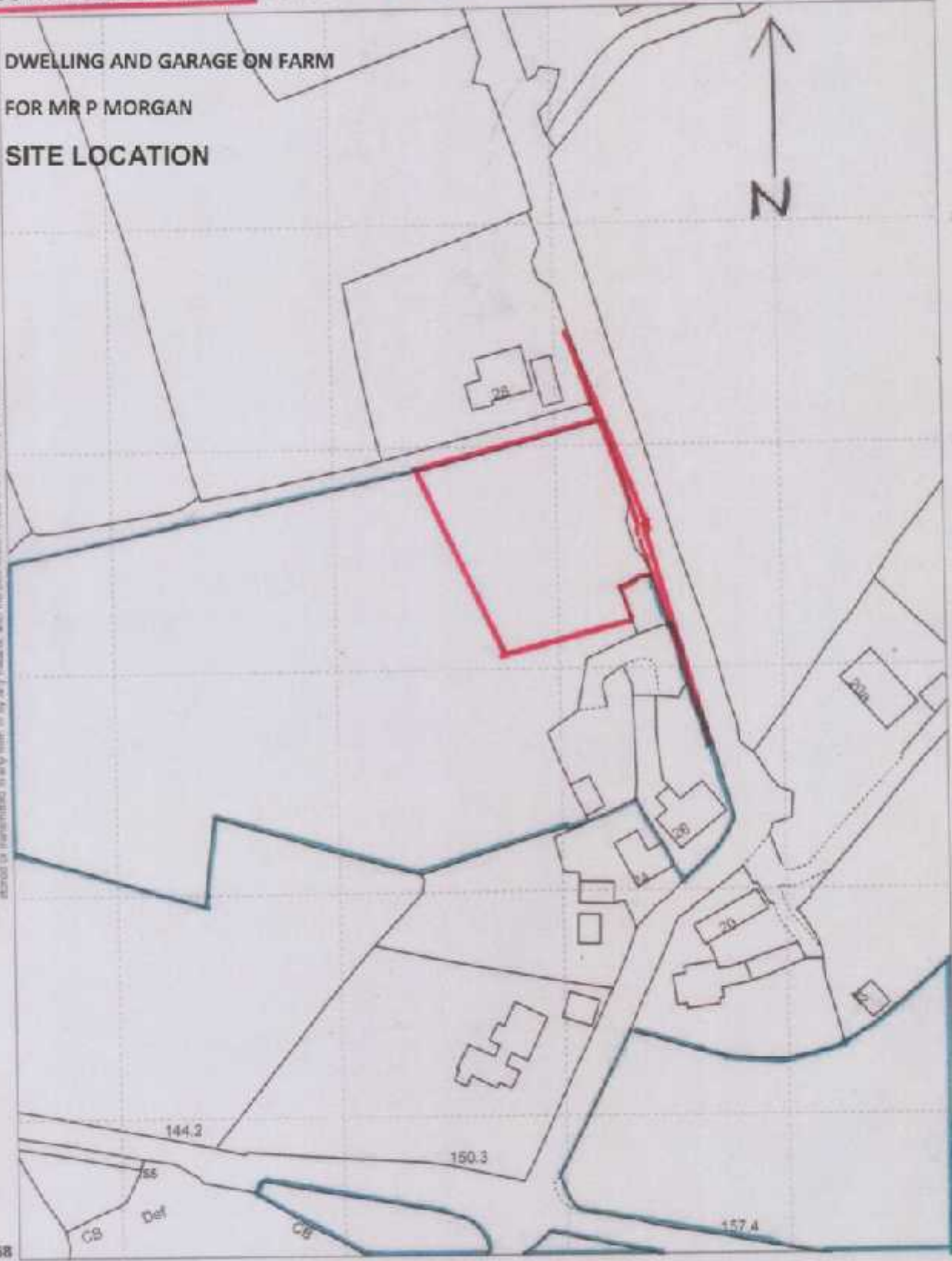
329836

333248

**DWELLING AND GARAGE ON FARM  
FOR MR P MORGAN  
SITE LOCATION**



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**ITEM NO** 7  
**APPLIC NO** LA07/2017/1494/O  
**COUNCIL OPINION** REFUSAL  
**APPLICANT** John Murnion 72 Kilkeel Road  
 Hilltown  
 BT34 5XH  
**AGENT** Architectural Services 31  
 Yellow Road  
 Hilltown  
 BT34 5UD  
**DATE VALID** 28/09/2017  
**Outline**

07834467502

**LOCATION** Opposite and north of No.43 Bryansford Road  
 Stang  
 Hilltown  
 Newry  
 BT34 5XQ

**PROPOSAL** Proposed one and a half storey dwelling and detached domestic garage

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

1. The proposal is contrary to The Strategic Planning Policy Statement (SPPS) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and 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.
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

## Newry, Mourne and Down District Council

**Application Reference:** LA07/2017/1494/F

**Date Received:** 28<sup>th</sup> September 2017

**Proposal:** Proposed one and a half storey dwelling and detached domestic garage.

**Location:** The site is located on lands opposite and north of No 43 Byransford Road, Hilltown.



### Site Characteristics & Area Characteristics:

The site is comprised of a 0.62 hectare portion of land cut out of a larger agricultural field, currently used for grazing. The site is positioned above the level of the road and is defined by a steep grass verge which contains a low stone wall, a post and fence with a sporadic hedgerow. The site slopes steadily upwards from the road to a defined, tree lined boundary at the rear. Within the site there is an existing cattle crush and a farm building which is positioned gable end to the road.

The site is rural in character and predominantly agricultural in use with a number of farm holdings and single dwellings dispersed along the road.

**Site History:**

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

**Planning Policies & Material Considerations:**

I have assessed the proposal against the following relevant policies:

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

Ards & Down 2015 – the site is located within the rural Area of Outstanding Natural Beauty outside any defined settlement area.

**Consultations:**

Transport NI – No objections

DARDNI – Confirmed 6 years active business and payments claimed

**Objections & Representations**

The following neighbouring properties were notified on 9<sup>th</sup> October 2017:

- 42, 43 and 45 Bryansford Road, Hilltown

The application was advertised in the local press on 18<sup>th</sup> October 2017.

There have been no representations received in relation to this application.

**Consideration and Assessment:**

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

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

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

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

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

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

The proposed site is located directly west of an existing farm building and a cattle crush. It is considered that the dwelling would not cluster and visually link with an established group of buildings on the farm as only one building exists on site.

From assessment of the farm holding, it appears that the main farm, dwelling and buildings are located at lands surrounding 72 Kilkeel Road, Hilltown. This is confirmed in an accompanying statement with the application.

Criteria C of CTY 10 states that 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 It is noted that there are a number of fields which are immediately adjacent to the main farm holding which could allow the proposal to satisfy this aspect of the proposal.

The applicant is seeking approval at the proposed 'out-farm' because the land at Kilkeel Road is accessed via an existing laneway of which the applicant only has right of way. He considers that his lack of ownership of surrounding land prohibits him from creating a new, safe entrance adjacent the main farm complex.

In assessment of this it is not considered that the above justification is sufficient to warrant an approval at an off-site location.

It is considered therefore that criteria (c) has not been met.

### CTY13

As it has been considered above that the proposal fails to comply with Criteria C of CTY 10, the proposal also fails to comply with criteria (G) of CTY 13.

### CTY14

In terms of rural character, the site will be located on land which is positioned above road level. A dwelling would benefit from a backdrop of mature trees, it is noted however, that the applicant seeks a one and half storey dwelling, details, other than a proposed layout, have not been provided in this outline application. It is considered that given the lack of boundary vegetation to the west and the elevated nature of the site, that a single storey dwelling may be more appropriate. However, it is not considered that the rural character of the area would be detrimentally affected should the principle of a dwelling be acceptable.



**Summary**

The proposed farm dwelling does not meet the criteria of the SPPS and policies CTY10 and 13, and is therefore recommended for refusal on this basis.

**Recommendation:**

**Refusal**

**REASONS:**

1. The proposal is contrary to The Strategic Planning Policy Statement (SPPS) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
  
2. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the 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.
  
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.

Signed: .....

Date: .....

Signed: .....

Date: .....

72 Kilkeel Road  
Hilltown  
BT34 5XH  
23 July 2018

Dear Sir / Madam

My name is Teresa Murnion and I wish to apply for speaking rights on behalf of my son John Murnion at the next Planning Committee meeting - 4th Aug 2018

My son's name is John Murnion and he is 25 years old – and a farmer.

He is trying to get planning permission on the family farm but has been advised that this application will not get passed – application Number : LA07 2017 1494.

