



June 4th, 2018

Notice Of Meeting

You are invited to attend the Planning Committee Meeting to be held on **Wednesday, 6th June 2018** at **10:00 am** in **Boardroom, Monaghan Row.**

The Members of the Planning Committee are:-

Councillor C Casey

Councillor W Clarke

Councillor G Craig

Councillor L Devlin

Councillor G Hanna

Councillor V Harte

Councillor M Larkin

Councillor K Loughran

Councillor J Macauley

Councillor D McAteer

Councillor M Murnin

Councillor M Ruane

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 12 - LA07/2016/1632/0 - Jason Fegan - **Councillors Harte and Loughran** were absent for the first presentation on 8 November 2017 and **Councillor McAteer** left the meeting prior to this application being presented; they cannot therefore take part in the discussion/decision on this application.

Minutes for Confirmation

4.0 **Minutes of Planning Committee Meeting held on Wednesday 9 May 2018. (Attached).**

 *Planning Minutes - 9 May 2018.pdf*

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For Discussion/Decision

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

 *Addendum list - 06-06-2018.pdf*

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Development Management - Planning Applications for determination

6.0 **LA07/2017/0115/F - Newry, Mourne and Down District Council - Environmental improvement works/scheme to include resurfacing, street lighting, car parking/loading bays and rationalizing of street furniture, on lands along Irish Street (14-65) and at the start of John Street (No.6-8), Downpatrick. (Case Officer report attached).**

Rec: APPROVAL

- Addendum list

 *LA07-2017-0115-F NMDDC.pdf*


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7.0 **LA07/2018/0452/F - Newry, Mourne and Down District Council -**

off site replacement changing rooms and toilet pavilion with associated works - 120m east of Household Recycling Centre, Bann Road, Castlewellan. (Case Officer report attached).

Rec: APPROVAL

- Addendum list


 *LA07-2018-0452-F NMDDC.pdf*

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8.0 LA07/2017/1380/0 - Robert McBriar - dwelling and garage - 26m west of No. 45 Manse Road, Crossgar. (Case Officer report attached).

Rec: REFUSAL

- Addendum list

 *LA07-2017-1380-O Robert McBriar.pdf*

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9.0 LA07/2017/1773/F Carole Trueman - change of use to 6 No. self-contained dwelling units with alterations at No. 17 Church Street, Downpatrick. (Case Officer report attached).

Rec: REFUSAL

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

 *LA07-2017-1773-F Carole Trueman.pdf*

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 *Item 9 - submission of support (Carole Trueman).pdf*

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10.0 LA07/2018/0042/F - Ciaran O'Higgins - farm dwelling and garage - adjacent to No. 46 Bann Road, Castlewellan. (Case Officer report attached).

Rec: REFUSAL

- Addendum list

 *LA07-2018-0042-O Ciaran O'Higgins.pdf*

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11.0 LA07/2016/1564/F - John McAleavey - Laneway Lodge Riding Centre - proposed conversion of existing hay loft into tourist accommodation - 6 Leitrim Road, Hilltown, Newry. (Case

Officer report attached).

Rec: REFUSAL

- Addendum list - **Councillor McAteer and Councillor Hanna have requested that this application be removed from the addendum list for full presentation at the next Committee Meeting**


 *LA07-2016-1564-F John McAleavey.pdf*

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12.0 LA07/2016/1632/0 - Jason Fegan - proposed farm dwelling - lands 45m NW of No. 12 Upper Knockbarragh Road, Warrenpoint. (Case Officer report attached).

Rec: REFUSAL

- A request for speaking rights has been received from Colin D'Alton, agent, and Jason Fegan, applicant, in support of the application. **(Submission attached).**

 *LA07-2016-1632-O Jason Fegan.pdf*

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 *Item 12 - submission of support (J Fegan).pdf*

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13.0 LA07/2017/1030/0 - Michael Tinnelly - site for 100 bedroom hotel and spa - 200m east of No. 25 Greenpark Road, Rostrevor. (Case Officer report attached).

Rec: REFUSAL

- A request for speaking rights has been received from Mr M Graham of White Young Green and Mr A Bunbury of Park Hood Landscape Architects, in support of the application. **(Submission attached).**

 *LA07-2017-1030-O Miceal Tinnelly.pdf*

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 *Item 13 - submission of support (Michael Tinnelly).pdf*

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 *Item 13 - additional report (Michael Tinnelly).pdf*

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14.0 LA07/2018/0197/0 - Martin McAvoy - 2 new dwellings within an infill site - lands 21m to the east of No. 4 Carmeen Road, Hilltown, Newry. (Case Officer report attached).

Rec: REFUSAL

- Addendum list - **Councillor Casey has asked that this application be removed from the addendum list for full presentation at the next Committee Meeting**

15.0 LA07/2018/0240/F - Cormac McGarvey - erection of dwelling and garage - 150m NE of No. 12 Coach Road, Newtownhamilton. (Case Officer report attached).

Rec: REFUSAL

- The agent has confirmed that this application is being withdrawn from the planning process via email dated 30-05-2018.

LA07-2018-0240-F Cormac McGarvey.pdf

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16.0 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. (Case Officer report attached).

Rec: REFUSAL

- A request for speaking rights has been received from Damian Morris, O'Hagan and Associates, agents, in support of the application. **(Submission attached).**

LA07-2018-0398-O Shea McAnulty.pdf

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Item 17 - submission of support (S McAnulty).pdf

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17.0 LA07/2018/0408/0 - John Cranny - replacement dwelling - 52m east of 17 Moneymore Road, Newry. (Case Officer report attached).

Rec: REFUSAL

- Addendum list

LA07-2018-0408-O John Cranny.pdf

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18.0 LA07/2018/0395/0 - Mr and Mrs B Duffy - infill site for proposed dwelling and garage - field SE of 23 Cloghinny Road, Forkhill. (Case Officer report attached).

Rec: REFUSAL

- A request for speaking rights has been received from John Harkness, agent, Milligan, Reside, Larkin Ltd, in support of the application. **(Submission attached).**

LA07-2018-0395-O Mr and Mrs B Duffy.pdf

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For Noting

19.0 Historic Tracking Sheet. (Attached).

 *Planning HISTORIC ACTION SHEET.pdf*

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20.0 May 2018 Planning Committee Performance Report. (Attached).

 *Planning Performance Report .pdf*

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21.0 Record of Meetings between Planning Officers and Public Representatives. (Attached).

 *Record of Meetings Report.pdf*

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22.0 May 2018 Appeals and Decisions. (Attached).

 *Current Appeals and Decisions issued in May 2018.pdf*

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23.0 For information - schedule of dates for Planning Committee Meetings from June 2018 to April 2019. (Attached).

 *Schedule of meeting dates - May 2018-April 2019.pdf*

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Invitees

Cllr Terry Andrews	terry.andrews@nmandd.org
Cllr Naomi Bailie	naomi.bailie@nmandd.org
Cllr Robert Burgess	robert.burgess@nmandd.org
Cllr Pete Byrne	pete.byrne@nmandd.org
Cllr Michael Carr	michael.carr@nmandd.org
Cllr charlie casey	charlie.casey@nmandd.org
Cllr William Clarke	william.clarke@nmandd.org
Cllr Garth Craig	garth.craig@nmandd.org
Cllr Dermot Curran	dermot.curran@nmandd.org
Ms Alice Curran	alice.curran@nmandd.org
Cllr Laura Devlin	laura.devlin@nmandd.org
Cllr Sean Doran	sean.doran@nmandd.org
Cllr Cadogan Enright	cadogan.enright@nmandd.org
Cllr Gillian Fitzpatrick	gillian.fitzpatrick@nmandd.org
Cllr Glyn Hanna	glyn.hanna@nmandd.org
Mr Liam Hannaway	liam.hannaway@nmandd.org
Cllr Valerie Harte	valerie.harte@nmandd.org
Cllr Harry Harvey	harry.harvey@nmandd.org
Cllr Terry Hearty	terry.hearty@nmandd.org
Cllr Roisin Howell	roisin.howell@nmandd.org
Cllr David Hyland	david.hyland@nmandd.org
Mr Colum Jackson	colum.jackson@nmandd.org
Mrs Sheila Kieran	sheila.kieran@nmandd.org
Cllr Liz Kimmins	liz.kimmins@nmandd.org
Cllr Mickey Larkin	micky.larkin@nmandd.org
Cllr Kate Loughran	kate.loughran@nmandd.org
Cllr Jill Macauley	jill.macauley@nmandd.org
Colette McAteer	colette.mcateer@nmandd.org
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Cllr Oksana McMahan	oksana.mcmahan@nmandd.org
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Eileen McParland	eileen.mcparland@nmandd.org
Ms Carmel Morgan	carmel.morgan@nmandd.org
Cllr Roisin Mulgrew	roisin.mulgrew@nmandd.org
Cllr Mark Murnin	mark.murnin@nmandd.org
Cllr Barra O Muiri	barra.omuiri@nmandd.org
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Cllr Henry Reilly	henry.reilly@nmandd.org
Cllr John Rice	john.rice@nmandd.org
Cllr Michael Ruane	michael.ruane@nmandd.org

Cllr Michael Savage	michael.savage@nmandd.org
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Sarah Taggart	sarah-louise.taggart@nmandd.org
Cllr David Taylor	david.taylor@nmandd.org
Cllr Jarlath Tinnelly	jarlath.tinnelly@nmandd.org
Cllr John Trainor	john.trainor@nmandd.org
Cllr William Walker	william.walker@nmandd.org
Mrs Marie Ward	marie.ward@nmandd.org

NEWRY, MOURNE & DOWN DISTRICT COUNCIL**Minutes of the Planning Committee Meeting of Newry Mourne and Down District Council held on Wednesday 9 May 2018 at 10.00am in the Boardroom, District Council Offices, Monaghan Row, Newry****Chairperson:** Councillor G Craig**Deputy Chairperson:** Councillor K Loughran**In attendance: (Committee Members)**Councillor C Casey
Councillor W Clarke
Councillor L Devlin
Councillor G HannaCouncillor J Macauley
Councillor M Murnin
Councillor D McAteer
Councillor M Ruane**(Officials)**

Ms M Ward

Director- Enterprise, Regeneration & Tourism

Mr A McKay

Chief Planning Officer

Mr P Rooney

Principal Planning Officer

Ms A McAlarney

Senior Planning Officer

Ms J McParland

Senior Planning Officer

Mr A Davidson

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/037/2018: APOLOGIES AND CHAIRPERSON'S REMARKS

Apologies were received from Councillors Larkin and Harte.

Councillor Craig asked that sympathy be extended from the Committee to Councillor Larkin on the tragic death of his eldest son in a construction accident the previous week.

Councillor Craig also acknowledged this was his last Planning Committee Meeting as Chairperson of the Committee and thanked Deputy Chairperson, Councillor Loughran, for her support. He also thanked the staff, in particular Mr McKay and the Planning Officials and Ms McAteer for their hard work throughout the year. He wished Councillor Larkin and Councillor McAteer well in their roles as Chairperson and Deputy Chairperson for the 2018/19 term.

P/038/2018: DECLARATIONS OF INTEREST

No declarations were received

P/039/2018: DECLARATIONS IN ACCORDANCE WITH PLANNING COMMITTEE PROTOCOL PARA. 19 – MEMBER TO BE PRESENT FOR ENTIRE ITEM

- **Item 6 – P/2014/0427/0** – Joseph McGivern – **Councillors Murnin and Devlin** were not present for the first presentation, therefore could not take part in the discussion/decision on this application.

P/040/2018: MINUTES OF PLANNING COMMITTEE MEETING HELD ON WEDNESDAY 11 APRIL 2018

Read: Minutes of Planning Committee Meeting held on Wednesday 11 April 2018. **(Copy circulated)**

AGREED: **On the proposal of Councillor Ruane seconded by Councillor McAteer it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 22 April 2018 as a true and accurate record.**

FOR DISCUSSION/DECISION

P/041/2018: ADDENDUM LIST

Read: Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 11 April 2018 **(Copy circulated)**

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

- **Item 11 – LA07/2017/1326/F** – Peter Morgan – Dwelling and garage on a farm – 30m south of 28 Bog Road, Kilcoo. **REFUSAL – Removed from the addendum list at the request of Councillor Clarke in order for the applicant to have an office meeting with Planning Officers.**

P/042/2018: PLANNING APPLICATIONS FOR DETERMINATION

AGREED: **On the advice of the Chief Planning Officer it was unanimously agreed to withdraw the following planning application from the schedule:-**

- **Item 6 – P/2014/0427/O** – Joseph McGivern - site for dwelling to the rear and south of 2 Berkley Grove, Warrenpoint – **removed from the agenda to allow for further discussion with Planning Officers.**

The following applications were then determined by the Committee:-

(1) LA07/2017/0426/F – Norman McBriar & Son**Location:**

37 Saintfield Mill, Saintfield

Proposal:

Proposed change of use from ground floor commercial unit to funeral home

Conclusion and Recommendation from Planning Official:

Approval

Speaking rights:

Ellenmarie Ward presented in objection to the application detailing and expanding upon her written submission that had been circulated to Committee Members

Speaking rights:

Mark McBriar and Barry Spiers presented in support of the application detailing and expanding upon their 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; photographs from various critical views of the site and proposed site layout, plans and elevations.

Ms Ward requested that Planning Application LA07/2017/0426/F be adjourned as she believed the process had been flawed in that notification letters had originally been sent to incorrect addresses and most residents had not been aware of the proposed development. She said she also believed that parking was an issue that would have to be considered.

Councillor Craig stated that this application had already been adjourned and it was established that notification letters of proposed works had subsequently been received by relevant parties.

Councillor Hanna proposed and Councillor Macauley seconded that Planning Application LA07/2017/0426/F be heard and not adjourned for a further period.

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

For:	9
Against:	0
Abstentions:	1

The proposal was declared carried.

AGREED: On the proposal of Councillor Hanna seconded by Councillor Macauley it was agreed that Planning Application

LA07/2017/0426/F be heard by the Planning Committee and not adjourned for a further period.

During discussion it was established that although there were limited parking spaces - 5 spaces for the apartment residents and 5 for funeral home staff and visitors, the funeral vehicles would use the basement area and would not park at either the front of the building or in any of the parking spaces designated for the apartments.

Councillor McAteer said this was an unusual case and a balance was needed to ensure that the residents' right to enjoy their living accommodation was not compromised, whilst also maintaining respect for the deceased. He asked if an assessment had been conducted to address the possibility of the residents' way of life being altered as a result of this planning application being approved.

Ms McAlarney replied that the necessary assessments had been conducted and they were satisfied with the outcome. She said she understood the nature of the proposed development could have an effect on residents.

In response to a query regarding the opening times, Mr McBriar replied that normal working hours would be Monday – Friday 9am – 5pm, however there may be a requirement to work outside of these hours if staff got a call out to make a collection. He said there had never been a health and safety issue with regard to the embalming process in the nineteen years the company had been in business.

Mr McBriar said special attention had been made to eliminate any impact noise from transferring to the residential accommodation above. Suspended ceilings would be installed; in addition, the underside of the floor would be soundproofed for any airborne noise. He said as it was a commercial property, bison slabs would be used to further soundproof and they would be putting an extra 2' of insulation than normally required.

Councillor Murnin proposed and Councillor Hanna seconded to issue an approval in respect of Planning Application LA07/2017/0426/F as per the information and recommendation in the Case Officer report presented to Committee.

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

For:	8
Against:	0
Abstentions:	2

The proposal was declared carried.

AGREED: On the proposal of Councillor Murnin seconded by Councillor Hanna it was agreed to issue an approval in respect of Planning Application LA07/2017/0426/F as

per the information and recommendation in Case Officer report presented to Committee.

(2) LA07/2018/0180/F – Derek and Rachel Elmore
(Not audio recorded)

Location:

Directly opposite and east of Nos. 1 and 1a Alexander Drive, Warrenpoint

Proposal:

1 No. detached dwelling

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

Maureen McParland on some issues of concern re: the application

Speaking rights:

Colin McCaul, presented in objection to the application detailing and expanding upon his written submission that had been circulated to Committee Members.

Speaking rights:

DEA Councillor M Carr, presented in objection to the application detailing and expanding upon his written submission that had been circulated to Committee Members.

Speaking rights:

Barney Dinsmore, agent, presented 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; photographs from various critical views of the site and proposed site layout, plans and elevations.

Mr McCaul, in objecting said the proposed dwelling would result in the loss of recreational area, it would be out of character and would exacerbate the limited parking and turning space available.

DEA Councillor Carr concurred with Mr McCaul and said he agreed with the residents who were objecting to this proposal.

Ms McParland said she had no issue with planning permission being granted for this dwelling, her only concern was that she needed clarification on her boundary.

In response to a query from Councillor Hanna as to the ownership of the open green space in the development, Mr McCaul replied that this had recently been purchased by the developer.

Councillor Hanna proposed and Councillor Murnin seconded to issue a refusal in respect of Planning Application LA07/2018/0180/F as per the information and recommendation in the Case Officer report presented to Committee.

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

FOR: 7
AGAINST: 3
ABSTENTIONS: 0

The proposal was declared carried.

AGREED: On the proposal of Councillor Hanna seconded by Councillor Murnin it was agreed to issue a refusal in respect of Planning Application LA07/2018/0180/F as per the information and recommendation in the Case Officer report presented to Committee.

(3) LA07/2017/0825/RM – Education Authority of NI

Location:

Lands located between and accessed from Strangford Road and Quoile Road and adjacent to former Down District Council Offices at Strangford Road, Downpatrick

Proposal:

Post primary school, ancillary sports pitches and car parking together with all associated site works including landscaping, accesses (Strangford Road and Quoile Road) and off site road improvements (outline approval R/2009/0476/0)

Conclusion and Recommendation from Planning Official:

Approval

Speaking rights:

Sarah McDowell, agent, presented in support of the application detailing and expanding upon her 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; photographs from various critical views of the site; map showing the location of the historic graveyards; access details and the proposed layout and landscaping plan.

Councillor Murnin asked for more clarification on the historic graveyard that made up a portion of the proposed site and asked if the recommended conditions were robust enough.

Ms McAlarney advised it was proposed to install the main access route to the school through the graveyard and consequently the human remains would have to be relocated to another nearby site. She said a full archaeological evaluation and assessment would be conducted in advance of the development commencing and the proposed standard conditions recommended could be tightened up with HED if necessary.

Councillor Casey asked if the playing fields were for the exclusive use of the schools or would it be open to the wider community.

Ms McDowell replied that it would be just for the use of the school.

Councillor McAteer enquired as to potential concerns with regard to part of the site being located within a flood plain.

Ms McAlarney replied that a small portion of the proposed pupils' bus stop was within the 1 in 100 fluvial flood plain, however DFI Rivers had no objections. She continued, saying that a flood evacuation plan and flood warning procedures could be put in place and included in the conditions.

AGREED: On the proposal of Councillor Hanna seconded by Councillor Clarke it was unanimously agreed to issue an approval in respect of Planning Application LA07/2017/0825/RM as per the information and recommendation in the Case Officer report presented to Committee.

It was also agreed Planning Officers be granted authority to delegate any relevant conditions.

(4) LA07/2017/1204/0 – Mr N Davis

Location:

Adjacent to and NW of 12 Brae Road, Ballynahinch

Proposal:

Site for farm dwelling

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

William Wallace, agent, presented in support of the application detailing and expanding upon the 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; photographs from various critical views of the site and DAERA farm map.

Mr Wallace said the application had been made under Policy CTY10 and not Policy CTY6. During discussion Ms McAlarney stated that under Policy CTY10, it would be necessary to demonstrate active farming rather than just demonstrating that the ground had been maintained.

Mr Wallace said the applicant had let his land out in conacre.

Ms McAlarney said she was not aware of this.

Councillor Clarke asked if receipts for maintenance work carried out had been submitted or if there were any veterinary bills and evidence to substantiate the horse breeding business.

Mr Wallace replied that no such evidence had been submitted; however letters of support had been submitted albeit some of these were not dated.

Ms Coll said if the applicant had the land let out in conacre, this would make him a landowner. She said documentary evidence of all activity would be required to substantiate the applicant's claims.

Mr McKay said the policy hinged on whether this was an active farm business and he said there was a difference between maintaining a farm and maintaining land, and it had not been demonstrated that this was an active farm business.

Councillor McAteer proposed and Councillor Ruane seconded to issue a refusal in respect of Planning Application LA07/2017/1204/O as per the information and recommendation in the Case Officer report presented to Committee.

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

FOR:	9
AGAINST:	0
ABSTENTIONS:	1

The proposal was declared carried.

AGREED: On the proposal of Councillor McAteer seconded by Councillor Ruane it was agreed to issue a refusal in respect of Planning Application LA07/2017/1204/O as per the information and recommendation in the Case Officer report presented to Committee

(5) LA07/2017/1258/0 – Derek Jackson**Location:**

Adjacent to 18 Templeburn Road, Crossgar

Proposal:

Farm dwelling and garage

Conclusion and Recommendation from Planning Official:

Refusal

Noted:

Councillor Harvey had advised of his support for this application.

Speaking rights:

David Burgess, agent and Peter Jackson, presented in support of the application detailing and expanding upon their 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; photographs from various critical views of the site and DAERA farm map.

Mr Burgess advised the applicant now proposed to use a newly suggested access through the existing stack yard entrance.

Ms McAlarney advised the Committee that this information had been received just prior to the meeting and it was up to the Committee to decide whether or not to accept the information.

Councillor Murnin proposed and Councillor Hanna seconded to issue an approval in respect of Planning Application LA07/2017/1258/O contrary to officer recommendation on the basis that access to the dwelling would be via the existing stack yard entrance.

Mr McKay asked the Committee to consider the fact that this entrance would mean the dwelling would not have access to a public road and there may be health and safety issues to be considered with this proposal which involved a working farm.

There was some discussion regarding potential health and safety issues of having the access to the dwelling via the stack yard entrance, however the Committee was satisfied that this would not be a health and safety concern.

AGREED: It was unanimously agreed to issue an approval in respect of Planning Application LA07/2017/1258/O contrary to officer recommendation on the basis that access to the dwelling would be via the existing stack yard entrance and therefore the Committee were satisfied there were no health and safety concerns.

(6) LA07/2017/1478/F – Mr P Bloomfield**Location:**

40m south 64 The Heights, Loughinisland, Downpatrick

Proposal:

Infill dwelling

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

Ewart Davis, 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; photographs from various critical views of the site and proposed plans.

Councillor Hanna proposed and Councillor Macauley seconded to issue a refusal in respect of Planning Application LA07/2017/1478/F as per the information and recommendation in the Case Officer report presented to Committee.

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

FOR: 3
AGAINST: 4
ABSTENTIONS: 3

The proposal was declared lost.

Councillor Murnin proposed and Councillor Clarke seconded to defer Planning Application LA07/2017/1478/F for a period of 3 months to allow Planners time to reconsider their recommendation in the event that the adjacent dwelling that had already been granted planning permission had commenced building works and was built to a suitable level.

Ms Coll stated that it was not the responsibility of the Planning Committee to try to resolve problems relating to Planning Application LA07/2017/1478/F if they deemed it had been submitted too early.

Mr McKay stated the Planning Department had statutory targets to meet and, the Committee, by not coming to a decision did not help the Department in reaching these targets and furthermore it may set a tone that others could avail of.

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

FOR: 7
AGAINST: 0
ABSTENTIONS: 3

The proposal was declared carried.

AGREED: On the proposal of Councillor Murnin seconded by Councillor Clarke it was agreed to defer Planning Application LA07/2017/1478/F for a period of 3 months to allow Planners time to reconsider their recommendation in the event that the adjacent dwelling that had already been granted planning permission had commenced building works and was built to a suitable level.

It was also agreed to delegate the final decision to Planning Officers after the expiry of the 3 month period.

(7) LA07/2017/1712/F – Orlock Ltd

Location:

Site adjacent and south of 1 Rowallane Close, Saintfield

Proposal:

Alterations to access, removal of conditions 7 & 8 (Landscaping & Buffer Planting) of planning approval R/2013/0037/F and amendments to siting of approved dwellings (Amended description and plans)

Conclusion and Recommendation from Planning Official:

Approval

Noted:

Written letters of objection has been received from Gary and Angela Hutchinson; Nathan Scott; Stephanie Murray; D McGowan; John Haughey and Mrs S Sloan.

Speaking rights:

Adrian Murray presented in objection to the application detailing and expanding upon his written submission that had been circulated to Committee Members.

Speaking rights:

Andy Stephens, Matrix Planning presented in support of the application detailing and expanding upon his written submission that had been circulated to Committee Members

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

Discussion took place regarding the Certificate of Lawful Development that had previously been approved for the existing hard-standing at the proposed site. Mr McKay stated the certificate had been granted on the basis of submitted documentary evidence and in planning terms this application should be approved.

Councillor Hanna proposed and Councillor Macauley seconded to accept the Officers recommendation in respect of Planning Application LA/2017/1712/F as per the information and recommendation in the Case Officer report presented to Committee.

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

FOR: 7
AGAINST: 3
ABSTENTIONS: 0

The proposal was declared carried.

AGREED: On the proposal of Councillor Hanna seconded by Councillor Macauley it was agreed to issue an approval in respect of Planning Application LA07/2017/1712/F as per the information and recommendation in the Case Officer report presented to Committee.

(Lunch 1.15pm – 1.50pm)

(8) LA07/2017/1624/0 – Thomas Stevenson
(Not audio recorded)

Location:

50m NW of 18 Turloughs Hill, Annalong

Proposal:

Replacement dwelling

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

Johnnie Agnew, agent, presented in support of the application detailing and expanding upon his written submission that had been circulated to Committee Members.

Mr McKay, Chief 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.

AGREED: On the proposal of Councillor Macauley seconded by Councillor Hanna it was unanimously agreed to defer Planning Application LA07/2017/1624/O to allow time for the agent to provide more documentary evidence regarding issues raised by Committee Members including the need for a health and safety report on access through the farmyard and also the case of need for the applicant to be living close to the farm.

(9) LA07/2017/1854/O – Mr J McIlmail

Location:

Land contained between 71 & 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 McAlarney, Senior Planning Officer, gave a power-point presentation on the application, with supporting information including location of the site; site location plan; an aerial view of the site and photographs from various critical views around the site.

Discussion took place regarding the plot size of the proposed site and whether the gap respected the existing development pattern along the built up frontage in terms of size, scale siting and plot size.

The Chairperson suggested a site visit take place to establish the character of the neighbouring houses.

Councillor Clarke proposed and Councillor Murnin seconded to defer Planning Application LA07/2017/1854/O to allow for a site visit to take place to determine the character of the neighbouring houses.

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

FOR:	9
AGAINST:	0
ABSTENTIONS:	1

The proposal was declared carried.

AGREED: On the proposal of Councillor Clarke seconded by Councillor Murnin it was agreed to defer Planning Application LA07/2017/1854/O to allow for a site visit to take place.

(10) LA07/2017/1186/F – Wolfhill Developments Ltd
(Not audio recorded)

Location:

4 Lurgancanty Road, Clontifleece, Warrenpoint

Proposal:

Change of use and conversion of part of former school building to provide a single detached dwelling including alterations and extensions and provision of an elevated walkway from Carrick Road

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

Colin O'Callaghan, agent, presented in support of the application detailing and expanding upon his written submission that had been circulated to Committee Members.

Mr Rooney, Principal Planning Officer gave a powerpoint presentation on the application, with supporting information including location of the site, site location plan, photographs with various critical views around the site and proposed elevations and floor plans.

AGREED: On the proposal of Councillor Clarke seconded by Councillor McAteer it was unanimously agreed to defer Planning Application LA07/2017/1186/F to allow for a meeting to take place between the Applicant and Planning Officers to discuss revised design issues.

It was also agreed to delegate the issue of the final decision on the application to Planning Officers.

(11) LA07/2017/1721/F – Millvale Services Ltd

Location:

147m SE of 21 Millvale Road, Bessbrook, Newry

Proposal:

Proposed parking for neighbouring Millvale Service Station

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

Jimmy McAdam, agent, presented in support of the application detailing and expanded upon his written submission that had been circulated to Committee members.

Speaking rights:

DEA Councillor Taylor, in support of the application, on the basis of the submission from the agent

Mr Rooney, Principal Planning Officer gave a power-point presentation on the application, with supporting information including location of the site, site location plan, an area plan site and photographs with various critical views around the site.

Discussion took place regarding road safety concerns and visibility issues where large vehicles / lorries parked on a dropped pavement along the road, outside the premises.

Councillor Murnin proposed and Councillor Macauley seconded to issue an approval in respect of Planning Application LA07/2017/1721/F contrary to officer recommendation on the basis that this was an established business in the countryside but that all health and safety concerns would need to be addressed.

Ms Coll advised the Committee they should be aware of the risk should they decide to set aside the Development Plan in making their decision. She suggested that Health and Safety experts conduct an assessment of the proposed site and that traffic monitoring be undertaken. Additionally she said that all four reasons for refusal would need to be addressed should the Committee decide to overturn the planning officers' recommendation.

Councillor Murnin withdrew his original proposal in light of legal advice and amended it as follows:

AGREED: On the proposal of Councillor Murnin seconded by Councillor Macauley it was agreed 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.

(Break 3.35 pm – 3.45pm)

(12) LA07/2017/1764/F – Joe Harvey**Location:**

120m west of 15 Drummuckavall Road, Crossmaglen

Proposal:

Dwelling and detached garage on a farm

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

Karl Sherry, agent, presented in support of the application detailing and expanding upon his written submission that had been circulated to Committee Members.

Andrew Davidson, 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; photographs from various critical views of the site and proposed site layout.

Councillor Macauley proposed and Councillor Devlin seconded to accept the officer recommendation to refuse this planning application.

The proposal was put to a vote and voting was as follows:-

FOR: 9
AGAINST: 1
ABSTENTIONS: 0

The proposal was declared carried.

AGREED: On the proposal of Councillor Macauley seconded by Councillor Devlin it was agreed to issue a refusal in respect of Planning Application LA07/2017/1764/F as per the information and recommendation in the Case Officer report presented to Committee.

(13) LA07/2017/1826/F – Damien Reilly**Location:**

46 Parkview, Newtowncloughogue, Newry

Proposal:

Single storey rear extension

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

John Feehan, agent, presented in support of the application detailing and expanding upon his written submission that had been circulated to Committee Members and also via a power-point made at the meeting.

Andrew Davidson, 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; photographs from various critical views of the site and proposed scheme with dimensions and projections.

The agent emphasised that their proposal was lower than permitted development at eaves height and ridge height and that it only extended 1.9m beyond permitted development.

Mr McKay said there was no shortage of detailed policy guidance about what constituted permitted development and a 5m projection rearwards was not acceptable in planning terms.

Councillor Murnin proposed and Councillor Macauley seconded to accept the officer recommendation to refuse this planning application.

The proposal was put to a vote and voting was as follows:-

FOR: 5
AGAINST: 2
ABSTENTIONS: 3

The proposal was declared carried.

AGREED: On the proposal of Councillor Murnin, seconded by Councillor Macauley, it was agreed to issue a refusal in respect of Planning Application LA07/2017/1826/F as per the information and recommendation in the Case Officer report presented to Committee.

(14) LA07/2018/0034/F – Seamus Gregory

Location:

184 Concession Road, Crossmaglen

Proposal:

2 storey rear extension to existing dwelling

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

Seamus Murphy, agent, presented in support of the application detailing and expanding upon his written submission that had been circulated to Committee Members and also via a power-point made at the meeting.

Andrew Davidson, 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; photographs from various critical views of the site and proposed scheme with dimensions and projections.

The agent advised that there were no objections to the proposed extension from the neighbour living at No. 186.

Ms Coll said whilst this could be noted, there may be future residents at this property who would have to be considered.

Councillor Hanna proposed and Councillor Murnin seconded to accept the officer recommendation to refuse this planning application.

The proposal was put to a vote and voting was as follows:-

FOR: 9
AGAINST: Nil
ABSTENTIONS: 1

AGREED: On the proposal of Councillor Hanna, seconded by Councillor Murnin, it was agreed to issue a refusal in respect of Planning Application LA07/2018/0034/F as per the information and recommendation in the Case Officer report presented to Committee.

FOR NOTING

P/043/2018: PLANNING COMMITTEE MEETING PERFORMANCE REPORT APRIL 2018

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

AGREED: It was agreed to note the Planning Committee Performance Report April 2018.

P/044/2018: MEETINGS BETWEEN PLANNING OFFICERS AND PUBLIC REPRESENTATIVES

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

AGREED: It was agreed to note the record of Meeting between Planning Officers and Public Representatives.

P/2017/2018: APPEALS & DECISIONS

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

AGREED: It was agreed to note the Appeals and Decisions April 2018.

Councillors McAteer, Clarke and Macauley thanked the Chair and Deputy Chair of Committee for their excellent work throughout the year and said they had handled the business of the Committee extremely well, with great fairness and aplomb.

The Meeting concluded at 4.35 pm.

For confirmation at the Planning Committee Meeting to be held on Wednesday 6 June 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 6 June 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 6 - LA07/2017/0115/F** - Newry, Mourne and Down District Council - Environmental improvement works/scheme to include resurfacing, street lighting, car parking/loading bays and rationalizing of street furniture, on lands along Irish Street (14-65) and at the start of John Street (No.6-8), Downpatrick. **APPROVAL**
- **Item 7 - LA07/2018/0452/F** - Newry, Mourne and Down District Council - off site replacement changing rooms and toilet pavilion with associated works - 120m east of Household Recycling Centre, Bann Road, Castlewellan. **APPROVAL**
- **Item 8 - LA07/2017/1380/O** - Robert McBriar - dwelling and garage - 26m west of No. 45 Manse Road, Crossgar. **REFUSAL**
- **Item 10 – LA07/2018/0042/F** – Ciaran O'Higgins – farm dwelling and garage - adjacent to No. 46 Bann Road, Castlewellan. **REFUSAL**
- **Item 11 – LA07/2016/1564/F** – John McAleavey – Laneway Lodge Riding Centre – proposed conversion of existing hay loft into tourist accommodation – 6 Leitrim Road, Hilltown, Newry. **REFUSAL**
- **Item 14 - LA07/2018/0197/O** - Martin McAvoy - 2 new dwellings within an infill site - lands 21m to the east of No. 4 Carmeen Road, Hilltown, Newry. **REFUSAL**
- **Item 17 - LA07/2018/0408/O** – John Cranny – replacement dwelling – 52m east of 17 Moneymore Road, Newry. **REFUSAL**

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ITEM NO	3							
APPLIC NO	LA07/2017/0115/F		Full	DATE VALID	25/01/2017			
COUNCIL OPINION	APPROVAL							
APPLICANT	Newry Mourne and Down DC Civic Centre Ardglass Road Downpatrick BT30 6GQ	Downshire		AGENT	Amey Consulting 46 Cadogan Park Belfast BT9 6HH			
LOCATION PROPOSAL	Public road between 12 Irish Street and 8 John Street Environmental improvement scheme to include resurfacing, street lighting, car parking/loading bays and rationalizing of street furniture (Amended plans received)							
REPRESENTATIONS								
		OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions	Addresses	Signatures	
		0	0	0	0	0	0	



Comhairle Ceantair
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**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2017/0115/F

Date Received: Jan 2017

Proposal: Full planning permission is sought for Environmental improvement works/scheme to include resurfacing, street lighting, car parking/loading bays and rationalizing of street furniture, on lands along Irish Street (14-65) and at the start of John Street (No.6-8), Downpatrick.

Applicant: Newry, Mourne and Down DC.

Location:

The site is located within the boundary of Downpatrick town centre and is also within the Conservation Area as identified in the Ards and Down Area Plan 2015, and comprises the road and public footpaths to either side of the road.

It is also noted this area includes the primary retail core, protected housing and a development opportunity site, with several Listed Buildings in the immediate vicinity of the site.

Site Characteristics & Area Characteristics:

The site outlined in red comprises the public road and footway along Irish Street, extending to the junctions with John Street and Market Street/Church Street to either end. It is noted this stretch of road slopes downhill to Market Street and includes a mix of uses. It is also noted there is on-street parking along this stretch of road along both sides of the road whereby the width of the footpath varies at different points.

Site history

A history search has been carried out for the site and surrounds, whereby it is noted there have been a number of previous applications in the vicinity of the site, however no relevant site history associated with this application was observed.

It is noted works have recently been completed to the former PSNI station which included restoring the site frontage and former footpaths etc, whereby these lands fall within the scope of this current application. There was also a previously approved and implemented environmental improvement scheme along Market St (R/09/0249).

Representations

No representations have been received to date (14-05-18)

Having account the nature of this application and extent of red line neighbour notifications was initially undertaken with a number of properties in Feb 2017, while the application was also advertised in the local press in Feb 2017.

Following receipt of amended plans in April 2018, a further round of neighbour notification was undertaken.

Consultees

Taking into account the location and constraints of the site and nature of this proposal, consultations have been carried out with Historic Environment Division (HED), Environmental Health, and Transport NI who offer no objections in principle. The comments from the respective consultees are noted and it is considered no additional consultations are required to determine this application.

Policy-

RDS, Ards & Down Plan 2015, SPPS, PPS2, PPS3, PPS4, PPS6, PPS7, PPS8, Planning Strategy for Rural NI (PSRNI), and associated guidance including Downpatrick CA guide.

The SPPS came into effect in Sept 2015, whereby the provisions apply to the whole of N.I, and must be taken into account in the preparation of Local Development Plans (LDP) and are material to all decisions on individual planning applications and appeals.

As stated above the site is located within the development limits, town centre, and conservation area of Downpatrick as identified in the Ards and Down Area Plan 2015, whereby this stretch of road includes a number of Listed Buildings.

The policies retained by the recently published SPPS include PPS2 (Natural Heritage), PPS3 (Access, Movement and Parking), PPS4 (Planning and Economic Development), PPS6 (Planning, Archaeology and the Built Environment), PPS7 (Quality Residential Environments) and PPS8 (Open Space, Sport and Outdoor Recreation), whereby it is considered there is no conflict or change in policy direction between the provisions of the SPPS and those listed above.

As such it is considered the above policies remain the applicable policy context to consider the proposed development under.

As stated above this improvement scheme extends along a portion of Irish St, from the junction with Edward St down to the junction of Market St. It is noted this stretch of road slopes downhill towards Market St and includes several listed buildings.

This works include new footpaths with associated kerbs, road re-surfacing, improved parking and loading bays, and street furniture including lighting, bins, seating, planting, railing, and wall.

The footpathing comprises granite slabs (2 colours) with granite sett brick work effect paving, and granite buff coloured tactile paving at crossing points.

This improvement scheme will extend down to adjoin the previously approved scheme along Market St, and will upgrade this street, which is considered will make a positive contribution to the townscape while also being sensitive to the character of this historic area (Conservation Area) as per the requirements of the PSRNI.

The above comprises the latest proposals, which were submitted in April 2018, showing a reduced colour palette. The original scheme submitted in Jan 2017, was considered unacceptable to HED and the Planning Dept.