He has a prize winning pedigree sheep flock and cattle ( his own flock and herd numbers are registered with the Department of Agriculture and he is included on the family's Single Farm Application) and he is getting married and needs a home – He will be carrying on the farm business. We have been farmers for 30 years and this is our first time to apply for planning permission. We have a strong farming tradition.

This proposed site is the only suitable site on our land as advised by our architect and would seem to be acceptable in principle also by Planning since the only reason we are getting turned down is because there is only one existing old building/ outbuilding on the land and not two. There are quite a few dwelling houses very close to the proposed site - Jerome Johnson is currently building in the adjacent field to the Hilltown side, The Woods Family (2 Houses) live immediately adjacent to me on the Bryansford Side and Mrs Fegan and her married daughter live in another 2 houses directly opposite from where I wish to get planning permission and all approved without any problems.

We have only a small farm in three parts and the other two locations were deemed unsuitable by our architect - one farm of land was too open and had no buildings, outbuildings or trees. The other option was to build at the home farm - but due to only having a right of way on the laneway which has poor sightlines it is therefore a safety issue for my son and his future family for a new dwelling. He would also not be able to get a mortgage without proper sightlines so this leaves this option non viable.

**Should not owning the land necessary to be able to provide the proper sightlines for a new dwelling be considered as detrimental to the health and safety of the owners of this dwelling and allow for it to be approved on another suitable site that can provide the proper approved sightlines.**

Surely a farmer's son should be able to get building on his own land and help get young people involved in the farming community and help regenerate/ rejuvenate an ageing farming population. If he cannot get building on our land, He will have to rent a house and as you know Hilltown has a very static population – it is very hard to find a house to rent. This means he would have to go further away and this would mean travelling to and from his land and stock. This would have a very detrimental effect on the health & safety of his stock – especially on sheep at lambing time.

I believe that a farmer is entitled to a house every ten years – so surely he should be able to get one house over 30 years.

Kind Regards  
Teresa Murnion

<b>ITEM NO</b>	<b>9</b>	<b>DATE VALID</b>	24/10/2017
<b>APPLIC NO</b>	LA07/2017/1625/F	<b>AGENT</b>	
<b>COUNCIL OPINION</b>	<b>REFUSAL</b>		
<b>APPLICANT</b>	Diane Coulter 125 Harbour Road Kilkeel BT34 4AT		
<b>LOCATION</b>	Adjacent to 77 Leestone Road Kilkeel BT34 4NW		NA
<b>PROPOSAL</b>	Self-catering accommodation comprising 3 self-catering units, open space and car parking		
<b>REPRESENTATIONS</b>	<b>OBJ Letters</b>	<b>SUP Letters</b>	<b>OBJ Petitions</b>
	0	0	0
	<b>Addresses</b>	<b>Signatures</b>	<b>Addresses</b>
	0	0	0
	<b>Signatures</b>	<b>Addresses</b>	<b>Signatures</b>
	0	0	0

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21: Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy TSM5 of Planning Policy Statement 16: Tourism, because it is not within the grounds of an existing or approved hotel, self catering complex, guest house or holiday park, it is not at or close to an existing or approved tourist amenity that is a significant visitor attraction in its own right, and it does not involve the restoration of an existing clachan or close, through conversion or replacement of existing buildings.
3. The proposal is contrary to paragraphs 3.13 and 6.42 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) and section 2.6.8 of the UK Marine Policy Statement in that this area of the coast is known to be at risk from flooding and coastal erosion and the development is inappropriate in an area of high vulnerability to coastal change and flooding.
4. The proposal is contrary to Policy FLD 1 of Planning Policy Statement 15: Planning and Flood Risk, in that the proposed development is partially located in a coastal flood plain, the proposal does not meet any of the stated exceptions where development in the flood plain is acceptable, and it is

not of overriding regional importance.

5. The proposal is contrary to Policy FLD 3 of Planning Policy Statement 15: Planning and Flood Risk, in that it has not been demonstrated through a Drainage Assessment that adequate measures will be put in place to effectively mitigate the flood risk to the proposed development and development elsewhere.
6. The proposal is contrary to paragraph 6.176 of the Strategic Planning Policy Statement for Northern Ireland and Policy NH1 of Planning Policy Statement 2: Natural Heritage, in that the site lies adjacent to a proposed Special Protection Area / Ramsar Site (Carlingford Lough extension) and it has not been demonstrated that the proposal will not have a likely significant effect on this European designated site.
7. The proposal is contrary to paragraph 6.183 of the Strategic Planning Policy Statement for Northern Ireland and Policy NH3 of Planning Policy Statement 2: Natural Heritage, in that the site is in proximity to Killeel Steps ASSI and it has not been demonstrated that the proposal is not likely to have an adverse effect on the integrity of the ASSI, or that mitigation measures will be undertaken.
8. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21: Sustainable Development in the Countryside, in that the proposal would, if permitted, result in the creation of ribbon development along the coastal laneway.
9. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21: Sustainable Development in the Countryside, in that it would result in a suburban style build-up of development when viewed with existing buildings, would create a ribbon of development, and would therefore result in a detrimental change to the rural character of the countryside.



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an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2017/1625/F

**Date Received:** 23<sup>rd</sup> October 2017

**Proposal:** Self-catering accommodation comprising 8 self-catering units, open space and car parking

**Location:** Adjacent to 77 Leestone Road, Kilkeel, BT34 4NW.  
The site is located on the coast 1 mile NE of Kilkeel.

**Site Characteristics & Area Characteristics:**

The site is a vacant field overgrown with grass and whin bushes. It was formerly a sand pit. Most of it is relatively flat, except a steep bank at the northern end. It is accessed via a laneway which runs parallel to the coast from the end of Leestone Road. The site is located in a coastal area 1 mile NE of Kilkeel. It is in an unzoned area outside settlement limits on the Banbridge, Newry and Mourne Area Plan 2015. It is also within the Mournes and Slieve Croob Area of Outstanding Natural Beauty. The area is dominated by tourism development (caravan parks) and some residential and agricultural uses. Part of the site is within a coastal flood zone and part is a surface water flood zone.



**Site History:**

P/2004/3198/O – Site for holiday homes – Refused 2<sup>nd</sup> January 2007 (Reasons: integration, build-up, lack of tourist need, failure to conserve the undeveloped coast)

P/2010/1055/O – Site for self-catering accommodation for the tourism industry – Approved 26<sup>th</sup> October 2011

P/2014/0408/RM – Self-catering accommodation for the tourism industry comprising 8 self-catering units, open space and car parking – Approved 13<sup>th</sup> November 2014

The above approval has now lapsed and there have been a number of subsequent changes in tourism policy as well as flooding and coastal policy. No weight can be given to the lapsed permission and the current application will be assessed solely on its own merits.

**Planning Policies & Material Considerations:**

- The Regional Development Strategy (2035)
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Banbridge, Newry & Mourne Area Plan 2015
- PPS2 – Natural Heritage
- PPS3 – Access, Movement & Parking
- DCAN15 – Vehicular Access Standards
- PPS15 – Planning and Flood Risk
- PPS16 – Tourism
- PPS21 – Sustainable Development in the Countryside
- Building on Tradition Sustainable Design Guide
- The UK Marine Policy Statement

**Consultations:**

TransportNI – Requested that the red line was extended to meet Leestone Road. No objections following receipt of an amended plan showing this.

NI Water – Site-specific informatives. A foul sewer is not presently available but could be requisitioned.

Environmental Health – No objections provided the site is connected to the main sewer.

Rivers Agency – A portion of the site lies within the 1 in 200 year coastal flood plain. A Flood Risk Assessment and Drainage Assessment would be required. The proposal is considered contrary to policy FLD1.

NIEA – This is inappropriate development on a stretch of vulnerable coastline, contrary to the SPPS and the UK Marine Policy Statement. Standard advice on sewerage and drainage. A Preliminary Ecological Survey should be undertaken.

Shared Environmental Services – Potential impacts on Carlingford Marine Proposed SPA. Requested details of any proposed coastal protection works, details of any proposed works within the marine environment (including drainage) and details of pollution prevention measures to protect the water environment both during construction and thereafter.

**Objections & Representations:**

The application was advertised in the *Mourne Observer* on 8<sup>th</sup> November 2017 and two neighbouring properties were notified of the proposal on 9<sup>th</sup> November 2017. Following the change to the red line to include the access, the application was re-advertised on 2<sup>nd</sup> May 2018 and three neighbours were notified on 20<sup>th</sup> April 2018. No objections or representations were received.

**Consideration and Assessment:**

The proposal is for three separate blocks of accommodation arranged along the northern and western sides of the site with car parking and landscaping to the east. The buildings are 1½ storey with traditional proportions, chimneys on the ridge, slate roofs, smooth rendered whitewashed walls with some natural stone and timber sliding sash type windows. The remainder of the site will be landscaped with informal parking areas, decking/BBQ areas and planting.

The main issues to be considered are the principle of the development under tourism policy, implications under the revised coastal and flooding policies of the SPPS and PPS15, impacts on protected sites and habitats, design and integration, impacts on amenity and road safety.

Policy RG4 of the Regional Development Strategy 2035 aims to promote a sustainable approach to the provision of tourism infrastructure. All new or extended infrastructure required to support and enhance the tourist industry needs to be appropriately located and sited with proper regard to tourism benefit and the safeguarding of the natural and built environment on which tourism depends. Development of tourism infrastructure needs to be appropriate to the location to ensure that the natural assets are protected and enhanced. It has not been demonstrated that this proposal will not harm the surrounding natural environment and the adjacent eroding coastline. The principle of the proposal and its impact on the environment will be assessed in detail under existing operational policy below.

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is currently within the remit of the Banbridge / Newry & Mourne Area Plan 2015 as the new council has not yet adopted a local development plan. The Plan reflects the approach of the RDS in seeking to provide a choice of tourist accommodation whilst balancing this against the need to protect the natural and built environment. There is no specific policy for tourism development. The site is outside settlement limits in a rural area and within the Mournes and Slieve Croob Area of Outstanding Natural Beauty. Development proposals in rural areas will be considered under PPS21. Impact on the AONB will be considered under PPS2.

The principle of development proposals in rural areas must first be assessed against PPS21 – Sustainable Development in the Countryside. Policy CTY1 states that a range of types of development are acceptable in principle in the countryside. This includes tourism development if in accordance with the TOU policies of the Planning Strategy for Rural Northern Ireland. As the TOU policies have now been superseded by the final version of PPS16 – Tourism (published June 2013), the principle of the

scheme must be considered under that policy. As there is no significant change to the policy requirements for tourism following the publication of the SPPS and it is arguably less prescriptive, the retained policy of PPS16 will be given substantial weight in determining the principle of the proposal in accordance with paragraph 1.12 of the SPPS. The design and integration policies of PPS21 (CTY8, CTY13 and CTY14) will also be considered below.

Paragraph 5.4 of PPS16 sets out four circumstances where 3 or more new build self-catering units would be acceptable under this and other current policies. As it does not involve the re-use of existing farm buildings, is not within a designated Dispersed Rural Community or a tourism opportunity zone designated in a development plan, the only possible option is for new build proposals associated with an existing or approved tourist amenity under policy TSM5. Policy TSM5 gives three options for new self-catering units. The proposal does not meet any of these as it is not within the grounds of an existing holiday park, it is not at or close to an existing or approved tourist amenity that is a significant visitor attraction in its own right, and it does not comprise the restoration of an existing clachan or close. Accordingly, the proposal is unacceptable in principle under current tourism policy. It is therefore unacceptable as development in the countryside under policy CTY1.

Tourism development proposals are also subject to the design and general criteria in policy TSM7. There are no concerns with design or layout which are as previously approved and reflect local architectural styles, materials and boundary treatments. The design is such that it would deter permanent residence. The land use is considered compatible with the surrounding area which has extensive tourist accommodation including caravans. It should not harm the amenity of nearby residents. Further information would be required to demonstrate whether there would be an adverse impact on natural heritage features including a European Site at the adjacent coast. The Council advised the applicant of this requirement, but did not formally request the information as the scheme was unacceptable in principle and we did not wish to put the applicant to the expense of providing the information unnecessarily. A mains sewer is not presently available, though NI Water indicated that one could be requisitioned and that there is available capacity at the receiving Wastewater Treatment Works in Kilkeel. There are no concerns regarding access following the extension of the red line to meet the public road and the Leestone Road can safely handle the resultant increase in vehicular traffic. The proposal would not constrain public access to the coastline.

As development in the countryside, the proposal is subject to the design and integration criteria for buildings in the countryside in PPS21. Policy CTY13 deals with Integration and Design of Buildings in the Countryside. The site is viewed principally from Leestone Road to the east and from the shared coastal laneway that runs along the south of the site. The local landscape by its nature is extremely open, though this site would benefit from the backdrop of the bank to the north, created by former mineral workings. Given the landscape setting of the site and the design which is locally distinctive, the buildings should not appear as prominent features in the landscape. The proposal is not contrary to policy CTY13. It is also in general accordance with policy NH6 of PPS2 with regard to its impact on the Mourne Area of Outstanding Natural Beauty.



A separate test under policy CTY14 is the issue of build-up. The introduction of three new buildings into an area which has an otherwise dispersed settlement pattern would result in a build-up of development that would change the hitherto rural character of the area. They would read with dwellings to either side of the site, a building on the opposite side of the laneway and development at the caravan park to the east. This coastal landscape is considered particularly vulnerable to a build-up of development given the open nature of the landscape. It would also result in the creation of a ribbon of development along with the existing properties Nos. 77 and 83. Paragraph 5.33 of PPS21 notes that a ribbon does not necessarily have to have a continuous or uniform building line. Buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked. The buildings either side of this site are set back, but share a common frontage onto the coastal laneway and would read together with the proposed development as a ribbon. The proposal is therefore contrary to policies CTY8 and CTY14 of PPS21.

A portion of the site, including part of the siting of Block C as well as car parking space, lies within the 1 in 200 year coastal flood plain. A one-off tourism development on a previously undeveloped site would not meet any of the exceptions within policy FLD1 of PPS15 where development can be contemplated if a Flood Risk Assessment is undertaken. Therefore the Council did not request a flood risk assessment. The proposal is contrary to policy FLD1. A Drainage Assessment would also be required for a proposal of this scale and in its absence, the proposal is contrary to policy FLD3.

The proposed self-catering units are approximately 40m away from the marine environment and High Water Mark. The proposed access road into the site off the Leestone Road is approximately 15m from the sand and shingle coastline. It is adjacent to an area of soft sediment coastline which is vulnerable to erosion. The future viability of the access road and potentially the development could be at risk. Given that this is an area of coastline known to be actively eroding, the proposed works are in conflict with the Strategic Planning Policy Statement (SPPS) for Northern Ireland. The SPPS states in paragraph 6.42 that "development will not be permitted in areas of the coast known to be at risk from flooding, coastal erosion, or land instability". It is also widely accepted that sea level is rising in Northern Ireland and we are experiencing more frequent storm events. Coastal erosion caused during storm events is predicted to increase due to climate change. A core planning principle stated in the SPPS relates to mitigating and adapting to climate change. Paragraph 3.13 states that the planning system should help to address climate change by "avoiding development in areas with increased vulnerability to the effects of climate change, particularly areas at significant risk from flooding, landslip and coastal erosion and highly exposed sites at significant risk from impacts of storms". This is one such site. The planning authority recognises the fact that there is existing development along this part of the coast, but it is not sustainable to permit a further large development given the clear direction of the new coastal policy. The proposal is not in accordance with the UK Marine Policy Statement (MPS) section 2.6.8 in that inappropriate development should be avoided in areas of highest vulnerability to coastal change and flooding. The proposal is not in accordance with the Strategic Planning Policy Statement for Northern Ireland (SPPS) 2015 paragraph 6.42 in that development will not be permitted in areas of the coast known to be at risk from flooding, coastal erosion, or land instability.

The application site is in close proximity to national and European designated sites:

- Carlingford Marine pSPA designated under the EC Birds Directive (79/409/EEC on the conservation of wild birds).
- Kilkeel Steps ASSI declared under the Environment Order (Northern Ireland) 2002.

In addition to designated sites marine mammals are afforded protection throughout their range through the following nature conservation legislation:

- The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended); and
- The Wildlife (Northern Ireland) Order 1985 (as amended).

This includes marine mammals such as cetaceans and seals. Seals are present along this County Down coastline and are also a site selection feature of Murlough SAC. All plans/projects within or adjacent to the marine environment must therefore provide appropriate mitigation, if required.

The planning application was considered in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service on behalf of Newry, Mourne and Down District Council which is the competent authority responsible for authorising the project and any assessment of it required by the Regulations.