Following receipt of the amended scheme in April 2018, further comment was sought from the Buildings Unit of Historic Environment Division (HED) and TNI, who are both now content with the proposals, which include 1 colour paving with 2 texture treatments.

It is considered these will not result in any unacceptable impact on the setting of any adjoining/adjacent listed building. TNI also offer no objections and advise a licence agreement will be required.

As outlined above a further round of neighbour notification was undertaken in April (19th) whereby no representations have been received to date.

As such Approval is now recommended.

Recommendation: Approval

(Note: As the applicant is the Council this application is required to be presented to the Planning Committee).

ITEM NO	12	DATE VALID	20/03/2018
APPLIC NO	LA07/2018/0452/F	Full	
COUNCIL OPINION	APPROVAL	AGENT	
APPLICANT	Newry Mourne & Down District Council Downshire Civic Centre Ardglass Road Downpatrick BT30 6GQ		
LOCATION	120 metres east of Household Recycling Centre Bann Road Castlewellan BT31 9AA		
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions
	0	0	0
PROPOSAL	Addresses	Signatures	Addresses
Off site replacement changing rooms & toilet pavilion with associated works	0	0	0
	Signatures	Addresses	Signatures
	0	0	0



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**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2018/0452/F

Date Received: 29.03.2018

Proposal: Off-site replacement changing rooms & toilet pavilion with associated works

Location: 120 metres east of Household Recycling Centre, Bann Road, Castlewellan, BT31 9AA

Site Characteristics & Area Characteristics:

The application site is located within the 'Castlewellan football pitches' with the eastern boundary of the site abut to the residential development of Forest View Park however falls just outside Downpatrick settlement limit.

The site is accessed from the Bann Road through an established access. The site consists of an informal car park area, football pitch and a single storey, flat roofed detached changing pavilion along the eastern boundary. Access to the pavilion is via a concrete ramp or steps. To the rear of the building is the eastern boundary of the site which is shared with the properties of Forest Park View. The dwellings of No 14, 12, 11, 10, 9, 8 and 7 Forest Park View share their rear boundary with the site. This boundary varies in definition from hedges to fencing. The red line of the site is confined to the access, the car park and the pavilion.

The surrounding area can be classified as a mixture with the Forest View Park residential development east of the site and the Household recycling centre west of the site. The application site is located 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.



Existing changing rooms



Location of proposed replacement changing rooms

Site History:

LA07/2017/0457/F

Demolition of existing changing rooms pavilion and associated work. Replaced with a new changing room pavilion of similar nature

Permission Granted: 05/06/2017

R/2014/0245/F

Erection of new 2.4. high security fencing to perimeter of existing playing pitch and warm up area. Installation of new floodlighting system and retrospective construction of 1no new ball catch net and 1no replacement ball catch new with associated site works.

Bann Road Playing fields Castlewellan

Permission Granted: 01/08/2014

R/2005/1188/F

Erection Of Two No Prefabricated 2x15 Person Changing Facilities And Two No Prefabricated 2x20 Person Changing Facilities For Existing Sports Pitches With Associated Car Parking Facilities.

Bann Road, Castlewellan, BT31 9AA

Permission Granted: 05/06/2006

R/2002/1095/F

Proposed training pitches

Lands to north of Dublin Road (opposite no. 12 Dublin Road), Castlewellan, Co. Down.

Permission Granted: 09/04/2003

R/1974/0022

SPORTS CENTRE - PLAYING FIELDS PAVILION AND CAR PARK.

Permission Granted: 23/09/1974

Planning Policies & Material Considerations:

Regional Development Strategy

Banbridge/Newry & Mourne Area Plan 2015

Strategic Planning Policy Statement of Northern Ireland

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

PPS 8- Open Space, Sport and Outdoor Recreation

Consultations:

Transport NI- Has no objections to the proposal.

Environmental Health- Has no objections to the proposal.

NI Water- Has no objections to the proposal, subject to conditions.

Objections & Representations

10 Neighbours notified on 04.04.2018 the application was advertised on 04.04.2018.

No objections or representations received.

Principle of Development

The site abuts the settlement limits of Castlewellan and is within a site that has an established use for outdoor recreation in form of a soccer pitch. The proposal will replace the existing changing pavilion with a new changing pavilion located to the entrance of the site approx. 107m west of the existing changing room.

The proposal is an ancillary structure to an established sporting facility on this site. Policy OS3 refers to outdoor recreational use in the countryside and sets the criteria for consideration. The proposal will not result in any adverse impact on features of importance such as nature conservation, archaeology or built heritage, and no loss of agricultural land. The proposal will replace an existing changing pavilion within the same complex, the new position of the changing rooms will be in the centre of the site away from any neighbouring residential dwellings and therefore there would be no adverse impact on the visual amenity or character of the local landscape.

The neighbouring dwellings of Forest Park View abut the site with Nos 7-12 and 14 share their rear boundary with the red line of the site. As the proposal will replace away from the existing location there would be no impact on the neighbouring residential amenity in terms of noise or nuisance. Public safety would not be prejudiced and the proposal will make use of the existing access and car parking associated with the site.

Further car parking will be created, east of the proposal and would remove existing grass area and resurfaced with bitmac coating to allow for 6 no car parking spaces (2no DDA & 4no) and northwest of the proposal would see existing grass area removed to allow an additional 9no. car parking spaces.

The proposed design would be similar to existing and would see the dimensions slightly increased to 3.4m in height (from 3.2m), 17m in width (from 12.16m) and 8m in depth (from 3.07m). The proposed new pavilion building would have a low pitch

roof finished with lightweight metal tile roofing with walls finished in External Plywood.

Access, Traffic and Parking

The proposal will use the existing access, transport NI have been consulted in relation to this application and have raised no objection to the proposal, these comments are on the basis that there will be no intensification in use. Officers consider that the existing and proposed parking is an adequate provision of parking at the site.

Recommendation

Officers consider that the proposal complies with the development plan, the SPPS and all other relevant policies. On this basis it is recommended that the application be approved.

Conditions:

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

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

2. Upon operation of the changing rooms & toilet pavilion hereby permitted, the existing changing room as indicated in green on approved plan 01 date stamped 20th March 2017 shall be permanently removed from the site.

Reason: To preserve the amenity of the area.

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

ITEM NO	5	DATE VALID	11/09/2017
APPLIC NO	LA07/2017/1380/O	AGENT	James Anderson 202 Belfast RoadBallynahinchBT24 8ur
COUNCIL OPINION	REFUSAL		
APPLICANT	Robert McBriar 91 Carsonstown Road SaintfieldBT24 7GD		

Outline

LOCATION

26m west of 45 Manse RoadCrossgarBT30 9LY
Dwelling and garage

PROPOSAL**REPRESENTATIONS****OBJ Letters**

0

SUP Letters

0

OBJ Petitions

0

SUP Petitions

0

Addresses Signatures

0

Addresses Signatures

0

Addresses Signatures

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 Policy CTY6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not provided satisfactory long term evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused.
3. The proposal is contrary to Policy 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.
4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the (building) would, if permitted create a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.
5. The proposal is contrary to Policy AMP 2 of Planning Policy Statement 3: Access, Movement and Parking in that it would, if permitted, prejudice road safety due to insufficient visibility splays.



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**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2017/1380/O

Date Received: 5th September 2017

Proposal: Dwelling and garage

Location: 26m west of No 45 Manse Road, Crossgar

Site Characteristics & Area Characteristics:

The site is located along the minor Manse Road, Crossgar. It is comprised of an agricultural field, currently used for grazing. The site is positioned immediately adjacent and west of No 45 Manse Road – a single storey dwelling with associated out-buildings.

The site is accessed via an existing private lane to east which provides access to the rear of No 45 Manse and adjacent agricultural land. The site slopes steadily upwards from the public road in a northerly direction and is defined along the laneway by a post and rail fence, with mature vegetation on the remaining boundaries.



The surrounding landscape is typically undulating and predominantly used for agricultural, however, there are a number of single dwellings dispersed throughout the area.

Site History:

There is no previous history on site however, it is noted that approval has been granted for the part conversion of the adjacent stables to ancillary accommodation see R/2009/1040/F – Granted 15.03.10.

Planning Policies & Material Considerations:

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

The application was advertised with the revised proposal description in the local press on 27th September 2017.

The following neighbour was notified of the proposal on 15.09.17

- 45 Manse Road, Crossgar.

Consultations:

In assessment of the proposal consultations were carried out with DAERA, Northern Ireland Water (NIW) and DFI Roads

It is noted that DFI Roads consider that satisfactory sightlines are not achievable within the site outlined in red, DAERA advise that the farm business has been in existence for 6 years however claims have not been made in the previous 5 years. NIW no objections have been presented.

Objections & Representations

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

Consideration and Assessment

Planning Policy Statement 21 (PPS21) 'Sustainable Development in the Countryside' provides the relevant planning policy context for the proposed development. Policy CTY1 thereof indicates that there are types of development acceptable in principle in the countryside. The agent has presented a case under CTY6 A dwelling required for personal and domestic circumstances and CTY10 A Farm dwelling.

Policy CTY 6

Policy states that planning permission will be granted for a dwelling in the countryside for the long term needs of the applicant, where there are compelling, and site specific reasons for this related to the applicants personal or domestic circumstances and provided the following criteria are met:

- (A) The applicant can provide satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be cause if planning permission were refused; and
- (B) There are no alternative solutions to meet the particular circumstances of the case, such as: an extension or annex attached to the existing dwelling; the conversion or reuse of another building within the curtilage of the property; or the use of a temporary mobile home for a limited period to deal with immediate short term circumstances.

The case presented is as follows, the applicant Robert McBriar wishes to build a new dwelling so that he can care for his elderly grandmother Elsie Steele. It is stated that the applicant currently carries out household chores and maintenance around the property. The level of evidence provided extends to a letter from the agent to this effect. No other evidence has been submitted to justify a case under CTY6.

During the site inspection, contact was had with the applicants' aunt, whose mother is Elsie Steele, she advised that Mrs Steele had recently been admitted to Silver Birch Nursing Home and it is not known whether she would return home.

In light of this information regarding the current circumstances of Mrs Steele and the lack of information from the applicant to demonstrate how his proposal would meet the requirements of the above listed criteria, I consider it appropriate to determine that the application does not comply with Policy CTY 6.

It is also noted that permission has been previously granted to Robert McBriar for the conversion of the stables to ancillary accommodate so he could care for his grandmother – this permission has not been implemented and has expired.

Policy CTY 10

It is noted that the submission from the agent includes a farm map relating to a business number associated with Mrs Elsie Steele, upon consultation with DAERA, they advise that the business is established however no claims have been made over the past 6 years.

No additional information has been forthcoming despite repeated requests initially on 10-11-2017, 13-12-2017, 08-01-2018 and again on the 07-02-2018.

During a telephone conversation with the agent on 07-02-2018 he advised that the farm holder is 90 year old Elsie Steele, she **does not** farm the land and that the lands are let out in **conacre** to another farmer. The agent was advised in the circumstances this would not qualify as an active and established farm business and would be refused.

A 3 week letter was issued on the 07-02-2018. Nothing has been forthcoming from the agent in this period.

PPS3 Access DFI Roads have advised that **satisfactory sightlines are not achievable** within the site outlined in red. Applicant would be required to extend site outlined in red to include all sightlines should approval be considered by the Planning Committee.

Policy CTY13 and CTY14

Whilst the site is a roadside field, it has established boundaries and could theoretically accommodate a modest dwelling.

However the site would lead to the creation of ribbon development when taken with Rock Cottage and No 45 Manse Road. This would lead to a detrimental impact on rural character.

Recommendation: Refusal

Reason:

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.

The proposal is contrary to Policy CTY6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not provided satisfactory long term evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused.

The proposal is contrary to Policy 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 proposal is contrary to PPS 21 CTY14 in that The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the (building) would, if permitted create a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.

The proposal is contrary to Policy AMP 2 of Planning Policy Statement 3: Access, Movement and Parking in that it would, if permitted, prejudice road safety due to insufficient visibility splays.

Signed

Date

Signed

Date

ITEM NO	6				
APPLIC NO	LA07/2017/1773/F	Full	DATE VALID	20/11/2017	
COUNCIL OPINION	REFUSAL		AGENT	Tumeitu Planning Services 11 Ballyalton ParkArdmeen DownpatrickBT30 7BT	
APPLICANT	Carole Trueman 47 Tyrella RoadNorth TyrellaDownpatrickBT30 8DF				
LOCATION	17 Church StreetDownpatrickBT30 6EJ				
PROPOSAL	Change of use to 5no.self contained dwelling units with alterations.				
REPRESENTATIONS		OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions
		0	0	0	0
				Addresses Signatures	Addresses Signatures
				0 0	0 0

1. The proposal is contrary to policy AMP7 of PPS3: Access, Movement and Parking, in that inadequate provision has been made for car parking and servicing arrangements

2. The proposal is contrary to policy QD1f of PPS7: Quality Residential Environments, in that inadequate provision has been made for parking.



Comhairle Ceantair
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Newry, Mourne
and Down
District Council

Application Reference: LA07/2017/1773/F

Date Received: Nov 2017

Proposal: Full permission is sought for a Change of use to 6no.self contained dwelling units with alterations, at no.17 Church Street, Downpatrick

Applicant: Carole Trueman

Characteristics of area

The site lies within the boundary of both Downpatrick town centre and Conservation Area, as identified in the Ards and Down Area Plan 2015.

It is noted the properties along Church St include a mix of uses, and also Listed Buildings and also an Archaeological site/monument.





Characteristics of site

The application site comprises the grounds of no.17 Church Street, a 3 storey end terrace property, which appears to be vacant at present. This building opens on to a footpath, and is finished in red brick with traditional slate roof and sliding sash windows, with chimney on the ridge.

There is on-street parking available directly in front of the building and also to the far side of the road, although there is a 60minute restriction between the hours of 8am - 6pm. The building also includes a 2 storey building/return to the rear. It is noted from the P1 form the site was formerly used as a social club.

This building opens on to Church St and backs on to Scotch St, whereby a retaining wall forms the rear boundary as the road level is above the ground level of Church St. A boundary wall and pedestrian entrance run along the rear boundary.

No.19 comprises the fire station, no.15 comprises 4 flats, while no.13 comprises a chinese restaurant.

Representations

No representations have been received to date (06-03-18).

Having account of the red line, neighbour notification was undertaken with a number of properties along Church St and Saul St in Nov 2017, while the application was also advertised in the local press in Nov 2017.

Consultations

Having regard to the nature of this proposal (change of use) consultation was undertaken with Transport NI, HED, Rivers Agency and Environmental Health.

Environmental Health offer no objections subject to informative, regarding the proximity to the fire station and associated noise which may impact on the amenity of residents.

HED offer no objection subject to condition regarding the finishes.

Rivers Agency offers no objections.

Transport NI offer no objections provided there are no requirements for off street parking and servicing.

Site History

A history search has been carried out for the site and surrounds whereby it is noted there have been a number of previous applications for alterations, extensions and change of uses of several properties, whereby the most relevant history observed includes:

R/97/0738- 13 Church St, Change of use from shop and office to restaurant and associated facilities with alterations and extension, Full, Approval

R/95/0946- 13 Church St, Alterations and change of use of upper floors to offices and new shopfront to ground floor shop unit, Full, Approval,

R/99/1179- 15 Church St, Change of use and conversion of dentists surgery and flat above to 4 No. flats with alterations, Full, Approval

No relevant history was observed relating to this current application on the application site.

As outlined above the properties adjoining the application site include:

No.19- Fire Station,

No.15- 4 flats

No.13- Chinese restaurant

Policy considerations:

Ards and Down Area Plan 2015, SPPS, PPS3, PPS6, PPS7 and Addendum, and additional supplementary Guidance including Downpatrick Conservation Area.

As stated above the site is located within the boundary of both Downpatrick town centre and Conservation Area, as identified in the Ards and Down Area Plan 2015, whereby Church St includes a mix of uses, and also Listed Buildings.

It is proposed to convert the existing building to 6 apartments, with internal alterations only. No extensions or demolitions are being proposed.

As outlined above the site is located along Church St and comprises a 3 storey end terrace property, which is readily visible from along this road. Church Street is one of the main roads leading into Downpatrick town centre and carries a large volume of traffic each day. The site also extends through to and adjoins Scotch St to the rear whereby the upper portion is also visible from this road.

This site is vacant at present, whereby the previous use comprised a social club. No.19 to the north side comprises the fire station, while no.15 to the south side comprises 4 flats. No.13 comprises a chinese restaurant.

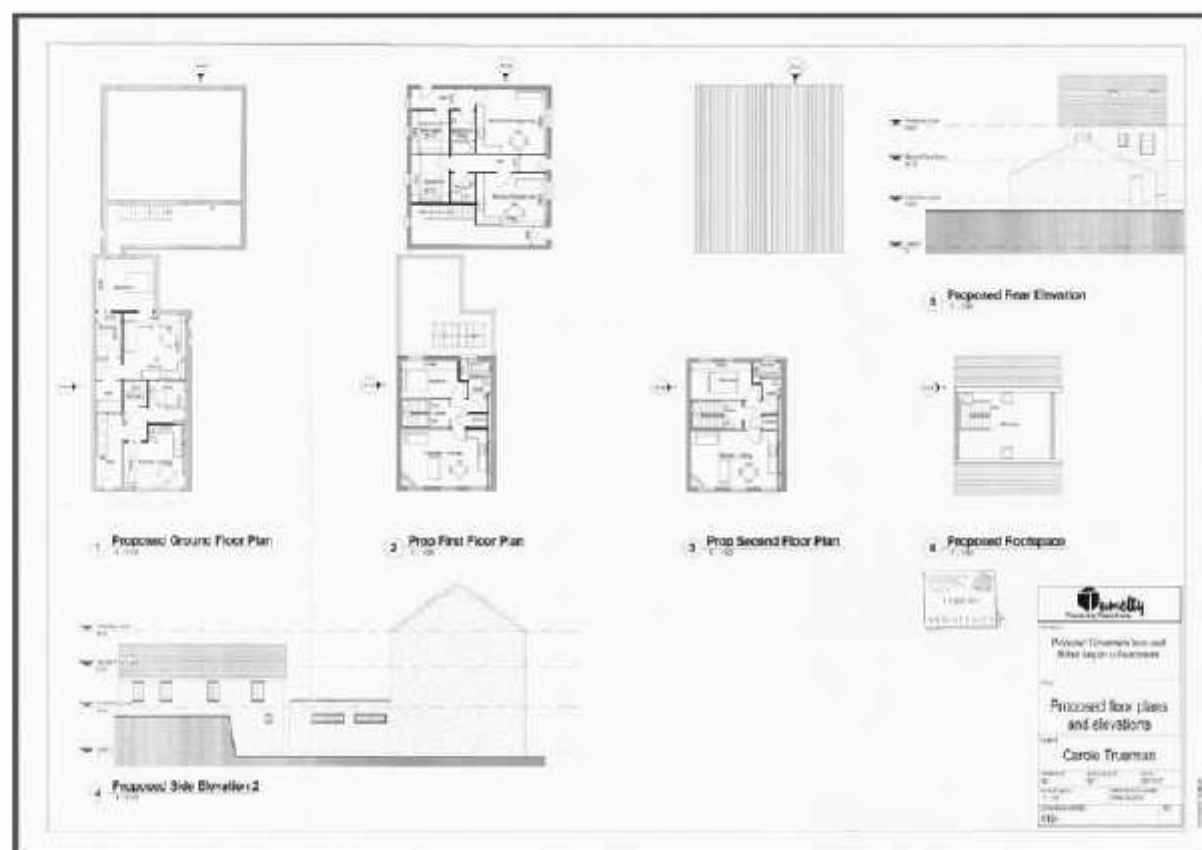


The existing floor plans indicate the last/former use of this building as a social club included a lounge/bar area with committee room and offices above in the main building and a snooker room in the building to the rear.

The proposed layout includes 2 apartments at ground floor located within the main building to the front, 3 at first floor level with 1 being located in the main building to the front and 2 located in the building to the rear (former snooker room), with 1 at second floor level again located in the main building to the front. Each of these 6 apartments will include 1 bedroom.

The floor-space of these 6 units varies, whereby Annex A of Addendum to PPS7 outlines the space standards permissible.

The units on the ground floor measure approx 36sqm and 50sqm, the units on the 1st floor measure approx 60sqm, 43sqm, and 49sqm, while the unit on the 2nd floor measures approx 60sqm.



The P1 form does not specify how many persons will occupy these units, however the space standards states that 1 person/1 bedroom units on a single floor require 35/40sqm, while 2 person/1 bedroom units require 50/55sqm.

While the floor-space of each unit varies it is considered they meet the basic standards for 1 person / 1 bedroom units.

As stated above this application is solely for a change of use with no extensions to the existing footprint and only minimal alterations to the existing openings.

As this existing building is in place and no extensions are proposed it is considered no argument can be made that the development will result in any overshadowing, loss of light or dominant impact on any adjoining property.

The use of the adjoining properties is noted, as outlined above, whereby it is considered the layout and use of the building proposed will not result in any unacceptable impact on the amenity or privacy of any adjoining property.

As outlined no.19 comprises the grounds of the fire station, no.15 comprises 4 flats, while no.13 comprises a chinese restaurant. (The landlord of the chinese restaurant also confirmed the upper floor is vacant and always has been, and is and was not residential in use).

The Planning Dept is primarily interested in protecting the amenity of any adjoining/adjacent residential property, with any commercial/business property not protected. It is noted the flats at no.15 include bedroom, kitchen and bathroom windows along the rear return, whereby it is considered the change of use proposed will not result in any unacceptable overlooking in to these flats, due to its layout and orientation of windows.

It is noted the site layout plan makes no provision for parking for these 6 no. 1 bedroom residential units. The historical/previous use of this site as a social club, and also the town centre location of the site, are noted, however it is considered inadequate parking provision has been made for these 6 units.

The on-street parking along both sides of the road is noted, however there is a 60minute parking restriction between the hours of 8am and 6pm.

Having account the town centre location of the site, it is considered a minimum of 6 parking spaces are required to serve these units, with a reduction of 1 space per unit being permitted and applied. It should be noted this is a relaxation on normal standards.

It also appears from the plans submitted and site inspection it is not possible to provide any parking for this development, thus there is no merit in requesting anything further, and while the previous use of the site is noted, the current proposal is considered unacceptable on this basis, and is contrary to policy AMP7 of PPS3 and QD1f of PPS7.

(It is noted the previously approved change of use of no.15 to 4 flats included no provision for parking, whereby this development was approved in 2000, however it is considered the current proposal now requires a level of parking).

It is also noted the site is within the Conservation Area whereby there are also several listed buildings/monuments in the vicinity of the site. It is considered this change of use proposal will not result in any significant increased or unacceptable impact on this CA zoning or any listed buildings/monuments due to its nature. It is also noted HED offer no objections to this proposal.

However, taking into account the above Refusal is recommended being contrary to PPS3 and PPS7.

Recommendation: Refusal

Reasons:

- The proposal is contrary to policy AMP7 of PPS3: Access, Movement and Parking, in that inadequate provision has been made for car parking and servicing arrangements

- The proposal is contrary to policy QD1f of PPS7: Quality Residential Environments, in that inadequate provision has been made for parking.

Planning Committee Schedule of 6th June 2018

Planning reference: **LA07/2017/17773/F**

Proposal: **Change of use to 6No self-contained dwelling units with alterations.**

Applicant: **Miss Carole Trueman.**

Location **17 Church Street, Downpatrick, BT30 6EJ.**

Recommendation: **Refusal**

Reasons

- 1. The proposal is contrary to policy AMP7 of PPS3: Access, Movement and Parking, in that inadequate provision has been made for car parking and servicing arrangements.**
- 2. The proposal is contrary to policy QD1f of PPS7: Quality Residential Environments, in that inadequate provision has been made for parking.**

Site Description

The site lies within the boundary of both Downpatrick town centre and Conservation Area, as identified in the Ards and Down Area Plan 2015. There is a mix of uses along this portion of Church St, while some of the buildings are Listed Buildings.

The application site comprises the grounds of no.17 Church Street, a 3 storey end terrace building with a 2 storey building/return to the rear. The property previously operated as a social club but is currently vacant.

This building is typical of adjacent properties and opens on to a footpath, and is finished in red brick with traditional slate roof and sliding sash windows, with chimney on the ridge.

There is on-street parking available directly in front of the building and also to the opposite side of the road, and there are 2 car parking areas located within walking distance of the site (in Church Street & Saul Street).

This building opens on to Church Street and backs on to Scotch Street Link, where a retaining wall forms the rear boundary as the road level is above the

ground level of Church St. A boundary wall and pedestrian entrance run along the rear boundary. No.19 comprises the local fire station, no.15 comprises 4 self-contained flats, while no.13 comprises a restaurant.

Planning Policies & Considerations

Ards and Down Area Plan 2015,

SPPS,

PPS3,

PPS6,

PPS7 and Addendum,

DCAN 15

& supplementary Guidance including Downpatrick Conservation Area.

Consultations and Representations

The following consultations were carried out –

Transport NI

HED

Rivers Agency

Environmental Health

No objections were received from any of the consultees and following notifications of the relevant neighbours and advertisement in the local press no objections to the proposal were received either.

Relevant Planning History

There is no relevant site specific planning history of the application site which operated as The Royal British Legion Social Club until the use ceased a few years ago and was purchased by the applicant

Assessment of reasons for Refusal

1. The proposal is contrary to policy AMP7 of PPS3: Access, Movement and Parking, in that inadequate provision has been made for car parking and servicing arrangements.

The location and historic use associated with this building would indicate that there never was car parking requirements associated with uses

The Building was home to the Royal British Legion who operated it as a social club mainly operating in the evenings but having in excess of 50 members.

No car parking was associated with this use and it is on that basis that this proposal is presented to Council in an attempt to address the demands of the housing market as can be seen from the figures provided by local letting agents (see Appendix A).

The main demands of the market are for single low income occupiers who do not have the access to a vehicle thus the non-need for parking together with the history layout of the site which does not nor ever had in-curtilage parking and like other such development of residential use in the area rely on the provision of off-street parking located at 4 parking areas located within walking distance supplying some 104 spaces not to mention the available spaces located on street as mentioned in the officers report.
(see Appendix B).

2. The proposal is contrary to policy QD1f of PPS7: Quality Residential Environments, in that inadequate provision has been made for parking.

The re-use of this building as one person self-contained residential units is the only use that the building can be put to as most other uses such as Café/Restaurant would demand more on street parking, similarly with office use which is not in demand within the town contrary to that of one bed sits. As stated above there are currently within walking distance some 104 car parking spaces (see Appendix B)

It must be noted that this site is quite unique as it has never had available parking due to its location in the town centre.

Overview

The applicant wish to preserve and enhance the existing structure which currently lies vacant and bring it back into use in possibly the only use that will allow it to be sustained. The intention is to provide affordable accommodation similar to the adjacent building which operates under the same use as self-contained accommodation which is in great demand in the town

This proposal will allow the building structure to be preserved & enhanced rather than becoming eyesores and fall into disrepair.

The synopses of recent planning history approvals in the town centre would indicate that the demand for in-curtilage has not been required or imposed for similar type development (see Appendix C).

Conclusion

We would respectfully ask the Planning Committee to overturn this recommendation and grant Planning Permission for the development which is great demand in the town and for a historic site which has never had in-site parking.

Appendix A



18 Irish Street, Downpatrick, Co Down, BT30 6BP

Tel: 028 4461 3983 Fax: 028 4461 4333

Email: office@peterfitzpatrick.co.uk Web: www.peterfitzpatrick.co.uk

-Est 1890-

ESTATE AGENTS

CHARTERED SURVEYORS

AUCTIONEERS

Ref PF/DS – 22 May 2018

Carole Trueman
By email

Dear Carole

Re: One bed apartments for rent/sale

We would welcome the opportunity to market six one-bedroom apartments / bedsits in a prime town centre location such as that of 17 Church Street Downpatrick. We have a high demand for rental accommodation within Downpatrick and currently have an extensive waiting list.

The age profile of the potential tenants/clients ranges from young professionals looking for independent living close to the town centre and adjacent to main bus route to Belfast, to elderly tenants who chose to downsize and do not have access to their own transport. The location and access to public transport with these apartments is the key selling point.

We currently manage a block of 4 similar apartments in Irish Street, Downpatrick where car parking is not required and the demand is extremely high with occupancy levels consistently high.

We find that these clients in most cases do not need a car parking space due to the majority of clients being DHSS and have actively said they would like a town centre location, close to amenities, and public transport.

We would be very keen to market the properties even without a car parking space due to the high demand for similar properties within the Downpatrick area.

We would like to reiterate that there is a lack of rental properties at present, in particular bedsits.

We look forward to hearing from you.

Yours sincerely

Peter Fitzpatrick
Peter Fitzpatrick & Sons

Appendix B

Car park availability within walking distance of application site

Meadowlands Car Park

25 Spaces
Available spaces after 6pm – 22



Church Street Car Park

29 Spaces
Available spaces after 6pm - 22



Scotch Street Car Park

38 Spaces
Available spaces after 6pm - 35



Saul Street Car Parking

Approximately 12 spaces
Available spaces after 6pm - 8



I

Appendix C

List of some apartment approvals within Downpatrick Town Centre

17 English Street Downpatrick

Change of use from offices to residential units

R/2000/1145/F Approval date: 23rd April 2001

7-9 Church Street Downpatrick

Bar with conversion on 1st and 2nd Floor for six apartments

R/2008/0134/F Approval date: 25th November 2008

65 Irish Street Downpatrick

Change of use from offices to 2 self-contained apartments

R/2010/0834/F Approval date: 30th March 2011

9 English Street Downpatrick

MACS sheltered Housing – conversion of a listed building to self-contained apartments

R/2012/0416/F Approval date: 22nd April 2013

6 Saul Street Downpatrick

Sheltered Accommodation for 9 units

R/2012/0428/F Approval date: 19th March 2013

6 Saul Street Downpatrick

12 bed residential building with staff facilities

LA07/2018/0421/F Decision pending

18-22 Scotch Street Downpatrick

Renovation to include 2 retail units and 3 apartments

R/2012/0520/F Approval date: 10th April 2013

ITEM NO	7	Outline	DATE VALID	
APPLIC NO	LA07/2018/0042/O		02/01/2018	
COUNCIL OPINION	REFUSAL			
APPLICANT	Ciaran O'Higgins AvenueCastlewellanBT31 9BX C/O 35 Clarmont	AGENT	John McElroy 72 Osborne Drive BelfastBT9 6LJ	
LOCATION	Adjacent to 46 Bann RoadCastlewellan			
PROPOSAL	Farm dwelling and garage			
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions
	0	0	0	0
	Addresses	Signatures	Addresses	Signatures
	0	0	0	0

1. The proposal is contrary SPPS and 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 farm business is established and is currently active.



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Application Reference: LA07/2018/0042/F

Date Received: 2nd January 2018

Proposal: Proposed dwelling and garage under CTY 10 of PPS 21.

Location: Adjacent to no 46 Bann Road, Castlewellan.



Site Characteristics & Area Characteristics

The site in question is located on agricultural lands to the north, north east of the Bann Road, Castlewellan, and the lands are relatively flat and appear quite wet in part. The boundaries are defined with a post and wire fence generally with no planting or screening of the site from the road and the existing dwelling has no screening or planting in place. There are additional buildings located to the rear of no 46, one appears to have previously been a dwelling and there is also a separate building sitting approx. 60m from no 46 and adjacent to the site in question.

The site is not located within any settlement development limits as defined in the Banbridge, Newry and Mourne Area Plan 2015. The site is within the Mourne Area of Outstanding Natural Beauty 2015.

Site History:

Q/2002/0327/F – 46 Bann Road, Castlewellan – Erection of replacement dwelling – granted – 23-05-2002.

R/1991/1105 – Opposite 46 Bann Road, Castlewellan – Farm Dwelling – withdrawn – 21-04-1999.

Planning Policies & Material Considerations:

The application is considered against Banbridge, Newry and Mourne Area Plan 2015 and in addition to this PPS 2 Natural Heritage, PPS 3 Access, Movement and Parking, PPS 21 Sustainable Development in the Countryside and SPPS.

Consultations:

NI Water was consulted on the application and has responded with no objections.

Transport NI has no objections in relation to the proposal which proposed to share the existing access that serves no 46 Bann Road, Castlewellan. The Bann Road is a Protected Route. Conditions have been attached in relation to the application.

DAERA was consulted in relation to the farm business and activity and has responded stating that the farm business has not been in existence for a period of 6 years or more however claims were made in the last year. A footnote advises that the farm business that this application relates to has been closed and therefore there is not an active and established farm business in operation.

Objections & Representations

A neighbour notification was issued to no 46 Bann Road (although it is noted that this dwelling is located within the lands in blue) on 17th January 2018 which expired 31st January 2018. The application was also advertised in the local press on 24th January 2018 which expired 7th February 2018 and to date there have been no representations made in relation to the application.

Consideration and Assessment:

The Strategic Planning Policy Statement for NI (SPPS) is a material consideration in relation to this application and it retains policy documents including Planning Policy Statement 21 Sustainable Development in the Countryside.

Consideration is given to Policy CTY 10 Dwellings on Farms where planning permission will be granted for a dwelling house where all of the stipulated criteria can be met.

- **the farm business is currently active and has been established for at least 6 years.**

A farm business number has been provided along with DAERA issued farm business maps from 2012 in the name of Gerard Rushe. An LPS Folio Map dated July 2017 has also been submitted in the name of Gerard Rushe deceased. DAERA has responded to consultation stating that the farm business has not been existence in for the last 6 years, farm payments have been received in the last year. DAERA go on to confirm that the business has been closed. This aspect of policy has not been met as the farm business is not currently established.

The agent was given the opportunity to provide additional information in relation to the farm business to support the application and a letter was received on 17th April 2018 advising that the applicant has contacted DAERA with a view to obtaining a new farm number and while it is hoped the number will be obtained soon it was not possible for DAERA to confirm when

this might be. **On this basis it is clear there is no active and established business in operation and the application does not meet with the policy requirements.**

- **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**

The lands in question do not contain any site history of approval of development opportunities, from the information submitted there is nothing to suggest that there have been any development opportunities sold off from the holding. Q5 of the P1C form has been answered to state that no development opportunities have been sold off from the holding.

- **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).**

In consideration to the buildings on the alleged farm holding, it is noted that planning history exists for a replacement dwelling Q/2002/0327/F, the dwelling that has been replaced still stands on the site and as such is in breach of a planning condition, it would therefore not be appropriate to afford this building any standing. That said there is sufficient scope within the site to allow for the clustering or visual linking of a potential farm dwelling.

The preferred siting as indicated by the agent on drawing no LA07/2018/0042/02 is not considered acceptable and any approved dwelling should be set further back into the site to allow for grouping and visual linkage with both the dwelling house and the remaining out building to the rear of the dwelling to have been previously replaced. It is also noted that the site location map drawings appear to show the outline of 4 buildings or structures however there are only 3 on the ground with one of these actually being a concrete base.

If the Committee is minded to approve this application, then the siting shall be conditioned to visually link or cluster with the established buildings on the site.

The application is also given consideration in relation to CTY 13 Integration and Design of Buildings in the Countryside. CTY 13 makes the following points in policy consideration.

- **it is a prominent feature in the landscape.**

This is an outline application and as such the overall design of the proposal can be conditioned to ensure that the proposal is suitable for the location and will not become a prominent feature in the landscape. Suitable conditions including siting conditions would ensure that the dwelling was acceptable in the local landscape and would not become a prominent feature in the landscape.

- **the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape.**

The site in question lacks long established boundaries in general. Considering that the most appropriate site on the land would be immediately to NNW of the existing buildings the only natural boundary would be the planting to the field boundary running along the rear of the red line of the site. Given that siting can be achieved adjacent to existing buildings loosely and the boundary to the rear is in existence the site will be able to utilise some existing screening however will require additional planting to define the remaining two boundaries.

It is not considered that this site will rely primarily on new planting for integration, the site in question will however require additional planting to help soften the development and help it integrate into the surroundings. It is notable that along this section of road there are limited natural boundaries and planting with dwellings quite visible with limited screening. It is felt that a dwelling could be accommodated on the site.

- **Ancillary works do not integrate with their surroundings.**

Ancillary works will integrate with the surroundings, the site is able to make use of the existing access lane serving the existing dwelling and all utilities are easily obtained. It is not thought there will be any negative impacts as a result of a suitably designed and landscaped dwelling being placed on the site.

- **The design of the building is inappropriate for the site and its locality.**

As this is an outline application full details of the design have not been submitted however a dwelling designed in accordance with Building on Tradition could be accommodated on the site.

- **It fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop.**

There is limited landscaping and features along area of land to accommodate a dwelling however it is part of the character of the immediate area with several dwellings along this section of road with limited planting, landscaping or screening for integration. A dwelling can be accommodated adjacent to the existing buildings which would blend sufficiently into the landscape. Given the potential siting of the building to the side and rear of the existing dwelling it would be recommended that any development is single storey in height to respect the existing built environment and to ensure there are no potential issues with dominance or loss of amenity on the existing dwelling house.

- **In the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.**

As previously indicated a dwelling can be accommodated on the site that will visually link and cluster with the existing buildings at the site.

The application is considered to meet with the requirements set out in CTY 14 Rural Character had the principle of development been considered to have been met.

Recommendation:

Refusal

Refusal Reasons:

- The proposal is contrary SPPS and 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 farm business is established and is currently active.

Case officer:

Authorised by:

Date:

Council Newry, Mourne and Down Date 06/06/2018

ITEM NO	1	DATE VALID	21/11/2015
APPLIC NO	LA07/2016/1564/F	AGENT	Blueprint Architectural 79 Chapel Road Killalee Newry BT35 8JZ
COUNCIL OPINION	REFUSAL	Full	
APPLICANT	Mr John McAleavey Centre6 Leirim Road Hilltown BT34 5XS	Laneway Lodge Riding	

LOCATION

Laneway Lodge Riding Centre6 Leirim Road Hilltown Co. Down BT34 5XS

Proposed conversion of existing hay loft into tourist accommodation.

PROPOSAL

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

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

2. The proposal is contrary to Paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside relating to the conversion and re-use of existing buildings in the countryside for residential use in that the building to be converted is not considered to be a locally important building.

3. The proposal is contrary to Policy CTY11 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the farm business is not currently active and established. 4. The proposal is contrary to the provisions of Policy TSM5 of Planning Policy Statement 16, Tourism in that the use of the building for self-catering accommodation in the countryside does not meet with any of the identified circumstances for such a development stipulated in the policy.



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**Newry, Mourne
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District Council

Application Reference: LA07/2016/1564/F

Date Received: 29.11.2016

Proposal: Proposed conversion of existing hay loft into Tourist Accommodation

Location: Laneway Lodge Riding Centre, 6 Leitrim Road, Hilltown, Co. Down BT34 5XS

Site Characteristics & Area Characteristics:

The application site as outlined in red is located at Leitrim Road, the site comprises of a 1 ½ storey dwelling and a two storey hay loft. Just outside the red line directly south of the hay loft is an enclosed horse/ training/exercise area and directly south east is a large sand arena.