Having considered the nature, scale, timing, duration and location of the project it was concluded that further information (including details of coastal protection works, details of any works within the marine environment, and details of pollution prevention measures) was required to assess potential impacts on the selection features, conservation objectives and status of Carlingford Marine Proposed SPA. The Council advised the applicant of this requirement, but did not formally request the information as the scheme was unacceptable in principle and we did not wish to put the applicant to the expense of providing the information unnecessarily. However, without the information, the Habitats Assessment cannot be completed and the proposal is contrary to policy NH1 of PPS2.

Policy NH1 of PPS2 states that planning permission will only be granted for a development proposal that is not likely to have a significant effect on a European Site (Special Protection Area, proposed Special Protection Area, Special Areas of Conservation, candidate Special Areas of Conservation and Sites of Community Importance) or a listed or proposed Ramsar Site. The equivalent section of the SPPS (paragraphs 6.175 – 6.178) is comparable. The proposed extension to Carlingford Lough SPA/Ramsar falls into this category. As it has not been demonstrated that there will be no significant effects on the European site, the application is contrary to this policy.

Impacts on the ASSI designation must be assessed under policy NH3. In the absence of the information referred to above, the proposal is contrary to policy NH3 as it has not been demonstrated that the proposal is not likely to have an adverse effect on the integrity of the ASSI, or that mitigation measures will be undertaken.

In summary, the application is unacceptable in principle under tourism, coastal and flooding policy, it has not been demonstrated that it will not have a significant effect on a European site and it would result in ribbon development and build up. It is not a sustainable development and should be refused for the reasons below.

**Recommendation:** Refusal

**Refusal Reasons:**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21: Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy TSM5 of Planning Policy Statement 16: Tourism, because it is not within the grounds of an existing or approved hotel, self-catering complex, guest house or holiday park, it is not at or close to an existing or approved tourist amenity that is a significant visitor attraction in its own right, and it does not involve the restoration of an existing clachan or close, through conversion or replacement of existing buildings.
3. The proposal is contrary to paragraphs 3.13 and 6.42 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) and section 2.6.8 of the UK Marine Policy Statement in that this area of the coast is known to be at risk from flooding and coastal erosion and the development is inappropriate in an area of high vulnerability to coastal change and flooding.
4. The proposal is contrary to Policy FLD 1 of Planning Policy Statement 15: Planning and Flood Risk, in that the proposed development is partially located in a coastal flood plain, the proposal does not meet any of the stated exceptions where development in the flood plain is acceptable, and it is not of overriding regional importance.
5. The proposal is contrary to Policy FLD 3 of Planning Policy Statement 15: Planning and Flood Risk, in that it has not been demonstrated through a Drainage Assessment that adequate measures will be put in place to effectively mitigate the flood risk to the proposed development and development elsewhere.
6. The proposal is contrary to paragraph 6.176 of the Strategic Planning Policy Statement for Northern Ireland and Policy NH1 of Planning Policy Statement 2: Natural Heritage, in that the site lies adjacent to a proposed Special Protection Area / Ramsar Site (Carlingford Lough extension) and it has not been demonstrated that the proposal will not have a likely significant effect on this European designated site.
7. The proposal is contrary to paragraph 6.183 of the Strategic Planning Policy Statement for Northern Ireland and Policy NH3 of Planning Policy Statement 2: Natural Heritage, in that the site is in proximity to Kilkeel Steps ASSI and it has not been demonstrated that the proposal is not likely to have an adverse effect on the integrity of the ASSI, or that mitigation measures will be undertaken.
8. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21: Sustainable Development in the Countryside, in that the proposal would, if

permitted, result in the creation of ribbon development along the coastal laneway.

- 9. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21: Sustainable Development in the Countryside, in that it would result in a suburban style build-up of development when viewed with existing buildings, would create a ribbon of development, and would therefore result in a detrimental change to the rural character of the countryside.

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date:**



# M. Diane M. Coulter

LL.B., M.Phil.  
SOLICITORS

109

DC/SC/C166(a)

24<sup>th</sup> July 2018

**FAO: Colette McAteer**  
**Democratic Services Officer**  
**Newry, Mourne and Down Council**  
**Planning Department**  
 O'Hagan House  
 Monaghan Row  
 Newry  
 BT35 8DJ

Dear Sir / Madam

**BY EMAIL ONLY: [democratic.services@nmandd.org](mailto:democratic.services@nmandd.org) / [Colette.McAteer@nmandd.org](mailto:Colette.McAteer@nmandd.org)**

**Re: Adjacent to 77 Leestone Road, Kilkeel, County Down, BT34 4NW**  
**Proposal: Self-Catering Accommodation for the tourism industry comprising 8 self-catering units, open space and car parking**  
**Planning Application: LA07/2017/1625**

I refer to the above matter and to your email of 25<sup>th</sup> June 2018. I enclose Statement of Case in connection with the above Application which has been listed for the 1<sup>st</sup> August 2018 Committee Meeting. I have also sought Rights to speak / address the Committee. Kindly acknowledge safe receipt and advise if a hard copy also needs to be sent or is this email sufficient.

I await confirmation details of time and venue for the 1<sup>st</sup> August 2018 Committee meeting.

Yours faithfully,

**M Diane M Coulter LLB. M.Phil.**  
[diane@dianecoultersols.co.uk](mailto:diane@dianecoultersols.co.uk)

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125 Harbour Road  
 Kilkeel  
 Co. Down  
 N. Ireland  
 BT34 4AT

## STATEMENT OF CASE ON BEHALF OF APPLICANT

### LA07/2017/1625 – SELF CATERING ACCOMMODATION COMPRISING 8 SELF CATERING UNITS, OPEN SPACE AND CAR PARKING, ADJACENT TO 77 LEESTONE ROAD, KILKEEL, BT34 4NW

24<sup>th</sup> July 2018

I set out herein, a Statement of My Case in support of the above Planning Application.

#### (1) BACKGROUND

At an initial meeting with Council planning officials on or about 7<sup>th</sup> June 2017 which my Father Arthur Coulter attended on my behalf, to discuss the renewal of Planning Approval granted for this Development by DoE, I was actively encouraged to submit a Planning Application. Since that initial meeting there has been no change in Planning Policy to support the opinion to refuse Permission now before this Committee.

#### The Principle of Development

Planning permission was granted for this Development by DoE in Outline on 26<sup>th</sup> October 2011 and to the details on 13<sup>th</sup> November 2014 under Planning Reference P/2014/0408. The Planning Report to the Council argues that these Approvals can be ignored because they have lapsed and because some Planning Policies have changed in the interim. This is not correct. Some Planning Policies of fundamental significance to the assessment of the Development have not changed. DoE's Planning Assessment of the proposals against these Policies must therefore stand and cannot in the interest of consistency be set aside.

#### (2) REFUSAL REASONS PRESENTED

##### (a) Reasons 8 and 9 and Reason 1

The Policies in PPS21 and PPS15 were applicable to the consideration of the proposals by DoE and remain unchanged. Reasons 8 and 9 of the recommended refusal, refer to Policies CTY8 and CTY14 of PPS21. They state that the Proposal will cause ribbon development and result in the build-up of development detrimental to the rural character of the Area. These conclusions do not accord with the assessment by DoE in Granting Planning Permission for the Development. The Case presented by the Applicant to DoE was that:

- there is an existing ribbon of development along the northern side of Leestone Road;

- the Application site is a gap in this otherwise continuously built-up frontage;
- Policy **CTY8** permits the infill of a gap by an economic development proposal; and
- tourism development meets this Policy exception.

The Department accepted this Case and granted Planning Permission. Nothing has changed in the meantime to warrant a conclusion to refuse Planning Permission on the basis of **PPS21 – policies CTY8 and CTY14**, the nature of the proposals and the vicinity of the site, all remain unchanged.

**Policy CTY8** sets 3 criteria that Economic Development Proposals must meet in the circumstances of infill:

1. a scale in keeping with adjoining development;
2. a high standard of design; and
3. no adverse impact on the amenity of neighbours.

The **Planning Report to the Committee** accepts that these criteria are met by the Proposals (**Annex 1**).

The Proposals meet all the requirements of **Policy CTY8** and were accepted as doing so by DoE in granting the earlier Permissions. Reasons for **Refusal 8 and 9** cannot therefore stand. In addition, the status of the Site as an infill development is compatible with **Policy CTY1 of PPS21** - refusal **Reason 1** is therefore also not applicable.

### **(b) Refusal Reason 2**

**Refusal Reason 2** argues that the Proposals do not meet the policies of **PPS16 – Tourism**. This is not accepted.

The Case for approval presented to the Department also highlighted the significant benefits of the proposals in supporting tourism amenities tourism in Kilkeel. The Kilkeel Development Association ("KDA") and the Kilkeel Tourism Information Centre supported the proposals and highlighted the significant complementary role which the proposed accommodation would fulfil in developing the tourism role of Kilkeel. Kilkeel is building on its fishing and maritime heritage to forge a new future. The Harbour has undergone a large improvement scheme with the provision of pontoons to facilitate smaller vessels. The Maritime Visitor Centre and the Mourne Seafood Cookery School at the Harbour generate a large volume of people in medium sized groups wishing to stay in the Area. The provision of self-catering accommodation was seen as providing direct support to the new tourism amenities close by in the Kilkeel Harbour area. In particular, it supported the Mourne Seafood Cookery School by allowing a class to be accommodated in its totality at a single location. The Mourne Seafood Cookery School was awarded the Cookery School of the Year in 2017 for Northern Ireland showing its success and this again has led to significant increase in numbers seeking to visit it. A special Food night was hosted in June 2018 with Food NI which Food Bloggers attended and the press coverage and feed back has been very positive and Kilkeel and this Cookery School is being promoted as part of good food experience in the Area to attract visitors and tourists from all

over the World. Self catering accommodation would be the preferred accommodation for guests to enjoy this Culinary experience as workshops could take place and the guests practise making their dishes in their kitchens in the accommodation. With the heightened Public Interest now in Cookery programmes/Experiences this is considered to be a big area of potential growth and self catering accommodation in the immediate vicinity would be very important especially given its location as the guests can catch their own fish to cook/eat etc which is part of the entire culinary unique experience Mourne Cookery Seafood offer.

The tourism aspect **at current day** has therefore become even more important with the Greenore/Greencastle Ferry in operation, which has already over the last year resulted in a significant increase in tourists to the District. Already there it is clear to be seen that there are insufficient accommodation especially that of self catering to meet these new demands. Furthermore, there has been significant support for the establishment of an Outer Harbour/Port for Kilkeel and this Council are very supportive of this and are working with the other relevant Bodies to pursue this. The Kilkeel Strategic Partnership ("KSP") has been set up as a Collaborative Body for this particular Project and this Outer Harbour/Port will, if it proceeds, mean this Area will explode not only for tourists but also for those working with the various Industries around the Harbour, as well as the Fishing Fleets themselves, and the need/demand for accommodation for its workers/engineers etc visiting will not be met with the current accommodation in the Area. The Leestone lands run along the shore, and thus beside the Proposed Outer Harbour, so the provision of self-catering accommodation in this location would **be very important** and enhance the Outer Harbour Project/Port.

- Support therefore at **current date for this application** is provided by the KDA, Mourne Cookery School which as sated above has won Cookery School of the Year in Northern Ireland and is working closely with Food NI for its promotion in the District, as also the Kilkeel Chamber of Commerce and The KSP.

**This relationship is compatible with point (b) of Policy TSM5 which facilitates the provision of new self-catering accommodation units close to an existing or approved tourist amenity that is a significant visitor attraction in its own right.**

**An artist's impression of how the Development would look is shown at Annex 2.**

In addition however, the status of the Development as **an infill within a built-up frontage** under Policy **CTY8** is, in itself, sufficient in Policy Terms to support the Proposals in principle. This Policy does **not exclude tourism development** as an Economic Development Opportunity – indeed the DoE accepted it. While Planning Policy for tourism proposals has changed in the interim, **this does not alter the basis on which the Development was approved in principle by DOE.**

### **(c) Refusal Reason 3**

Flood risk is the major issue in reasons for **Refusal 3 and 4**. **PPS15 – Planning and Flood Risk** – was published in **June 2006**. The requirement to assess flood risk to



planning proposals including coastal flood risk was therefore part of prevailing Planning Policy when Application P/2010/1055 was determined on 26 October 2011. The revised PPS15 was published in September 2014, prior to the approval of the reserved matters under Planning Application P/2014/0408 on 13 November 2014. The Department was required to assess these Planning Applications against the Policy prevailing at the time of the Planning Decisions, including flood risk. No concerns were raised with the Applicant and Planning Permission was granted for both Applications.

The Flood Hazard Map (NI) shows that the majority of the site is not affected by any risk of coastal flooding and Rivers Agency in the consultation response of 27 November 2017 raised no objection to development in this Area. (see Annex 3 for the Text of what it stated)

Flood risk is limited to a small area in the north-east of the site. The Agency objected to development here and stated that any development proposed will require the Planning Authority to deem the Application to meet one of the exceptions listed in Policy FLD 1.

The following comments are also relevant to the Assessment of the proposals:

- In considering this Application, it is relevant that the Site is a worked-out sandpit. The existing ground levels are not the natural levels of the land - they have been lowered by mineral extraction. Finished levels in mineral workings are subject to site restoration – in this case the levelling of the Site by flattening the hummocks and filling the hollows left by mineral extraction is a reasonable measure of site restoration to bring the land back into productive use, regardless of any proposals to develop the Site;
- The Site layout approved by DOE under Reserved Matters Application P/2014/0408 accepted the levelling of the Site and the development of self-catering units within the Area potentially at risk of flood. The finished levels approved are at the level of the Area shown as not at flood risk on the Flood Hazard Map (NI). This requires an infill of the lower-lying area at the north-east of the site of only 1 metre or less. Such limited infill in the coastal flood plain is in line with Para 6.109 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) and 6.20 of policy FLD 1 of PPS15. With respect to land raising, the Para. 6.109 of the SPPS states that *'Such operations within the coastal flood plain will have a negligible effect on its extent and therefore much less likely to cause flooding elsewhere. Land raising to facilitate development at an appropriate level above the coastal flood plain may therefore be possible.'* Infill of areas liable to coastal flood risk in order to restore the land is therefore not in principle unacceptable. The SPPS notes
- that *'this should normally be restricted to settlements....'*

However, use of the word *'normally'* provides for exceptions outside settlements and the restoration and re-use of a disused sandpit are clearly exceptional circumstances.

The Site Layout approved by DoE therefore remains an acceptable solution for the development of the Site compatible with prevailing Planning Policy. However, should

the Committee have concerns over development proposed within the Area at risk of coastal flooding, all development proposed within this Area can be omitted from the planning application in order to comply with Policy FLD1. Discussion of this option was offered to the Planning Office at a meeting on 17<sup>th</sup> April 2018 with G Kerr, Jacqueline McParland and which Sean Doran (Councillor) also attended with me, but was not accepted by them.

#### **(d) Refusal Reason 4 and Refusal Reason 5**

Both options will deal with reason for Refusal 4 and with the flood risk content of Reason 3. Should the second option be preferred, the effect of this will be to reduce the area of Hard Surface in the Proposed Development below the threshold which triggers the need for a Drainage Assessment – Reason for Refusal 5 will therefore no longer be applicable.

#### **(e) Coastal Erosion**

The consultation response from Shared Environmental Service dated 27 November 2017 refers to the site being vulnerable to coastal erosion.

The Marine and Fisheries Division of DAERA response considers *'that the proposed access road could be contrary to the Regional Development Strategy, PPS15 and the Strategic Planning Policy Statement for Northern Ireland 2015 as a site vulnerable to coastal erosion and climate change respectively. The proposed access road is adjacent to an area of soft sediment coastline which is vulnerable to erosion. The future viability of the access road and potentially the development could be at risk. Coastal erosion caused during storm events are predicted to increase due to climate change.'*

However, the following comments are relevant:

- The SPPS states at para.6.42 that *'development will not be permitted in areas of the coast known to be at risk from flooding, coastal erosion, or land instability'* (*my emphasis in bold*). The consultation responses present no evidence of a known risk at this location and the wording in the DAERA response is in terms of *'could'* rather than *'will'* when referring to risk.
- The Flood Hazard Map (NI) shows that the existing and future area at flood risk on the coastline does not extend as far as the access roadway which runs parallel to the shore at this location. This roadway provides access to existing dwellings to the west and to the Silver cove Holiday Park. Any threat to the viability of the access roadway will therefore have to be addressed in order to provide continued access to these properties and approval of the proposed self-catering development will not add materially to any risk which may be presented or impose any additional requirements for remedial action; and
- The proposed development is on the landward side of the access roadway which is itself not indicated to be within the area at risk of coastal flooding. No measures of coastal protection are therefore proposed in the planning application.

- On the proposed Application there is no actual building works on the very small area which may be affected technical by the flood area. This could be landscaped further to accommodate such.