The site can be accessed via a private laneway, the site slopes upwards from the roadside boundary to the south eastern direction. The northern boundary is defined by mature trees and vegetation while the southern and eastern boundaries are defined by 1.8m high post fence.

The area is rural in character and is located just outside the settlement limits of Hilltown as designated within the Banbridge, Newry and Mourne Area Plan 2015. The site is also located within the Mourne Area of Outstanding Natural Beauty,



Proposed hay loft to be converted.

Site History:***P/2006/1052/F***

Erection of sand arena for training and reining horses

Permission Granted: 21.08.2006

P/2005/0369

Sand Arena for the training and reining horses.

Invalid Application: 15.04.2005

P/1991/0138

Erection of dwelling (Self-contained invalid unit)

Permission Granted: 13.05.1991

P/1985/1156

Extension and improvement to dwelling

Permission Granted: 13.01.1986

Planning Policies & Material Considerations:

This application is considered under the Banbridge, Newry and Mourne Area Plan 2015, PPS 2 Natural Heritage, PPS 16 Tourism and PPS 21 Sustainable Development in the Countryside and SPPS and Building on Tradition, A Design Guide for Rural Northern Ireland.

Consultations:

- *Transport NI*- Has no objections to the proposal.
- *NI Water*- Has no objections to the proposal, subject to conditions.
- *Environmental Health*- Have no objections to the proposal
- *NIEA*- Has no objections to the proposal
- *DAERA*- Confirmed the farm business has not been in existence for more than 6 years and that the business has not claimed single farm payment, less favoured area compensatory allowances or agri environment schemes in the past six years. No business Id has been provided just an applicant reference.

Objections & Representations

15 Neighbours notified on 02.12.2016 the application was advertised on 5.12.2016.

No objections, one letter of support.

Principle of Development

This is a full application of the conversion of an existing hayloft to provide two apartment tourist accommodations. This is a non-listed building, located to the rear of dwelling no.6 Leitrim Road. The proposal entails the first floor conversion of the existing hayloft while the existing ground floor will remain as storage and stables.

Planning Policy Statement 21- Sustainable Development in the Countryside

The application site is located within the countryside. Policy CTY 1 outlines the types of development which in principle are considered to be acceptable in the countryside. It states that planning permission will be granted in the countryside for

farm diversification proposals in accordance with Policy CTY11 and for tourism development in accordance with the TOU Policies of the PSRNI and for the conversion and reuse of non-residential buildings in accordance with Policy CTY4.

Policy CTY11

Policy CTY11 states that planning permission will be granted for farm or forestry diversification where it has been demonstrated that it is to be run in conjunction with the agricultural operations on the farm. The application is assessed under the following criteria:

a) The farm or forestry business is currently active and established

The justification and amplification section of Policy CTY11 states that the determining criteria for an active and established businesses will be that set out under Policy CTY10. The applicant has not been able to provide a Business Id and has provided an Applicant Reference. DAERA have confirmed that the business has not been in existence for more than 6 years and has not claimed SFP, LFACA or Agri Environment Schemes in the past 6 years. The applicant has provided further details to try and illustrate the farm business is active and established. The evidence provided include a car insurance policy and details of farming activities from 1990-1995, 1997, 2006, 2012, 2014-2018, details of contractors employed and Certificate of Registrations for Horses. The information provided is not considered to be sufficient to persuade the Planning Department that the farm business is currently active and has been established for at least 6 years in accordance with Policy Cty10 requirements.

b) In terms of character and scale it is appropriate to its location

The existing hay loft is finished in rendered block work walls on the bottom half with corrugated metal sheeting above and accessed through metal sliding doors and a hardwood timber door. The proposal includes the insertion of first floor windows along the side elevations and an external staircase and doorway to first floor level. Given the minor amendments to the existing building and that there is no increase in the scale of the building, the proposal is considered acceptable in terms of character and scale.

c) It will not have an adverse impact on the natural or built heritage.

It is not considered that the proposal would have an adverse impact on the natural or built heritage.

d) It will not result in detrimental impact on the amenity of nearby residential dwellings including potential problems arising from noise, smell and pollution.

It is not considered the proposal would have a detrimental impact on the amenity of nearby residential dwellings including potential problems arising from noise, smell or pollution.

The proposal fails to comply with Criterion A of Policy CTY11 in that the farm business is not currently active and established for at least 6 years.

Policy CTY4

Paragraph 1.12 of the SPPS states that where the SPPS introduces a change of policy direction and/ or provides a policy clarification that would be in conflict with the retained policy the SPPS should accord greater weight in the assessment of individual planning applications.

Paragraph 6.73 relates to the conversion and re-use of existing buildings for residential use and states *"Provision should be made for the sympathetic conversion and re-use, with adaptation if necessary, of a locally important building (such as former school houses, churches and older traditional barns and outbuildings), as a single dwelling where this would secure its upkeep and retention. Provision should also be made for the conversion of a locally important building to provide more than one dwelling where the building is of sufficient size; the conversion involves minimal intervention; and, the intensity of the use is considered appropriate to the locality. A former dwelling previously replaced and retained as an ancillary building to the new replacement dwelling will not be eligible for conversion back into residential use under this policy"*. The existing building is not considered to be a locally important building and although the building is of permanent construction and complies with the additional criteria required for Policy CTY4 it does not comply with the provisions of the SPPS as a locally important building and therefore fails to meet Policy CTY4.

Policies CTY 13 and CTY 14

Given that this application proposes to convert an existing building with minor external changes it is considered the proposal is acceptable in terms of design and integration.

Planning Policy Statement 16- Tourism

Proposals for tourism development in the countryside will be facilitated through PPS16 and other planning policy documents that provide scope for tourism development in the countryside.

TSM5

TSM 5 relates to self-catering accommodation in the countryside. Planning approval will only be granted for self-catering units of tourist accommodation in any of the following circumstances:

- a) *One or more new units all located within the grounds of an existing or approved hotel, self-catering complex, guest house or holiday park;*

This application for two units is not located within the grounds of an existing or approved hotel, self-catering complex, guest house or holiday park.

- b) *A cluster of 3 or more new units are to be provided at or close to an existing or approved tourist amenity that is / will be a significant visitor attraction in its own right;*

This proposal is for two units and therefore not a cluster of 3 or more units.

- c) *The restoration of an existing clachan or close, through conversion and / or replacement of existing buildings, subject to the retention of the original scale and proportions of the buildings and sympathetic treatment of boundaries. Where practicable original materials and finishes should be included.*

The proposal does not relate to the restoration of an existing clachan or close. The proposal fails to meet any criteria outlined within TSM5.

TSM 7- Criteria for Tourism

The proposed application will be assessed against TSM7 of PPS 16, where planning permission will be granted for a tourism use subject to the following design criteria;

- A. a movement pattern is provided that, insofar as possible, supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way and provides adequate and convenient access to public transport;
- B. the site layout, building design, associated infrastructure and landscaping arrangements (including flood lighting) are of high quality in accordance with the Department's published guidance and assist the promotion of sustainability and biodiversity;
- C. appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are screened from public view;
- D. utilisation of sustainable drainage systems where feasible and practicable to ensure that surface water run-off is managed in a sustainable way;
- E. is designed to deter crime and promote personal safety;
- F. development involving public art, where it is linked to a tourism development, needs to be of high quality, to complement the design of associated buildings and to respect the surrounding site context. In addition to the above design criteria, a proposal will also be subject to the following general criteria (g – o).

General Criteria

- G. it is compatible with surrounding land uses and neither the use or built form will detract from the landscape quality and character of the surrounding area;
- H. it does not harm the amenities of nearby residents;
- I. it does not adversely affect features of the natural or built heritage;
- J. it is capable of dealing with any emission or effluent in accordance with legislative requirements. The safeguarding of water quality through adequate means of sewage disposal is of particular importance and accordingly mains

- sewerage and water supply services must be utilised where available and practicable;
- K. access arrangements must be in accordance with the Department's published guidance;
 - L. access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic;
 - M. the existing road network can safely handle any extra vehicular traffic the proposal will generate;
 - N. access onto a protected route for a tourism development in the countryside is in accordance with the amendment to Policy AMP 3 of PPS 3, as set out in Annex 1 of PPS 21.
 - O. it does not extinguish or significantly constrain an existing or planned public access to the coastline or a tourism asset, unless a suitable alternative is provided;

The proposal is compatible with surrounding lands uses; the proposal does not detract from the landscape quality and character of the surrounding areas. The proposal will not harm the amenities of any nearby dwellings. The existing boundary treatment, topography of the land and the building set back from the public road ensure that the building and outside areas are screened from public view. Transport NI has no objections in respect of the existing access to the public road and Water NI has no objections in respect of the applicant dealing with any proposed effluent via a septic tank. The proposal is considered to be in compliance with TSM7.

Planning Policy Statement 2- Natural Heritage

The application is within the Mourne Area of Outstanding Natural Beauty and is considered against PPS 2 Natural Heritage, NH6 Areas of Outstanding Natural Beauty. This area is of particular scenic quality and any development should respect the locality and conserve its natural features that add to its attractiveness. The design put forward is similar to existing and surrounding buildings and is considered an appropriate design for the locality and sympathetic to the special character of the area.

Conclusion

The proposal is not policy compliant with the requirements of the SPPS, CTY1, CTY4, CTY11 of PPS21 and Policy TSM 5 of PPS16 and is therefore recommended for refusal.

Reasons for Refusal:

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

2. The proposal is contrary to Paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside relating to the conversion and re-use of existing buildings in the countryside for residential use in that the building to be converted is not considered to be a locally important building.

3. The proposal is contrary to Policy CTY11 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the farm business is not currently active and established.

4. The proposal is contrary to the provisions of Policy TSM5 of Planning Policy Statement 16, Tourism in that the use of the building for self-catering accommodation in the countryside does not meet with any of the identified circumstances for such a development stipulated in the policy.

Case Officer Signature:
Date:
Appointed Officer Signature:
Date:

ITEM NO 2
APPLIC NO LA07/2016/1632/O
COUNCIL OPINION REFUSAL
APPLICANT Jason Fegan 9 Forestbrook Avenue
 Rostrevor BT34 3BX
DATE VALID 07/12/2016
AGENT

Outline

LOCATION

Lands 45m north west of No. 12 Upper Knockbarragh Road Warrenpoint BT34 3DL

PROPOSAL

Proposed Farm Dwelling

REPRESENTATIONS

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

- 1 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm health, and safety reasons exist to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm verifiable plans exist to expand the farm business at the existing building group to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm
- 2 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.
- 3 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted create a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.
- 4 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along Upper Knockbarragh Road.



Comhairle Ceantair
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**Newry, Mourne
and Down**
District Council

Application Reference:

LA07/2016/1632/O

Date Received:

07/12/2016

Proposal:

Proposed farm dwelling

Location:

Lands 45m North West of No.12 Upper Knockbarragh Road, Warrenpoint, BT34 3DL

Site Characteristics & Area Characteristics:

The site is located approximately 3.1miles from Warrenpoint in rural uplands overlooking Carlingford Lough to the South and which is surrounded by mountain land to the east and west, which form part of Mourne Area of Outstanding Natural Beauty (AONB.) In the immediate vicinity, there are a number of dwellings in the immediate vicinity, including No.12, a modest bungalow to the south and No.14 a contemporary two storey dwelling further north.

The site itself comprises a roadside field used for agriculture which slopes upwards gradually to the north and which is delineated by mature indigenous hedgerow on all four boundaries, which is further supported by mature trees along the road side and northern boundaries. There is an existing field gate access directly off Upper Knockbarragh Road close to the laneway of No.12. In addition, there is an existing electricity pole towards the centre area of the field.

Site History:

Application reference	Proposed Development	Status
P/1992/0850	Site for retirement dwelling	application withdrawn
Additional history on the farm holding:		
P/2006/1717/F (field 2)	29 Upper Knockbarragh Road - extension to rear of dwelling	Permission granted 12/01/2007
P/1999/1116/F (field 2)	29 Upper Knockbarragh Road - erection of replacement dwelling	Permission granted 11/01/2000

Planning Policies & Material Considerations:

- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- The Banbridge / Newry and Mourne Local Area Plan 2015 (BNMAP2015)
- PPS2 'Natural Heritage'
- PPS 3 'Access, Movement and Parking'
- PPS 21 'Sustainable Development in the Countryside'
- 'Building on Tradition' A Sustainable Design Guide for the Northern Ireland Countryside
- 'Dwellings in the Mournes' A Design Guide

Consultations:

<u>TNI:</u>	No objections, subject to conditions (13/01/2017)
<u>Environmental Health:</u>	No objections in principle. This department recommends that the proposed dwelling is situated a minimum of 75m from farm buildings. (04/01/2017)
<u>NI Water:</u>	No objections, standard informatives. (03/01/2017)
<u>DAERA :</u>	Farm Business ID 623035 has been in existence for more than 6 years and has not claimed subsidies in the past year (17/01/2017)

Objections & Representations

- 1 Neighbouring property notified (No.12 Upper Knockbarragh Road) 29/12/2016 (statutory expiry date 12/01/2017)
- Advertised in 3 local press publications (statutory publication end 20/01/2017)
- 0 objections / representations received

Consideration and Assessment:

The site is located out with settlement development limits as identified by the Banbridge / Newry and Mourne Area Plan 2015. It is also within the designated Mourne AONB. This proposal seeks outline permission for a dwelling on a farm. As there is no specific policy within 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 made against farm business ID 623035. DAERA note in their consultation response dated 17/01/2017 that the applicant is not a formal member of this farm business. The associated P1C form notes that the applicant is the land owner of the field and it has been signed by both the applicant and the respective farm business owner, as required. PPS21 Policy CTY1 states that a

number of developments are acceptable in principle in the countryside, which includes farm dwellings if they are in accordance with Policy CTY10. There are three criteria to be met:

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

DAERA in their consultation response dated 17/01/2017 confirm that the respective farm business has been in existence for more than 6 years but has not claimed subsidies in the past year, the initial test for 'activity.' Evidence was received on 12/04/2017 to demonstrate that the farm business is currently active, including the following:

- Correspondence from DAERA veterinary testing department dated 06/10/2016, 05/09/2016, 14/10/2016, 03/09/2015;
- Correspondence from DAERA Agri-food inspection branch dated 2014;
- Invoices from the British Limousin Cattle Society Ltd dated 19/10/2016, 08/12/2016, 16/03/2010;
- Farm Quality Assurance Certification dated August 2009;
- DAERA Herd list details 01/09/2009, NFSCo CIC membership invoice dated 31/03/2017.

Following receipt of this information, I am satisfied that farm business ID 623035 is currently active and criterion (a) is met.

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 the above criterion is 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 established group of farm buildings in this case include No. 29 Upper Knockbarragh Road (adjacent / west of field 2) and an existing agricultural shed located on the opposite side of Upper Knockbarragh Road on field 1 of the farm maps. (There are no previous planning records for this shed, however spatial imagery demonstrates that this building was present in December 2008. The farm business owner should be advised to apply for a Certificate of Lawfulness to ascertain the legal status of this building.) The subject site is located approximately 965m South East of this building group along Upper Knockbarragh Road. There are no buildings associated with farm business ID 623035 on this site with which to group a future dwelling. Whilst a dwelling could visually link with buildings associated with No.12 Upper Knockbarragh Road, Policy CTY10 does not permit grouping with buildings linked to a third party farm holding.

The applicant was made aware of the above concerns early on and advised that this policy criterion can be met through an alternative site on the farm holding and was

directed to fields 1 or 2 by way of guidance. The applicant explained that land ownership issues prevent this as feasible solution as fields 1,2,4 and 7 are taken in conacre and are not currently in the ownership of either the applicant or the farm business owner. CTY10 c) makes provision for alternative sites on the farm where there are no other sites available at another group of farm buildings and where there are either demonstrable health and safety reasons or verifiable plans to expand the farm business at the existing building group to prevent this possibility. No information to this effect has been submitted to justify this alternative site in these circumstances, the issue here is land ownership for which CTY10 makes no provision for and is not a material planning consideration.

The applicant was made aware of this and given the opportunity to withdraw this application and come in with an alternative siting. The applicant sought advice from an agent at this stage of the application who has agreed to assess the current application with the information available. As this is the case, the current application fails to meet criteria c) of CTY10.

Where the proposal meets all of the criteria of CTY10, it must also meet the requirements of CTY13, CTY14 and CTY16. For the purposes of completion and a full assessment, these are assessed below.

Design, Integration and Rural Character

The site benefits from mature screening along its northern boundary which at present provides a high degree of screening when travelling south along Upper Knockbarragh Road. When travelling North, the existing road side boundary provides a degree of screening also. A single storey dwelling could potentially be integrated into this site (and PPS3 Policy NH6 met through a sensitive design) however it would not be visually linked or sited to cluster with an established building group on the farm holding, which is contrary to policy CTY13 criterion (c.) In addition, this development as proposed would create a ribbon of development with the existing buildings No.10, No.12, which is contrary to policy CTY14 (criterion d.) and should continue to be refused.

Access, Movement and Parking

Construction of a new access onto Upper Knockbarragh Road is proposed to service the dwelling. Transport NI has no objections in principle to the proposal, subject to conditions. In terms of PPS3, there are no concerns with the proposal. Policy CTY10 criterion c) requires access to be obtained from an existing lane where practicable. There is no access existing at this location therefore the access details would need to be assessed further against policies CTY13 and CTY14 at Reserved Matters stage.

Sewerage / Service Provision

The proposal includes disposal of foul sewage via a septic tank and soak away. This could be achieved within the sites red line boundary and is subject to obtaining consent from NIEA Water Management Unit. NI Water has no objections to the proposal. Given the existing dwellings along this road frontage, it is envisaged a dwelling could connect to the existing services, subject to consent. Policy CTY16 is not offended by the proposal.

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 proposed new building is visually linked or sited to cluster with an established group of buildings on the farm.
 - health and safety reasons exist to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm
 - verifiable plans exist to expand the farm business at the existing building group to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted create a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.



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**Newry, Mourne
and Down**
District Council

Application Reference:

LA07/2016/1632/O

Date Received:

07/12/2016

Proposal:

Proposed Farm Dwelling

Location:

Lands 45m north-west of No. 12 Upper Knockbarragh Road, Warrenpoint, BT34 3DL

Addendum to Case Officer's Report

This application was originally recommended for refusal as the proposal is considered to be contrary to the SPPS and policies CTY10, CTY13 and CTY14 CTY3 of PPS21 'Sustainable Development in the Countryside.'

Following recommendation to refuse this application by the Planning Department, it was presented to the Planning Committee on 8th November 2011 (item14) where following discussion, it was agreed to defer the application to enable the Planning Department to re-examine the application against the merits of PPS21 in full. Whilst this application does not meet the test for farm dwellings, it is considered further against the merits of Policy CTY8, the policy for infill dwellings. The SPPS and PPS21 allow for the development of a small gap site in an otherwise substantial and continuously built up frontage, provided it meets the policy criteria of Policy CTY8.

To be classed as an exception under policy CTY8, the development must comprise a small gap site in an otherwise substantially and continuously built up frontage (i.e. 3 or more buildings along a road frontage without accompanying development to the rear) and respect the existing pattern of development along the frontage in terms of size, scale, siting and plot sizes.

The subject site is considered in its current scenario: To the north west of the site, No. 14 (Bayview Cottage) qualifies as one building with road frontage; there is then a field adjacent and north of the site, followed by the site. To the south east, this is followed by No.12 which qualifies as a second building with road frontage, followed by No.10 further south which although set back from the road, its garden fronts onto

Upper Knockbarragh Road and qualifies as a third building with road frontage. In addition, there is an approval for a farm dwelling adjacent to and south east of No. 10 Upper Knockbarragh Road (application reference P/2014/0680/F) which does not appear to have been built yet.

Policy CTY8 stipulates that the 'gap' should be sufficient to only accommodate up to a maximum of two houses and respect the existing development pattern along this frontage in terms of size, scale, siting and plot sizes. For clarification, the 'gap' is considered as the gap between buildings (in this context the gap is taken between No.14 and No.10 Upper Knockbarragh Road in line with the interpretation of the Planning Appeals Commission in their recent appeal reference 2016/A0066.

Siting - As this is an outline proposal, details of siting will be assessed at a later stage. In the event of an approval, a siting condition would be required to ensure any development is in keeping with the existing building line.

Size and scale - The site currently sits between two existing bungalow dwellings to the south east (No's 10, 12) and one two storey dwelling to the north-west (No.14) bungalow dwellings to the south. In the event of an approval, any future dwelling on this site should be single storey given the rise in landform to ensure a satisfactory degree of integration is achieved.

Plot Size - The overall plot depth is comparable with that of No's 12 and 14. The average plot width along the existing frontage is approximately 59.11m, with plot widths varying from 75.44m to 44.36m. In this existing settlement pattern, the gap which is approximately 157m is considered to be wide enough to accommodate 3 dwellings. This existing pattern of development is not considered to merit a substantial and continuously built up frontage, with the existing gap providing a visual break in the developed appearance of this locality which helps to maintain the rural character. The site does not therefore meet the merits of an exception as a *small gap site* (my emphasis) against the criteria of policy CTY8 and development on this site would further add to the existing ribbon along Upper Knockbarragh Road.

The previous consideration of a dwelling on this site as assessed against Policies CTY13 and CTY14 of PPS21 remains unchanged in that the dwelling would create a ribbon of development and is not grouped with an existing group of buildings on the respective farm holding and therefore would not visually integrate into the surrounding landscape

Recommendation: Refusal

Recommendation summary: Proposal has been re-assessed against the merits of Policy CTY8 (infill) and does not merit an exception to this policy as a small gap site. Previous assessment as a farm dwelling against Policies CTY10, CTY13 and CTY14 remains unchanged.

Reasons for Refusal:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that:
 - The proposed new building is visually linked or sited to cluster with an established group of buildings on the farm.
 - health and safety reasons exist to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm
 - verifiable plans exist to expand the farm business at the existing building group to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along Upper Knockbarragh Road.
3. 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.
4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted create a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.

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

Planning Office
Newry Mourne & Down Council
O Hagan House
Monaghan Row
Newry

Proposed Dwelling

29th May 2018

Ref. GD2860

Your Ref. LA07/2016/1632/O

Dear Sir / Madam,

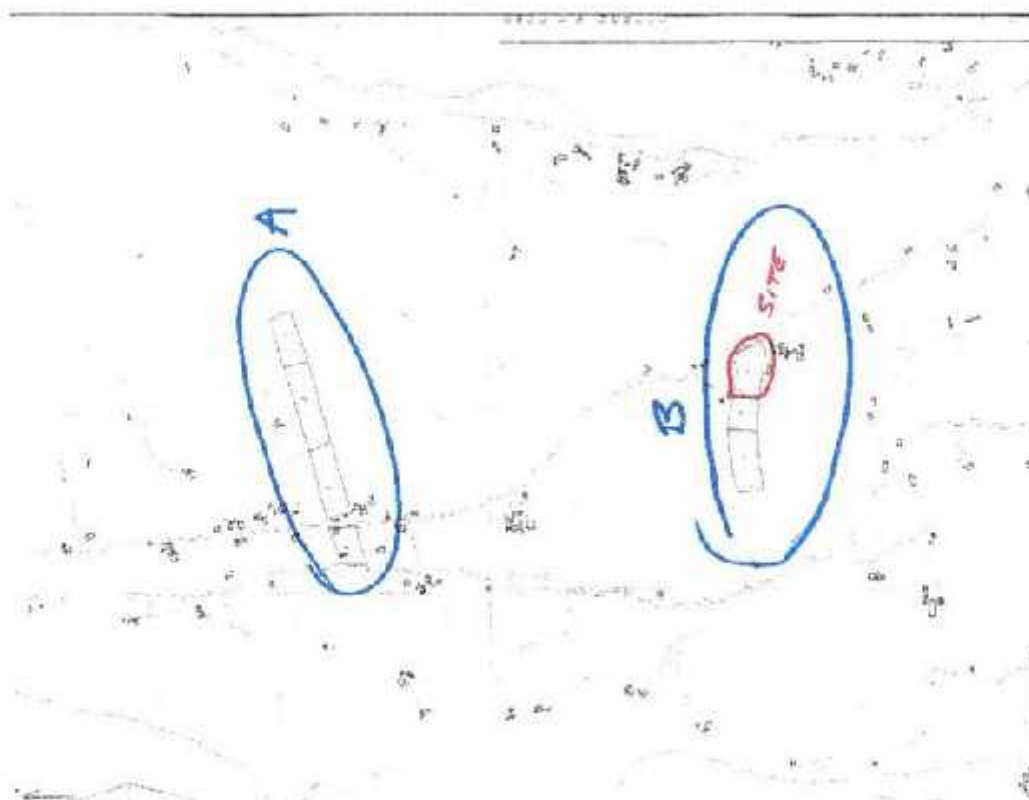
We understand that the above application is to be presented with the opinion to refuse at the coming council meeting – on the 6 – 6 -18.

We would request the opportunity to speak at this meeting. we presented to the committee meeting back in November, as it was agreed to defer this application due to the confusion over the different ownerships involved I have tried to explain it below.

The Farm has been in the Fegan family for many generations and the fields in **Parcel B** (see map) have been the lands farmed.

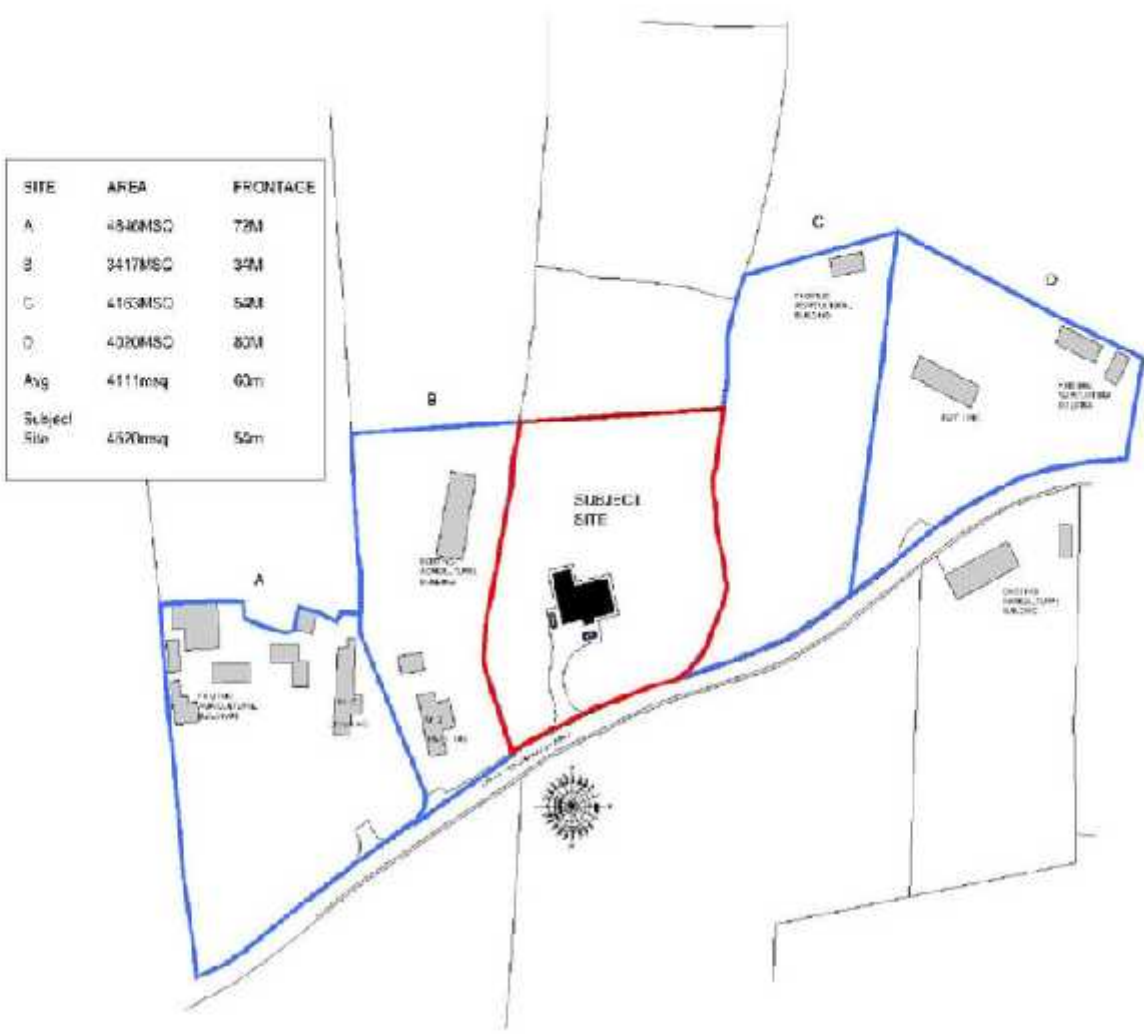
These fields have been handed down the generations and now are in the ownership of Jason Fegan (applicant) – however the applicant's grandfather when handing these fields down in his will left the fields to Jason but let the farm business to his cousin Malachy McCourt. Malachy McCourt then rented parcel A of a 3rd party therefore this parcel is now also shown on the farm maps.

Malachy McCourt is the registered farmer and sign over the farm dwelling entitlement to Jason – The farm maps (see attached) have 2 parcels of land A & B – Land A are not within either Jason Fegans ownership nor Malachy McCourt's ownership and are taken on co-acre for the farm – there is a farm shed on lands A but it is not possible to "visually link" this new dwelling with them as these lands are within 3 party ownership – therefore the only lands that we can locate a dwelling is parcel B.



At the last meeting it was highlighted by one of the councillors that the site might be considered as an "infill" site.

Further to this I have done a site analysis and agreed that it could potentially fall under this policy





View of the site taken from the Road

With regards to "Infill opportunity" we would like to point out that I have been successful in many other very similar application and have highlighted this below:



APPROVED P/2011/0289



APPROVED : P/2010/1026/F



APPROVED : P/2010/0999/O



APPROVED : P/2009/0351/O



APPROVED : P/2009/0231/F



APPROVED : P/2009/1206/F



APPROVED : LA07 / 2015 / 0504

The department has published "Building on Tradition" to help applicants and agents in identifying an infill opportunity and I note the following diagrams in this booklet that refer to "Proposed sites likely to comply with CTY2a"

Proposed sites not likely to comply with CTY 2a

Proposed sites likely to comply with CTY 2a

- It is not acceptable to extend the extremities of a ribbon by creating narrow lots at each end.
- Where a gap between plots is longer than the average ribbon plot width the gap may be unsuitable for infill.
- When a gap is more than twice the length of the average plot width in the adjoining ribbon it is often unsuitable for infill with two new plots.
- Sometimes ribbon development does not have a consistent building set back. Where this occurs the creation of a new site in the front garden of an existing property is not acceptable under CTY 2a if this extends the extremities of the ribbon.
- A gap site can be infilled with one or two houses if the average footprint of the new plot equates to the average plot width in the existing ribbon.

The above map and legend noted 5 points on which we satisfy all.

In conclusion we would ask the council to please review this application and also note that we are prepared to revise the current proposal in any manner to satisfy the Planning Service.

Yours Faithfully

Colin Dalton
For and on behalf of GRAY DESIGN LTD

ITEM NO	4	Outline	09/08/2017
APPLIC NO	LA07/2017/1030/O	DATE VALID	
COUNCIL OPINION	REFUSAL	AGENT	Cole Partnership 12a Duke Street/WarrenpointBT34 3JY
APPLICANT	Mr Miceal Tinnelly RoadRostrevorBT34 3TB		
	Glenross3 Cloughmore		

LOCATION
200 metres East of No. 25 Greenpark RoadRostrevor

PROPOSAL
Site for 100 bedroom hotel & spa

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

1. The proposal is contrary to paragraph 6.16 of the Strategic Planning Policy Statement for Northern Ireland and Policy BHS of Planning Policy Statement 6: Planning, Archaeology and the Built Heritage in that the site lies adjacent to Rostrevor House Demesne and in close proximity to Green Park Demesne, as identified in the Northern Ireland Register of Historic Parks, Gardens and Demesnes and it has not been demonstrated that the proposal will not harm the setting of and planned views within these areas of special interest.
2. The proposal is contrary to paragraph 6.12 of the Strategic Planning Policy Statement for Northern Ireland and Policy BH11 of Planning Policy Statement 6: Planning, Archaeology and the Built Heritage in that it has not been demonstrated that the scale of the development would not adversely affect the setting of Rostrevor House and Carpenham House which are listed under Section 80 of the Planning Act (Northern Ireland) 2011.
3. The proposal is contrary to policy CVN 3 and Designation RR 06 of the Banbridge, Newry and Mourne Area Plan 2015 in that the site is within a Local Landscape Policy Area and it has not been demonstrated that the development will not adversely affect the intrinsic environmental value and character of the designated area and particular features including Green Park, Carpenham and Our Lady of Apostles Missionary Convent.
4. The proposal is contrary to paragraph 6.187 of the Strategic Planning Policy Statement for Northern Ireland and Policy NH6 of Planning Policy Statement 2, Natural Heritage, in that the site lies in a designated Area of Outstanding Natural Beauty and it has not been demonstrated that the development is of an appropriate size and scale for the locality and that it conserves features of importance to the character, appearance and heritage of the landscape.
5. The proposal is contrary to Policy TSM7 of Planning Policy Statement 16: Tourism, as it has not been demonstrated that the development will not adversely affect features of the natural or built heritage including historic parks and listed buildings.
6. Having notified the applicant under Article 4 (2) of the Planning (General Development Procedure) Order (Northern Ireland) 2015 that photomontages and wireframes indicating the visual impact of the proposal are required to allow the Council to determine the application, and having not received sufficient information, the Council refuses this application as it is the opinion of the Council that this information is material to the determination of this application.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2017/1030/O

Date Received: 9th August 2017

Proposal: Site for 100 bedroom hotel & spa

Location: 200 metres East of No. 25 Greenpark Road, Rostrevor.
The site is located just to the north of Rostrevor.

Site Characteristics & Area Characteristics:

This is a large sloping site in Carrickbawn Wood to the north of Rostrevor. It is accessed from the Greenpark Road to the west. It currently contains an equestrian centre, some grazing for horses and a disused sand arena with floodlights. Several areas have been levelled by quarrying of rock and a snaking laneway has been constructed to provide access from the bottom to the top of the site. The site is heavily wooded with mature trees including beech, oak and ash. There is a large portal framed stable building near the top of the site. The site benefits from spectacular views over Carlingford Lough to the south.



Upper part of site and existing building



Disused sand arena & view south



Existing access lane

The site is located in a rural area outside the settlement limit of Rostrevor as defined on the Banbridge, Newry and Mourne Area Plan 2015. It is within a Local Landscape Policy Area (RR09) and the Mourne and Slieve Croob Area of Outstanding Natural Beauty. Part of it is within a Site of Local Nature Conservation Importance. The site is adjacent to Rostrevor House Demesne, an 18th Century designed landscape which is on the Register of Historic Parks, Gardens and Demesnes. It is also a short distance east of Green Park Demesne, which is also on the Register. It is in close proximity to Rostrevor House and Carpenham House which are Grade B listed buildings. There are Tree Preservation Orders on the adjacent grounds of Rostrevor House and Carrickbawn Wood. Part of the forested area is classed as Ancient Woodland. The site is in proximity to Rostrevor Wood Special Area of Conservation and Area of Special Scientific Interest and is hydrologically linked to Carlingford Lough Special Protection Area / Ramsar site. Other land uses in the area include a Convent, a GAA Club, residential and agricultural use.

Site History:

The existing equestrian centre was approved under application P/1994/0865 on 2nd February 1995. An application (Ref: LA07/2015/0088/F) for additional stables and a store some distance east of the existing site was recommended for refusal and withdrawn on 1st February 2017.

Outline planning permission was granted on 12th June 1996 for a caravan park on the site under application P/1996/0409, though this was not implemented and has lapsed.

A housing scheme under application P/2007/1732/F for 15 dwellings and 3 apartments on land at the entrance off Greenpark Road was approved on 31st March 2014.

A 50 bedroom hotel and spa was approved on the site under application P/2008/1178/O on 10th November 2011. This approval has now lapsed. It began as an application for a 100 bedroom hotel, but was reduced to 50 bedrooms during processing. It had been accompanied by an Environmental Statement for a 100 bedroom hotel. The developer is now seeking a 100 bedroom hotel to make the investment viable. In 2015, the applicant applied for a Pre-Screening under the EIA Regulations as to whether a new Environmental Statement would be required (see Ref: LA07/2015/0601). Following advice from consultees, it was agreed that a new Environmental Statement would not be required as the proposal could be assessed using the previous Environmental Statement, though consultees could request any necessary updates. Upon receipt of the current application and due to the introduction of the 2017 EIA Regulations, the Council carried out a further EIA screening and took advice from a number of consultees. On 15th November 2017, it was determined that the application did not require to be accompanied by a new Environmental Statement.

As the current application is a major application as defined by the Planning (Development Management) Regulations (Northern Ireland) 2015, it was preceded by a Proposal of Application Notice (Ref: LA07/2017/0757/PAN) and a period of Pre-application Community Consultation as required by legislation – see report on file.

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
- PPS6 – Planning, Archaeology and the Built Heritage
- PPS15 – Planning and Flood Risk
- PPS16 – Tourism
- PPS21 – Sustainable Development in the Countryside
- Building on Tradition Sustainable Design Guide

Consultations:

- TransportNI – No objections subject to the access being detailed at reserved matters stage including 10m radius and a right turn pocket.