**(f) The remaining matters on which refusal of the Planning application is based are proximity of a proposed Special Protection Area/Ramsar Site and proximity to Kilkeel Steps ASSI.**

These are matters on which ***Specialist Input*** is required. In an email from the **Planning Office dated 13<sup>th</sup> March 2018 (Copy attached at Annex 4), the Case Officer (Gareth Kerr)** stated that the Council was not requesting further information on these matters as the Proposal was considered unacceptable in principle. ***If the Committee is minded to look favourably on the Application, either as submitted or as proposed to be amended, the Applicant is willing to commission the necessary studies into these matters.***

Yours faithfully

  
M Diane M Coulter

On behalf of Applicant

Coulter Industries Limited

24<sup>th</sup> July 2018

## ANNEX 1

### **STATEMENTS IN THE CASE OFFICER'S REPORT DEMONSTRATING COMPLIANCE OF THE PROPOSALS WITH POLICY CTY8**

**Policy CTY8** sets 3 criteria that economic development proposals must meet in the circumstances of infill:

- a scale in keeping with adjoining development;
- a high standard of design; and
- no adverse impact on the amenity of neighbours.

The Planning Report to the Committee accepts that these Criteria are met by the proposals:

- *The land use is considered compatible with the surrounding area which has extensive tourist accommodation including caravans;*
- *'The proposal is not contrary to policy CTY13';*
- *'There are no concerns with design or layout which are as previously approved and reflect local architectural styles, materials and boundary treatments';*
- *'...the buildings should not appear as prominent features in the landscape';*  
and
- *'It should not harm the amenity of nearby residents'.*



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

- Application Reference:** LA07/2017/1625/F
- Date Received:** 23<sup>rd</sup> October 2017
- Proposal:** Self-catering accommodation comprising 8 self-catering units, open space and car parking
- Location:** Adjacent to 77 Leestone Road, Kilkeel, BT34 4NW.  
The site is located on the coast 1 mile NE of Kilkeel.

**Site Characteristics & Area Characteristics:**

The site is a vacant field overgrown with grass and whin bushes. It was formerly a sand pit. Most of it is relatively flat, except a steep bank at the northern end. It is accessed via a laneway which runs parallel to the coast from the end of Leestone Road. The site is located in a coastal area 1 mile NE of Kilkeel. It is in an unzoned area outside settlement limits on the Banbridge, Newry and Mourne Area Plan 2015. It is also within the Mournes and Slieve Croob Area of Outstanding Natural Beauty. The area is dominated by tourism development (caravan parks) and some residential and agricultural uses. Part of the site is within a coastal flood zone and part is a surface water flood zone.



**Site History:**

P/2004/3198/O – Site for holiday homes – Refused 2<sup>nd</sup> January 2007 (Reasons: integration, build-up, lack of tourist need, failure to conserve the undeveloped coast)

P/2010/1055/O – Site for self-catering accommodation for the tourism industry – Approved 26<sup>th</sup> October 2011

P/2014/0408/RM – Self-catering accommodation for the tourism industry comprising 8 self-catering units, open space and car parking – Approved 13<sup>th</sup> November 2014

The above approval has now lapsed and there have been a number of subsequent changes in tourism policy as well as flooding and coastal policy. No weight can be given to the lapsed permission and the current application will be assessed solely on its own merits.

**Planning Policies & Material Considerations:**

- o The Regional Development Strategy (2035)
- o The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- o Banbridge, Newry & Mourne Area Plan 2015
- o PPS2 – Natural Heritage
- o PPS3 – Access, Movement & Parking
- o DCAN15 – Vehicular Access Standards
- o PPS15 – Planning and Flood Risk
- o PPS16 – Tourism
- o PPS21 – Sustainable Development in the Countryside
- o Building on Tradition Sustainable Design Guide
- o The UK Marine Policy Statement

**Consultations:**

TransportNI – Requested that the red line was extended to meet Leestone Road. No objections following receipt of an amended plan showing this.

NI Water – Site-specific informatives. A foul sewer is not presently available but could be requisitioned.

Environmental Health – No objections provided the site is connected to the main sewer.

Rivers Agency – A portion of the site lies within the 1 in 200 year coastal flood plain. A Flood Risk Assessment and Drainage Assessment would be required. The proposal is considered contrary to policy FLD1.

NIEA – This is inappropriate development on a stretch of vulnerable coastline, contrary to the SPPS and the UK Marine Policy Statement. Standard advice on sewerage and drainage. A Preliminary Ecological Survey should be undertaken.

Shared Environmental Services – Potential impacts on Carlingford Marine Proposed SPA. Requested details of any proposed coastal protection works, details of any proposed works within the marine environment (including drainage) and details of pollution prevention measures to protect the water environment both during construction and thereafter.

**Objections & Representations:**

The application was advertised in the *Mourne Observer* on 8<sup>th</sup> November 2017 and two neighbouring properties were notified of the proposal on 9<sup>th</sup> November 2017. Following the change to the red line to include the access, the application was re-advertised on 2<sup>nd</sup> May 2018 and three neighbours were notified on 20<sup>th</sup> April 2018. No objections or representations were received.

**Consideration and Assessment:**

The proposal is for three separate blocks of accommodation arranged along the northern and western sides of the site with car parking and landscaping to the east. The buildings are 1½ storey with traditional proportions, chimneys on the ridge, slate roofs, smooth rendered whitewashed walls with some natural stone and timber sliding sash type windows. The remainder of the site will be landscaped with informal parking areas, decking/BBQ areas and planting.

The main issues to be considered are the principle of the development under tourism policy, implications under the revised coastal and flooding policies of the SPPS and PPS15, impacts on protected sites and habitats, design and integration, impacts on amenity and road safety.

Policy RG4 of the Regional Development Strategy 2035 aims to promote a sustainable approach to the provision of tourism infrastructure. All new or extended infrastructure required to support and enhance the tourist industry needs to be appropriately located and sited with proper regard to tourism benefit and the safeguarding of the natural and built environment on which tourism depends. Development of tourism infrastructure needs to be appropriate to the location to ensure that the natural assets are protected and enhanced. It has not been demonstrated that this proposal will not harm the surrounding natural environment and the adjacent eroding coastline. The principle of the proposal and its impact on the environment will be assessed in detail under existing operational policy below.

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is currently within the remit of the Banbridge / Newry & Mourne Area Plan 2015 as the new council has not yet adopted a local development plan. The Plan reflects the approach of the RDS in seeking to provide a choice of tourist accommodation whilst balancing this against the need to protect the natural and built environment. There is no specific policy for tourism development. The site is outside settlement limits in a rural area and within the Mournes and Slieve Croob Area of Outstanding Natural Beauty. Development proposals in rural areas will be considered under PPS21. Impact on the AONB will be considered under PPS2.

The principle of development proposals in rural areas must first be assessed against PPS21 – Sustainable Development in the Countryside. Policy CTY1 states that a range of types of development are acceptable in principle in the countryside. This includes tourism development if in accordance with the TOU policies of the Planning Strategy for Rural Northern Ireland. As the TOU policies have now been superseded by the final version of PPS16 – Tourism (published June 2013), the principle of the

scheme must be considered under that policy. As there is no significant change to the policy requirements for tourism following the publication of the SPPS and it is arguably less prescriptive, the retained policy of PPS16 will be given substantial weight in determining the principle of the proposal in accordance with paragraph 1.12 of the SPPS. The design and integration policies of PPS21 (CTY8, CTY13 and CTY14) will also be considered below.

Paragraph 5.4 of PPS16 sets out four circumstances where 3 or more new build self-catering units would be acceptable under this and other current policies. As it does not involve the re-use of existing farm buildings, is not within a designated Dispersed Rural Community or a tourism opportunity zone designated in a development plan, the only possible option is for new build proposals associated with an existing or approved tourist amenity under policy TSM5. Policy TSM5 gives three options for new self-catering units. The proposal does not meet any of these as it is not within the grounds of an existing holiday park, it is not at or close to an existing or approved tourist amenity that is a significant visitor attraction in its own right, and it does not comprise the restoration of an existing clachan or close. Accordingly, the proposal is unacceptable in principle under current tourism policy. It is therefore unacceptable as development in the countryside under policy CTY1.

Tourism development proposals are also subject to the design and general criteria in policy TSM7. There are no concerns with design or layout which are as previously approved and reflect local architectural styles, materials and boundary treatments. The design is such that it would deter permanent residence. The land use is considered compatible with the surrounding area which has extensive tourist accommodation including caravans. It should not harm the amenity of nearby residents. Further information would be required to demonstrate whether there would be an adverse impact on natural heritage features including a European Site at the adjacent coast. The Council advised the applicant of this requirement, but did not formally request the information as the scheme was unacceptable in principle and we did not wish to put the applicant to the expense of providing the information unnecessarily. A mains sewer is not presently available, though NI Water indicated that one could be requisitioned and that there is available capacity at the receiving Wastewater Treatment Works in Kilkeel. There are no concerns regarding access following the extension of the red line to meet the public road and the Leestone Road can safely handle the resultant increase in vehicular traffic. The proposal would not constrain public access to the coastline.