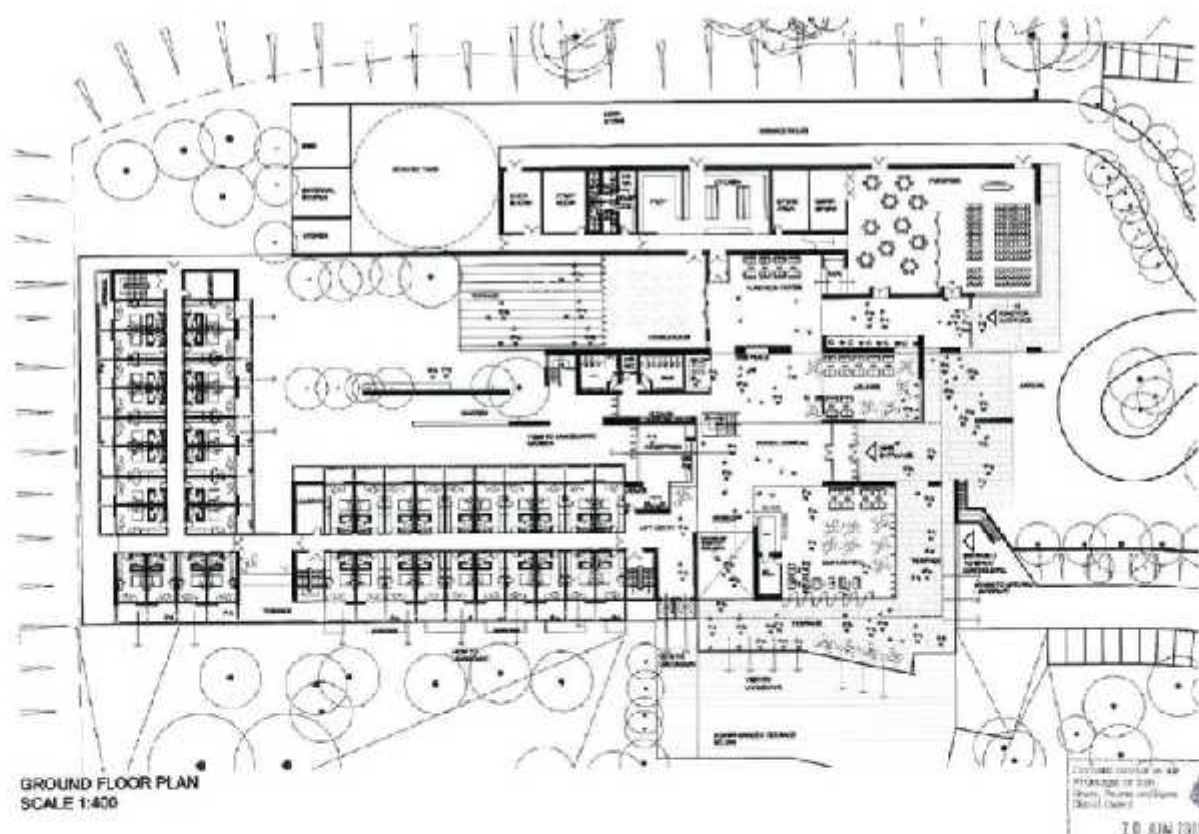
- NI Water – Site-specific informatives. A surface water sewer is not presently available but could be requisitioned. There is available capacity at the receiving Wastewater Treatment Works.
- Environmental Health – Requested additional information on noise. Upon receipt of this information, EH were content subject to there being no nuisance from the air conditioning system, the premises being connected to the main sewer and an application being made to the Council for an entertainment licence.
- Historic Environment Division – The proposal may affect the setting of listed buildings and historic parks. An archaeological impact assessment was requested along with a visual assessment including photomontages / wireframes. This information was requested on 5 occasions and the agent has repeatedly failed to provide it.
- Rivers Agency – Requested a Drainage Assessment. This was provided on 1st November 2017, but did not fully meet policy requirements with regard to the calculation of the size of the attenuation system, storage capacity or overland flow routes. The agent argued that this cannot be provided until the detailed design is known at reserved matters stage. Therefore it could be required by condition if the application is approved.
- Loughs Agency – Content subject to a condition that storm water should not be discharged to watercourses unless first passed through pollution interception and flow attenuation measures.
- NIEA –Standard advice on sewerage and drainage. Requested a Biodiversity Checklist and Preliminary Ecological Appraisal in relation to badgers, bats and birds as previous surveys were out of date. This was submitted on 2nd February 2018. They are now content provided all existing trees are retained as stated and a detailed tree survey is submitted at reserved matters stage.
- Shared Environmental Services – Following clarification on site drainage, the proposal should not have any effect on any European site.

Objections & Representations:

The application was advertised in the local press on 31st August 2017 and five neighbouring properties were notified of the proposal on 17th August 2017. One objection was received stating that the proposal was too large in scale and out of keeping with the village. In contrast, the feedback from the Pre-application community consultation exercise was generally supportive of the proposal.

Consideration and Assessment:

The proposal is for a 100 bedroom 4 star hotel targeting the upper end of the tourism industry. It will include spa, leisure (gym) and conference facilities, a restaurant and two lounge bars. It is suggested that the equestrian centre will be relocated within the site, though there are no details of this proposal in the planning application. While the proposal is for outline permission only, 3D perspectives and indicative floor plans have been submitted for consideration including those below:



The main issues to be considered are the principle of the development under tourism policy, effects on the setting of listed buildings and historic parks nearby, 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. RG11 of the RDS seeks to conserve and protect our built heritage and our natural environment, and specifically, to maintain the integrity of built heritage assets including historic landscapes. The agent has now had five opportunities to submit the information necessary to demonstrate that there will be no impact on the setting and integrity of the planned landscapes and listed buildings adjacent to the site, but has failed to do so.

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 site is within a Local Landscape Policy Area (RR09) and on the edge of a Site of Local Nature Conservation Importance. Among the areas and buildings that contribute to the LLPA designation are the hills and woodland surrounding the settlement and historic buildings including the Convent and Carpenham House. The agent has failed to demonstrate that the proposal will not adversely affect the setting of these buildings. Therefore the proposal is also considered contrary to the LLPA designation of the Area Plan and the relevant plan policy CVN3 as the development may adversely affect the intrinsic environmental value and character of the designated area. With regard to the SLNCl, Appendix 1D of the plan states that Carrickbawn Wood is *"A mixed broad-leaved woodland located in a river valley and semi-natural in origin. There is reasonable structure within the woodland with a mixed canopy, developing understorey and scattered ground flora. Boulders are scattered throughout the woodland and have extensive moss cover, additional interest comes from rotting stumps now covered in moss and fungi."* Since the agent has confirmed that no trees will be affected by the proposal, there will be no adverse impact on the SLNCl or trees protected by the Tree Preservation Order.

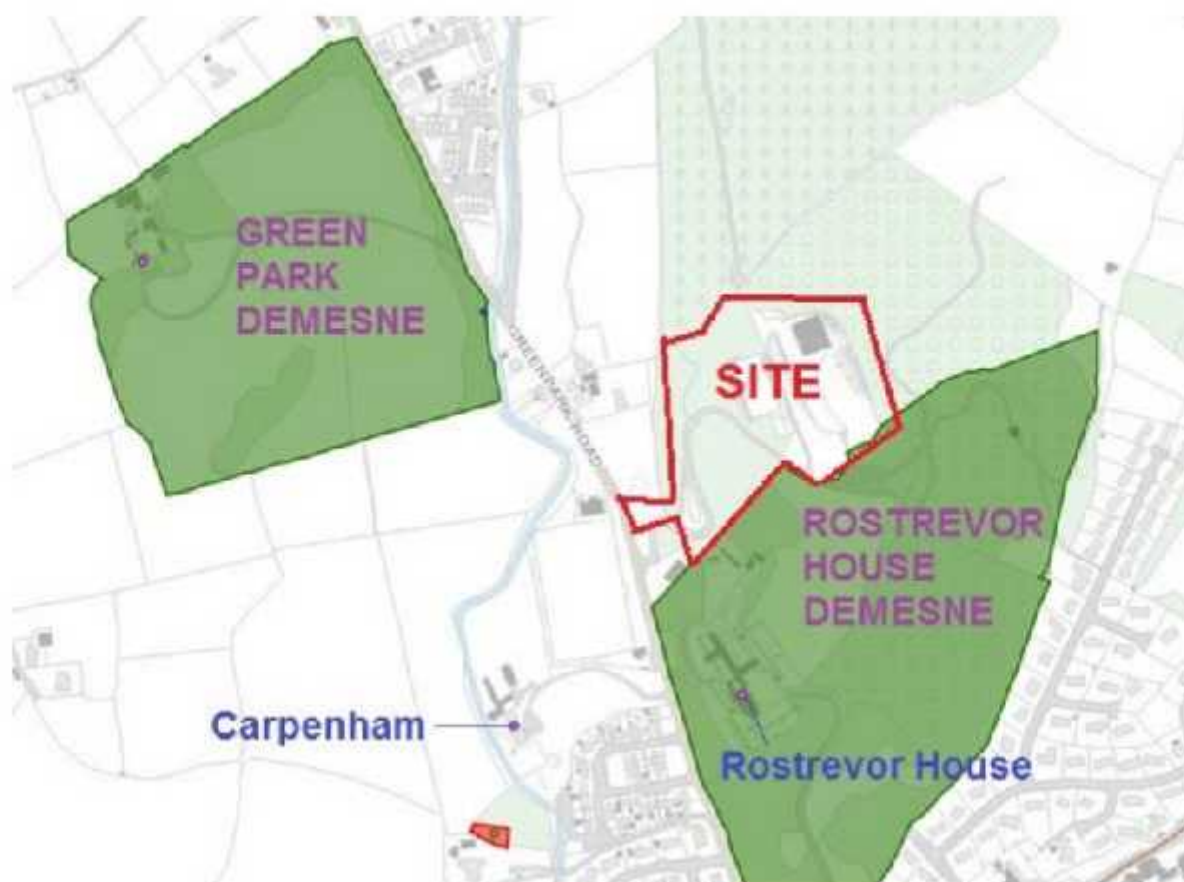
The principle of development proposals in rural areas must first be assessed against PPS21 – Sustainable Development in the Countryside. Policy CTY1 states that a range of types of development are acceptable in principle in the countryside. This includes tourism development if in accordance with the 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.

New hotels will be assessed against Policy TSM3 of PPS16. A new hotel will be acceptable either where it involves the replacement of an existing rural building, or as a new build proposal on the periphery of a settlement. As the applicant is proposing to relocate the equestrian centre within the site, the proposal is not a straight replacement of this building. However, it is considered acceptable in principle as a new build proposal on the periphery of a settlement. The access to the site from Greenpark Road is within the Rostrevor settlement limit and there are no other known suitable sites for a development of this scale within the settlement, or suitable buildings for conversion. The development site is close to the settlement, but would not dominate it, adversely affect its landscape setting or otherwise contribute to urban sprawl given the existing screening around the site which will be retained and the limited views from public viewpoints. While not strictly adjacent to the development limit, the upper part of the site is considered a better location for the development in visual and amenity terms and will give the opportunity to improve an area containing degraded buildings. The Council is therefore satisfied that the proposal is in general accordance with the sequential location test of TSM3 and acceptable in principle for hotel development.

Tourism development proposals are also subject to the design and general criteria in policy TSM7. Detailed design and layout cannot be assessed at outline stage, but the use of a sustainable drainage system is proposed and the proposal is considered compatible with surrounding land uses. While the Drainage Assessment did not fully meet the requirements of PPS15, it can be conditioned to form part of a future reserved matters submission if the application is approved. It should not harm the amenity of neighbours. Mains sewerage is available. There are no concerns regarding access and the existing road network can handle the extra vehicular traffic generated by the proposal. The only concern under this policy is criteria (i) as it has not been demonstrated that the proposal will not adversely affect features of the natural or built heritage, as discussed further below.

The site has a hydrological linkage to Carlingford Lough SPA and required screening under the Habitats Regulations. The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features of any European site. NIEA have also assessed the impact on protected habitats and species. An updated ecological assessment was undertaken in February 2018, with specific consideration of bats, badgers and birds. NIEA are content that there will be no adverse effects on these species as all existing trees are to be retained and no priority habitats were identified.

The site is adjacent to Rostrevor House Demesne, an 18th Century designed landscape which is on the Register of Historic Parks, Gardens and Demesnes. It is also a short distance east of Green Park Demesne, which is also on the Register. It is in close proximity to Rostrevor House and Carpenham House which are Grade B listed buildings. The location of these protected areas in relation to the site is shown on the map below:



Policy BH6 of PPS6 states that development which would cause harm to the character, principal components or setting of parks, gardens and demesnes of special historic interest will not normally be permitted. Rostrevor House demesne and designed landscape has origins in the 18th century and was the focus of one of the most important tree and shrub collections of late Victorian and Edwardian Ireland. The parkland planting was expanded throughout the 19th century and remains largely intact. The original design concept of the demesne would have included planned views from various areas within the landscape. The planned views within this demesne and also Green Park must be assessed and protected as part of this application.

Policy BH11 states that development which would adversely affect the setting of a listed building will not normally be permitted. The setting of a listed building is often an essential part of the building's character. This is particularly the case where a demesne, landscaped parkland, garden or grounds have been laid out to complement the design or function of the building. Paragraph 6.32 of PPS6 states, "Where it is considered that a development proposal may affect the setting of a listed building the Department will normally require the submission of detailed drawings which illustrate the relationship between the proposal and the listed building. Where appropriate the Department will use its powers contained in the General Development Order to request applicants to supply such additional information on the proposed development as is considered necessary to allow proper determination." On five occasions through the course of this application (21/9/17, 6/2/18, 26/2/18, 23/4/18 and 21/5/18), the Historic Environment Division of the Department for Communities (a Statutory consultee) has requested detailed drawings to allow an assessment of the impact of the development on the setting of

the protected sites. Specifically, they have asked for photomontages or wireframes. On each occasion, the agent has replied to argue why he thinks the information is unnecessary, why he can't provide it, or has provided something different from that requested (mainly photographs of the existing situation which do not indicate the scale of the proposed building). Since the agent has been able to supply the visual images shown on page 5 above, it is unclear why suitable photomontages cannot be produced that would show the scheme in context. Although the application is for outline permission, it is a major application and requires a commensurate level of detailed supporting information. HED have advised, "the information submitted to date is notional and HED: HB remain unconvinced that the agent has fully considered the impact of the proposal. The level of information provided is not sufficient for a scheme of this complexity and magnitude."

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 benefits from the mature screening of Carrickbawn Wood and a backdrop of rising land. However, without the visual images we have requested, it is difficult to make an assessment of whether the proposed 14m high building on this elevated site would be a prominent feature in the landscape when viewed from public viewpoints principally on Greenpark Road. Without this information, the proposal is considered contrary to policy CTY13(a). As this is an Area of Outstanding Natural Beauty, we must also apply policy NH6 of PPS2 with regard to visual impact in the AONB. A 14m high building would have to be exceptionally well screened to ensure it is sympathetic to the special character of the AONB and the agent has given no information to demonstrate the visual impact of the proposal other than existing photos. It has not been demonstrated that the proposal will respect planned views from Rostrevor House and Green Park which are of importance to the character, appearance and heritage of the landscape. With regard to policy CTY14 the proposal will not contribute to build-up since much of the other surrounding development is within the Rostrevor development limit. There is no issue of ribbon development.

The Council cannot continue to hold the application while the agent fails to provide the necessary information. He has had four opportunities to provide the information necessary to make an informed assessment of the proposal. In the absence of this information, the proposal is contrary to paragraphs 6.12, 6.16 and 6.187 of the SPPS, policies BH6 and BH11 of PPS6, policies CVN3 and RR09 of the local area plan, policy TSM7 of PPS16, policy CTY13 of PPS21 and policy NH6 of PPS2. It should be refused for the above reasons along with lack of information.

Recommendation: Refusal

Refusal Reasons:

1. The proposal is contrary to paragraph 6.16 of the Strategic Planning Policy Statement for Northern Ireland and Policy BH6 of Planning Policy Statement 6: Planning, Archaeology and the Built Heritage in that the site lies adjacent to Rostrevor House Demesne and in close proximity to Green Park Demesne, as identified in the Northern Ireland Register of Historic Parks, Gardens and

Demesnes and it has not been demonstrated that the proposal will not harm the setting of and planned views within these areas of special interest.

2. The proposal is contrary to paragraph 6.12 of the Strategic Planning Policy Statement for Northern Ireland and Policy BH11 of Planning Policy Statement 6: Planning, Archaeology and the Built Heritage in that it has not been demonstrated that the scale of the development would not adversely affect the setting of Rostrevor House and Carpenham House which are listed under Section 80 of the Planning Act (Northern Ireland) 2011.
3. The proposal is contrary to policy CVN 3 and Designation RR 09 of the Banbridge, Newry and Mourne Area Plan 2015 in that the site is within a Local Landscape Policy Area and it has not been demonstrated that the development will not adversely affect the intrinsic environmental value and character of the designated area and particular features including Green Park, Carpenham and Our Lady of Apostles Missionary Convent.
4. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21: Sustainable Development in the Countryside, as it has not been demonstrated that the proposed building would not be a prominent feature in the landscape.
5. The proposal is contrary to paragraph 6.187 of the Strategic Planning Policy Statement for Northern Ireland and Policy NH6 of Planning Policy Statement 2, Natural Heritage, in that the site lies in a designated Area of Outstanding Natural Beauty and it has not been demonstrated that the development is of an appropriate size and scale for the locality and that it conserves features of importance to the character, appearance and heritage of the landscape.
6. The proposal is contrary to Policy TSM7 of Planning Policy Statement 16: Tourism, as it has not been demonstrated that the development will not adversely affect features of the natural or built heritage including historic parks and listed buildings.
7. Having notified the applicant under Article 4 (2) of the Planning (General Development Procedure) Order (Northern Ireland) 2015 that photomontages and wireframes indicating the visual impact of the proposal are required to allow the Council to determine the application, and having not received sufficient information, the Council refuses this application as it is the opinion of the Council that this information is material to the determination of this application.

Case Officer Signature:

Date:

Appointed Officer Signature:

Date:

Cole Partnership
Architecture
and Project
Management
12A Duke Street
Warrenpoint
Co.Down
BT34 3JY

F.A.O Colette Mc Ateer.
30-05-2018
Planning Department
N.M. & D.D.C.
O Hagan House.
Newry.

Dear Madam,

Re: Proposed 100 bedroom Hotel 200 metres East of No.25 Greenpark Road, Rostrevor for Shoreside Developments. Planning Ref: LA07/2017/1030/O

We request speaking rights for Mr. M Graham of White Young Green and Mr. A Bunbury of Park Hood Landscape Architects in connection with the above application for the meeting of the 6th of June 2018.

Additional information has been supplied to the Planning department from Park Hood Landscape Architects with wire frame indications of the proposed building in the landscape which in Park Hoods opinion

"In terms of views from the west of the Application Site (i.e. in the areas where the Listed Buildings at Greenpark House, Rostrevor House and Carpenham House), the LVIA noted the following:-

"Where the site is visible it will only be the peripheral vegetation that is seen and the core area where the hotel is proposed is obscured. The site is set in a wooded landscape that encloses it and, at such distances, it forms a negligible part of the panorama view".

Extracts from Park –Hood report on the adjacent listed buildings:

Carpenham House:

- The extent of trees, shrubs and other vegetation within the garden between the house and the Drumreagh / Greenpark Road ensure that views in this direction are completely curtailed. Even the closer St Bronagh's GAA pitches are obscured by the designed landscape setting. The proposed development is located approximately 430m distant to the north-east on the higher slopes of Thunders Hill but very limited glimpse views are afforded of the wider hill from Carpenham House itself
- The proposed development will not be visible due to a combination of intervening garden vegetation (at Carpenham), woodland aside the Application Site and topography. The effects on the setting, quality and character of Carpenham House deriving from this proposal will be *negligible*.

Rostrevor House:

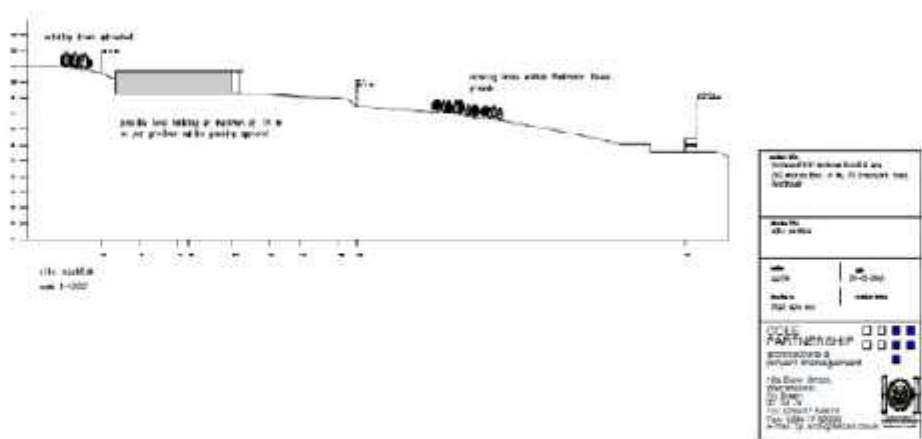
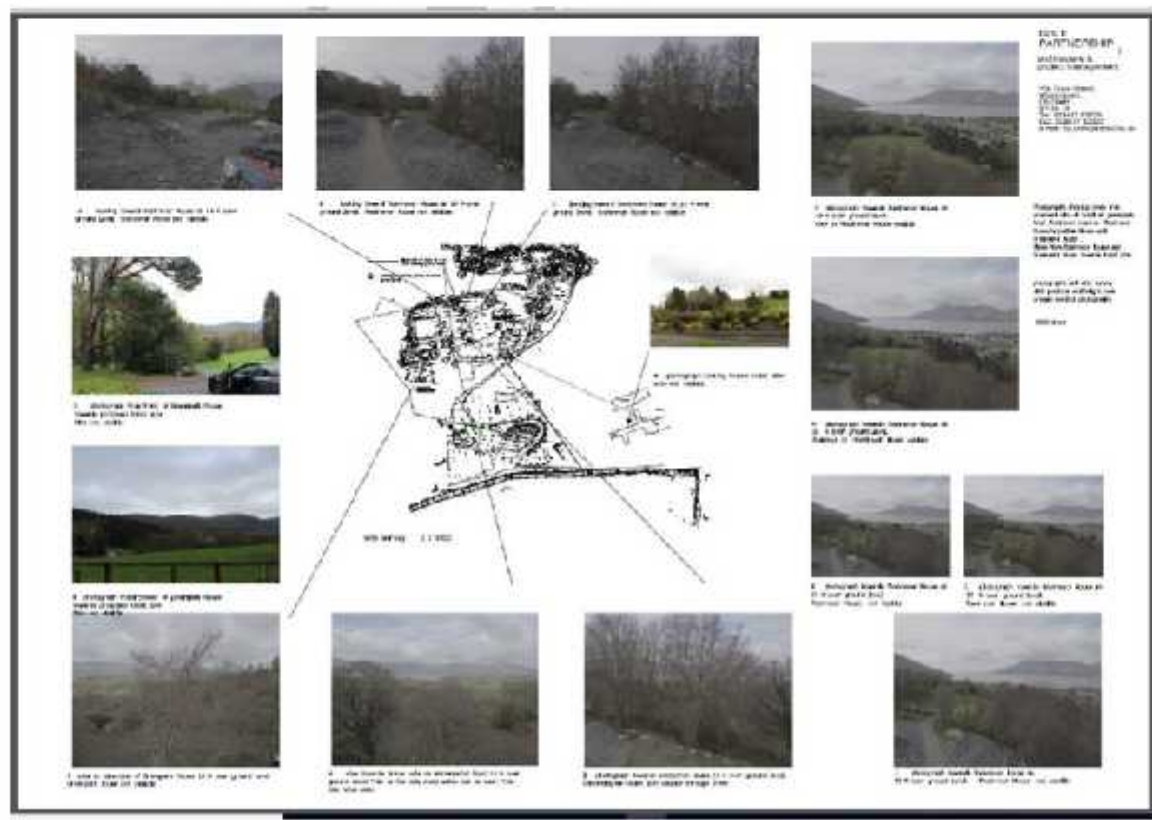
- The Application Site is obscured from the areas aside Rostrevor House by a ridge line / topography (approximately 150m distant from the house) and woodland located on the steep slopes in the intervening landscape. While there are open views rising up the parkland / farmland in this direction, the proposed development will be out of view and have *negligible* effects on a year round basis (i.e. irrespective of leaf cover).

Greenpark House:

- The intervening woodlands are dominated by broadleaf trees (i.e. deciduous) so there are potential for more open views during winter months though these would still be filtered by the peripheral vegetation. Given the distance from Greenpark House and the Application Site not being part of the key view from the house, effects – while *slight* – would not impact its quality, character or visual setting. As such, there would be no significant or unacceptable landscape or visual effects on Greenpark House deriving from this proposal.

Previous information supplied to Planners:

Information in the form of massing section and photographic evidence has been provided to show that there is no inter-visibility between the adjacent listed building, Rostrevor House, and the proposed hotel.



Video footage from drone flying over site was also provided which showed all visibility from proposed ridge height of hotel.

The planned views from Rostrevor House are to the south of the building while the view to the north towards the proposed hotel is blocked by both the 1960 extension to Rostrevor House and the rising land beyond the extension.

Photograph 1: Taken from Rostrevor House looking towards proposed site.



The view from Greenpark House is also to the south and photographic evidence has been lodged showing that the proposed site is not visible from Greenpark House.

Photograph 2: Taken from Greenpark House looking towards proposed site.



No access to Carpenham House was available so information in the form of photographs taken from the proposed ridge level, 14 M over existing ground level on the site of the proposed hotel, along the external walls of the concept drawings were taken looking towards Carpenham House. The roof of Carpenham House was just visible through the trees. There was no view of Rostrevor House at 14 M oversite level. To see the roof of Rostrevor House the drone had to be positioned at 40 M over site level.

Photograph 3: Photograph taken from drone footage



Access to Carpenham House was achieved on the 25-05-2018 and photographs are included in the latest information from Park Hood lodged on the 30-05-2018.

As there is no inter-visibility between the proposed site and the listed building nor is there and position on the public road where the proposal and the listed buildings can be view together the proposal will have no effect on the listed buildings.

Carpenham House and Greenpark House are on the left hand side of the Greenpark Road while travelling from Rostrevor while the proposed hotel is on the right hand side. Neither Carpenham House or Greenpark House are visible from the Greenpark Road. Rostrevor House is also not visible from the Greenpark Road it is therefore our opinion that the proposal will not adversely affect the intrinsic environmental value and character of the designated area.

The proposal is situated on the site of an existing equestrian where there are no features of importance in the landscape

Photograph 4: Proposed site



As the proposed building will be constructed on a flat plateau with a back drop of a rock face and tress above it will have no effect on natural features or built heritage.

No photomontages were provided as there is no position from which the proposed hotel could be placed in a photograph from any of the listed buildings. A massing section was provided showing the relationship between Rostrevor House and the proposed hotel which is acceptable by HED as opposed to a wire frame drawing.

Yours faithfully,

A.J.COLE
For Cole Partnership

Landscape and Visual Assessment – Technical Report

100

Site for 100 bedroom hotel & spa at 200 metres East of No. 25 Greenpark Road, Rostrevor, Co. Down

Prepared on behalf of Mr Miceal Tinnelly

Planning Reference LA07/2017/1030/O

May 2018 / Project No 6365




Proposed Hotel and Spa at Greenpark Road, Rostrevor

Landscape and Visual Assessment – Listed Buildings

Client Name:	Mr Miceal Tinnelly
Document Reference:	6365/GRW/LVA/2018
Project Number:	6365
Planning Reference Number (Newry, Mourne and Down District Council)	LA07/2017/1030/O

Quality Assurance

Approval Status (in accordance with Park Hood's Internal Management Systems, BS EN ISO 9001: 2008 and BS EN ISO 14001: 2004).

Issue	Date	Baseline Prepared by	Graphics prepared by	Report prepared by
<i>Draft</i>	<i>28-05-18</i>	<i>Fraser Orr</i>	<i>Ryan Hood</i>	<i>Andrew Bunbury</i>
<i>Reviewed</i>	<i>29-05-18</i>	<i>Andrew Bunbury CMLI Landscape Architect & Director Park Hood</i>		
<i>Final</i>	<i>30-05-18</i>			

Disclaimer

All feasible and reasonable attempts have been made to ensure that the information provided by a range of public sector institutions and presented in this report is accurate and up-to-date. Park Hood is not responsible for accidental perpetuation of inaccuracies in these records and any consequent effect on the conclusions in this report.

This report has been prepared by Park Hood with all reasonable skill, care and diligence within the General Terms and Conditions of the Contract with the client.

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1.0 Introduction

- 1.1 This Landscape and Visual Assessment been prepared by Park Hood Chartered Landscape Architects on behalf of Mr Miceal Tinnelly.
- 1.2 Park Hood is a Chartered Member of the Landscape Institute (UK Registration Number NI 054443) with extensive experience in preparation of Landscape and Visual Appraisals (LVA), Landscape and Visual Impact Assessments (LVIA), Townscape Assessments and Site Capacity Studies for developments of this scale and nature throughout Ireland and the UK as part of Environmental Assessments (EA) or stand-alone reports to assist planning processes.
- 1.3 The author is Andrew Bunbury who is a fully qualified Landscape Architect and Chartered Member of the Landscape Institute (CMLI) UK with over 20 years' consultancy experience in the landscape profession across the UK and Ireland. He is based in Park Hood's Belfast office where there are ten other Chartered Landscape Architects and a further eight support staff.
- 1.4 All work is undertaken in compliance with the *Landscape Institute's Code of Standards of Conduct and Practice for Landscape Professionals* and checked in accordance with Park Hood's IMS (BS EN ISO 9001: 2008 and BS EN ISO 14001: 2004).

Landscape and Visual Assessment Definitions and Distinctions

- 1.5 For the purpose of this assessment, this report adopts the definition of landscape presented in the European Landscape Convention and as such the term 'landscape' refers equally to areas of rural countryside and urban – built up – areas (typically referred to as 'townscape'). The definition of landscape is as follows:

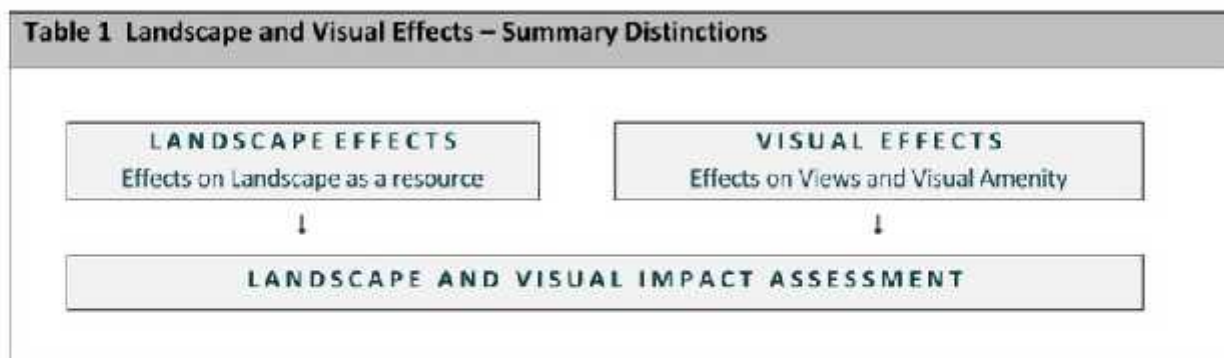
*"An area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors"*¹

- 1.6 Landscape and Visual Impact assessment can be key to effective planning decisions since it helps identify the effects of new developments on views and on the landscape itself. The assessment is based primarily on guidance and techniques outlined within the *Guidelines for Landscape and Visual Impact Assessment (3rd Edition 2013)* by *The Landscape Institute and the Institute of Environmental Management & Assessment (GLVIA)*.
- 1.7 The report uses a number of other published guidance documents and references which are listed in **Appendix A**.

Landscape and Visual Effects – Distinctions

- 1.8 Landscape and Visual effects are assessed separately although the process is similar and effects ultimately arise as a result of combined impacts upon the landscape and visual amenity of a proposed Development. The distinction between landscape and visual effects can be summarised as follows:-

¹ Council of Europe (2000) European Landscape Convention Florence, 20.10.2000



1.9 Landscape Effects are defined as follows:

“An assessment of landscape effects deals with the effects of change and development on landscape as a resource. The concern ... is with how the proposal will affect the elements that make up the landscape, the aesthetic and perceptual aspects of the landscape and its distinctive character. ... The area of landscape that should be covered in assessing landscape effects should include the site itself and the full extent of the wider landscape around it which the proposed development may influence in a significant manner.” (GLVIA paragraphs 5.1 and 5.2)

1.10 Visual Effects are summarised as follows:-

“...establish the area in which the development may be visible, the different groups of people who may experience views of the development, the places where they will be affected and the nature of the views and visual amenity at those points.” (GLVIA paragraph 3.13)

1.11 In terms of Landscape and Visual matters, the key issues can be summarised as follows:-

- Comparison of effects on landscape character and integration between the existing landscape setting and that envisaged after the proposed development is constructed and operational;
- Comparison of effects on visual amenity and views deriving from set locations (in this case Listed Buildings) and how any view or visual amenity might be affected by the proposed development.

Scope of Report

Planning History

- 1.12 The Application Site was subject of an outline planning approval for a “Hotel” (Planning Reference P/2008/1178/O) which was approved on 9th November 2011.
- 1.13 On 20th June 2017, an Outline Planning Application was lodged with Newry, Mourne and Down District Council (NMD) for a “Site for 100 bedroom hotel & spa” at “200 metres East of No. 25 Greenpark Road, Rostrevor”. (Planning Reference LA07/2017/1030/O).
- 1.14 Park Hood were engaged in May 2018 to review concerns the NMD Planning Department and NIEA Historic Environment Division had regarding effects to the setting and character of three Listed Buildings.

NIEA Historic Environment Department Concerns

1.15 NIEA Historic Environment Division (HED) had no issues with the proposed development in the 2009 planning application. However, in their consultation responses for the current application, they have raised concerns about potential effects on three NIEA listed buildings / demesnes. These potential effects form the focus of this report.

1.16 In their consultation response letter dated 21st May 2018, HED stated the following:-

Historic Environment Division: Historic Buildings (HED: HB) has reconsidered the application on the basis of the agent's photographs and letter published on 27th Apr and 1st May 2018 respectively, and it reiterates previous advice that the proposal fails to satisfy Policy BH11 (Development affecting the Setting of a Listed Building) of the Department's Planning Policy Statement 6: Planning, Archaeology and the Built Heritage and paragraph 6.12 (setting) of Strategic Policy Planning Statement for Northern Ireland. Refer to Explanatory Note. HED: HM has reviewed the agent's photographs and letter published 27th April and 1st May 2018. We consider that the information submitted to date does not address our concerns regarding the potential impact of the development upon the setting of the adjacent demesne and Green Park demesne. A detailed visual impact assessment to include photomontages is required to allow an informed planning decision.

1.17 HED had written an earlier consultation response (23rd April 2018) in which they stated the following:-

Historic Environment Division: Historic Monuments (HED: HM) require additional information, as per Policy BH 3 of PPS 6, in the form of a detailed visual impact assessment to include photomontages of the proposed scheme from critical views and sightlines within the designed landscape of both Rostrevor House and Green Park demesnes. This additional information is required to allow HED: HM assess the potential impact of the scheme upon both demesnes and provide informed advice to the local planning authority.

1.18 This followed their initial response dated 21st September 2017 which stated:-

"HED Historic Monuments consider that the proposed scheme may have an impact upon the surrounding historic environment and have particular concerns regarding the potential adverse impact upon the setting and integrity of Rostrevor House and Green Park."

1.19 The NIEA Historic Environment Map Viewer identifies the location of the three properties and these are summarised as follows:-

- Listing HB16/06/060 Grade B **Rostrevor House**, Greenpark Road, Rostrevor, Co. Down and Designation D-052 - Historic Parks, Gardens and Demesnes;
- Listing HB16/06/063 Grade B **Greenpark House**, Ballymoney, Rostrevor, Co. Down and Designation D-078 - House and Historic Parks, Gardens and Demesnes; and
- Listing HB16/06/061 Grade B **Carpenham House**, Greenpark Road, Rostrevor, Co. Down.

1.20 Further listed properties are located towards Rostrevor but these are sufficiently distant to ensure that there would be absolutely no effects due to intervening topography, vegetation and built environment.

Report Process

1.21 This report can be summarised as undertaking the following key tasks:-

- Site Visit and photography (25th May 2018);
- Review of Baseline Landscape Setting and Conditions;
- Evaluation of key components of the proposed Development based on site layouts, plans and elevations prepared by project architects and other members of the design team;
- Consideration of Mitigation and Enhancement Measures;
- Assessment of Landscape Effects and Visual Effects on listed buildings at Rostrevor House, Greenpark House and Carpenham House and concluding statement.

Establishing the Study Area

1.22 The study area usually includes the Application Site itself and the wider landscape where the proposed development may have an influence either directly or indirectly. In this instance, it has been limited to the area aside and towards the three Listed Buildings that form the basis for NED concerns.

1.23 To assist in initial assessment a digitally produced Zone of Theoretical Visibility Map was prepared based on the scale and height (14m) of the proposed hotel development. This suggested that the proposed development is theoretically visible from the Listed Buildings but given the software is based on bare-earth topography and does not include smaller ridges (as exist aside the site), vegetation and built environment, it does present a worst-case scenario. Given this initial evidence, site visits were conducted to each of the listed buildings to establish what, if any, intervening vegetation or other screening was afforded between these areas and the proposed development site. **See Figure 2**

1.24 All three properties are privately owned but each owner sanctioned site visits and photography to facilitate this assessment and visits were timed with a clear and bright day (25th May 2018).

Data Sources and Guidance Documents

1.25 The overall approach and methodology undertaken in this report are based on techniques and guidance in the GLVIA. Other guidance is found within the following:-

- *Guidelines for Environmental Impact Assessment by the Institute of Environmental Management & Assessment (2004);*
- *Introduction to Environmental Impact Assessment (4th Edition) by J Glasson, R Therivel and A Chadwick (2012);*
- *Landscape Institute Technical Guidance Note 02/17: Visual representation of development proposals (2017); and*
- *Landscape Institute Advice Note 01/11: Photography and Photomontage in Landscape and Visual Assessment (2011).*

2.0 Baseline Landscape Setting

Application Site Location

- 2.1 The Application Site is located across a cut into the western slopes of Thunders Hill aside Carrickbawn Wood, approximately 700m north of Rostrevor village in Co. Down. See Figure 1

Photo 1 – Existing Site Setting



View of Application Site from adjacent laneway to its immediate south showing extent of existing woodland to periphery of main area proposed for the hotel development

Application Site Setting

- 2.2 The site has been used for equestrian purposes in the intervening period and includes large level gravelled parking area. The cutting has resulted in flattened areas set between steep slopes (and rocky cliffs) where the proposed development is to be located.
- 2.3 The site is bound on all sides by mature belts of trees or woodland which have established on the periphery of the site or are part of the wider Carrickbawn Wood. Carrickbawn Wood comprises a large area of oak/birch/beechn woodland (subject of a TPO) that merges into the adjacent coniferous plantations of Ballymoney Wood. The collective of mature trees and topography ensure the Application Site has a high degree of visual enclosure which was noted in the Landscape & Visual Assessments (LVIA) that accompanied the planning applications on this site. It is worth noting that the trees and peripheral vegetation have matured since the LVIA was written and these provide further visual screening.
- 2.4 The LVIA stated that the site is *“well screened from public vantage points from the north, south and west and is generally completely obscured from view from any eastern vantage points”*.

2.5 In terms of landscape sensitivity, it noted the following:-

“Given the damaged nature of the existing site character and the extent of visual screening, this site demonstrates a good capability of absorbing changes within the core areas without significant detriment or effects to surrounding landscape areas.”

3.0 Proposed Development

3.1 The proposed development is for a 100 room hotel and Spa which will be located across the (already) levelled former quarry floor. Of relevance to this report, the proposals include for the following which are a factor in landscape and visual considerations and noted in the mitigation section of the LVIA:-

- Existing boundary vegetation to be retained, augmented and gapped up;
- Plants selected will be predominantly indigenous and species selection will ensure successful plant establishment that will be in keeping with the local landscape character.
- Larger trees will be planted to help to soften and impact of any hard-standings and to aid the integration of these elements;
- There are several mature trees on this site and where appropriate the recommendations given in “BS5837:2012 Guide for trees in relation to construction” will be adopted to ensure site and tree safety.

3.2 As part of any reserved matters or detail planning application on this site, a detailed landscape plan will be prepared and agreed with the Newry, Mourne and Down District Council at that time. This would include an updated tree survey and detailed measures to ensure that existing visual screening around the site and its periphery are retained and augmented.

4.0 Potential Effects to Listed Buildings

Introduction

4.1 The majority of the built structure of the hotel and the related elements such as the service yard, gardens and car parking areas will be screened from any public views due to topography and the wooded nature of the Application Site and the peripheral landscapes.

4.2 Overall, the effects on the visual amenity and landscape character of Rostrevor Village are assessed as *negligible*. This village contains several listed / designated buildings and on the basis of further site assessment, these have been discounted as there will be no or *negligible* (i.e. not significant) effects to these areas.

4.3 In terms of views from the west of the Application Site (i.e. in the areas where the Listed Buildings at Greenpark House, Rostrevor House and Carpenham House), the LVIA noted the following:-

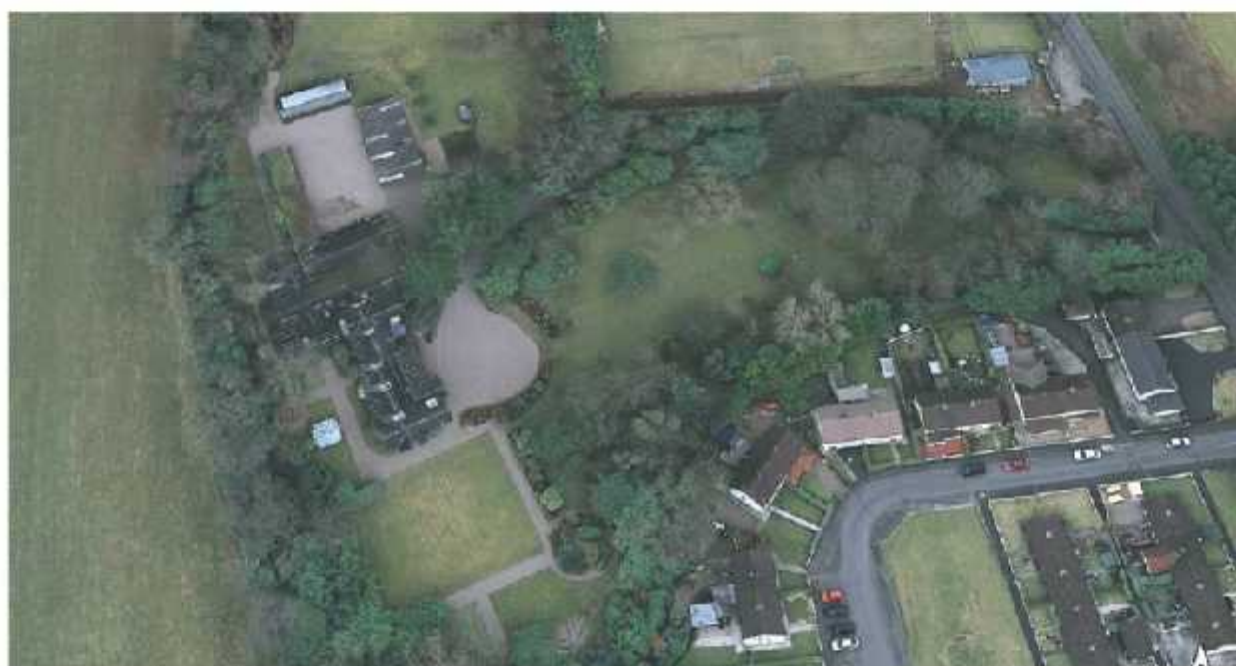
“Where the site is visible it will only be the peripheral vegetation that is seen and the core area where the hotel is proposed is obscured. The site is set in a wooded landscape that encloses it and, at such distances, it forms a negligible part of the panorama view”.

- 4.4 It is worth noting that all three listed properties are themselves located in mature wooded settings and the houses are angled in such a manner that ensures the Application Site area (even in a bare earth scenario) would not be the focus of their views which is invariably towards lower lands and Carlingford Lough to the south.

Carpenham House

- 4.5 Carpenham House dates from about 1830 and was designed by William Vitruvius Morrison. Described as an Elizabethan cottage-style remodelling of an existing 2-storey house, it is set in mature well managed wooded setting with extensive ornamental gardens.

Photo 2 – Carpenham House – aerial photograph



Aerial Photograph of Carpenham House demonstrating its context in a mature wooded setting

- 4.6 The extent of trees, shrubs and other vegetation within the garden between the house and the Drumreagh / Greenpark Road ensure that views in this direction are completely curtailed. Even the closer St Bronagh's GAA pitches are obscured by the designed landscape setting. The proposed development is located approximately 430m distant to the north-east on the higher slopes of Thunders Hill but very limited glimpse views are afforded of the wider hill from Carpenham House itself. **See Figures 3 and 4**
- 4.7 The proposed development will not be visible due to a combination of intervening garden vegetation (at Carpenham), woodland aside the Application Site and topography. The effects on the setting, quality and character of Carpenham House deriving from this proposal will be *negligible*.

Rostrevor House

- 4.8 Rostrevor House is an early 19th century Tudor-Revival house with a long irregular front of large and small gables and many tall chimneys. It is set on the lower west facing slopes of Thunders Hill in a parkland estate which includes many mature trees and large areas of mown lawns. The property extends to approximately 29 acres of mature parkland, woodland and agricultural land. Amongst this is the noted plant collection of Sir John Ross of Bladensburg dating from the early 20th century.

Photo 3 – Rostrevor House



View from lawns looking north towards the west facing façade of Rostrevor House. The Application Site is located approximately 275m further north and is obscured by rising topography and mature woodland.

- 4.9 The house was significantly extended in the 1960s with 2 & 3 storey accommodation including 58 bedrooms, washrooms, toilets and shower rooms when it was run and managed by the Sisters of Our Lady of the Apostles and used by Religious Orders of the Roman Catholic Church between 1952 and 2003. The original Rostrevor House is listed Grade B, and – while incongruous – the 1960s building also has listed building protection by virtue of its connection to the original house. The property was recently sold and is now privately owned.
- 4.10 To the north of Rostrevor House and the attached 1960s building is a walled garden including outlying buildings that abut a steep sloping grazing paddock that merges into farmland leading towards the Application Site area (approximately 200m distant). The house has an enclosed landscape character due to the extent of mature trees located towards Drumreagh / Greenpark Road and extent of Carrickbawn Wood to its east.
- 4.11 The Application Site is obscured from the areas aside Rostrevor House by a ridge line / topography (approximately 150m distant from the house) and woodland located on the steep slopes in the intervening landscape. While there are open views rising up the parkland / farmland in this direction,

the proposed development will be out of view and have *negligible* effects on a year round basis (i.e. irrespective of leaf cover). **See Figures 5 and 6**

- 4.12 It should also be noted that the outline "Proposed Landscape Plans" accompanying this application include for woodland belt planting on the southern boundary of the Application Site lands which would serve to obscure the existing entrance avenue and further ensure no unacceptable visual effects to this listed demesne.

Greenpark House

- 4.13 Greenpark House and demesne dates from before 1834. Features include a walled garden and two gate lodges, a mature shelter belt and parkland trees. The front façade faces south and views of the Application Site (over 600m distant) to the east are obscured by trees and vegetation to the immediate east of the house. The house faces towards the entrance to Carlingford Lough with the landscape to the front clearly set out in a parkland manner to frame and maximise the panoramic view leading towards the coast and backdrop of mountains. The Application Site is not in this direction or in the panorama that makes up this very appreciable and high quality view.

Photo 4 – Greenpark House



Front façade of Greenpark House that faces south over Carlingford Lough. The Application Site is to the east and obscured by trees and woodland to the immediate east of the house.

- 4.14 To attain a more open vantage towards the east, the Application Site and Thunders Hill, any viewer would need to walk approximately 30m to the front of Greenpark House where the proposed development is potentially visible on part of the thickly wooded slopes leading up to Thunders Hill within Carrickbawn Wood.

- 4.15 The wireframe demonstrates that the majority of the proposed development will be obscured from this distant view during summer months due to intervening vegetation and have *slight* visual and landscape effects. Figure 9 in Appendix D shows how the proposed hotel would be set into this landscape and would be behind intervening trees. This gives an indication of the likely visual effects demonstrating that there are no significant views of the proposed building facades afforded. See Figures 7, 8 and 9
- 4.16 The intervening woodlands are dominated by broadleaf trees (i.e. deciduous) so there are potential for more open views during winter months though these would still be filtered by the peripheral vegetation. Given the distance from Greenpark House and the Application Site not being part of the key view from the house, effects – while *slight* – would not impact its quality, character or visual setting. As such, there would be no significant or unacceptable landscape or visual effects on Greenpark House deriving from this proposal.

5.0 Conclusions

- 5.1 Our findings based on site surveys in May 2018 and corresponding digitally produced visualisations contained in Appendix D – is that there are no significant or unacceptable effects deriving from this proposal on the landscape character and setting of the three NIEA HED listed buildings at Greenpark House, Rostrevor House and Carpenham House. In all cases, the houses do not face directly towards the Application Site and their designed landscapes in conjunction with topography and trees aside the proposal ensure that it will be obscured.
- 5.2 Based on this we see no reason why the proposed development should not be approved as an outline planning application and would encourage NIEA HED and the Planning Department to consider this proposal acceptable given this evidence.

Appendix A: REFERENCES

A number of documents and websites were reviewed to identify planning and guidance pertinent to the landscape at the Application Site and study area. These include the following:-

- NIEA “Map Viewer” by Northern Ireland Environmental Agency to identify relevant “Protected Areas” and “Built Heritage”;
- OSNI Historical Maps – <https://mapshop.nidirect.gov.uk>
- <https://en.wikipedia.org>
- <https://www.spatialni.gov.uk>
- <https://www.nisra.gov.uk>
- <http://www.parksandgardens.org>
- *Mark Bence-Jones A Guide to Irish Country Houses Rev Edi (Guides) Hardcover 1996;*
- <https://www.dia.ie> – *Dictionary of Irish Architects.*

All feasible and reasonable attempts have been made to ensure that the information provided by a range of public sector institutions and presented in this report is accurate and up-to-date. Park Hood is not responsible for accidental perpetuation of inaccuracies in these records and any consequent effect on the conclusions in this report.

Appendix B: LANDSCAPE AND VISUAL TERMINOLOGY

Table B1 – Magnitude Criteria for Landscape Character Effects	
<i>The magnitude of change on landscape character is an expression of degree of the change resulting from the proposed Development in terms of size, scale, geographical extent, duration and reversibility.</i>	
Terminology	Definition
Substantial	Total loss or major alteration to key elements / features / characteristics of the baseline (i.e. pre-development) landscape and /or introduction of elements considered to be totally dominant when set within the attributes of the receiving landscape.
Moderate	Partial loss or alteration to one or more key elements / features / characteristics of the baseline (i.e. pre-development) landscape or view and /or introduction of elements that may be prominent but may not necessarily be considered to be substantially uncharacteristic when set within the attributes of the receiving landscape.
Slight	Minor loss or alteration to one or more key elements / features / characteristics of the baseline (i.e. pre-development) landscape or view and /or introduction of elements that may not be uncharacteristic when set within the attributes of the receiving landscape.
Negligible	Very minor loss or alteration to one or more key elements / features / characteristics of the baseline (i.e. pre-development) landscape or view and /or introduction of elements that are not uncharacteristic with the surrounding landscape - approximating the 'no change' situation.

Table B2 – Magnitude Criteria for Visual Effects	
<i>The visual effects deriving from the proposed Development are based on the combined judgement of the anticipated change in nature, visual amenity and duration of the particular view (magnitude) and the nature of the visual receptor (sensitivity).</i>	
Magnitude	Definition
Severe	A major change or obstruction of a view that may be directly visible, appearing as the dominant and contrasting feature appearing in the foreground.
Substantial	A major change or obstruction of a view that may be directly visible, appearing as a prominent and contrasting feature and/or appearing in the foreground / middle ground.
Moderate	A moderate change or partial view of a new element within the view that may be readily noticeable, directly or obliquely visible including glimpsed, partly screened or intermittent views, appearing as a noticeable feature in the middle ground.
Slight	A small level of change, affecting a small part of the view that may be obliquely viewed or partly screened and/or appearing in the background landscape. May include moving views at speed. The proposal forms a minor component in the wider view which might be missed by the casual viewer / observer.
Negligible	The proposal is barely discernible or may be at such a distance that it is very difficult to perceive equating to a no-change situation.

Appendix C: VISUALISATIONS

- C1 GLVIA states the following: *“Photomontage is the most widespread and popular visualisation technique for illustrating changes in views and visual amenity. A photomontage is the superimposition of an image onto a photograph for the purpose of creating a representation of potential changes to any view”.*
- C2 This correlates with the following comment in Landscape Institute Advice Note 2011:3:-
“The objective of a photomontage is to simulate the likely visual changes that would result from a proposed development and to produce printed images of a size and resolution sufficient to match the perspective in the same view in the field” (Landscape Institute, 2011:3)
- C3 Park Hood base their methodology on *Landscape Institute Advice Note 01/11 relating to Photography and Photomontage in Landscape and Visual Impact Assessment*. The advice note includes guidance on photographic technology, including camera selection, choice of lens and printing. The principle function of a photomontage is as an illustrative tool to demonstrate development proposals as part of the consultation process and a planning application. These images have the advantage of providing a high degree of accuracy on the basis of scientific formulae and use of digital survey data. The photomontages and wireframes are a tool to assist the Landscape Architect in their assessment of visual amenity effects.
- C4 *Photography Procedures on Site*
- Photographs taken as high quality jpeg files using a single lens Canon Eos 6D with a fixed focal length lens of 50mm with camera levelled and mounted on tripod with panoramic head to avoid parallax errors;
 - The proposed development is to be as central as possible in panorama unless there is a specific context which requires inclusion;
 - Lens focus set to manual and “infinity” to ensure principal distance (rear nodal point to image plane) coincides with marked focal length;
 - Shoot images with a fixed overlap of 20° for panoramic images;
 - Photographs were timed with clear and bright days to ensure that there was good visibility (Note BBC Weather stated visibility was “Very Good” on day of photography - 25th May 2018);
 - Record the viewpoint elevation including allowance for eye height (average 1.6m) and Northing and Easting OS grid coordinates (via Canon GPS Receiver GP-E2 attachment to camera);
 - Record bearing of notable landmarks (even if outside panoramas FOV) if landscape is devoid of strong identifiable elements. The Camera EXIF data automatically records date, time, GPS, focal lengths etc.
- C5 *Photography and Viewpoint Selection:* Viewpoint selection was based on the consultation response from HED identifying potential impacts on Greenpark House, Rostrevor House and Carpenham

Landscape and Visual Assessment – Listed Buildings

PH Ref: 6365/AB

May 2018

House. The following summarises the 3 viewpoint locations which form the basis for photomontages (contained within Appendix D):-

Viewpoint No. 1	<i>Carpentham House</i>		
OS Reference	317521 E 318706 N	Camera	Canon EOS 6D
Ground level	9m AOD	Lens	50mm (Canon EF 50mm f/1.8)
Direction of View	East	Camera Height	1.5m above ground level
Distance to Application Site Boundary	171m	Photograph Date	25 th May 2018



Landscape and Visual Assessment – Listed Buildings

PH Ref: 6365/AB

May 2018

Viewpoint No. 2	Rostrevor House		
OS Reference	317746 E 318712 N	Camera	Canon EOS 6D
Ground level	23m AOD	Lens	50mm (Canon EF 50mm f/1.8)
Direction of View	North-East	Camera Height	1.5m above ground level
Distance to Application Site Boundary	156m	Photograph Date	25 th May 2018

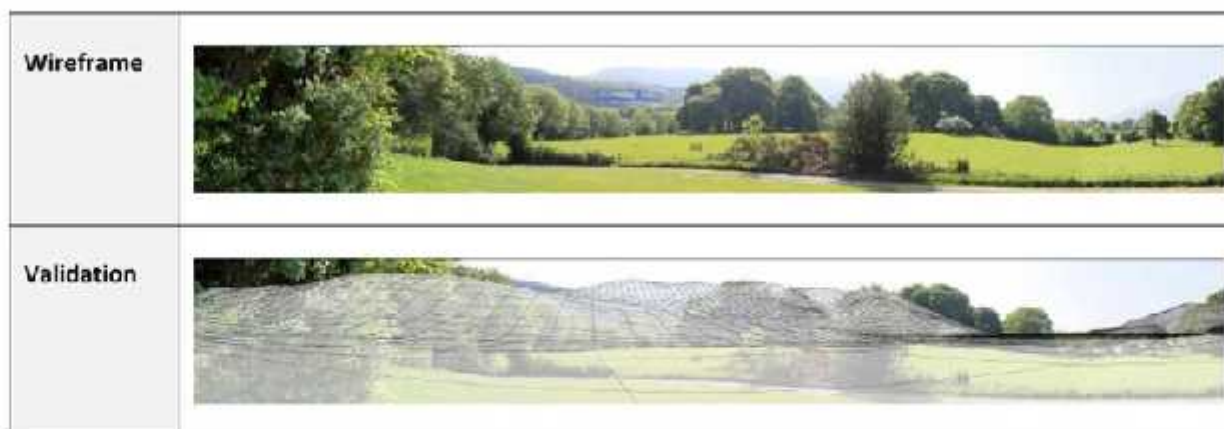


Landscape and Visual Assessment – Listed Buildings

PH Ref: 6365/AB

May 2018

Viewpoint No. 3	Greenpark House		
OS Reference	317165 E 319137 N	Camera	Canon EOS 6D
Ground level	25m AOD	Lens	50mm (Canon EF 50mm f/1.8)
Direction of View	East	Camera Height	1.5m above ground level
Distance to Application Site Boundary	424m	Photograph Date	25 th May 2018



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- C6 *Wireframe / Photomontage Model:* The digital base model is prepared in-house using detailed drawings of the proposed development based on the project drawings, specifications and plans using a combination of Autodesk Civil 3D (2009), Adobe Photoshop CS3 and 3d Studio-MAX. The digital ground model is generated using digital terrain map (DTM) obtained from Ordnance Survey on a 50m or 10m grid (dependant on location). This model is collated and coordinated with the digital site layout, a topographical survey and a digital ACE map of the site context.
- C7 *Photograph Alignment and Panoramas:* Where there is a panoramic view, photographs are merged together to create a wider image. Panoramas are mapped by planar projection if up to approximately 75° Field of View and, if wider, stitched by cylindrical process using AutoPano-Giga. During the stitching process, none of the photographs are distorted in terms of scaling.
- C8 To ensure that the proposed development is accurately represented, the rotational angle of the photograph is adjusted until the wireframe terrain matches the terrain depicted in the photograph. The DTM is displayed as a wireframe rather than a mesh as this avoids distant geometry from becoming too dense. The proposed development is rendered in a different colour to the wireframe.
- C10 *Presentation:* The existing view is set over the proposed view to allow easy comparison and assessment of effects / impacts deriving from either situation. In this instance, the proposed development would not be visible if depicted as a photomontage in Views 1 and 2 (Carpenham House and Rostrevor House) so it was considered more appropriate to show as a coloured wireline to indicate its location and scale in these views. The development is located behind existing trees and woodland and is not visible in these May 2018 views. For the view from Greenpark House, a block rendered photomontage is provided to show the likely scale of the proposed development when set into the wooded setting on Figure 8.
- C11 An information panel aside the photomontage summarises the key information including the viewpoint location, photograph date, field of view and distance to site.

Appendix D: FIGURES AND VISUALISATIONS

ITEM NO	8				
APPLIC NO	LA07/2018/0197/O	Outline	30/01/2018		
COUNCIL OPINION	REFUSAL				
APPLICANT	Martin McAvoy 1 Kennedy Drive Hilltown BT34 5UW	AGENT	Jonathan Taylor (CGDM) 27 Patrick Street Newry BT35 8EB		
LOCATION	Lands 21 m to the East of No. 4 Carmeen Road Hilltown Newry BT34 5TL				
PROPOSAL	Proposed 2 No new dwellings within an infill site				
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions	Signatures
	0	0	0	0	0
	Addresses		Signatures		Addresses
	0	0	0	0	0

1. The proposal is contrary to Paragraph 6.65 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along Carmeen Road.
3. The proposal is contrary to Paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:
 - a. the buildings would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings; b. the (buildings would, if permitted create or add to a ribbon of development);
 - c. and would therefore result in a detrimental change to (further erode) the rural character of the countryside.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2018/0197/O
Date Received: 30/01/2018
Proposal: 2 no. new dwellings within an infill site
Location: Lands 21 m to the East of No. 4 Carmeen Road, Hilltown Newry, BT34 5TL

Site Characteristics & Area Characteristics:

The site is located approximately 1.9 miles south-west of Hilltown in a rural area which also forms part of the Mourne Area of Outstanding Natural Beauty (AONB.) some 180m from the junction of Carmeen and Newry Road. There are a number of buildings in the immediate site vicinity including; No's 76 Newry Road and No. 2 Carmeen Road, both two storey dwellings further north east of the site and a building group to the immediate south west, listed as No's 4 and 6 Carmeen Road which do not appear to be inhabited. The road frontage site comprises a linear plot formed from a larger field and includes part of an existing building (agricultural in appearance) which is partially positioned in the south-western corner of the site. The site is bound to the roadside by native species hedgerow and to the NE and SW by post and wire fencing, with the rear SE boundary undefined. At the time of site inspection there would appear to be overgrown earth present on the site, creating what appear as somewhat irregular site contours.

Site History / relevant surrounding history:

There are no former planning records in respect of this site, including the existing building which is partially on this site. This building would appear to have been erected sometime between December 2008 and January 2009 according to spatial records, though the Council are not in receipt of any Certificate of Lawfulness for this existing building to date.

Immediately adjacent and NE of the site, a dwelling has been approved by virtue of planning application references P/2002/1378/O (permission granted 05/09/2002) P/2008/0537/F, granted on 10/10/2008. To the south west of the site, there is an approved replacement dwelling at No.6 Carmeen Road through respective historical applications P/2004/0186/O (permission granted 08/07/2004) and P/2007/0670/RM (permission granted 16/07/2008.)

Planning Policies & Material Considerations:

- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Banbridge, Newry & Mourne Area Plan 2015 (BNMAP)
- PPS2 'Natural Heritage'
- PPS3 'Access, Movement & Parking'
- DCAN15 'Vehicular Access Standards'
- PPS21 'Sustainable Development in the Countryside'
- 'Building on Tradition' Sustainable (BOT) and 'Dwellings in Mourne' Design Guide

Consultations:DfI Roads (response dated 14/02/2018)

No objections in principle, subject to attached conditions

NI Water (response dated 12/02/2018)

Standard response, informatives attached

Objections & Representations

- 3 neighbouring properties were notified (No's 2A, 4, 6 Carmeen Road) were notified on 12/02/2018 (statutory expiry date 26/02/2018) All three letters were returned by Royal Mail. Site inspection confirms No.2A is not built yet and No's 4 and 6 do not appear to be inhabited;
- Application was advertised in 3 local papers 19/02/2018, 21/02/2018 and 22/02/2018 (statutory expiry 08/03/2018)
- 0 objections or representations have been received

Consideration and Assessment:

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is currently within the remit of BNMAP 2015. Accordingly with BNMAP, the site is located outside settlement limits and is within the designated Mourne AONB (AONB2.) There are no specific policies in BNMAP that are relevant to the determination of the application and it directs the decision-maker to the operational policies of the SPPS and the retained PPS21. The main issues to be considered are the principle of the development, integration and rural character, road safety and impacts on amenity.

Policy CTY1 of PPS21 sets out six circumstances where a new dwelling in the countryside may be acceptable. This includes the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY8. As there is no significant change to the policy requirements for infill dwellings following the publication of the SPPS and it is arguably less prescriptive, the retained policy of PPS21 will be given substantial weight in determining the application in accordance with paragraph 1.12 of the SPPS.

Policy CTY8 states that planning permission will be refused for a building which creates or adds to a ribbon of development but qualifies this by stating that *"an exception will be permitted for the development of a small gap site sufficient to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets*

other planning and environmental requirements". A substantial and built up frontage includes a line of three or more buildings along a road frontage without accompanying development to the rear. For the purposes of this policy, a road frontage includes a footpath or private lane, as in this case. In assessing proposals against policy CTY8, the PAC has set out four steps to be undertaken in order (e.g. in appeal decision 2016/A0040):

1. Identify whether there is a substantial and continuously built up frontage.
2. Establish whether there is a small gap site.
3. Determine whether the proposal would respect the existing development pattern in terms of size, scale, siting and plot size.
4. Assess the proposal against other planning and environmental requirements (typically, integration and impact on rural character).

This approach will be followed below:

1. This area of road frontage runs north-east to south-west. In the context of the site working from north-east, is No.2 Carmeen Road, an eligible building with frontage. This is then followed by a field (width 56.39m). Adjacent to this field is the site in respect of application P/2008/0537/F, which granted approval for the erection of a dwelling on 10/10/2008. At the time of site inspection, there was some evidence of foundation related works; however no building has been erected. The agent was requested to clarify which three buildings this proposal is reliant on and given the opportunity to submit any additional information for consideration. A written response dated 17th April 2018 was submitted by the agent which argues that the foundations and access in respect of P/2008/0537/F are in place and as such this *'this building should therefore be counted as a fully built dwelling.'* This application is not the vehicle to assess the commencement of the adjacent approval. Regardless of its status, there is currently no building erected on this site. PAC decision 2016/A0129 is clear in that the possibility of future buildings cannot be taken into account in infill assessment given the wording of the policy and therefore this approved dwelling is discounted as an eligible building within this frontage.



Above: Adjacent site in respect of planning approval P/2008/0537/F as at 09/03/2018

Following this, to the adjacent south west then is the subject site, which as mentioned includes part of an existing agricultural style building towards the rear, which is separated by post and wire fencing, with the site area in front of this building towards the road side. Regardless of the lawfulness of this building, it does not qualify as a building with frontage. Further south west then are No's 4 and 6 Carmeen Road which appear as two adjoining buildings with shared frontage. For the purposes of this assessment they qualify as two buildings with road frontage. In this context, No's 2, 4 and 6 Carmeen Road qualify as three buildings along this road frontage without accompanying development to the rear.



2. The second test of whether this is a small gap is related to the issue of plot size under the third test. For clarification, the 'gap' is considered as the gap between buildings (in this context No.2 Carmeen Road and the building group of No.4 and 6 Carmeen Road) in line with the PAC's interpretation in appeal reference 2016/A0066 which measures 244.3m. The average width of each plot along this frontage is 40.54m. In this scenario, the gap is capable of accommodating 6 dwellings based on established plot sizes. A new dwelling in the proposed position is therefore contrary to policy CTY8 in that this gap does not meet the exceptions test of CTY8 as a *small gap site* (my emphasis) within a substantial and continuously built up frontage.

3. The proposed site is assessed against the required development pattern criteria:

- **SIZE & SCALE** – Existing buildings in this frontage range in size: No's 2 and 4 are two storeys, with No.6 a single storey traditional building. The adjacent approval which has not been built (P/2008/0537/F) was approved with a 7.5m ridge height from FFL. In the event of an approval however, a single storey dwelling should be conditioned, given the elevated position of this site (particularly when viewed from B8 Newry Road) and its relationship to road level;
- **SITING** – As this is an outline proposal, details of siting will be assessed at a later stage. The concept layout submitted would be in keeping with the established settlement pattern. In the event of an approval, a siting condition should be placed on the decision to ensure any development is in keeping with the existing settlement pattern along this road frontage;

- **PLOT SIZE** – The plot width of 70 metres is (albeit only slightly) greater than existing plot widths, with the plot depth comparable to those in this frontage. In this existing settlement pattern, the gap as outlined is considered to be big enough to accommodate 6 dwellings. This existing pattern of development is not considered to merit a substantial and continuously built up frontage, with the existing gap providing a visual break in the developed appearance of this locality which helps to maintain the rural character which is under threat.

4. Policy CTY8 also requires that infill dwellings meet other planning and environmental requirements. Paragraph 6.70 of the SPPS confirms that *"All development in the countryside must integrate into its setting, respect rural character and be appropriately designed."* Whilst the proposal fails in principle against CTY8 requirements, for the purpose of completion, it is assessed under policies CTY13 and CTY14 of PPS21.

The site is visible from several vantage points; from the Yellow and New Roads, the site is largely screened by the existing farm building to the rear of the site. Critical views of the site are considered to be taken from B8 Newry Road (travelling south east) and Carmeen Road (bi directional.) When travelling south east along the B8 Newry Road, the site is readily visible, with the gable of No.4 and ridge line of the building towards the rear of the site visible from view. When travelling in both directions along Carmeen Road, the existing roadside vegetation helps to screen the site from long distance views, in addition to the existing building group of No's 4 and 6 when travelling in a south-westerly direction. In the event of an approval on this site, a 5.5m ridge restriction and the planting of appropriate landscaping along the roadside (north-west,) north east and south western boundaries would be required to ensure the integration requirements of CTY13 are met. As the proposal fails to meet the exceptions test of CTY8, it inevitably fails to meet CTY14 (d) in that the proposed dwelling would in this context add to a ribbon of development.



Above: critical view from B8 Newry Road travelling in a south-easterly direction.

As the site is located within Mourne AONB, Policy NH6 criteria of PPS2 also apply to this assessment. Given this is an outline proposal; the full extent of the scheme is not readily available. However in principle, the addition of two dwellings on this site in the event of an approval would be capable of meeting requirements a) to c) of Policy NH6.

Policy AMP2 of PPS3 states that planning permission will only be granted for a development proposal involving direct access onto a public road where such access will not prejudice road safety. Paragraph 5.16 of Policy AMP2 makes reference to DCAN 15 which sets out the current standards for sightlines that will be applied to a new access onto a public road. In this case Transport NI requires visibility splays of 2.0m x 60m in both directions. This should be shown on the reserved matters submission. Provided these conditions can be met, the proposed access will not prejudice road safety.

In terms of services, it is proposed to connect the dwellings to mains water supply, with a septic tank to dispose of foul sewage and stone filled soak pit to deal with surface water. NI Water has provided standard informatives with no objections. Policy CTY16 states that Planning permission will only be granted for development relying on non-mains sewerage where the applicant can demonstrate that this will not create or add to a pollution problem. None of the supporting evidence referred to under policy CTY16 has been submitted. In the event of an approval, it would therefore be necessary to impose a negative condition that evidence of consent to discharge to be submitted to and agreed in writing by the planning authority prior to the commencement of development.

Given No's 4/6 do not appear to be inhabited, the approved 2A is not built and the separation distance between No.2, the current proposal does not present any concerns in terms of residential amenity, in principle. However in the event of an approval, this matter should be fully assessed at reserved matters stage.

Recommendation: Refusal

Reasons for refusal:

1. The proposal is contrary to Paragraph 6.65 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along Carmeen Road.

3. The proposal is contrary to Paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:

- the buildings would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings;
- the (buildings would, if permitted create or add to a ribbon of development); and would therefore result in a detrimental change to (further erode) the rural character of the countryside.

Case Officer Signature:

Date:

Appointed Officer Signature:

Date:

ITEM NO	9				
APPLIC NO	LA07/2018/0240/F	Full	DATE VALID	05/02/2018	
COUNCIL OPINION	REFUSAL				
APPLICANT	Mr Cormac McGarvey 5 Coach Road NewtownhamiltonNewryBT35 0PW		AGENT	M Tumilty 16 Glenvale Road NewryBT34 2JX	
LOCATION					
PROPOSAL	150m North East of No. 12 Coach RoadNewtownhamiltonNewryBT35 0PW				
REPRESENTATIONS	Erection of dwelling and garage				
	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions	Signatures
	0	0	0	0	0
		Addresses	Signatures	Addresses	Signatures
		0	0	0	0

1. The proposal is contrary to the Strategic Planning policy Statement (SPPS) for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (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 and access to the dwelling is not obtained from an existing lane.



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

Application Reference: LA07/2018/0240/F

Date Received: 13/02/2018

Proposal: Erection of dwelling and garage

Location: 150m North East of No. 12 Coach Road, Newtownhamilton. The application site is outside the settlement limits of Newtownhamilton and is approx. 14.8 kilometres east of Newry city.

Site Characteristics & Area Characteristics:

The application site forms part of a larger agricultural field. The eastern boundary is defined by a timber post and wire fence and all other boundaries undefined. Access to the site is available via an existing laneway from Coach Road with a crossover positioned to the north of the dwelling at No. 12 Coach Road. This lane provides access to agricultural land further east of the application site. Within the application site the land rises as you move from South East to North West.

To the south of the site are agricultural buildings and an active farm yard. This is separated from the site by the laneway and parcel of land.

The surrounding area is rural in character with development comprising of single dwellings and agricultural buildings. Dundalk Road runs parallel with Coach Road.

Site History:

There is no planning history for the application site.

Planning Policies & Material Considerations:

- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 21 – Sustainable Development in the Countryside
- Planning Policy Statement 3 – Access, Movement and Parking.
- DCAV15 – Vehicular Access Standards
- Building on Tradition Design Guide

Consultations:

There were three consultations issued for this proposal. See details below.

- Department for Infrastructure Roads (DFI Roads) – no objections subject to conditions. (09/03/2018.)
- Northern Ireland Water – Generic Response (21/02/2018).
- DAERA – confirmation farm business ID has been in existence for more than 6 years and SFP has been claimed in this period. (23/02/2018).

Objections & Representations

There was one neighbour notification issued for this proposal. The application was advertised in the local press on 19th February 2018. There were no representations received.

Consideration and Assessment:

PPS21

Policy CTY 1 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 that the Business ID submitted with the application has been in existence for more than 6 years and has claimed subsidies during this period. This satisfied the requirements of CTY10 (a). The farmland as shown in the map has been checked for planning history with nothing uncovered and a letter has been provided from the applicant's solicitor confirming that there have been no sites sold or transferred from the family farm in the ten years prior to the date of this planning application in accordance with Criteria (b). Criteria (c) of CTY 10 states that the new building must be visually linked or sited to cluster with an established group of buildings on the farm and where practicable access to the dwelling should be obtained from an existing lane. Exceptional 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. Demonstrable evidence is defined in the justification and amplification as being from an independence authority and evidence of verifiable plans include planning permission and contractual obligations etc. The drawings initially submitted with this application indicate a new access proposed off the existing laneway, measuring approx. 60 metres in length and the new dwelling positioned approx. 55 metres north east of the existing buildings. Within the gap created between the buildings on the plans, an annotation has been included which reads, "*Existing Agricultural Machinery Storage Area and Future Extension Area for From*". During a site inspection carried out in March 2018, it was evident that the ground within this area had been recently been disturbed. No further evidence has been submitted to verify proposed development and no machinery was present here. In April 2018 the Planning Department sent a letter to the agent outlining concerns with the proposal in regards to the dwelling not visually linking / clustering with the existing farm buildings. In May 2018, the agent submitted a new site location map, with an amended position for the proposed farm dwelling, moved further south west and closer to the farm buildings. This repositioning required an amended red line on the site location map which is unacceptable. The Planning Department made the agent aware of this and that a new application would be required should they wish to reposition the dwelling outside the red line on the original application.

It is considered the proposed dwelling has not been sited to cluster / visually link with an established group of buildings on the farm and access is not obtained from an

existing lane, the proposal does not meet the criteria of exceptions and therefore fails to meet the policy Criteria (c).

As the proposal fails to meet policy CTY10 and as there are no over-riding reasons this application is essential in this rural location and could not be located within a settlement the proposal is also contrary to CTY1 of PPS21.

In terms of CTY 13 and 14 of PPS21, the design of the proposed dwelling is generally acceptable. Due to the topography of the site and surrounding area a dwelling within the application site would not be considered prominent.

PPS3 and DCAN 15

DFI Roads have been consulted on the proposal and have no objection with regard to the above policies.

Recommendation:

Refusal

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

Refusal Reasons/ Conditions:

1. The proposal is contrary to the Strategic Planning policy Statement (SPPS) for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (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 and access to the dwelling is not obtained from an existing lane.

ITEM NO 10
APPLIC NO LA07/2018/0398/O
COUNCIL OPINION REFUSAL
 Outline **DATE VALID** 05/03/2018

APPLICANT Mr Shea McAnulty 5A Cons Lane
LOCATION CamloughNewryBT35 7LF
PROPOSAL REPRESENTATIONS **AGENT** P O'Hagan and Associates Ltd 10
 Trevor HillNewryBT34 1DN

Lands between No.5 and No. 5A Cons LaneNewryBT35 7LF

Proposed infill gap site for a new dwelling and detached garage

OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions
0	0	0	0

Addresses Signatures Addresses **Signatures**

0	0	0	0
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1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along Cons Lane and is not considered to represent an exception to the policy.
3. 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 the proposed building relies primarily on the use of new landscaping for integration and therefore would not visually integrate into the surrounding landscape.
4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted result in a suburban style build-up of development when viewed with existing buildings and add to a ribbon of development which would therefore result in a detrimental change to the rural character of the countryside.
5. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and policy NH6 of Planning Policy Statement 2, Natural Heritage in that the siting of the proposal is unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.



Comhairle Ceantair
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**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2018/0398/O

Date Received: 28.02.2018

Proposal: Proposed infill gap site for a new dwelling and detached garage

Location: Lands between No.5 and No. 5A Cons Lane, Newry, BT35 7LF

Site Characteristics & Area Characteristics:

The site which is elevated in nature takes in the parking and turning area of No.5, a portion of an agricultural field adjacent No.5 and the access laneway to No.5 Cons Lane. The area is rural in character and is located within the Ring of Gullion AONB offering views towards Camlough Lake and Camlough village.

Site History:

LA07/2015/0384/F

5a Cons Lane, Camlough

Two Storey side extension to dwelling

Permission Granted: 23.08.2016

P/2001/2120/F

5 Cons Lane, Camlough

Extension to dwelling

Permission Granted: 12.02.2002

Consultations:

Transport NI – no objections subject to compliance with RS1 form.

NI Water – Generic response, no objections.

Objections & Representations

2 Neighbours notified on 30.03.2018 and the application was advertised on 28.03.2018. No objections or representations received.

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 2

Planning Policy Statement 3 / DCAN 15.
Building on Tradition

Consideration and Assessment:

The site is located in the countryside/AONB as depicted in the Banbridge Newry and Mourne Area Plan 2015.