As development in the countryside, the proposal is subject to the design and integration criteria for buildings in the countryside in PPS21. Policy CTY13 deals with Integration and Design of Buildings in the Countryside. The site is viewed principally from Leestone Road to the east and from the shared coastal laneway that runs along the south of the site. The local landscape by its nature is extremely open, though this site would benefit from the backdrop of the bank to the north, created by former mineral workings. Given the landscape setting of the site and the design which is locally distinctive, the buildings should not appear as prominent features in the landscape. The proposal is not contrary to policy CTY13. It is also in general accordance with policy NH6 of PPS2 with regard to its impact on the Mourne Area of Outstanding Natural Beauty.



A separate test under policy CTY14 is the issue of build-up. The introduction of three new buildings into an area which has an otherwise dispersed settlement pattern would result in a build-up of development that would change the hitherto rural character of the area. They would read with dwellings to either side of the site, a building on the opposite side of the laneway and development at the caravan park to the east. This coastal landscape is considered particularly vulnerable to a build-up of development given the open nature of the landscape. It would also result in the creation of a ribbon of development along with the existing properties Nos. 77 and 83. Paragraph 5.33 of PPS21 notes that a ribbon does not necessarily have to have a continuous or uniform building line. Buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked. The buildings either side of this site are set back, but share a common frontage onto the coastal laneway and would read together with the proposed development as a ribbon. The proposal is therefore contrary to policies CTY8 and CTY14 of PPS21.

A portion of the site, including part of the siting of Block C as well as car parking space, lies within the 1 in 200 year coastal flood plain. A one-off tourism development on a previously undeveloped site would not meet any of the exceptions within policy FLD1 of PPS15 where development can be contemplated if a Flood Risk Assessment is undertaken. Therefore the Council did not request a flood risk assessment. The proposal is contrary to policy FLD1. A Drainage Assessment would also be required for a proposal of this scale and in its absence, the proposal is contrary to policy FLD3.

The proposed self-catering units are approximately 40m away from the marine environment and High Water Mark. The proposed access road into the site off the Leestone Road is approximately 15m from the sand and shingle coastline. It is adjacent to an area of soft sediment coastline which is vulnerable to erosion. The future viability of the access road and potentially the development could be at risk. Given that this is an area of coastline known to be actively eroding, the proposed works are in conflict with the Strategic Planning Policy Statement (SPPS) for Northern Ireland. The SPPS states in paragraph 6.42 that "development will not be permitted in areas of the coast known to be at risk from flooding, coastal erosion, or land instability". It is also widely accepted that sea level is rising in Northern Ireland and we are experiencing more frequent storm events. Coastal erosion caused during storm events is predicted to increase due to climate change. A core planning principle stated in the SPPS relates to mitigating and adapting to climate change. Paragraph 3.13 states that the planning system should help to address climate change by "avoiding development in areas with increased vulnerability to the effects of climate change, particularly areas at significant risk from flooding, landslip and coastal erosion and highly exposed sites at significant risk from impacts of storms". This is one such site. The planning authority recognises the fact that there is existing development along this part of the coast, but it is not sustainable to permit a further large development given the clear direction of the new coastal policy. The proposal is not in accordance with the UK Marine Policy Statement (MPS) section 2.6.8 in that inappropriate development should be avoided in areas of highest vulnerability to coastal change and flooding. The proposal is not in accordance with the Strategic Planning Policy Statement for Northern Ireland (SPPS) 2015 paragraph 6.42 in that development will not be permitted in areas of the coast known to be at risk from flooding, coastal erosion, or land instability.

The application site is in close proximity to national and European designated sites:

- Carlingford Marine pSPA designated under the EC Birds Directive (79/409/EEC on the conservation of wild birds).
- Kilkeel Steps ASSI declared under the Environment Order (Northern Ireland) 2002.

In addition to designated sites marine mammals are afforded protection throughout their range through the following nature conservation legislation:

- The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended); and
- The Wildlife (Northern Ireland) Order 1985 (as amended).

This includes marine mammals such as cetaceans and seals. Seals are present along this County Down coastline and are also a site selection feature of Murlough SAC. All plans/projects within or adjacent to the marine environment must therefore provide appropriate mitigation, if required.

The planning application was considered in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service on behalf of Newry, Mourne and Down District Council which is the competent authority responsible for authorising the project and any assessment of it required by the Regulations.

Having considered the nature, scale, timing, duration and location of the project it was concluded that further information (including details of coastal protection works, details of any works within the marine environment, and details of pollution prevention measures) was required to assess potential impacts on the selection features, conservation objectives and status of Carlingford Marine Proposed SPA. The Council advised the applicant of this requirement, but did not formally request the information as the scheme was unacceptable in principle and we did not wish to put the applicant to the expense of providing the information unnecessarily. However, without the information, the Habitats Assessment cannot be completed and the proposal is contrary to policy NH1 of PPS2.

Policy NH1 of PPS2 states that planning permission will only be granted for a development proposal that is not likely to have a significant effect on a European Site (Special Protection Area, proposed Special Protection Area, Special Areas of Conservation, candidate Special Areas of Conservation and Sites of Community Importance) or a listed or proposed Ramsar Site. The equivalent section of the SPPS (paragraphs 6.175 – 6.178) is comparable. The proposed extension to Carlingford Lough SPA/Ramsar falls into this category. As it has not been demonstrated that there will be no significant effects on the European site, the application is contrary to this policy.

Impacts on the ASSI designation must be assessed under policy NH3. In the absence of the information referred to above, the proposal is contrary to policy NH3 as it has not been demonstrated that the proposal is not likely to have an adverse effect on the integrity of the ASSI, or that mitigation measures will be undertaken.

In summary, the application is unacceptable in principle under tourism, coastal and flooding policy, it has not been demonstrated that it will not have a significant effect on a European site and it would result in ribbon development and build up. It is not a sustainable development and should be refused for the reasons below.

**Recommendation:** Refusal

**Refusal Reasons:**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21: Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy TSM5 of Planning Policy Statement 16: Tourism, because it is not within the grounds of an existing or approved hotel, self-catering complex, guest house or holiday park, it is not at or close to an existing or approved tourist amenity that is a significant visitor attraction in its own right, and it does not involve the restoration of an existing clachan or close, through conversion or replacement of existing buildings.
3. The proposal is contrary to paragraphs 3.13 and 6.42 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) and section 2.8.8 of the UK Marine Policy Statement in that this area of the coast is known to be at risk from flooding and coastal erosion and the development is inappropriate in an area of high vulnerability to coastal change and flooding.
4. The proposal is contrary to Policy FLD 1 of Planning Policy Statement 15: Planning and Flood Risk, in that the proposed development is partially located in a coastal flood plain, the proposal does not meet any of the stated exceptions where development in the flood plain is acceptable, and it is not of overriding regional importance.
5. The proposal is contrary to Policy FLD 3 of Planning Policy Statement 15: Planning and Flood Risk, in that it has not been demonstrated through a Drainage Assessment that adequate measures will be put in place to effectively mitigate the flood risk to the proposed development and development elsewhere.
6. The proposal is contrary to paragraph 6.176 of the Strategic Planning Policy Statement for Northern Ireland and Policy NH1 of Planning Policy Statement 2: Natural Heritage, in that the site lies adjacent to a proposed Special Protection Area / Ramsar Site (Carlingford Lough extension) and it has not been demonstrated that the proposal will not have a likely significant effect on this European designated site.
7. The proposal is contrary to paragraph 6.183 of the Strategic Planning Policy Statement for Northern Ireland and Policy NH3 of Planning Policy Statement 2: Natural Heritage, in that the site is in proximity to Kilkeel Steps ASSI and it has not been demonstrated that the proposal is not likely to have an adverse effect on the integrity of the ASSI, or that mitigation measures will be undertaken.
8. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21: Sustainable Development in the Countryside, in that the proposal would, if

permitted, result in the creation of ribbon development along the coastal laneway.

- 9. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21: Sustainable Development in the Countryside, in that it would result in a suburban style build-up of development when viewed with existing buildings, would create a ribbon of development, and would therefore result in a detrimental change to the rural character of the countryside.

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date:**

**ANNEX 2**



Tel: 0284 4175 2212  
 Tel: 028 4175 2968  
 Mobile: 095 2205 7200  
 Email: info@jfspeersandson.co.uk  
 Address: 79 Greencastle street  
 Killest BT34 4BH



**Leestone Road**  
 Killeel, BT34 4NW

- Land Type: Residential Development Land
- Development Land
- Outline Planning Permission
- Size: Circa 1 acres

# Description

A stunning beach front site with outline planning permission for 9 No. Holiday homes. Within walking distance to holiday and shopping amenities. Beautiful sea and mountain views.





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 Killybegs, BT34 4BN



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### **ANNEX 3**

*FLD 1 – Development in Fluvial and coastal Flood Plains – the Flood Hazard Map (NI) indicates that a portion of the development lies within the 1 in 200 coastal flood plain. DfI Rivers would consider that this proposal is contrary to PPS15, Planning and Flood Risk, FLD 1 and would object to any such development taking place.*

*In accordance with PPS15, FLD 1, development will only be suitable to that part of the site which is found to be outside the determined flood plain. Any development intended within the Q200 flood plains will require the Planning Authority to deem the application to be an exception (through meeting one of the exceptions listed under the exceptions heading of PPS15 FLD 1) before DfI Rivers will appraise the Flood Risk Assessment.'*

**ANNEX 4**

**Diane Coulter**

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**From:** gareth.kerr@nmandd.org  
**Sent:** 13 March 2018 16:40  
**To:** Diane Coulter  
**Subject:** LA07/2017/1625/F - 8 self-catering units adjacent to 77 Leestone Road, Kilkeel

Diane,

I have taken over the above application and have now carried out a site inspection. It appears that the previous permission (Refs: P/2010/1055/O and P/2014/0408/RM) has lapsed, so the proposal must be looked at afresh and in light of the policies now prevailing. The introduction of the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Revised Planning Policy Statement 15 are particularly relevant. Part of the site is within the 1 in 200 year coastal flood zone and therefore Rivers Agency objects to the development. It does not appear to fall within any of the exceptions permitted under policy FLD1 of PPS15, even if a Flood Risk Assessment was undertaken. As this is an eroding coastline and subject to flooding, the proposal is also contrary to the new coastal policy of the SPPS. The Council considers that these issues cannot be overcome and are likely to result in refusal of the application.

I also wish to highlight a number of other issues that remain to be addressed:

- TransportNI has pointed out that the red line boundary of the site does not adjoin a public road. The red line would need to be extended to where the coastal laneway meets Leestone Road in order to demonstrate suitable means of access.
- Rivers Agency requires a Drainage Assessment under policy FLD3 to demonstrate that surface water discharge from the development will not exceed pre-development run-off rates.
- There are potential impacts on designated sites and protected species. The Marine and Fisheries Division may require mitigation measures, specifically in relation to seals.
- In order to complete a Habitats Regulations Assessment for the proposal, the Council would require details of any proposed coastal protection works, details of any proposed works within the marine environment (including drainage) and details of pollution prevention measures to protect the water environment both during construction and thereafter.
- A Preliminary Ecological Appraisal is required by Natural Environment Division.

To be clear, the Council is **NOT** requesting all of the above information as we do not wish to put you to the expense of preparing it given the likely outcome of refusal. However, for completeness and without prejudice, I would ask you under Article 3 (6) of the Planning (General Development Procedure) Order (Northern Ireland) 2015 to submit **four copies of an amended site location map with the red line extended to meet the public road. This will ensure that any potential appeal of the decision can be heard and is not rejected as invalid. Please note that it is essential that the information is submitted as soon as possible and no later than 4th April 2018.** If no information is received, the application will be determined based on the submitted plans.

Thank you for your co-operation in this matter and if you have any queries please do not hesitate to contact me.

Regards,

**Gareth Kerr** MRTPI  
 Planning Officer  
 Newry, Mourne and Down District Council  
 O'Lagan House, Monaghan Row, Newry, BT35 8DJ  
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 Tel: 0300 200 7830

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**TRACKING ACTION SHEET ARISING FROM PLANNING COMMITTEE MEETINGS**

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
		<b>PLANNING MEETING - 09 MAY 2018</b>			
LA07/2017/1326/ F	Peter Morgan - dwelling and garage on a farm - 30m south of 28 Bog Road, Kilcoo	<b>Remove from the addendum list at the request of Councillor Clarke in order for the applicant to have an office meeting with Planning Officers</b>	Annette McAlarney	Meeting has been convened with applicant on 31 May 2018. Application will be returned to August meeting	N
P/2014/0427/0	Joseph McGivern - site for dwelling to the rear and south of 2 Berkley Grove, Warrenpoint	<b>Remove from the agenda to allow for further discussion with Planning Officers</b>	Jacqui McParland	Agent has submitted additional information to address roads issues. 13 <sup>th</sup> June 2018. Reconsult TNI.	N
LA07/2017/1478/ F	Mr P Bloomfield - infill dwelling -40m south of 64 The Heights, Loughinisland, Down	<b>Defer Planning Application LA07/2017/1478/F for a period of 3 months to allow Planners time to reconsider their recommendation in the event</b>	Annette McAlarney	<b>3 months expires on 9 August 2018. When site will be checked for</b>	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
LA07/2017/1624/ 0	Thomas Stevenson - replacement dwelling -50m NW of 18 Turlough's Hill, Annalong	that the adjacent dwelling that had already been granted planning permission had commenced building works and was built to a suitable level.  Also agreed to delegate the final decision to Planning Officers after the expiry of the 3 month period.	Jacqui McParland	progress on building works.	N
LA07/2017/1186/	Wolfhill Developments	Defer Planning Application	J McParland	Agent has submitted a H&S Report. No additional case for need submitted. Dept has requested this again - 11 <sup>th</sup> June 2018.	Meeting held  N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
F	Ltd - change of use and conversion of part of former school building - 4 Lurgancanty Road, Clontarfleece, Warrenpoint	<b>LA07/2017/1186/F to allow for a meeting to take place between the Applicant and Planning Officers to discuss revised design issues.</b>  <b>Agreed to delegate the issue of the final decision on the application to Planning Officers.</b>		with applicant and agent. Resubmission received on the 6 <sup>th</sup> June 2018. Awaiting assessment.	
LA07/2017/1721/ F	Millvale Services Ltd - proposed parking for neighbouring Millvale Service Station - Millvale Road, Bessbrook	<b>Defer Planning Application LA07/2017/1721/F to allow for a Health and Safety Report / Road Traffic Report to be conducted as soon as possible and report back to Committee for further consideration of the application.</b>	Pat Rooney	<b>21 day letter issued to agent requesting the said information. Expiry date for info is 9.7.18.</b>	N
<b>PLANNING MEETING - 6 JUNE 2018</b>					
LA07/2016/1632/	Jason Fegan - proposed	<b>Defer for a site visit</b>		<b>Awaiting SV.</b>	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
0	farm dwelling - lands 45m NW of No. 12 Upper Knockbarragh Road, Warrenpoint.				
LA07/2017/1030/ 0	Michael Tinnelly - site for 100 bedroom hotel and spa - 200m east of No. 25 Greenpark Road, Rostrevor.	<b>Defer application so that the agent/applicant/Planning Consultant can meet with the SPTO to identify what outstanding information has to be submitted to allow Planners and HED to make an informed assessment and opinion on the application. As it is a major application it be brought back to the Committee in due course</b>	Jacqui McParland	<b>Held meeting on the 14<sup>th</sup> June with agent. Discussed what was required. Allowing 28 days for submission. Aim to get it back to committee in September 18.</b>	N
LA07/2018/0398/ 0	Shea McAnulty - proposed infill gap site for a new dwelling and detached garage - lands between No. 5 and 5a Cons Lane, Newry	<b>Application removed from the schedule for further consideration by Planners</b>	Andrew Davidson	<b>Agent has to supply information regarding proposal to Planning Department by 28.6.19.</b>	N



Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
		<b>PLANNING MEETING - 4 JULY 2018</b>			
LA07/2017/1797/ F	Ann Herron - conversion of windmill stump to dwelling to include single storey rear extension and associated site works - land 20m south and adjacent to 25 Saintfield Road, Crossgar	<b>Defer application for further discussions with agent/applicant and planning officers with a view to the agent submitting a more satisfactory design - if the opinion remains a refusal the application to be brought back to the September Committee Meeting for determination</b>	Annette McAlamey		N
LA07/2018/0394/ F	NIHE (South Region) - proposed single storey front, side and rear extension - 1 Seaview, Ardglass	<b>Defer application for further discussion between agent and planning officers in relation to green space and design issues - if the opinion remains a refusal the application to be brought back to Committee for determination</b>	Annette McAlamey		N