Planning Policy Statement 21 – Sustainable Development in the Countryside

Policy CTY1 restricts new development in the countryside, but makes an exception for an infill site to accommodate up to 2 dwellings if in accordance with policy CTY8. The policy requires the proposed development to be within an otherwise substantial and continuously built up frontage. This is defined by a line of 3 or more buildings in an otherwise substantial and continuously built up frontage providing it respects the development pattern along the frontage.

Whilst the gap appears small enough to accommodate no more than two dwellings and meets the definition of 'a small gap site' it is noted that the application site does not have a frontage on to Cons Lane and therefore does not meet the definition of a substantial and built up frontage along a road frontage, as stated in policy CTY8. The site instead shows an access point to Cons Lane which the PAC has consistently confirmed is not considered a frontage. An example of this is PAC judgement 2015/A0155 where the report stated '...an access point in itself does not constitute a frontage to the road.'

Notwithstanding the above inconsistency with policy there is only one other building with a frontage to the Cons Lane which is found immediately east of 5a and immediately south of the application site and not the requisite three prescribed in the policy. It is not considered that the other buildings in the immediate area share a common frontage with Cons Lane. It is also important to note that excluding the dwellings, there is no planning history for the surrounding buildings.

Cumulatively for the above reasons the proposed site is not considered to represent an exception to ribbon development, but instead reads as an extension of ribbon development when viewed alongside existing buildings in the area.

Consequently as the proposal does not meet any exceptions listed under Policy CTY1 and there are no over-riding reasons why this dwelling is essential at this location, the proposal is contrary to policies CTY1 and CTY8 of PPS21.

As the site lacks long established natural boundaries and relies primarily on the use of new landscaping for integration the proposal is considered to offend parts (b) and (c) of policy CTY13. As the site is considered to add to a ribbon of development along Cons Lane and results in a suburban style build up when viewed with existing buildings the proposal is also considered contrary to parts (b) and (d) of policy CTY14.

Sewage arrangements are minimal at Outline however a condition could be added to ensure Consent to Discharge is obtained before work commences. The proposal is in general compliance with CTY16.

Policy NH6 of PPS2: Natural Heritage is applicable for this application as the site lies within the Ring of Gullion AONB. For the above reasons the siting of the proposal is considered unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality. The proposal therefore fails policy NH6 of PPS2.

Transport NI has no objections with regard to Planning Policy Statement 3; Access, Parking and Movement provided any RM application adheres to the attached RS1 form.

Recommendation:

Refusal

Reasons:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along Cons Lane and is not considered to represent an exception to the policy.

3. 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 the proposed building relies primarily on the use of new landscaping for integration and therefore would not visually integrate into the surrounding landscape.

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

5. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and policy NH6 of Planning Policy Statement 2, Natural Heritage in that the siting of the proposal is unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.

Case Officer

Authorised Officer

Planning Rebuttal –

Planning Ref :	LA07/2018/0398/O.
Location:	Lands between No.5 and No. 5A Cons Lane Newry BT35 7LF
Client :	Mr Shea McAnulty
Proposal :	Proposed infill gap site for a new dwelling and detached garage
Architect:	P. O'Hagan & Associates Ltd
Date:	29 May 2018

o'hagan & associates | architects ltd
10 TREVOR HILL, NEWRY, CO. DOWN, BT34 1DN
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REBUTTAL OF COUNCIL RECOMMENDATION OF REFUSAL

1. This note relates to a proposed outline planning application for an 'infill' dwelling at Cons Lane, Camlough Newry. The Council has recommended refusal on the basis of the following –

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along Cons Lane and is not considered to represent an exception to the policy.

3. 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 the proposed building relies primarily on the use of new landscaping for integration and therefore would not visually integrate into the surrounding landscape.

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

5. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and policy NH6 of Planning Policy Statement 2, Natural Heritage in that the siting of the proposal is unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.

2. **Site Location**

The site is located approximately 1 mile south of Camlough village and 3.5 miles west of Newry City centre in a rural location on the north western slope of Camlough Mountain. The gap site lies between three existing dwellings - No.5 Cons Lane, No. 5a Cons Lane & No.6 Mountain Road.

Consideration of Refusal Reasons

3. **Policy CTY1 –**

The first reason asserts that there is no 'need' for this development in this location.

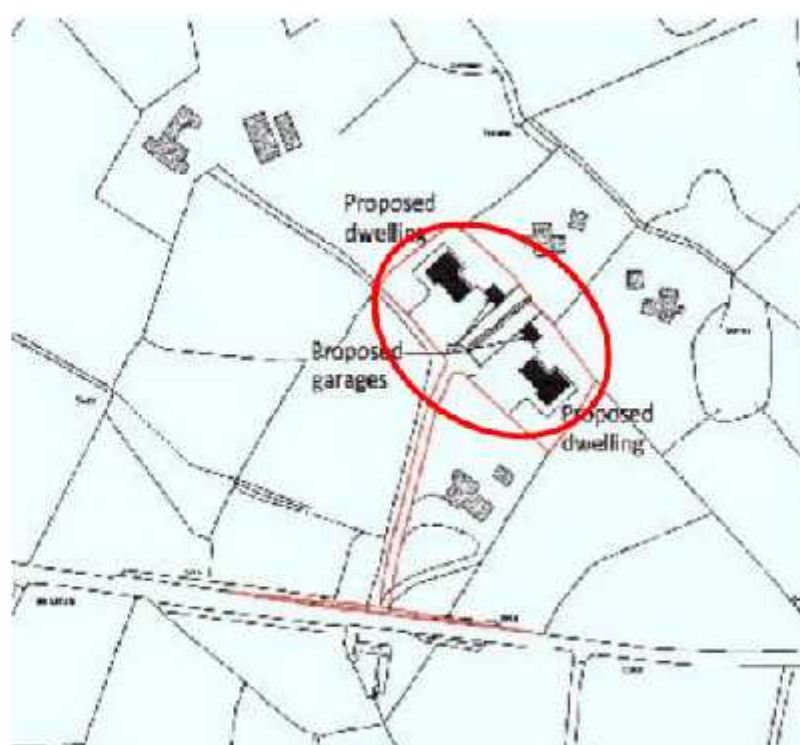
As explained in the Design Concept Statement document there is a clear issue of need. The applicant currently resides at No.5A Cons Road along with his mother, brother, sister and cousin. A severely disabled Uncle who suffers from a list of both complex physical and mental conditions (Cerebral Palsy, Severe Challenging behavior, Autism) is confined to an electric wheelchair resides at No.5A Cons Road

on the weekends and on short breaks from a local nursing home. The applicant Mr Shea McAnulty has recently got engaged to be married in the coming year and assists his mother Mrs Roisin McAnulty in the care of their disabled Uncle Peter. In addition Mr McAnulty assists on the family farm at No.5 Cons Road in the evenings and at weekends. Apart from the economical argument, the need to be close to the family home & family farm is a major factor in site selection therefore Policy CTY1 is suitably addressed. Need is clearly established.

4. Policy CTY8

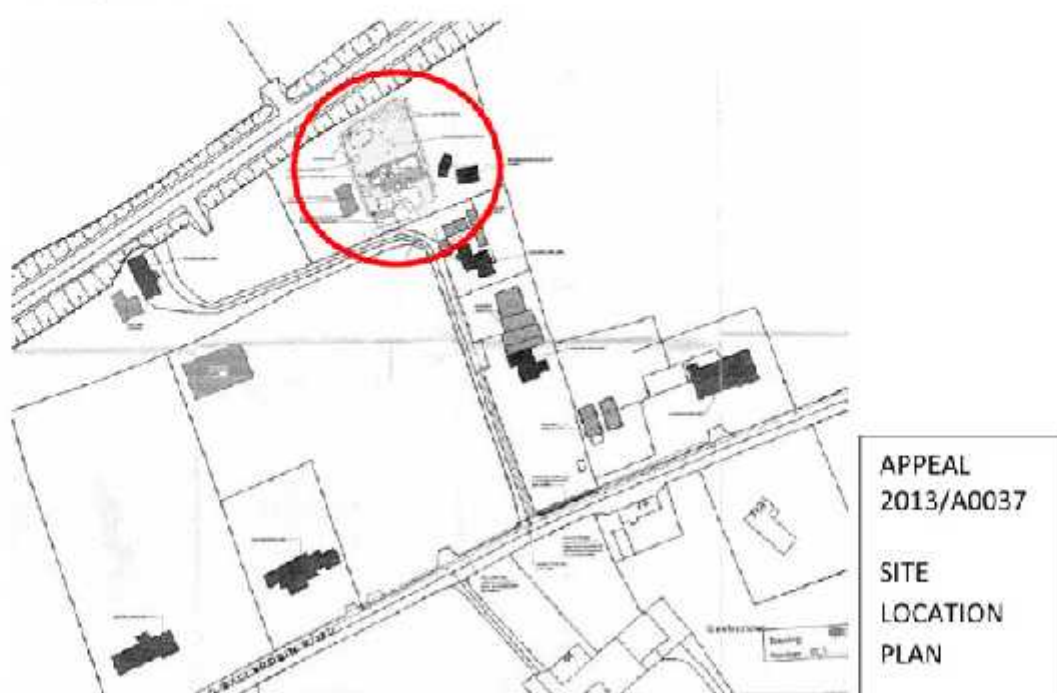
The second refusal reason asserts that the development will result in the creation of ribbon development. According to the Officer's Report. This should not be regarded as an 'infill' site for two reasons. Firstly, the site does not form part of a substantial and continuously built up frontage. Secondly, only one frontage exists on the Cons Lane and that is from No.5A.

5. Taking the issue of the frontage first, the case officer asserts that, there is only one access to the Cons Lane. However this is not correct. Both No 5 and No 5A are located on the Cons Lane. The fact that the lane continues around a sharp corner is immaterial. Both No's 5 and 5A have a Cons Lane address.
6. There are several appeal decisions which confirm that a bend in a laneway does not mean that the existing dwellings are not part of the same frontage.
7. In **2015/A0091**, two dwellings were approved at a bend in a lane. The Commissioner commented that ***'the policy does not say that the line must be straight or that a building must face towards the road or lane or take access from it. Therefore a building would have a frontage to the lane if the plot on which it stands abuts or shares a boundary with the lane'***. The site location plan is shown below.



APPEAL
2015/A0091
SITE LOCATION
PLAN

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



9. Plainly, although Cons Lane in this case turns a sharp bend, there remains a strong sequential awareness of development when travelling on the Cons Laneway from No's 5, past No.5A and then past No.6 Mountain Road. **The case officer in his report does state that the site "appears small enough to accommodate no more than two dwellings and meets the definition of a small gap site".**

Frontage to the Cons Lane

10. In relation to the 'continuous frontage' aspect the policy states that a built-up frontage should have a minimum of three buildings along a frontage with no development to the rear. The case officer asserts that No.5A has a frontage (which is correct), No. 5 Cons also has a clear frontage onto the Cons Lane. No.5 fronts onto the lane, as does No.5A, however No.6 Mountain Road has a clear frontage to the lane, even if accessed off the Mountain Road. The proposed dwelling will sit within a gap between these buildings.
11. It must be concluded that the proposed dwelling will infill an existing gap between three buildings on a single frontage, and that it's therefore compliant with policy CTY8.

Policy CTY13

12. Policy CTY13 requires development to be acceptably integrated into the landscape. The case officer asserts that this dwelling would be unduly prominent and will require substantial landscaping to ensure integration. However the case officer has placed insufficient weight on the following considerations:

i) The site is integrated with other development, in particular No.5A and No.5. The application site is partially obscured by an existing agricultural which fronts the Cons Lane.

ii) The site is located up a quiet laneway, which in turn is off a minor road. The access laneway rises steeply from the Keggall Road, so that when travelling along this public road the steep rise makes long views towards the site practically impossible;

iii) The topography of the site virtually obscures the view from the Cons Lane to No.5A. The application site can in reality only be viewed from the Keggall Road, where the backdrop of Camlough Mountain soften views from available viewpoints and aid landscape integration.

Policy CTY14

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

Policy NH6 PPS2

The case officer asserts that the siting of the proposal is unsympathetic to the character of the area. The siting and scale of the proposal is sympathetic to the AONB and will not affect any specific features of importance to the character, appearance or heritage of the landscape. The proposal will be small in scale and will respect local architectural styles, materials, design and colour.

The case officer does confirm that the site *"appears small enough to accommodate no more than two dwellings and meets the definition of a small gap site"*.

Conclusions

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

ITEM NO 11
APPLIC NO LA07/2018/0408/O
COUNCIL OPINION REFUSAL
APPLICANT John Cranny 27 Ballyblaugh RoadNewry BT34 1RR
AGENT David Maxwell Architect 12 Ballyblaugh RoadNewry BT34 1RR
DATE VALID 28/02/2018
Outline

LOCATION
 52m East of 17 Moneymore RoadNewryBT34 1RN

PROPOSAL
 New replacement dwelling

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

1. The proposal is contrary to the Strategic Planning Policy Statement and Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that
 - the building has been designed and used for agricultural purposes; and -there is no structure that exhibits the essential characteristics of a dwelling.
2. The proposal is contrary to the Strategic Planning Policy Statement and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:
 - the proposed site lacks long established natural boundaries/is unable to provide a suitable degree of enclosure for the building to integrate into the landscape;
 - the proposed building relies primarily on the use of new landscaping for integration, and therefore would not visually integrate into the surrounding landscape.
3. The proposal is contrary to the Strategic Planning Policy Statement and Policy CTY15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:
 - The development would if permitted mar the distinction between the defined settlement limit of Glen and the surrounding countryside and result in urban sprawl.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2018/0408/O

Date Received: 15.03.2018

Proposal: Replacement dwelling

Location: 52m East of 17 Moneymore Road Newry BT34 1RN

The existing building on the site is single storey facing the roadside. The building is of a natural stone construction with the rear corner having being built up with concrete block. The building had a large sliding agricultural type door on the front roadside elevation with a small window opening. There were no other openings from external inspection. Internally it would appear that 2 openings previously existed on the rear elevation. The building was one room plan with no internal division evident.

The site covers a large green field which adjoins no. 17 Moneymore Road and extends 171metres from this point along the frontage to split the field. The site rises to the rear in a southerly direction.

The site is located within the Countryside as defined in the Banbridge, Newry and Mourne Area Plan 2015.

Site History:

P/2006/1028/O- Site for dwelling with detached garage- Refused- 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.

Objections & Representations

*No. of neighbours notified= 2
No representations received= 0
Advertise expiry= 12.04.2018*

Consultations

Transportni- No objections attach RS1

NIW- statutory**Consideration and Assessment:**

The proposal is for a replacement dwelling within a countryside area therefore will be assessed Policy CTY 3 of PPS 21.

Upon site inspection the building has four walls. The walls have been constructed with a natural stone. One of the rear corners has been rebuilt with concrete block. The building is single storey with a sheeted tin covering to the roof.

The building has a large tin sliding door to the front roadside elevation facing the Moneymore Road. There is one small window opening on this front elevation.

There are no openings on the rear elevation but it would appear from internal inspection that two window openings would have existed at some stage.

Internally the building has no division. The agent has stated within the submission that features such as a fireplace are still present. No fireplace was evident at the time of inspection nor was there a chimney evident on the roof.

Having viewed the historical application of this site P/2006/1028/O, it is clear that the previous Planning Authority at the time considered this building to be an agricultural shed. The Planning Authority had advised in writing, that a proposal for a replacement of the old building would not merit approval under Policy CTY3 of PPS 21 as the building was an agricultural shed. Having considered the building in its current form I am also of the opinion that the building is a barn and there is no evidence to suggest otherwise.

The policy clearly states buildings designed and used for agricultural purposes, such as sheds or stores are not eligible for replacement under the policy. The building to be replaced given its current appearance and having considered the historical application, does not exhibit the essential characteristics of a dwelling.

The site as submitted has quite a large red line extending from the edge of the settlement limit of Glen to a new boundary which will split the field. The proposal will rely heavily on new landscaping given the lack of boundary treatment surrounding the building to be replaced and the removal of the existing roadside screening for the required visibility splays.

CTY15 is also relevant in this case. The principle of drawing a settlement limit is partly to promote and partly to contain new development within that limit and so maintain a clear distinction between the built up area and surrounding countryside. The development of this site would mar this distinction and create urban sprawl.

Recommendation:

Refusal

The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that

- the building has been designed and used for agricultural purposes; and
- there is no structure that exhibits the essential characteristics of a dwelling.

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/is unable to provide a suitable degree of enclosure for the building to integrate into the landscape;
- the proposed building relies primarily on the use of new landscaping for integration;

and therefore would not visually integrate into the surrounding landscape.

The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that: The development would if permitted mar the distinction between the defined settlement limit of Glen and the surrounding countryside and result in urban sprawl.

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ITEM NO	13	Outline	DATE VALID	27/02/2018
APPLIC NO	LA07/2018/0395/O			
COUNCIL OPINION	REFUSAL			
APPLICANT	Mr and Mrs B Duffy	AGENT	MRL Architects	
LOCATION	Field to south east of 23 Cloghinny Road Forkhill BT359RY			
PROPOSAL	Infill site for proposed dwelling and garage			
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions
	0	0	0	0
	Addresses	Signatures	Addresses	Signatures
	0	0	0	0

- 1 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
- 2 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along Cloghinny Road and is not considered to represent an exception to the policy.
- 3 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and add to a ribbon of development which would therefore result in a detrimental change to the rural character of the countryside.
- 4
- 5 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and policy NH6 of Planning Policy Statement 2, Natural Heritage in that the siting of the proposal is unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.



Comhairle Ceantair
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**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2018/0395/O

Date Received: 16.02.2018

Proposal: Infill site for proposed dwelling and garage

Location: Field to South East of 23 Cloghinny Road, Forkhill, BT35 9RY

Site Characteristics & Area Characteristics:

The site includes an agricultural field set back from the road where the land starts to rise gradually. Immediately south of the site is a historical approval under ref P/2006/2120/RM and adjacent to and west of the site is No.23. The area whilst displaying a dispersed settlement pattern is located within the rural area in the Ring of Gullion AONB.

Site History:

P/2006/2120/RM

70m South East of 25 Cloghinny Road, Forkhill

Erection of dwelling and garage

Permission Granted: 11.09.2007

P/2006/2120/RM

70m South East of 25 Cloghinny Road, Forkhill

Erection of dwelling and garage

Permission Granted: 11.09.2007

P/2004/1553/O

70 metres north-east of 25 Cloghinny Road, Forkhill.

Site for dwelling and garage

Permission Refused: 14.03.2005

P/2004/0575/F

60 metres north east of No.27 Cloghinny Road, Forkhill, Newry.

Erection of dwelling

Permission Granted: 09.08.2004

Consultations:

Transport NI – no objections subject to compliance with RS1 form.

NI Water – Generic response, no objections.
 Historic Environment Division – No objections.

Objections & Representations

6 Neighbours notified on 01.05.2018 and the application was advertised on 28.03.2018. No objections or representations received.

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 2
 Planning Policy Statement 3 / DCAN 15.
 Planning Policy Statement 6
 Building on Tradition

Consideration and Assessment:

The site is located in the countryside/AONB as depicted in the Banbridge Newry and Mourne Area Plan 2015.

Planning Policy Statement 21 – Sustainable Development in the Countryside

Policy CTY1 restricts new development in the countryside, but makes an exception for an infill site to accommodate up to 2 dwellings if in accordance with policy CTY8. The policy requires the proposed development to be within an otherwise substantial and continuously built up frontage. This is defined by a line of 3 or more buildings in an otherwise substantial and continuously built up frontage providing it respects the development pattern along the frontage.

The gap between buildings (confirmed by the PAC as the necessary measurement of the proposed gap site and not just the red line boundary) of Nos 21 and 23 Cloghinny Rd measures approximately 105m which divided by 3 leaves approximately a frontage of approximately 35m for each dwelling. This is similar to the adjacent properties with the largest at No.21 measuring 40m. On this basis the gap between buildings is considered large enough to more than 2 dwellings while remaining respectful to plot size therefore it fails to meet the exception to ribbon development under policy CTY8.

Additionally it is noted that the application site does not have a frontage on to Cloghinny Road and therefore does not meet the definition of a substantial and built up frontage along a road frontage, as stated in policy CTY8. The site instead shows an access point to Cloghinny Road which the PAC has consistently confirmed is not considered a frontage. An example of this is PAC judgement 2015/A0155 where the report stated ‘...an access point in itself does not constitute a frontage to the road.’

Notwithstanding the above inconsistency with policy there is only one other dwelling (No.21) with a frontage to the Cloghinny Road and not the requisite three prescribed in the policy. It is not considered that the other dwellings in the immediate area share a common frontage with Cloghinny Road.

Cumulatively for the above reasons the proposed site is not considered to represent an exception to ribbon development, but instead reads as an extension of ribbon development when viewed alongside existing and approved buildings in the area.

Consequently as the proposal does not meet any exceptions listed under Policy CTY1 and there are no over-riding reasons why this dwelling is essential at this location, the proposal is contrary to policies CTY1 and CTY8 of PPS21.

Whilst the site is not considered to offend the policies of CTY13 the proposal is considered to add to a ribbon of development along Cloghinny Road and result in a suburban style build up when viewed with existing and approved buildings. The proposal is therefore considered contrary to parts (b) and (d) of policy CTY14.

Sewage arrangements are minimal at Outline however a condition could be added to ensure Consent to Discharge is obtained before work commences. The proposal is in general compliance with CTY16.

Policy NH6 of PPS2: Natural Heritage is applicable for this application as the site lies within the Ring of Gullion AONB. For the above reasons the siting of the proposal is considered unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality. The proposal therefore fails policy NH6 of PPS2.

Transport NI has no objections with regard to Planning Policy Statement 3; Access, Parking and Movement provided any RM application adheres to the attached RS1 form.

Recommendation:

Refusal

Reasons:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along Cloghinny Road and is not considered to represent an exception to the policy.

3. 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 buildings and add

to a ribbon of development which would therefore result in a detrimental change to the rural character of the countryside.

4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and policy NH6 of Planning Policy Statement 2, Natural Heritage in that the siting of the proposal is unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.

Case Officer

Authorised Officer



40212 – Plnng 170809 – PROPOSED DWELLING, 70M NE OF LISSERAW ROAD, CAMLOUGH – planning ref. LA07/2017/0644/F –SPEAKING RIGHTS (Item 35 on the agenda)

John Harkness

to:

democratic.services@nmandd.org

30/05/2018 11:06

Hide Details

From: John Harkness <J.Harkness@mrlarch.co.uk>

To: "democratic.services@nmandd.org" <democratic.services@nmandd.org>,

History: This message has been forwarded.

TO WHOM IT MAY CONCERN

FB1296 – Plnng 180530 – INFILL SITE FOR PROPOSED DWELLING, FIELD SE OF 23 CLOGHINNY ROAD, FORKHILL – planning ref. LA07/2018/0395/O –SPEAKING RIGHTS (Item 13 on the agenda)

Further to our request for speaking rights in support of the above application at the Council meeting on the 6th June 2018, please note the following written submission on the issues we are intending to speak on:

This application is for a proposed dwelling on an infill site and we wish to speak on the 4 no. reasons for recommending refusal. We are contending that this is an infill site and that the design would allow it to fit into its rural context in both a sympathetic and sensitive manner.

Regards,

John Harkness BA(Hons) Arch Dip Arch ARB

Architect

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ACTION SHEET ARISING FROM PLANNING COMMITTEE MEETINGS

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
		PLANNING MEETING – 09 MAY 2018			
LA07/2017/1326/F	Peter Morgan – dwelling and garage on a farm – 30m south of 28 Bog Road, Kilcoo	Remove from the addendum list at the request of Councillor Clarke in order for the applicant to have an office meeting with Planning Officers	Annette McAlarney		
P/2014/0427/0	Joseph McGivern – site for dwelling to the rear and south of 2 Berkley Grove, Warrenpoint	Remove from the agenda to allow for further discussion with Planning Officers	Jacqui McParland		
LA07/2017/1478/F	Mr P Bloomfield – infill dwelling -40m south of 64 The Heights, Loughinisland, Down	Defer Planning Application LA07/2017/1478/F for a period of 3 months to allow Planners time to reconsider their recommendation in the event 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.	Annette McAlarney		

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	Defer Planning Application LA07/2017/1624/O to allow time for the agent to provide more documentary evidence regarding issues raised by Committee Members including the need for a health and safety report on access through the farmyard and also the case of need for the applicant to be living close to the farm.	Jacqui McParland		
LA07/2017/1854/0	Mr J McIlmail – proposed dwelling and garage – land contained between 71 & 73 Lisoid Road, Bright, Downpatrick	Defer Planning Application LA07/2017/1854/O to allow for a site visit to take place.	Site visit scheduled for 31-05-2018 has been postponed – new date to be found		
LA07/2017/1186/F	Wolfhill Developments Ltd – change of use and conversion of part of former school building – 4 Lurgancanty Road, Clontarfleece, Warrenpoint	Defer Planning Application LA07/2017/1186/F to allow for a meeting to take place between the Applicant and Planning Officers to discuss revised design issues. Agreed to delegate the issue of the final decision on the application to Planning Officers.	Pat Rooney		

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
LA07/2017/1721/F	Millvale Services Ltd – proposed parking for neighbouring Millvale Service Station – Millvale Road, Bessbrook	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.	Pat Rooney		

Newry, Mourne & Down District Council – May 2018

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1. Live Applications

MONTH 2017/18	NEW APPLICATIONS	LIVE APPLICATIONS	LIVE APPLICATIONS OVER 12 MONTHS
April	129	914	222
May	141	916	217

2. Live Applications by length of time in system

Month 2017/18	Under 6 months	Between 6 and 12 months	Between 12 and 18 months	Between 18 and 24 months	Over 24 months	Total
April	510	182	79	33	110	914
May	506	193	78	33	106	916

3. Live applications per Case Officer

Month 2017/18	Average number of Applications per Case Officer
April	51
May	49

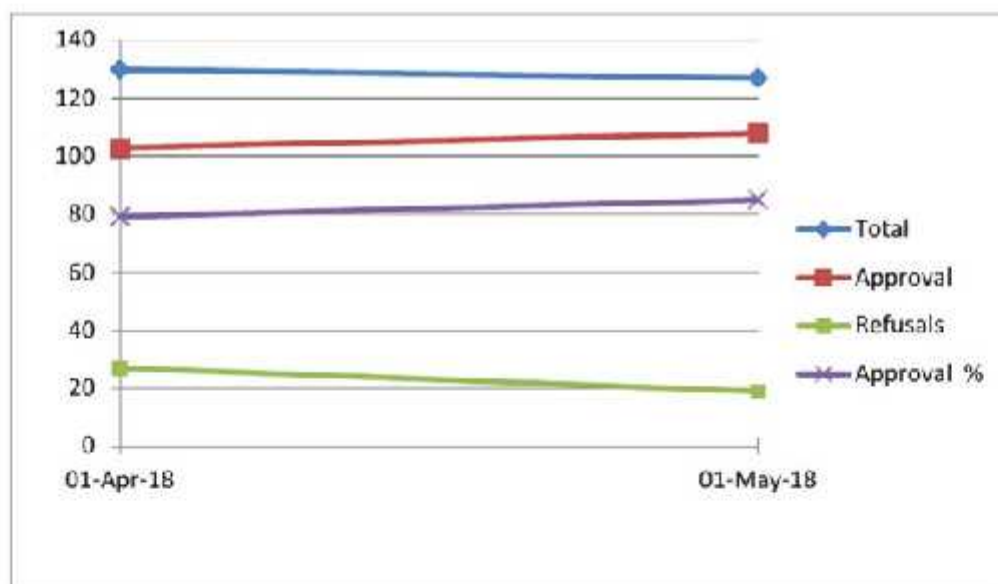
Newry, Mourne & Down District Council – May 2018

4. Decisions issued per month

Month 2017/18	Number of Decisions Issued	Number of Decisions Issued under delegated authority
April	130	111
May	127	119

5. Decisions Issued YTD

Month 2017/18	Number of Decisions Issued	Breakdown of Decisions	
April	130	Approvals (103)	79%
		Refusals (27)	21%
May	257	Approvals (211)	82%
		Refusals (46)	18%



6. Enforcement Live cases

Month 2017/18	<=1yr	1-2 yrs	2-3 yrs	3-4 yrs	4-5 yrs	5+ yrs	Total
April	305	220	101	77	84	124	911
May	325	208	105	81	84	125	928

Newry, Mourne & Down District Council – May 2018

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7. Planning Committee

Month	Number of Applications presented to Committee	Number of Applications Determined by Committee	Number of Applications Withdrawn/ Deferred for future meeting
11 April 2018	25	20	5
9 May 2018	17	10	7
Totals	42	30	12

8. Appeals

Planning Appeal Commission Decisions issued during May 2018

Area	Number of current appeals	Number of decisions issued	Number of decisions Allowed	Number of decisions Dismissed	Other decisions
Newry & Mourne	11	7	2	5	0
Down	6	1	1	0	0
TOTAL	17	8	3	5	0

Newry, Mourne & Down District Council – May 2018

Statutory targets monthly update - up to April 2018 (unvalidated management information)

Newry, Mourne and Down

	Major applications (target of 30 weeks)				Local applications (target of 15 weeks)				Cases concluded (target of 39 weeks)			
	Number received	Number decided/withdrawn ¹	Average processing time ²	% of cases processed within 30 weeks	Number received	Number decided/withdrawn ¹	Average processing time ²	% of cases processed within 15 weeks	Number opened	Number brought to conclusion ³	"70%" conclusion ³ time ³	% of cases concluded within 39 weeks
April	0	2	110.4	0.0%	99	110	14.1	51.8%	49	6	170.2	55.7%
May	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
June	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
July	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
August	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
September	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
October	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
November	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
December	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
January	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
February	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
March	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
Year to date	0	2	110.4	0.0%	99	110	14.1	51.8%	49	6	170.2	66.7%

Source: NI Planning Portal

Notes:

1. GLUDS, TPOS, NMCS and PADS/PANs have been excluded from all applications figures
2. The time taken to process a decision/withdrawal is calculated from the date on which an application is deemed valid to the date on which the decision is issued or the application is withdrawn. The median is used for the average processing time as any extreme values have the potential to inflate the mean, leading to a result that may not be considered as "typical".
3. The time taken to conclude an enforcement case is calculated from the date on which the complaint is received to the earliest date of the following: a notice is issued; proceedings commence; a planning application is received; or a case is closed. The value at 70% is determined by sorting data from its lowest to highest values and then taking the data point at the 70th percentile of the sequence.

Record of meetings between Planning Officers and Public Representatives 2018-2019

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DATE OF MEETING	PLANNING OFFICER'S NAME/S	PUBLIC REPRESENTATIVE'S NAME
23/04/2018	A McAlarney	Cllr W Walker Cllr Andrews
27/04/2018	A McAlarney	Cllr Burgess
30/04/2018	A McAlarney	Cllr Walker
30/04/2018	A McAlarney	Cllr Fitzpatrick
10/05/2018	A McAlarney	Colin McGrath MLA

Current Appeals

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AUTHORITY Newry, Mourne and Down

ITEM NO 1
Planning Ref: LA07/2017/0172/ **PAC Ref:** 2017/A0114
APPELLANT SCS **DEA** Newry
LOCATION Lindsay's Hill Approx 60 Metres South East Of 53-55 North Street
 Newry BT34 1DD

PROPOSAL Renewal of Extant Planning Approval Ref. P/2011/0340/F for residential development of 14 units (of social housing) with new access road from St Clare's Avenue

APPEAL TYPE DC- Refusal of Planning Permission
Appeal Procedure Informal Hearing **Date Appeal Lodged** 25/09/2017
Date of Hearing
Date Statement of Case Due for Hearing
Date Statement of Case Due - Written Representation
Date of Site Visit

ITEM NO 2
Planning Ref: LA07/2017/0687/ **PAC Ref:** 2017/A0168
APPELLANT Steven And Diane Campbell **DEA** The Mournes
LOCATION 30m North Of 94 Greencastle Road
 Killeel
 BT34 4DF
PROPOSAL Infill site for new dwelling and garage in existing cluster (amended plans)

APPEAL TYPE DC- Refusal of Planning Permission
Appeal Procedure Written Reps with Site Visit **Date Appeal Lodged**
Date of Hearing
Date Statement of Case Due for Hearing
Date Statement of Case Due - Written Representation
Date of Site Visit

Current Appeals

160

ITEM NO	3	PAC Ref:	2017/A0169
Planning Ref:	LA07/2016/1647/	DEA	Newry
APPELLANT	DBM Contracts		
LOCATION	20 Metres East Of 6 Daisy Hill Carnagal		
PROPOSAL	Newry/ Erection of two dwellings and retention of retaining walls		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	22/11/2017
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	4	PAC Ref:	2017/A0178
Planning Ref:	LA07/2017/0786/	DEA	Slieve Croob
APPELLANT	Walter Watson		
LOCATION	4 Drumnaquoile Road Castlewellan		
PROPOSAL	Replacement dwelling and detached garage		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	04/12/2017
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

161

ITEM NO 5
Planning Ref: LA07/2017/0856/ **PAC Ref:** 2017/A0181
APPELLANT Brian Hollywood **DEA** Slieve Gullion
LOCATION 20 Lough Road
Mullaghbawn
RT35 9XP
PROPOSAL Proposed change of use from Spa Centre Business to dwelling with
some minor renovations

APPEAL TYPE DC- Refusal of Planning Permission
Appeal Procedure Informal Hearing **Date Appeal Lodged** 06/12/2017
Date of Hearing 15/03/2018
Date Statement of Case Due for Hearing
Date Statement of Case Due - Written Representation
Date of Site Visit

ITEM NO 6
Planning Ref: LA07/2017/0319/ **PAC Ref:** 2017/A0188
APPELLANT Mr Sean O'Hare **DEA** Slieve Gullion
LOCATION 10A Limekiln Road
Newry
RT35 71 X
PROPOSAL Retention of authorised treatment facility for end-of-life vehicles,
including access road and all associated site infrastructure, including
areas of hardstanding, drainage systems, all buildings, structures,
racks, fencing and gates

APPEAL TYPE DC- Refusal of Planning Permission
Appeal Procedure Informal Hearing **Date Appeal Lodged** 12/12/2017
Date of Hearing 18/04/2018
Date Statement of Case Due for Hearing
Date Statement of Case Due - Written Representation
Date of Site Visit

Current Appeals

162

ITEM NO	7		
Planning Ref:	LA07/2017/0018/	PAC Ref:	2017/A0189
APPELLANT	Rozanna Huq	DEA	Downpatrick
LOCATION	To The South Of 24 Crossgar Road East Crossgar BT30 9ER		
PROPOSAL	Proposed 2no infill dwellings and garages (Amended site plan received re: Site splays).		
APPEAL TYPE	DC - Conditions of Approval		
Appeal Procedure		Date Appeal Lodged	11/12/2017
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	8		
Planning Ref:	LA07/2017/0114/	PAC Ref:	2017/A0202
APPELLANT	Mr Vincent McGuinness	DEA	Newry
LOCATION	210m South 30 Low Road Killeavy Newry		
PROPOSAL	Retention of existing industrial units and yard area for use as a waste transfer station. Includes associated car parking, external storage area and weighbridge.		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	22/12/2017
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO 9
Planning Ref: LA07/2016/0952/ PAC Ref: 2017/A0213
APPELLANT D & M Downey DEA Newry
LOCATION 113-117 Dublin Road
 Newry
PROPOSAL RT35 ROP
 Sub-division of part of existing bulky goods retail warehouse (No 115) to provide 3 No. ground floor class A1 retail units with new shopfronts (the 3 No. units to operate without compliance with the bulky goods condition on approval P/1993/0605); and western extension of site area
APPEAL TYPE DC- Refusal of Planning Permission
Appeal Procedure Informal Hearing **Date Appeal Lodged** 18/01/2018
Date of Hearing
Date Statement of Case Due for Hearing
Date Statement of Case Due - Written Representation
Date of Site Visit

ITEM NO 10
Planning Ref: LA07/2016/1331/ PAC Ref: 2017/A0214
APPELLANT Ms Joanna Magee DEA Downpatrick
LOCATION Lands Adjoining And Between 57 And 61 Churchtown Road
 Downpatrick
PROPOSAL Two detached dwellings and garages
APPEAL TYPE DC- Refusal of Planning Permission
Appeal Procedure **Date Appeal Lodged** 23/01/2018
Date of Hearing
Date Statement of Case Due for Hearing
Date Statement of Case Due - Written Representation
Date of Site Visit

Current Appeals

164

ITEM NO 11
Planning Ref: LA07/2017/0770/ **PAC Ref:** 2017/A0228
APPELLANT Mr And Mrs J McPolin **DEA** Slieve Croob
LOCATION 13 Downpatrick Road
 Ballynahinch
 RT24 RSH
PROPOSAL Proposed detached garage, rear extension to dwelling and extended site curtilage

APPEAL TYPE DC- Refusal of Planning Permission
Appeal Procedure **Date Appeal Lodged** 20/02/2018
Date of Hearing
Date Statement of Case Due for Hearing
Date Statement of Case Due - Written Representation
Date of Site Visit

ITEM NO 12
Planning Ref: LA07/2017/0823/ **PAC Ref:** 2017/A0246
APPELLANT Adrian McParland **DEA** Slieve Gullion
LOCATION Adjacent And 30m South-west Of No.20 Newry Road
 Belleek
 Armanah
PROPOSAL Site for dwelling and garage (Policy CTY8)

APPEAL TYPE DC- Refusal of Planning Permission
Appeal Procedure **Written Reps** **Date Appeal Lodged** 09/03/2018
Date of Hearing
Date Statement of Case Due for Hearing
Date Statement of Case Due - Written Representation
Date of Site Visit

Current Appeals

165

ITEM NO	13	PAC Ref:	2017/A0251
Planning Ref:	LA07/2017/1095/	DEA	Rowallane
APPELLANT	Mr William Jordan		
LOCATION	1 Milltown Lane Carsontown Road Saintfield		
PROPOSAL	Detached garage and store (partly constructed)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	15/03/2018
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	14	PAC Ref:	2017/A0252
Planning Ref:	LA07/2017/1175/	DEA	Crollieve
APPELLANT	Stuart Moffett		
LOCATION	15m West And To The Rear Of 81 Cloughanramer Road Newry BT34 1QG		
PROPOSAL	Erection of a dwelling on a farm		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	09/03/2018
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO 15
Planning Ref: LA07/2017/1627/ **PAC Ref:** 2017/A0254
APPELLANT Mr Gerard Donnelly **DEA** Slieve Gullion
LOCATION 20 Metres East Of 15 Newry Road And 45 Meters North Of 96
 Maphoner Road Mullaghbawn
PROPOSAL Proposed 2 No. dwellings on an in-fill site

APPEAL TYPE DC- Refusal of Planning Permission
Appeal Procedure Written Reps **Date Appeal Lodged** 21/03/2018
Date of Hearing
Date Statement of Case Due for Hearing
Date Statement of Case Due - Written Representation
Date of Site Visit

ITEM NO 16
Planning Ref: LA07/2017/0795/ **PAC Ref:** 2018/A0020
APPELLANT Mr Laurence Patterson **DEA** Rowallane
LOCATION Drumnacconnell House
 56 Ballynahinch Road
 Drumnacconnell West
PROPOSAL Replacement dwelling

APPEAL TYPE DC- Refusal of Planning Permission
Appeal Procedure **Date Appeal Lodged** 15/05/2018
Date of Hearing
Date Statement of Case Due for Hearing
Date Statement of Case Due - Written Representation
Date of Site Visit

Current Appeals

ITEM NO	17	PAC Ref:	2018/AO021
Planning Ref:	LA07/2018/0166/	DEA	Slieve Gullion
APPELLANT	Sean Nugent		
LOCATION	60m East Of 86 Slatequarry Road Cullyhanna		
PROPOSAL	Retention of existing farm shed		

APPEAL TYPE	DC- Refusal of Planning Permission	Date Appeal Lodged	15/05/2018
Appeal Procedure			
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			



Enforcement Appeal Decision

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Appeal Reference:	2016/E0048.
Appeal by:	Organic Fertilisers Ltd.
Appeal against:	An enforcement notice dated 8 March 2017.
Alleged Breach of Planning Control:	Unauthorised change of use of land and buildings from the production of mushroom compost to the production of fertiliser for gardening and farming market.
Location:	Land at 21B Ryan Road, Mayobridge.
Planning Authority:	Newry Mourne & Down District Council.
Authority's Reference:	EN/2016/0030.
Procedure:	Hearing and accompanied site visit on 15 August 2017 & hearing on 13 December 2017.
Decision by:	Commissioner Mark Watson, dated 4 May 2018.

Grounds of Appeal

1. The appeal was initially brought on Grounds (a), (b), (c), (d), (e), (f) and (g) as set out in Section 143(3) of the Planning Act (Northern Ireland) 2011. Ground (a) was withdrawn by the Appellant prior to the exchange of appeal evidence. There is a deemed planning application by virtue of Section 145(5). The Appellant's business is also subject to a waste management licence appeal (ref. 2016/V0001). That decision should be read in conjunction with this appeal decision.

Claim for Costs

2. A claim for costs was made by the Appellant against the Council. This claim is the subject of a separate decision.

The Notice

3. The Appellant considered that the red line on the map accompanying the Notice included a sizeable portion of land that did not form part of the Appellant's business. This inclusion of land increased the deemed application fee substantially. The matter of the extent of the site to which the Notice should relate is most appropriately addressed under Ground (b) of appeal. The matter of the deemed application fee will be addressed elsewhere within this decision.

Ground (b) – that the matters alleged in the Notice have not occurred

4. The map accompanying the Notice includes a section of land to the west and rear of the appeal building, comprised of a series of concrete walls previously used as windrush tunnels. These were a means to dry poultry litter naturally. These along with an area of land to the south of the Appellant's building were included within the red line on the Notice map. The surrounding land is controlled by Mourne Compost Limited (MCL), with the Appellant leasing the building and section of yard from MCL. MCL continues to operate a compost production facility on the yard areas to the north of the site. The entirety of that operation is outdoors and the land has full planning permission for retention of a mushroom compost manufacturing yard and storage, as well as a Certificate of Lawfulness of Existing Use or Development (CLEUD) for production of mushroom compost. These planning decisions are addressed in more detail later given their relevance to the appeal site. The Appellant stated that the areas to the west and south of the appeal building referred to above did not fall within the lease for Organic Fertilisers Ltd (OFL). A copy of the lease and map were provided within the Appellant's Statement of Case. The area leased by the Appellant's company is confined to the building and the yard area to the east and "front" of the building. The Council's witness at the first hearing accepted that the area controlled by OFL was smaller than shown in the map, but considered that this did not affect the deemed application fee.
5. From my own three inspections of the site, the area outwith that shown in the Appellant's map accompanying the lease is not in use associated with OFL, despite similar operations taking place (albeit outdoors) on the adjacent land. The windrush tunnels to the rear and west are unused and that area has been fenced off from the OFL operations. From my own observations and the totality of the submitted evidence I agree that part of the land identified in the Council's map accompanying the Notice does not constitute part of the OFL operation.
6. The matter stated in the Notice has therefore not occurred on those parts of the land outside the Appellant's leased area. I shall therefore vary the Notice at Section 2 to read "Land at 21B Ryan Road, Mayobridge, shown edged in red, excluding that area shown cross-hatched, on the accompanying Map PAC1". The appeal under Ground (b) succeeds in respect of that part of the land only identified as the cross-hatched area on the Map PAC1 accompanying this decision.

Ground (c) – that those matters do not constitute a breach in planning control

7. The alleged breach in the Notice referred to a change of use of land and buildings from the production of mushroom compost to the production of fertiliser for the gardening and farming market. The Appellant considered that as permission had previously been granted for production of mushroom compost no material change of use had taken place. The planning history for the appeal site provides the baseline for consideration of whether or not a material change of use has occurred.
8. A "compost mixing yard" was granted full planning permission on 21 March 1989 (ref. P/1988/1367/F). Although no map has been retained showing the extent of this sites, the landowner stated that this included the appeal site. Full planning permission was granted on 4 May 2005 for the "retention of mushroom compost manufacturing yard and storage" (ref. P/1993/0151/F). That application covered a

wider land area but included the appeal site in its entirety. A CLEUD was granted on 24 June 2005 (ref. P/2004/1634/LDE) for the "production of mushroom compost (compost from straw, poultry litter, food waste, green waste, gypsum lime and paper)". This CLEUD related to the wider land area but also included the appeal site as a whole. A further planning application was granted full permission on 23 April 2009 for the "erection of phase 3 mushroom compost production building, recomposting shed, mushroom growing tunnels and extension to existing mushroom yard" (ref. P/2006/2143/F). Full planning permission for the "refurbishment of existing mushroom composting shed for change of use to production of fertiliser for gardening and farming market" (ref. P/2011/07779/F) was refused on 5 December 2014. That application, which related to the appeal site itself, was subsequently appealed (ref. 2014/A0290). The appeal was dismissed in February 2016.

9. The Appellant contended that the 2005 planning permission, along with the CLEUD also granted in 2005, allow for the use taking place on the appeal site. He argued that there is no material difference in what was produced under the terms of the CLEUD and what is currently produced on site. His representatives stated that the 2011 change of use application which differentiated between mushroom composting and fertiliser production was predicated incorrectly from the outset and is not an indicator that a change of use has taken place on the site.
10. The 2005 CLEUD allowed for the production of mushroom compost, made up of straw, poultry litter, food waste, green waste, gypsum lime and paper. It did not specify what use class, if any, the stated use was considered to be. The Appellant referred to the online Oxford English Dictionary (OED), which defines a fertiliser as "a chemical or natural substance added to soil or land to increase its fertility". The OED defines compost as "decayed organic material used as a fertiliser for growing plants", with the word fertiliser listed below that definition as a synonym. The glossary to Planning Policy Statement 11 – Planning and Waste Management defines compost as "organic matter decomposed aerobically or anaerobically and used as a fertiliser or soil conditioner". From the definitions of the two terms there is little to distinguish one from another in terms of determining if they amount to a difference in terms of planning use on the site.
11. The primary ingredient used to make the Appellant's products falls under the same European Waste Code (EDW) as the CLEUD allowed for; poultry litter (EDW Code 020106), whilst the remaining components still fall within the other stated elements of green waste, food waste and gypsum lime. Whilst the Appellant occasionally adds small amounts of phosphorous or potassium, I am not persuaded that their inclusion would amount to a material change of use in themselves.
12. The Council and Objectors pointed to the change in process to arrive at the final product. The adjacent MCL operation entails leaving amounts of the material to dry outside naturally over a protracted period of time. The Appellant's process, carried out indoors, entails moisture-checking the material, drying it where necessary and running it through a press to produce the pellets. It was stated that when a customer requests if the material can be left in loose form and bagged accordingly. The process takes only a couple of days from start to finish. The heating process also eliminates any chance of botulism remaining in the litter.
13. The CLEUD is not specific in terms of the form that the end product should take, despite the Council and Objectors pointing to the difference between a loose

- compost and the pelleted product the Appellant now produces. Nor does the CLEUD state the process by which the compost should be produced. Despite the physical difference in terms of a loose product and a pelleted product and the mechanised process carried out indoors to attain the final product, I am not persuaded for the purposes of this appeal that there is a material difference between compost and fertiliser of that it is demonstrative of a material change in use having taken place.
14. Whilst the CLEUD stated "mushroom compost", compost has wider applications for a variety of plants and vegetation. The same material could still be used for growing plants and vegetables other than mushrooms despite its description. Even though described as mushroom compost in the CLEUD, the lack of substantive difference in the core ingredients used as stated in the CLEUD would not persuade me of there being a material difference. Nor would any perceived changes in the mix ratio of litter to other ingredients as was stated by the Objectors. The Council and Appellant pointed to the Appellant's product being aimed at the garden and farming markets. However, the CLEUD did not specify an end product market or user. Given the end product is constituted from the same materials and despite being artificially dried and given a different end form, I am not persuaded that this demonstrates a material change of use has occurred.
 15. In terms of the use class operating on the site, the Council considered that a change had taken place from Class B2: Light Industrial to B3: General Industrial. The Appellant considered that the use remained sui generis and had not changed. The Planning (Use Classes) Order (NI) 2015 (UCO) defines Light Industrial as "*use for any industrial process which can be carried out without detriment to amenity by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit*". Class B:3 General Industrial is defined as "*use for the carrying on of any industrial process other than one falling within Class B2*". Even though the Council and Objectors considered the level of odour associated with outdoor drying was less detrimental to amenity than the Appellant's indoor process, outdoor drying would still in itself give rise to odour, even if left inert for periods of time. I am therefore not persuaded that the approved use under the CLEUD would have been B2: Light Industrial in the first instance. The UCO at Article 3(4) lists a series of sui generis uses; i.e. those uses belonging to no particular group or use class within the UCO. The final sui generis use listed is *use as a waste management facility for the collection, transport, treatment, recovery and recycling, transfer and disposal of waste (as defined in Council Directive 2009.98/EC) (9)*. Although the Appellant does bring waste to his facility, that waste is a component used in the adaption of materials to produce compost. I am not persuaded that the operations ongoing on the appeal site can be considered to be a waste management facility.
 16. The UCO defines an industrial process as a process for or incidental to any of the following purposes, two of which are of relevance in this case. These are: "*(a) the making of any article or part of any article (including an aircraft, ship or vessel, or a film, video or sound recording)*" and "*(b) the altering, repairing, maintaining, ornamenting, finishing, cleaning, washing, packing, canning or adapting for sale of any article*". Whilst the Appellant does recycle waste in the process of making compost, this is done for the purpose of making the compost as a finished product. This product can be considered to be an article. The process he undertakes also entails the finishing, packing and adapting for sale of that article. Even if a waste management licence would also be required for the handling of the waste that is

used in the Appellant's products, for the reasons given above I consider the use on the site to be B3: General Industrial.

17. The Council and Objectors pointed to the change in character and planning consequences that had arisen from the OFL operation on the appeal site. An Objector referred to the replacement of several older fans on the building with a single larger fan, however, I am not persuaded that this represents a material change in use on the site. A series of complaints had been made to the Council's Environmental Health Department (EHD) in respect of odour and noise. The contemporaneous accounts of the site inspections are not definitive as to the source of the odour, save for one incident I address further below. Nor are the accounts persuasive that the issues were being caused solely, if at all, by the appeal development, particularly when details relating to wind direction, wind strength and precise assessment locations were not always recorded. The fact that MCL has and continues to store large heaps of poultry litter in the open yard areas in proximity to the appeal site which can give rise to odour emissions in themselves, even if the odour might vary in terms of strength or make-up, render conclusively determining that odours are being generated by the appeal development difficult at best.
18. The photos provided by an Objector showing vapour emitting from the appeal building were taken at a time when a gap in the rear wall of the shed was still present, even if the digger in the photo is not working directly at the hole in the wall. The same situation was the case during the accompanied site visit, where odour was evident at the rear of No. 22 Ryan Road. This was during the period when the large hole in the rear wall had not been repaired, thus the building could not operate at the intended negative pressure. There were also several minor holes in the roof of the building. From my own observations during my third visit to the site and the NIEA comments, these repairs have since been carried out. No odour was detectable around the environs of the site, despite OFL operating that day.
19. The one incident recorded in the Council's site investigations where odour was detected and directly attributed to OFL operations referenced the doors being left open in the building, which would explain the detectable odour issue. I am told this is not proper practice and it is normal practice for the doors to be kept closed, except for actual moments of ingress and egress. This was the case during the two unannounced site visits I made, during which OFL was fully operating. The totality of the Council's records of the investigations do not persuade me that the odours detected at complainant receptor properties were a direct consequence of the appeal development and its indoor operations, particularly when open air storage of litter was taking place on the adjacent land.
20. The Council and Objectors referred to previous abatement notices being issued under the Clean Neighbourhoods and Environment Act (NI) 2011 and a Notice under Article 27 of the Waste and Contaminated Land (NI) Order 1997 being issued. Whilst the Appellant did accept a caution for outdoor storage of litter, no further action was taken against the Appellant or OFL. It was the owner of MCL who was prosecuted and fined for activity on land adjacent but outside of the appeal site. Notwithstanding the complaints from neighbouring properties I am not persuaded that the indoor activity and mechanised process in themselves amount to a change in character that suggests a material change in use having taken place.

21. In respect of the recorded noise complaints, these predominantly relate to operations on the site taking place outside of normal working hours. Although not to be condoned, such operations and the noise arising from them, such as at times of late evening or night, when background noise levels would generally be much lower, are not indicative of a material change in use. Rather, they relate to management issues pertaining to the operation of the site. Whilst a tonal noise was noted coming from the appeal building during the accompanied site visit I am told this from a defective conveyor. It has since been repaired and I did not note the tonal noise during my third site inspection despite the conveyors being in operation at that time.
22. The Appellant and his representatives considered that the previous application was predicated wrongly on there being a change of use. The previous appeal decision 2014/A0290, which dismissed the change of use under which the alleged breach in the Notice is framed, did not address whether or not a change of use was required on the basis of the previous planning history because it was not an issue put forward for consideration. The evidential context for that appeal was based on an uncontested starting point of a prospective change of use sought from mushroom composting to production of fertilisers for the gardening and farming markets, as well as various proposed building operations. Thus, I am not persuaded that the previous appeal decision is demonstrative of a change of use having taken place.
23. Having had regard to the totality of the evidence and my own site observations on several occasions, two of which were unannounced inspections, I am not persuaded that the use taking place on the site differs materially from that granted under the CLEUD and earlier planning permission. I consider that no change of use has taken place on the appeal site and the use remains B3: General Industrial. The matters alleged do not constitute a breach in planning control. The appeal under Ground (c) therefore succeeds.

Ground (d) – that at the date the Notice was issued, no enforcement action could be taken in respect of any breach of planning control

24. As the appeal succeeds under Ground (c), I need not consider this ground of appeal.

Ground (a) – that planning permission ought to be granted

25. As the appeal succeeds under Ground (c) there is no need to consider this ground of appeal and the deemed planning application, including the various planning issues raised by the Council and Objectors. The deemed application fee shall be returned to the Appellant.

Ground (f) – that that the steps required by the Notice to be taken, or the activities required by the Notice to cease, exceed what is necessary to remedy any breach of planning control

26. As the appeal succeeds under Ground (c), I need not consider this ground of appeal.

Ground (g) – that the period specified in the notice falls short of what should reasonably be allowed

27. As the appeal succeeds under Ground (c), I need not consider this ground of appeal.

Decision

28. The decision is as follows:-

- The appeal on Ground (b) partially succeeds in respect of the area identified as being outside of the area leased by OFL. Section 2 of the Notice is varied to read "Land at 21B Ryan Road, Mayobridge, shown edged in red, excluding that area shown cross-hatched, on the accompanying Map PAC1";
- The appeal on Ground (c) succeeds; and
- The Notice is quashed.

COMMISSIONER MARK WATSON

Appearances**Planning Authority:-**

Mr D Watson (Newry Mourne & Down District Council)*
 Mr O Devlin (Assistant Director Health and Wellbeing,
 Newry Mourne & Down DC)
 Mr C Millar (NI Environment Agency)* #
 Mr B Begley (NIEA)* #
 Ms E McCafferty (NIEA, observing)*

Mrs L Duffy (Newry Mourne & Down District Council)#
 Ms G McKinley (Environmental Health, Newry Mourne &
 Down DC)#
 Mr P Smith (Newry Mourne & Down District Council)#

Appellant:-

Mr S Beattie QC (instructed by TLT Solicitors)#
 Mr T Bell (Clyde Shanks Planning Development)*#
 Mr S Carr (Irwin Carr)*#
 Dr C Jordan (Irwin Carr)#
 Mr A Ryan (TLT Solicitors)#
 Mr G McGill (Clyde Shanks Planning Dev)#
 Mr N Reynolds (Appellant)*#
 Mr J Dundee (Synergy Engineering & Environment)#

Third Parties:-

Mr J McAllister (Objector)*
 Mr B Turley (Objector)*
 Mr D Redmond (Objector)#
 Mr G Larkin (Objector)
 Mrs M Sands (Objector)
 Mr G Markey (Objector)*
 Cllr Fitzpatrick (Objector)#

*In attendance at accompanied site visit after hearing on 15 August 2017.

#In attendance at second hearing on 13 December 2017.

List of Documents

Planning Authority:-	'A' Statement of Case & Appendices (Newry, Mourne & Down DC) 'D' Draft planning conditions (Newry Mourne & Down DC) 'E' Copies of contemporaneous notes and records of Environmental Health Dept. site investigations re third party complaints (N,M & D DC)
Appellant:-	'B' Statement of Case & Appendices (Clyde Shanks Planning Development) 'F' Response to Council site investigation records (Clyde Shanks Planning Development) 'G' Briefing Note document re Odour Evidence (Irwin Carr) 'J' Email re damaged roller shutter door (Clyde Shanks Planning Development)
Third Parties:-	'C' Statement of Case & Appendices (Ryan Road Residents) 'H' Two photographs of appeal site in operation (Mr D Redmond) 'I' Email confirming date and time of photographs (H) (Mr D Redmond)





Appeal Decision

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Appeal Reference:	2017/A0161
Appeal by:	Quayside Properties Ltd
Appeal against:	The refusal of Listed Building Consent
Proposed Development:	Demolition of remaining parts of building for health and safety reasons
Location:	2-3 Sugarhouse Quay, Newry
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2015/1123/LBC
Procedure:	Written representations with Accompanied Site Visit on 27 th February 2018
Decision by:	Commissioner A Speirs, dated 9 th May 2018

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this case are:- whether exceptional circumstances exist, which would render acceptable the demolition of the listed building, and, the effect of the demolition of what remains of this building on the character and appearance of the Newry Conservation Area.
3. Section 80(7) of the Planning (Northern Ireland) Act 2011 states that "In this Act "listed building" means a building which is for the time being included in a list compiled under this section; and, for the purposes of the provisions of this Act relating to listed buildings, the following shall be treated as part of the building – (a) any object or structure within the curtilage of the building and fixed to the building; (b) any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1st October 1973". Therefore, although not all of the subject building is listed, the non-listed part, which is integral to the structure, is also treated as being listed by dint of this statutory provision.
4. Section 91 of the 2011 Planning Act, dealing with applications for Listed Building Consent, states that "in considering whether to grant planning permission for

development which affects a listed building or its setting, and in considering whether to grant listed building consent for any works, a council or, as the case may be, the Department must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”.

5. Section 104 (11) of the Planning (NI) Act 2011 requires that where any area is for the time being designated as a conservation area, special regard must be had to the desirability of:

- (a) preserving the character or appearance of that area in cases where an opportunity for enhancing its character or appearance does not arise;

- (b) enhancing the character or appearance of that area in cases where an opportunity to do so does arise.

Policies BH 10 and BH 14 of Planning Policy Statement 6: Planning, Archaeology and the Built Heritage (PPS6) cited by the Council in its reasons for refusal must be considered in the context of the above.

6. Section 6 (4) of the 2011 Planning Act states that a determination under the Act must be made in accordance with the Local Development Plan, unless material considerations dictate otherwise. The Banbridge Newry and Mourne Plan 2015 (BNMAP) identifies the extent of the Newry Conservation Area and the Plan states that “Conservation Areas have been designated, under Article 50 of the Planning (Northern Ireland) Order 1991, in Bessbrook, Dromore, Newry and Rostrevor in recognition of their architectural and historical interest”. It contains no specific policies in respect of Listed Buildings or Conservation Areas and defers to regional policy with regard to proposals affecting these. It also refers to guidance in the Newry Conservation Area document (DOE NI), December 1992. The latter states that “Formal consent is required for the demolition of a building within the Conservation Area. It will be necessary to demonstrate there is an overriding or exceptional reason to justify the works. Proposals for demolition generally should be accompanied by a satisfactory scheme for replacement or redevelopment in a manner which is appropriate to the Area”
7. The Strategic Planning Policy Statement for Northern Ireland 2015 (SPPS) is a material consideration. It retains various regional policies until councils have adopted a new Plan Strategy. It states that any conflicts between the SPPS and the existing retained Planning Policy Statements are to be resolved in favour of the SPPS. The SPPS contains a policy direction reflecting Section 104 of the 2011 Act. Paragraph 6.18 advises that in managing development within a designated conservation area the guiding principle is to afford special regard to the desirability of enhancing its character or appearance where an opportunity to do so exists, or to preserve its character or appearance where an opportunity to enhance does not arise. It goes on to say that there will be a general presumption against the grant of planning permission for development or conservation area consent for demolition of unlisted buildings where proposals would conflict with this principle.

This general presumption should only be relaxed in exceptional circumstances where it is considered to be outweighed by other material considerations grounded in the public interest.

8. Paragraph 6.15 of the SPPS states that "proposals for the total demolition of a listed building or any significant part of it must not be permitted unless there are exceptional reasons why it cannot be retained in its original or a reasonably modified form. Where consent to demolish a listed building is granted, this should normally be conditional on prior agreement for the redevelopment of the site....". This policy approach is broadly similar to that set out in Policy BH10 of PPS6. Whilst it refers to unlisted buildings only, policy BH14 of PPS 6 – Demolition in a Conservation Area, has relevance in respect of the demolition of any building in a conservation area. It states that "the Department will normally only permit the demolition of an unlisted building in a Conservation Area where the building makes no material contribution to the character or appearance of the area. Where conservation area consent for demolition is granted this will normally be conditional on prior agreement for the redevelopment of the site...". Paragraph 7.17 states that in assessing such proposals the Department will have regard to the same broad criteria outlined for the demolition of listed buildings and is cross referenced to paragraph 6.5 and policy BH 10.
9. In respect of policy BH10, paragraph 6.24 of PPS6 indicates that consent will not be given (for demolition) simply because the redevelopment is economically more attractive to the developer than repair and re-use of the building, or because the developer acquired the building at a price that reflected the potential for redevelopment rather than the condition and constraints of the existing historic building. Paragraph 6.25 goes on, *inter alia*, to refer to the following factors:-
 - (a) the condition of the building, the cost of repairing and maintaining it in relation to its importance and to the value derived from its continued use. Any such assessment will be based on consistent and long-term assumptions. Less favourable levels of rents and yields cannot automatically be assumed for historic buildings. Also, they may offer proven technical performance, physical attractiveness and functional spaces that, in an age of rapid change, may outlast the short-lived and inflexible technical specifications that have sometimes shaped new developments. Any assessment will also take account of the possibility of tax allowances and exemptions and of grants from public or charitable sources. In the rare cases where it is clear that a building has been deliberately neglected in the hope of obtaining consent for demolition, less weight will be given to the costs of repair;
10. The proposal involves removal of the remainder of the original building on the appeal site, which fronts over Sugarhouse Quay and the Newry Canal. The evidence before me indicates that demolition of part of the original building took place at some time in 2004. This was regularised by Listed Building Consent reference P/2005/1507/LB, granted in February 2008, together with a scheme for the redevelopment of the site including incorporation of remaining parts of the

building (P/2005/1506/F). The remaining structure is on the 'Built Heritage at Risk Northern Ireland' register.

11. The appellant company's evidence referred to PPS6 policy BH10 and pointed out that there can be exceptional circumstances where the Planning Authority will permit the demolition of a listed building that cannot be retained. It was also argued that, in stating that "where, exceptionally, listed building consent is granted for demolition this will normally be conditional on prior agreement for the redevelopment of the site", BH10 allows for demolition without a redevelopment proposal being in place. In addition, it was submitted that paragraph 6.23 of PPS6 explains that the demolition of any grade A or B+ (the 2 highest classifications of listed buildings) would require the strongest justification and it thus follows that the lowest category of listed buildings (B2) would require a lower standard of justification.
12. Whilst paragraph 6.23 of PPS6 refers to grade A and B+ listed buildings, this does not imply that a grade B building is of little importance. The headnote of BH10 does not differentiate between grades of listed buildings. I note that paragraph 6.23 goes on to state that "...consent will not be given for the total or substantial demolition of *any* (my emphasis) listed building without clear and convincing evidence that all reasonable efforts have been made to sustain existing uses or find viable new uses, and these efforts have failed; that preservation in some form of charitable or community ownership is not possible or suitable; or that redevelopment would produce substantial benefits for the community which would decisively outweigh the loss resulting from demolition". There is no evidence to suggest that the appellant company has sought to investigate these avenues. I note that the demolition of the front part of the building took place in 2004, before the building was listed, and that this resulted in the first ever 'spot' listing in Northern Ireland. This demolition was unlawful as, at that time, the provisions of Article 51 of the Planning (NI) Order 1991 meant that permission was required for such works in a conservation area. In light of the circumstances, I attach little weight to the appellant company's inference that as consent had been granted for demolition in 2008, in the same policy context as currently exists, the removal of the rest of the building should also be permitted.
13. The appellant company produced evidence in an attempt to demonstrate the unviability of retaining the listed building. The letter from McAlpine & Co. estimates that, based on an annual rental value of £105,623, the capital value of a redeveloped building would be around £630,000; it was submitted that this compares unfavourably with a redevelopment cost of 2.8 million pounds (plus other fees) as estimated by Dunlop Hawthorne Partnership Quantity Surveyors. As there is no scheme for redevelopment of the site before me, I can only assume that this estimate is based on the scheme approved in 2008.
14. I note that the capital value figure produced by McAlpine & Co. has been based on roughly 6 years projected rental income of £105,623. No analysis has been provided to demonstrate the precision of the capital valuation. It is unclear whether the redevelopment cost estimate has been produced taking into account the

- availability of grant aid or other benefits available for owners of listed buildings on the Built Heritage at Risk register (as detailed in the letter from NIEA to Quayview Properties Ltd. dated 22.10.2013). As the appellant company's evidence recognises, paragraph 6.24 of PPS6 acknowledges that consent to demolish will not be given simply because redevelopment is economically more attractive to the developer than repair and re-use of the building. As paragraph 6.25 of PPS6 states "any assessment will also take account of the possibility of tax allowances and exemptions and of grants from public or charitable sources".
15. The demolition of the front part of the building took place in 2004. Approval for redevelopment was granted in 2008. Thus, for a period of almost 10 years the remaining building has lain neglected. I was advised that, after the economic recession of 2008, the appellant company lost interest in developing the site. Paragraph 6.25 of PPS6 indicates that, where it is clear that a building has been deliberately neglected in the hope of obtaining consent for demolition, less weight will be given to the costs of repair. Whilst there is no evidence of intentional neglect, the appellant company had ample opportunity to prevent the building deteriorating to the extent that it has.
 16. Two reports were undertaken for the appellant company. The condition report by MF Consulting dated 19.8.2015 recommended that demolition of the building would be the safest and most expedient means to secure the site and the adjacent properties. Another visual inspection report dated 13.10.2016 by Albert Fry Associates examined the issue of retention and concluded that "a staged temporary support and controlled take-down approach has been presented which, subject to review by an experienced demolition contractor, offers the potential to retain the front and gable walls of the NW block to eaves level and the other three blocks to their uppermost existing floor level. Opportunities to integrate the remaining fabric, with relevant remediation and conservation measures, within proposed redevelopment of the site may be developed".
 17. I recognise that in December 2016 F McParland & Co declined to provide an estimate for "temporary support frame of warehouse" on the basis of the poor condition of the building; I note also the letter from the same company dated January 2018 advising that full or partial demolition of the building should be undertaken. However, there is nothing to suggest that other experienced demolition contractors would have been unable to implement the recommendations of the Albert Fry Associates report. Based on the evidence before me I am not persuaded that the entire building is incapable of being retained, nor can I conclude that there are economic reasons which dictate that demolition of the building is the only option available. I see no reason why the appellant company could not have produced a scheme for redevelopment of the site in accordance with PPS6 policy BH12. There does not appear to be justification to set aside the normal requirements of policy. It would not be appropriate to attach a condition to a listed building consent for demolition requiring that redevelopment proposals would be submitted within an agreed period of time; this would be at odds with the normal requirements of both policies BH10 and BH14. It could also result in a vacant site being created, which could

potentially lie undeveloped for some time and detract from the appearance and character of the conservation area.

18. The appellant company referred to the danger that the existing building poses for neighbouring properties and the difficulties in acquiring insurance for the site. I was not provided with any specific detailed evidence in respect of these points. I noted that the site is closed off and physical remedies exist to prevent trespass. It appears to be difficult, rather than impossible, to secure insurance. A remedy for any danger that the building presents would be to redevelop the site as soon as possible. I am not persuaded that the points raised justify total demolition. I do not accept that there are exceptional reasons why the remaining building cannot be retained in a reasonably modified form. Its demolition would run counter to the presumption in favour of retaining listed buildings and I find that the proposal fails when considered against policy BH10 of PPS6.
19. The appellant company argued that, in the context of policy BH14, where demolition of a building is permissible if it makes no material contribution to the character or appearance of the area, the word 'material' has the meaning of great impact or consequence or significance or relevance. It was also argued that in BH14, the word 'normally' indicates that demolition will not always be conditional on prior agreement for the redevelopment of the site. I disagree with the interpretation of the word 'material'; in my opinion the appellant company has elevated the term to a higher level than policy envisaged by prefacing it with the adjective 'great'. I do not disagree, however, that 'material' could mean being of consequence, significance or relevance, or of having an impact. Whilst I would accept that the building on site is in very poor condition, I would not describe it as a complete ruin and I do not agree with the appellant company's assertion that it is an 'eyesore'. Much of the external stone walling and wall detailing remains, with window and access openings still evident. Historic Environment Division (HED) referred to the historical importance of the mill buildings and it is clear from the evidence submitted that it is one of the earliest warehouses built in Newry. I agree with HED that the building is a tangible link to the past and Newry's important commercial history. I concur that the building is visually linked to the Newry Canal and Sugarhouse Quay, which are historic monuments, when seen from Sugarhouse Quay itself and from New Street and Merchant's Quay. I agree with HED's contention that the building is an important heritage asset to the area, the retention of which reinforces the local distinctiveness of the site and of the surrounding area. I judge that the building makes a material contribution to Newry Conservation Area. I reach these conclusions in respect of the building as it currently exists, and not on the building as it was before the front elements were demolished. I judge that the proposal to remove the remaining structure conflicts with policy BH14 of PPS6.
20. I recognise that redevelopment of the site could make a positive contribution to the area and that any scheme would be subject to PPS6 policy BH12, which requires new development to be in keeping with the character and appearance of the conservation area. This could be achieved whilst still incorporating much of the existing building on the site within the new scheme. I disagree with the appellant

company that demolition of the remaining structures and securing the site would be an improvement on the current situation. Neither the Council, nor Historic Environment Division has sought to prevent redevelopment of the site. The appellant company submitted that, if the site can be cleared, the potential for a new development is very high and this would provide a real environmental economic and social benefit for the community, and Newry as a whole. I consider that retention of the building and its incorporation into a new scheme would offer similar benefits.

21. There is no opportunity in this case for enhancing the character or appearance of the Newry conservation area. Retention of the building on the appeal site will preserve the existing character and appearance. The proposal to completely demolish the building conflicts with policies BH10 and BH14 of PPS6, as does the absence of a redevelopment proposal for my consideration. The Council's reasons for refusal are sustained and the appeal must therefore fail.

This decision is based on the following:-

Drawing 01 - sitelocation plan at scale 1:1250

Drawing 02 - Demolition Plan Ground Floor at scale 1:200 @A3

Drawing 03 - Demolition Plan First Floor at scale 1:200 @A3

Drawing 04 - Demolition Plan Second Floor at scale 1:200 @A3

Drawing 05 - Demolition Plan Third Floor at scale 1:200 @A3

all of which were stamped refused on 10 July 2017

COMMISSIONER ANDY SPEIRS

Attendances at site visit

Planning Authority:- Mr G Murtagh

Historic Environment Division:- Ms N Golden
Ms J Stokes

Appellant: - Mr A McCready, Architect

List of Documents

Planning Authority:-
Doc A - Statement of Case with Appendices
Doc B – Statement of case – HED
Doc C - Rebuttal comments - HED

Appellant:-
Doc D - Statement of Case with Appendices
Doc E - Rebuttal comments



Enforcement Appeal Decision

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Appeal Reference:	2017/E0030
Appeal by:	B & P Cunningham
Appeal against:	An enforcement notice dated 12 th September 2017
Alleged Breach of Planning Control:	The unauthorised construction of 10 Apartments
Location:	Land at 65 Armagh Road, Newry
Planning Authority:	Newry, Mourne and Down District Council
Authority's Reference:	LA07/2016/0207/CA
Procedure:	Hearing on 8 th February 2018
Decision by:	Commissioner A Speirs, dated 22 nd May 2018

Grounds of Appeal

1. The appeal was brought on grounds (a), (f) and (g) as set out in Section 143(3) of the Planning Act (Northern Ireland) 2011. There is a deemed planning application by virtue of Section 145(5).

Ground (a) and the deemed application

2. The main issue in this appeal is whether the development has an unacceptable adverse impact on the residential amenity of neighbouring properties.
3. Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations. Section 6(4) states that where regard is to be had to the Development Plan, the determination must be made in accordance with the Plan unless material considerations indicate otherwise. The appeal site is located within the urban area of Newry as identified in the Banbridge Newry and Mourne Area Plan 2015. It sits outwith any Plan designation. The Plan is silent on development of the subject nature and defers to regional policy on such matters.
4. Other planning policy context for the development is provided by the Strategic Planning Policy Statement for Northern Ireland (SPPS) introduced in September 2015, PPS 7 - Quality Residential Environments, the Addendum to PPS7 – Safeguarding the Character of Established Residential Areas, Creating Places - Achieving Quality in Residential Development, and DCAN 8: Housing in Existing Urban Areas. The Council also referred to Planning Policy Statement 12 – Housing in Settlements (PPS12).

5. Paragraph 6.137 of the SPPS states that "within established residential areas it is imperative to ensure that the proposed density of new housing development, together with its form, scale, massing and layout will respect local character and environmental quality as well as safeguarding the amenity of existing residents". In terms of design paragraph 6.137 goes on to say that "good design should be the aim of all those involved in housing development and will be encouraged everywhere. All new housing developments should demonstrate a high quality of design, layout (including road infrastructure considerations) and landscaping".
6. PPS 12 provides planning policies for housing within the context of the Strategic Planning Guidelines contained in the RDS, and defines considerations to be taken into account when preparing local housing policies in development plans. It is not intended as a development management document and actually states that planning policy in respect of Planning Control Principle 1 is set out in PPS7.
7. Policy QD1 of PPS7 states that "in established residential areas proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas". The policy further indicates that all proposals for residential development will be expected to conform to specified criteria. These include:-

(h) the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance; and

(i) the development is designed to deter crime and promote personal safety.

Paragraph 4.38 of PPS7 states that "the protection of the privacy of the occupants of residential properties is an important element of the quality of a residential environment. It is a particularly important consideration where new development is proposed adjacent to existing properties. Proposals should therefore seek to provide reasonable space between buildings in order to minimise overlooking. This will also assist in providing acceptable levels of daylight to properties". Policy LC1 of the Addendum to PPS7 reiterates that infilling of vacant sites is subject to the criteria applied by policy QD1.

8. Creating Places provides guidance on the layout and design of new housing developments. Paragraph 7.16 of the document states that where development "... abuts the private garden areas of existing properties, a separation distance greater than 20m will generally be appropriate to minimise overlooking, with a minimum of around 10m between the rear of new houses and the common boundary". Paragraph 7.17 indicates that "great care will be needed in designs where new residential schemes, such as apartments, include living rooms or balconies on upper floors as this can cause a significant loss of amenity to adjoining dwellings, particularly where they are close to the boundaries of existing properties. Where such development is proposed on green-field sites or in lower density areas, good practice indicates that a separation distance of around 30m should be observed or, alternatively, consideration given to a modified design. Where such

development abuts the private garden areas of existing properties, a minimum distance of around 15m should be provided between the rear of the apartments and the common boundary". With regard to refuse storage, Creating Places advises that in flat and apartment buildings, refuse storage space may be provided communally, enclosed in a carefully designed building integrated with the overall development.

9. Paragraph 3.22 of DCAN 8 indicates that distance separation, screening, window size and style, orientation and location of rooms and circulation space are some of the factors to consider in relation to ensuring adequate privacy and daylight. Paragraph 3.23 goes on to state that the protection of neighbouring properties from unreasonable loss of light is a well established planning consideration...".
10. The site currently being developed by the appellants comprises the curtilages of Nos.63 and 65 Armagh Road, which were demolished some time ago. The development alleged in the enforcement notice comprises three blocks of two-storey apartments constructed close to the northern boundary of the appeal site, which was previously the curtilage of a two-storey dwelling at No. 65. The ground (a) plea relates to the development that has taken place on site and excludes the block marked 'Possible Future Development' on the loose drawing 03 dated 11.01.18 as produced by Like Architects and attached to the appellants' statement of case.
11. Planning permission for 8 apartments was granted in February 2009, under application P/2007/0234/F, and in August 2011 for 6 apartments under application P/2010/1541/F on what was previously the curtilage of No.63 Armagh Road. The 2011 approval has been implemented and this phase of the overall development is nearing completion. Planning permission for the erection of 12 apartments was granted on the appeal site on 14th July 2011 under application reference P/2008/1503/F. The appellants submitted that development had commenced in respect of the latter approval and that this represents a fallback position that is a material consideration in this appeal. Photographs forwarded to the Commission on 15th February 2018 show the foundation trench with steel reinforcements in place on 8th July 2016 and the foundations having been poured on 9th July 2016.
12. Section 63(2) of the 2011 planning act states that "for the purposes of sections 61 and 62, development shall be taken to be begun on the earliest date on which any of the following operations comprised in the development begins to be carried out–
 - (a) where the development consists of or includes the erection of a building, any work of construction in the course of the erection of the building".

The construction of the access road into the site did not constitute commencement of development. The construction of the foundations would constitute work of construction in the course of the erection of a building and I recognise that these operations occurred within 5 years of the planning approval. I note that there is a degree of overlap with the foundations that would have been required for the approved apartment block at the right hand side of the entrance to the site. However, it is clear to me that the foundations shown in the photographs related to what has been built on site, which is a block of two apartments, as opposed to the

larger block of 4 apartments granted permission. It seems apparent from the foundations that the appellants did not intend to construct the approved block of 4 units. The building constructed also differs significantly from the 2011 approval in terms of internal layout. I do not consider that what has been built is a minor variation of the approved scheme. Given this, I conclude that the 2011 approval has not been implemented and thus does not represent a realistic fallback position.

13. Approval P/2008/1503/F was granted in the same policy context as currently exists. The Council submitted that the previous decision was a poor one, made by DOE Planning Service, which should not be allowed to fetter the actions or decisions of the new planning authority. Notwithstanding my conclusion in the preceding paragraph, the previous approval on the appeal site is a material consideration that should be accorded appropriate weight. The appellants pointed to the design and layout of the apartments approved under P/2010/1541/F and argued that these also set a benchmark for what is acceptable in the locality. These are located between 7m and 9m from the boundaries with neighbours and there is no doubt that they have resulted in overlooking of dwellings in Violet Hill Avenue. Notwithstanding the appellants' assertions, I am not fettered by that decision and there is no justification for setting aside the rigours of policy and guidance simply on the basis that they have been misapplied in the past.
14. The appellants submitted various plans with their appeal, some showing amendments to the unauthorised buildings, in an attempt to overcome objections to the development. The Council cited Section 59 of the 2011 Planning Act and submitted that the Commission should not consider the amendments. Section 59 applies only in respect of appeals under Section 58 of that Act and does not apply in respect of a deemed application in an enforcement appeal.
15. The unauthorised development involved three distinct parts; these are shown as blocks D, E and F in the drawings contained in appendix 2 of the appellants' statement of case. Block F is a two-storey building containing 2 apartments; one on each floor. This block is roughly 2m closer to Armagh Road than the approved block (K/J) indicated on drawing 11:03:01A stamped granted on 14th November 2011. In comparison with the earlier approval, its north-facing elevation is not parallel to the site boundary and its northern apex is around 1m closer to the boundary with No.67 Armagh Road. I note that the first floor apartment has a single bedroom window on the elevation facing towards No.67. I observed that this overlooks both the rear curtilage of that dwelling and the windows of ground floor habitable rooms. Overlooking from a bedroom window cannot be set aside simply because it serves a bedroom; I agree that bedrooms can very often be used at all times of the day, particularly by younger persons. There is undisputed evidence that the previous dwelling at No.65 had only obscure-glazed windows on the first floor gable facing No.67. The appellant offered to install a top-hung obscured glazed window and to switch around the bathroom and bedroom 2 (see floorplan drawing No.3 for house type F in appendix 2 of appellants' statement of case). This could be secured by an appropriate planning condition. The change in layout and glazing would address any issue in respect of loss of privacy at No.67. The impact on the outlook from the dwelling at No.67 would be an improvement when compared with the approved block K/J. The original dwelling at No.65 would have

had an overshadowing effect at No.67 but I consider that block F would not have a significantly greater impact; in fact, shadowing of the rear curtilage of No. 67 would be reduced. Notwithstanding the Council's comments the approved scheme is a material consideration that cannot simply be set aside. I consider Block F, amended as suggested by the appellants, to be acceptable in respect of impact on neighbouring property.

16. Block E comprises a two-storey block of 4 apartments; two at ground floor and two at first floor level. The block sits just over 23m from the eastern site boundary, some 7m closer than the approved block G/H. The rear elevation sits between 4.6m and 6m from the boundary with No.67 Armagh Road. This compares with the 6.8m to 7.8m separation distances as approved in 2011. Whilst any overlooking of No.67 could be addressed by the changes to the design suggested by the appellants, I noted that this block of apartments has a very significant overbearing impact on the rear garden and private amenity space of that dwelling. I agree with the objector that the rear garden of No.67 suffers from an almost claustrophobic effect resulting from the physical presence of the unauthorised development so close to the party boundary. Such an impact would also have existed, albeit less severe, if the approved blocks J, H and G had been constructed as approved; it appears that the earlier approval failed to take into account the guidance contained in *Creating Places* with regard to separation distances and respect for privacy of existing dwellings. Whilst guidance, rather than policy, *Creating Places* recognises that suitable separation distances are required when new development backs onto the rear gardens of existing dwellings. In this case I consider the separation distances to be particularly critical, given that all of the appeal development abuts the curtilage and private rear garden of No.67. I note that the 2011 approval involved kitchen, bedroom and dining room windows/patio-type doors at first floor level directly overlooking No.67; this too conflicted with the guidance in *Creating Places* and the principles espoused in policy QD1. Just because the development as built has addressed this issue does not, in itself, justify the grant of planning permission.
17. The previous dwelling at No.65 was not comparable with block E; although two-storey in height, the original dwelling was significantly smaller and the long rear return was single-storey in height. In my opinion block E has been built unacceptably close to the party boundary and represents an example of the type of bad design that the SPPS and PPS7 seek to resist. My concerns in respect of this issue pertain irrespective of arguments put forward about the positions of gaps between blocks as approved and as constructed. Whilst a reduction in height to single-storey would address the issue, this option was not considered viable by the appellants. The proposed planting within the appeal site would not reduce the overbearing impact of the building and I do not consider that there is any way of ameliorating the impact on the neighbouring dwelling other than by removing the unauthorised development. I find that this element of the appeal development conflicts with PPS7 policy QD1.
18. Block D comprises 4 apartments; two at ground floor and two at first floor level. It has been constructed on a roughly North-South axis in the western part of the appeal site. I note that in the 2011 approval much of this area was allocated for communal car parking. I consider that the approved block E/F would have had little

- impact on No.67. The north-facing gable of the block as constructed faces towards the rear garden of No.67 and is located between 4m and 8m from same. There is a single bedroom window at first floor level which, I noted, overlooks the private rear garden of that property. The appellants offered to amend the design to prevent overlooking of No.67. I note that a window opening requires to be retained as a fire escape route. However, installation of a side hung unit with stained glass or suitable obscured glazing, hinged to prevent views over No.67, could address the issue. Again, this can be secured by a suitable condition. In terms of the impact of the building on No.67, I consider that, due to its position and orientation, block D does not have an overbearing impact and would not significantly reduce the amount of light reaching that property. There are also benefits to No.67 in removing a large area of communal parking, which could have resulted in nuisance in terms of noise and disturbance.
19. Concerns were raised in respect of block D by neighbours in the Clonmore development to the west of the appeal site. I observed the unauthorised development from the rear gardens of the objectors' properties and noted that, due to the difference in levels, and the presence of the fence along the appeal site boundary, only the topmost parts of block D can be seen. The majority of the building lies further from the shared boundary than did the approved block E/F. I was advised that a tall conifer hedge previously ran along this boundary and this would have had an overbearing impact when seen from the rear of the objectors' dwellings. It would also have had an impact on the amount of sunlight reaching their rear gardens. I consider that block D has no greater impact. With regard to overlooking, I noted that there are direct views from bedroom windows in block D of various first floor velux windows in Clonmore. However, I accept that these can be addressed by the measures suggested by the appellants. These include: creation of 'floating' walls to first floor bedroom windows, as shown in drawing 01 revision A (see appendix 2 of appellants' statement of case); and installation of a right-hand hinged (viewed internally) side hung obscure-glazed or stained glass bedroom window on the south-facing gable of block D, together with installation of a velux window to this bedroom to provide additional light. These measures can be secured by condition and would preclude any issues with regard to overlooking, rendering block D acceptable in respect of PPS7 policy QD1.
 20. I note the conclusions of the BRE Client Report on daylight and sunlight at No.67. This concluded that neither the approved scheme nor that constructed would have an impact exceeding the BRE guidelines in respect of windows in the dwelling or the entirety of the rear amenity space; no convincing evidence was provided to dispute the findings of the aforementioned report.
 21. Objectors raised concerns regarding the suitability and safety of the retaining wall along the western site boundary. The reliability of the consultant engineer's report on the stability of the wall was called into question and my attention was drawn to cracks in retaining walls in objectors' property. No detailed technical analysis was provided in respect of objectors' claims and, ultimately, the security of the wall is a matter for the private parties concerned. The issue of storm drainage from the appeal site was also raised. Again, no detailed analysis was presented in support of the objections. I note that stormwater drains have been put in place and I was advised that the system has been adopted. The appellants indicated that any

- drainage issues could be addressed by installing a drain along the site's boundary. This is a matter for the appellants and any affected parties.
22. Concern was raised in respect of the timber fence on the site's boundary with Clonmore. Given that some form of boundary treatment is needed in order to protect the amenity of existing and future residents, I consider that the fence that has been constructed is both necessary and of an acceptable design. One resident was concerned that the fence, as erected, would create a security issue, particularly at No.69 Armagh Road. Criterion (i) of policy QD1 requires that the development is designed to deter crime and promote personal safety. The appellants were willing to amend the height and extent of the fence in order to deal with the issue and I am content that the matters can be addressed by appropriate conditions.
 23. Objectors raised the issue of potential noise, disturbance and pollution caused by the residential use of the site. I am mindful that the site is in a residential area where it is normal to experience the type of noise that residential use creates. I do not accept that the development should be rejected on this ground. I do not consider that the communal amenity space that is proposed to be created to the rear of block D would so adversely affect the amenity of neighbours as to warrant its rejection. It is commonplace for privately owned communal amenity space to abut other gardens. I observed that communal bin stores are proposed for the use of prospective residents and the appellants were willing to utilise a roofed design in order to prevent odours from emanating. I do not consider that a roofed storage area is necessary; in my experience modern domestic bin storage, even if communal, does not result in a disproportionate level of unpleasant odours. Ultimately, unacceptable odour problems can be referred to the Council's Environmental Health Department. I note that the development is to be served by mains sewers and do not accept that sewerage disposal is an issue of concern. I do not accept, given the degree of physical separation, that the unauthorised development which is the subject of this appeal could have any unacceptable impact on the amenity of residents at Nos. 81 and 83 Violet Hill Avenue.
 24. Impact on property prices in the area was raised by objectors. Other than hearsay evidence that an estate agent had indicated that No.67 would be devalued by one third, I was provided with no analysis to support the assertion. I am not persuaded that in this instance the retention of blocks D and F would have a significant or disproportionate effect on property values. Residents stated that concerns, stress, anxiety and fear had affected them as a result of the appeal development. Such matters are commonplace where change takes place as a result of new development in existing residential areas and I am not persuaded that they justify rejecting development which is policy compliant.
 25. The Council considered that a landscaping scheme should be agreed in respect of the appeal development. It accepted that the landscaping shown on the Park Hood drawing 6105-L-100B revision B of January 2018 provided adequate detail. Landscaping is a normal requirement for any residential development and I consider that a suitable condition can secure the provision and maintenance of an appropriate scheme. Given my conclusion that block E should be demolished, it

will be necessary for a new scheme, relating to the retained blocks D and F, to be prepared and agreed with the Council.

Ground (f) – That the remedial steps required by the notice are excessive

26. The argument in respect of this ground essentially related to the ground (a) appeal in that the appellants argue that it is inappropriate to require removal of development that is acceptable in planning terms. I accept that this argument holds true in respect of blocks D and F but fails with regard to block E. The enforcement notice is amended accordingly.

Ground (g) – that the period for compliance is inadequate

27. The appellants argued that the period of 56 days specified in the notice was inappropriate. A period of 120 days was sought for compliance. The Council had no objection to this; however, third parties were concerned that an extended period for compliance also extends the length of time the resident at No.67 is adversely affected. Whilst I recognise the latter point, I consider that the appellants should be allowed sufficient time to remedy the situation, whilst salvaging as much reusable material as possible from block E. I consider that a period of three months should be sufficient and the appeal on ground (g) succeeds to this extent.

Decision

The decision is as follows:-

- The appeal on ground (a) succeeds in respect of blocks D and F, and planning permission is granted subject to the conditions set out below.
- The appeal on ground (a) fails in respect of block E and planning permission for that element of the development is refused.
- Part 4 of the Enforcement Notice is amended to read "Demolish block E and remove all resultant non-reusable materials from the site".
- The appeal on ground (f) fails in respect of block E.
- The appeal on ground (g) succeeds and the period for compliance is extended to three calendar months from the date of this decision.
- The Enforcement Notice, as amended, is upheld.

Conditions

1. Prior to the occupation of the first floor apartment in block F, the following alterations to the design of the development shall be completed and thereafter permanently retained:-

- Installation of a top-hung, obscure-glazed window on the elevation facing No.67 Armagh Road .
 - Exchange of the bathroom and bedroom 2 as indicated on floorplan drawing No.3 for house type F in appendix 2 of the appellants' statement of case.
2. Prior to the occupation of the first floor apartments in block D, the following alterations to the design of the development shall be completed and thereafter permanently retained:-
- Installation of a right-hand hinged (viewed internally) side hung unit with stained glass or suitable obscure glazing at first floor level on the gable facing toward the curtilage of No.67 Armagh Road .
 - Construction of 'floating' walls to first floor bedroom windows in both apartments as shown in drawing 01 revision A for house type D in appendix 2 of the appellants' statement of case.
 - Installation of a right-hand hinged (viewed internally) side hung obscure-glazed or stained glass window on the south-facing gable of block D (bedroom 2), together with installation of a velux window to the roof above this bedroom to provide additional light.
3. Within 2 months of the date of this decision, additional fencing shall be installed at either end of the western boundary of the site in order to preclude public access to the strip of land running between the existing fence and the boundaries of properties in Clonmore
4. Within 2 months of the date of this decision, the height of the fencing where the appeal site abuts the curtilage of No.69 Armagh Road shall be increased to a height of 2m above the highest existing ground level at the base of the fence.
5. No apartment in blocks D or F shall be occupied until a landscaping scheme for the retained apartment blocks, together with details of future management and maintenance responsibilities, has been submitted to, and agreed in writing with, Newry, Mourne and Down District Council. The scheme shall be implemented within 6 months of the date upon which it is agreed with the Council, or within the first available planting season, whichever is sooner.

COMMISSIONER A SPEIRS

List of Appearances at Hearing

Planning Authority:- Mr D Watson, Planning Department
Mr P Smyth, Planning Department

Appellants:- Mr W Orbinson, QC
Mr B Owens, Planning Consultant
Mr S Hood, Park Hood Associates
Messrs B and P Cunningham, Appellants
Mr T Quinn, Quinn Design Associates
Mr K Pryce, Consulting Engineer

Third Parties:- Mr C Goss, 69 Armagh Road

List of Documents

Planning Authority:- "A" – Statement of Case with Appendices

Appellants:- "B" – Statement of Case with Appendices and attachments
"C" – BRE Client Report
"D" – Information regarding foundations for block F

Third Parties:- "E" – Statement of Case, C Goss, No.69 Armagh Road
"F" - Statement of Case, T & J Deery, No.11 Clonmore
"G" - Statement of Case, TM Morgan, No.12 Clonmore
"H" - Statement of Case, J Leonard, No.14 Clonmore
"I" - Statement of Case, A Ulanowski, No.15 Clonmore
"J" - Statement of Case, L Traynor, No.16 Clonmore
"K" - Statement of Case, K Syddall, No.81 Violet Hill Ave.
"L" - Statement of Case, M & C Smyth, No.83 Violet Hill Ave.
"M" – Copy of DC Officer's Report P/2008/1503/F





Appeal Decision

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Appeal Reference:	2017/A0158.
Appeal by:	Mr Kieran King.
Appeal against:	The refusal of full planning permission.
Proposed Development:	Retention of existing caravan port at rear of dwelling.
Location:	56A Drumintee Road, Meigh, Newry.
Planning Authority:	Newry, Mourne & Down District Council.
Application Reference:	LA07/2017/0371/F.
Procedure:	Written Representations with Accompanied Site Visit on 5 April 2018.
Decision by:	Commissioner Mark Watson, dated 10 May 2018.

Decision

1. The appeal is allowed.

Reasons

2. The main issues in this appeal are the effects of the appeal development on:
 - the appearance and character of the area; and
 - neighbouring residential amenity.
3. The Banbridge, Newry & Mourne Area Plan 2015 (BNMAP) operates as the statutory local development plan for the proposal. In it, the site lies within the settlement limit of the village of Meigh. It is not zoned for any purpose. The BNMAP offers no specific policy or guidance in respect of the proposed development and is not material. In regard to the appeal development there is no conflict or change in policy direction between the provisions of the Strategic Planning Policy Statement for Northern Ireland *'Planning for Sustainable Development'* (SPPS) and those of the Addendum to Planning Policy Statement 7 – Residential Extensions and Alterations (APPS7). APPS7 policy provisions remain applicable to the proposed development.
4. The site comprises the rear yard area of No. 56A, a one and a half storey dwelling situated on the southern side of the Drumintee Road. The appeal structure comprises a large metal sheet clad caravan port which runs along part of the rear boundary with the housing development adjacent and south, Meadow Court. The structure measures approximately 14.3m long by 4.3m wide, with a ridge height of approximately 4.1m. The steel cladding is painted dark green. The structure adjoins the existing domestic garage for No. 56A and its rear wall sits atop the existing retaining wall that provides the boundary between No. 56A and Nos. 17 and 19 Meadow Court. The front and south-western side of the structure are largely open, the front allowing for vehicle access. The structure houses the

Appellant's mobile campervan. A minor portion of the structure is utilised for small scale domestic storage and a dog pen.

5. Policy EXT1 of APPS7 states that planning permission will be granted for a proposal to extend or alter a residential property where all of 4 criteria are met. EXT1 goes on to state that the guidance set out in Annex A will be taken into account when assessing proposals against the 4 criteria. The objections from the Council fell under criteria (a) and (b). These are respectively that: (a) the scale, massing, design and external materials of the proposal are sympathetic with the built form and appearance of the existing property and will not detract from the appearance and character of the surrounding area; and (b) the proposal does not unduly affect the privacy or amenity of neighbouring residents.
6. Annex A paragraph A11 states that buildings within residential curtilages such as garages can often require as much care in siting and design as works to the existing residential property. It goes on to state that such buildings should be subordinate in scale and similar in style to the existing property, taking account of the materials, the local character and the level of visibility of the building from surrounding views. Paragraph A20 of Annex A states that the external finish should aim to compliment the type of materials, colour and finish of both the existing building and those of neighbouring properties.
7. The appeal structure sits to the direct rear of No. 56A, almost entirely set within the length of its host dwelling. Views of the appeal structure are curtailed to glimpsed and angled views travelling north-east on Drumintee Road, a short distance before No. 56A until just before the frontage of the property itself. From this limited view the structure, although visible given its colour and materials, still reads as subordinate to the host dwelling given its setback and position relative to the dwelling. The backdrop afforded by the two storey dwellings to the south in Meadow Court also assist in this regard. The design of the structure is predicated on its function to accommodate the mobile campervan. This, along with the scale and massing of the structure are not objectionable given the limited views and read within the surrounding built context. The use of corrugated steel sheeting, a more modern material, along with the functional design of the appeal structure reads as unsympathetic to the appearance and character of the host dwelling, No. 56A. However, the extremely limited public views of the structure are such that it does not detract from the character and appearance of the surrounding area. The appeal development does not fully meet criterion (a) of EXT1 of APPS7 and the related provision of the SPPS.
8. Annex A paragraph A31 of APPS7 defines dominance as the extent to which a new development adversely impinges on the immediate aspect or outlook from an adjoining property. The guidance cites the construction of a large blank wall as a possible cause of "hemming in" neighbouring occupiers. The Council raised objection as to the impact on the residential amenity of the dwellings to the rear and south of the appeal structure. It was stated that the rear view from Nos. 17 and 19, though 17 in particular given its closer proximity and relative position to the structure, would be adversely impacted given the direct views into the blank rear of the caravan port. The Council considered the appeal structure to be dominant from this view, but accepted there would be no issue relating to overshadowing or loss of light given the relative orientation of the buildings to one another. The appeal structure is somewhat monotonous in terms of appearance

from the rear of Nos. 17 and 19. However, I do not agree it is dominant, even with the difference in site levels between those properties and No. 56A, particularly since its ridge height still lies at a lower level than the existing garage belonging to No. 56A. I am not persuaded that the residential amenity of No. 17 and No. 19 is unduly affected by the appeal structure or that criterion (b) of Policy EXT1 of APPS7 and the related provision of the SPPS are offended.

9. The Appellant considered that removal of the appeal structure would result in open views between the upper floor windows in No. 17 and the Appellant's own dwelling. In his opinion the appeal structure affords the properties a superior level of privacy than was the structure not there. The occupants of No. 17 Meadow Court wrote a letter of support for retention of the appeal structure. In it they stated that the dwelling they lived in was situated very close to the party boundary and given the higher ground level of No. 56A, the appeal structure was an intervening feature that prevented an unacceptable degree of overlooking from No. 56A into their rear gardens and the dwellings themselves and also vice versa. The occupants of No. 17 stated they purchased their dwelling on the basis of the appeal structure providing a privacy barrier for the rear of their property. The letter also stated that the occupants of No. 19 shared the same views of support for retaining the appeal development.
10. The Appellant pointed to the planning permission granted by the Council for Meadow Court (ref. P/2014/1024/F). He considered that the Council did not properly assess the potential impact on No. 56A and the interrelationship between it and the new dwellings. The Appellant objected at the time the Council was considering the application for the new residential development on the basis of residential amenity. The Council ultimately granted planning permission. Though the processing of that application is not a matter for this appeal, the issue of the relationship between the stated properties and the implications of refusal of planning permission for the appeal structure are a material consideration.
11. Whilst the owners of Nos. 17 and 19 support the retention of the appeal structure, consideration of this issue must also include potential future owners. I accept the Council's point that there is no guarantee potential future purchasers would necessarily feel the same. However, as the Appellant pointed out, the principle of caveat emptor would apply. A potential future purchaser of No. 17 or 19 would be aware of the structure in making any decision to purchase, as was the case when the owners of No. 17 bought that dwelling on the basis the appeal structure provided screening for the rear of that property.
12. The potential effect of the removal of the structure which presently provides a screening element for all three properties involved must now be considered. No. 17 Meadow Court is situated approximately 7m from the common boundary with the appeal property at its closest point, with No. 19 approximately 9m, closer than guidance in Creating Places would recommend as being the minimum acceptable separation distance and depth of rear amenity space. The back to back separation of the dwellings is approximately 18m, which is only slightly below the recommended level. However, that proximity when taken together with the difference in site levels and two storey nature of the Meadow Court dwellings are such that I agree that No. 17 and to a lesser extent No. 19, are uncomfortably proximate to No. 56A and vice versa. This proximity is such that, with removal of the appeal structure, there would be clear views into the rear of No. 56A at both its

first floor and rear garden area from the upper floor windows of Nos. 17 and 19. There would also be corresponding clear views into the rear amenity area of Nos. 17 and 19 and their kitchen and dining areas from No. 56A at ground and first floor level. The use of planting to provide an effective mitigating screen for privacy for all the properties would be problematic at best given the relative site levels involved.

13. The erection of the appeal structure without planning permission cannot be condoned in itself, even if it was mistakenly considered to be permitted development. However, the existing situation provides a better degree of privacy for the occupants of each of the properties than was the appeal structure not there. The sub-par relationship between the appeal property and Nos. 17 and 19 Meadow Court is such that the refusal of planning permission and the removal of the appeal structure would give rise to greater adverse impacts on residential amenity for Nos. 56A Drumintee Road and 17 and 19 Meadow Court. Whilst the appeal development does not fully comply with the provisions of APPS7 and the related aspect of the SPPS, this is not a determining matter given the limited public views of the structure and the consequent lack of adverse impact on the appearance and character of the area. The particular set of circumstances in this case are such that the benefit of retaining the appeal structure outweighs the limited harm to policy as outlined above. The Council's first reason for refusal, although sustained in part, is not outweighed by the benefit to residential amenity in retention of the appeal structure. Accordingly the appeal shall succeed. As the structure is in-situ the Council proffered no draft conditions. I agree that none would be necessary in this case.

This decision relates to the following drawings submitted with the application:

DRAWING NUMBER	TITLE	SCALE	DATE
01	Site Location Plan	1:2500	Mar 2017
02	Site Location & Site Layout	1:2500 & 1:500	Dec 2016
03	Plans & Elevations	1:100	Dec 2016

COMMISSIONER MARK WATSON

List of Appearances

Planning Authority:- Mrs P Manley (Newry, Mourne & Down District Council)

Appellant:- Mr B Owens (Barry Owens Consulting)
Mr K King (Appellant)

List of Documents

Planning Authority:- 'A' Statement of Case & Appendix (N, M & D DC)

Appellant:- 'B' Statement of Case & Appendices (BOC)
'C' Rebuttal Statement (BOC)



Appeal Decision

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Appeal Reference:	2017/A0201
Appeal by:	Mr John Morgan
Appeal against:	The refusal of outline planning permission
Proposed Development:	Two dwellings with detached garages to rear.
Location:	Land 20m north of 24 Ballyvally Road, Mayobridge
Planning Authority:	Newry Mourne and Down District Council
Application Reference:	LA07/2017/0563/O
Procedure:	Informal Hearing on 4 May 2018
Decision by:	Commissioner Pauline Boomer, dated 24 May 2018.

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether the proposed development is acceptable in principle in the countryside and its impact on visual amenity and rural character.
3. The appeal site is located in the countryside, within the Mourne Area of Outstanding Natural Beauty (AONB) and not within any designation in the Banbridge, Newry and Mourne Area Plan 2015 (BNMAP). The BNMAP, which operates as the statutory Local Development Plan relevant to the appeal site, contains no provisions specific to this proposal for residential development in the countryside. Furthermore, no conflict arises between the provisions of the Strategic Planning Policy Statement for Northern Ireland - Planning for Sustainable Development (SPPS) and any retained policies regarding issues raised by this appeal. Consequently, the relevant policy context is provided by Planning Policy Statement 21 - Sustainable Development in the Countryside (PPS 21).
4. Policy CTY 1 of PPS 21 sets out a range of types of development which in principle are considered to be acceptable in the countryside. The appellant argued that the proposal was acceptable as a gap site in accordance with Policy CTY 8 of PPS 21. Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. Paragraph 5.32 states that ribbon development is detrimental to the character, appearance and amenity of the countryside. While ribbon development is not defined in policy, it is taken to mean a row of buildings which have a common frontage onto a road or are visually linked when viewed from that road. Policy CTY 8 also states that, in respect of ribbon development, an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of 2 houses within an otherwise substantial and continuously built up frontage. The policy also requires such

development to respect the existing development pattern along the frontage in terms of size, scale, siting and plot size and to meet other environmental requirements.

5. The appeal site comprises the roadside section of a large agricultural field which lies on the eastern side of Ballyvally Road, within which it is proposed to erect two detached dwellings and garages. Immediately south east of the appeal site there is a detached single storey dwelling with a separate holiday accommodation unit identified as Nos 24 and 24B with a further detached two storey dwelling at No. 24A beyond. Immediately to the north-west, there is a one and a half storey dwelling at No. 20, separated from the appeal site by a laneway serving No. 18. A substantial and continuously built up frontage includes a line of three or more buildings along a road and there is no dispute that the appeal site meets the first element that is required in order to qualify as an infill site.
6. The 2nd element of Policy CTY8 requires that the gap site to be small. The third element requires that any development respect the existing development pattern along the frontage in terms of size, scale, siting and plot size. All parties agreed that the gap is between houses or other buildings and all acknowledged that the existing gap between No. 20 to the north-west and No. 24B to the south east extended to 120m. I do not consider that a gap of this size falls within the definition of "small".
7. However the appellant contends that the proposed development respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and provided a table of frontage widths, depths and overall plot sizes of all the adjoining properties. I note that he assessed Nos 24 and 24B as lying within a single curtilage which was not disputed by the LPA and is confirmed on the ground with no subdivision apparent and by the planning history.
8. The frontage width of the entire appeal site along the roadside extends 68m which, if equally divided, would offer each new property a separate frontage width of approximately 34m. I note that these are comparable to the 33m wide frontages of Nos. 24/ 24B and 24A, but significantly smaller than the 58m wide frontage of No. 20. However the width of this field expands as you move eastwards away from the road, with the rear site boundary extending to 90m in width. I note that unlike the appeal site, Nos. 24, 24B and 24A all decrease in width as you move away from the road and it is not therefore appropriate to concentrate only on the frontage widths along the roadside as the appellant has done. The depth of the appeal site is 40m which falls well below that of the adjacent properties which extends from 70m at No. 24/24B to 80m at Nos. 20 and 24A. I calculate that the overall plot sizes vary from approximately 2000sq. m. at No. 24/24B to 2,800 sq. m. at No. 24A and each of the appeal plots would be considerably smaller at approximately 1,700 sq. m. Whilst the frontage widths may be comparable, I find that the two proposed plots within the appeal site would not reflect the size, scale and plot sizes of those adjacent properties at Nos. 20, 24/24b and 24A.
9. Given the lack of definition along the eastern boundary of the site and the rising gradient, it is readily apparent when travelling in a southerly direction particularly, that the ever increasing gap is widening within the site. On the ground, there is an awareness of how extensive the gap between the existing buildings actually is. In these circumstances, I agree with the LPA that it is the gap between the buildings that offers a true representation of the infill width which is considerably greater than

the total frontage width. Consideration must also be given to assessing whether or not a gap of this size could feasibly accommodate more than two dwellings whilst respecting the existing development pattern. As the combined frontage width of Nos. 24/24b and 24A extends to 66m in total, I must conclude that the 120m wide appeal site has the potential to accommodate more than two dwellings in principle. In these circumstances, as I have concluded that the appeal site is neither small nor respectful of the existing development pattern, I find that it fails to satisfy the 2nd and 3rd elements that are required in order to qualify as an infill site. In so doing, this concurs with the conclusions reached in Appeal 2016/A0066. In this respect, the LPA have therefore sustained this aspect of the 2nd reason for refusal.

10. Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. While ribbon development is not defined in policy, it is taken to mean a row of buildings which have a common frontage onto a road or are visually linked when viewed from that road. As the appeal site lies between Nos. 20 and 24/24B/24A, the appeal proposal would visually link the development to the south east with that immediately northwest. Confusion was caused by the LPA referring to the "creation" of ribbon development in their Statement of Case which conflicted with the wording of the 2nd and 4th reasons for refusal which made reference to "adding to" an existing ribbon. Clarification at the Informal Hearing confirmed that the LPA considered that Nos. 24A, 24 and 24B read as an existing ribbon of development, agreed by the appellant, and that the introduction of an additional two dwellings on the appeal site would add to that ribbon, extending it to include No. 20. I agree with the LPA's assessment and find that the proposed development would result in a significant extension of the existing ribbon of development further north along Ballyvally Road, resulting in a suburban build-up of development.
11. I acknowledge that the character of the area has already changed as a result of planning approvals granted along certain stretches of Ballyvally Road. At present there are existing gaps in development along the eastern side of the Ballyvally Road which help to retain some rural character and the appeal site, given its size, represent a significant break in development. The appellant argues that as you can visually see buildings on both sides of the gap, one is not readily aware of that break in development. However, given the strong visual linkages between No. 20 and No. 24B, I find that this reinforces the significance of the appeal site which reads as a visual break as shown in the submitted aerial photographs and photomontages. The introduction of two detached dwellings and garages, regardless of their size or height, would not only add to the existing ribbon of development but, in introducing 4 additional buildings within a significant visual break, would further erode the remaining rural character. As the proposal does not constitute an exception to Policy CTY 8, the LPA's objection on grounds of adding to an existing ribbon of development is well founded. In so doing, it also offends criterion (d) of Policy CTY14 which states that any new buildings are unacceptable if they create a ribbon of development. As I conclude that the appeal proposal conflicts with Policies CTY8 and CTY14, that aspect of the 2nd reason for refusal and the fourth reason for refusal are sustained.
12. No persuasive overriding reasons were advanced as to why the development is essential and could not be located in a settlement. I therefore consider the LPA's objection to the proposal in principle based on Policy CTY 1 to be well founded and the first reason for refusal is also sustained.

13. The 3rd reason for refusal addresses the issue of integration and the LPA remains concerned about the overall visual impact of the proposal on an open and exposed site. The LPA considers that the appeal proposal conflicts with Policy CTY13 as it lacks long established boundaries to aid integration. Whilst the appeal site does benefit from a backdrop of rising ground, the eastern boundary is undefined with only a wooden ranch fence defining the northern site boundary and a post and wire fence along most of the southern boundary. Transport NI (TNI) indicate that in order to achieve the required sightlines of 2.4m by the entire frontage, all of the roadside hedge would have to be removed. The appellant disputes this and argues that given the extensive depth of hedge, most of the hedge could be faced back with only a small central section removed. The appellant failed to provide any details of the existing verge width or any detailed block plan to support this. Given the existing verge is less than 1 metre in depth and in the absence of any evidence to the contrary, I accept the TNI's assessment that the entire roadside hedgerow has to be removed, leaving the appeal site open and exposed, devoid of any vegetation. The appellant indicates that he proposes to introduce new planting with native species hedgerows around all external and internal boundaries which would take time to mature in order to soften the visual impact of the development. This reliance on new planting runs contrary to criterion (c) of Policy CTY13.
14. Taking account of the open nature of the site at present and the reliance on new planting, I am not satisfied that the proposed development will blend into the landscape. I attach little weight to the appellant's assertion that the introduction of new planting around the appeal site would result in planning gain by enhancing the level of integration available to the exposed dwelling at No. 20. As I am not persuaded that a satisfactory level of integration can be achieved as required under Policy CTY13. I conclude that the third reason for refusal has been sustained.
15. As I have found all four reasons for refusal to be sustained, the appeal must fail.

This decision is based on the 1:2500 site location plan received by the LPA on 13 April 2017.

COMMISSIONER PAULINE BOOMER

2017/A0201**List of Documents**

- LPA1: Statement of Case from Newry, Mourne and Down District Council with appendices
- LPA2: Planning Histories submitted as post hearing evidence
- APP1: Statement of Case from Appellant with appendices

Appearances

- LPA: Mr Gareth Murtagh representing Newry, Mourne and Down District Council
- Appellant: Mr John Young representing Collins and Collins (agent)
Mr John Morgan (appellant)
- Observers: Queen's students of Masters in Environmental Planning
Lecturer Dr Neil Galway



Appeal Decision

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Appeal Reference:	2017/A0209
Appeal by:	Mr B Morgan
Appeal against:	The refusal of full planning permission
Proposed Development:	Erection of an agricultural building
Location:	Land adjacent to and immediately south east of No.1 Newton Court, Newtown Road, Cloghogue
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA09/2017/1138/F
Procedure:	Informal Hearing on 26 April 2018
Decision by:	Commissioner D McShane, dated 23 May 2018.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application submitted described the proposed development as the erection of agricultural buildings and it was advertised accordingly. However, it is clear from the drawing and evidence submitted that planning permission is sought for a single building. The description of development has been amended to reflect this; no prejudice arises.

Reasons

3. The key issues are:
 - whether the proposed agricultural building is acceptable in principle in the countryside, given its location on a site remote from existing farm buildings; and
 - its impact upon visual amenity.
4. Section 6 (4) of the Planning Act (NI) 2011 requires that the determination of proposals must be in accordance with the local development plan (LDP) unless material considerations indicate otherwise. The Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) operates as a LDP. It does not contain any specific policy provisions for the development of agricultural buildings. The appeal site is located in the countryside outside any designated settlement development limit. The relevant policy context is provided by the Strategic Planning Policy Statement for NI (SPPS) and Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21), which is identified as a retained policy document.

5. Policy CTY 1 of PPS 21 states that there are a range of types of development which in principle are considered to be acceptable. Nine types of non residential development are listed; one of these is agricultural development in accordance with Policy CTY 12.
6. The starting point for making an assessment under Policy CTY 12 is establishing whether there is an active and established agricultural holding. Paragraph 5.56 of PPS 21 advises that for the purposes of this policy, the determining criteria for an active and established business will be that set out under policy CTY 10. The farm holding's DARD business ID number and other evidence to prove active farming were provided and it is accepted that there is an active and established agricultural holding.
7. When a proposed development relates to a new building, as in this appeal, applicants must provide sufficient information to confirm three bullet points. First, it must be demonstrated that there are no suitable existing buildings on the holding that can be used. The main farm holding, comprising 7.5 acres of land, is located at 73 Newton Road where there are three agricultural buildings. It was initially argued that these buildings could not be used because of their size, their failure to meet modern standards for animal welfare and their existing use. It was also argued that they could not be renovated, altered or redeveloped to render them fit for use.
8. A letter from DAERA was submitted that supports the Appellant's claim "that additional cattle housing is required" for the efficient use of the holding. The Appellant supplements his income working as a builder and a farm contractor. In addition to storing animal feed; the building would also be used to store agricultural machinery. The proposed building comprises a 175sqm, 6m high building that is divided internally. One part would comprise a "meal store" and the remainder an "all purpose shed"; the latter would be open on one side. The base of the building would be a smooth cement render finish and the upper part and roof would be green corrugated iron sheeting.
9. The appeal building, sited as proposed, would be located some 55m from a residential dwelling that is outside the farm holding. Notwithstanding that its purpose is to house / provide shelter for cattle, the floor of the proposed building is not slatted and no information on the means of disposing of animal waste was provided. The proposed building would have an unacceptable impact on the residential amenity of No.1 Newton Court, given problems arising from smell. The conclusion reached in this respect is reinforced by the objection from the Environmental Health Department (EHD), who found the proposal to be acceptable only on the basis that a condition would be attached that would preclude the use of the building for animals. However, this would undermine the purpose for the building as set out in the DAERA letter. When this was pointed out to the Appellant, he revised his position and indicated that it would be possible to amend the buildings at No.73 to keep animals but that the new building would still be required to store machinery and feed. It was apparent at the hearing that there is a considerable level of fluidity with respect to the purpose and need for the proposed building and whether the existing buildings at the main holding could be used / amended. As such, I have not been persuaded that the existing buildings at No.73 could not be used.
10. The third bullet point of CTY 12 requires the new building to be sited beside existing farm buildings. It has not been demonstrated that there is any physical reason why the proposed building could not be erected at the main holding at

No.73, where it would be sited beside existing farm buildings. However, the appeal site is located approximately 3kms away. Two previous applications for single dwellings on the appeal site have been refused planning permission under P/2004/2014/O and P/2013/0290/F respectively. Notwithstanding the reference to "existing agricultural buildings" on Drwg 01, there are no buildings on the appeal site. Rather, it comprises part of an agricultural field, which includes an overgrown hard core area, coral crush, 2 no. storage container units, as well as some items of machinery. It does not constitute a farm yard.

11. Policy CTY 12 goes on to state that exceptionally, consideration may be given to an alternative site away from existing farm buildings, provided there are no other sites available at another group of buildings on the holding. In such circumstances, two additional criteria must be demonstrated. Notwithstanding indications that the Appellant intends to expand his farm business along with his father and has recently taken additional land in conacre, I have not been persuaded that the new building located remote from the main farm holding is *essential* (my emphasis) for the efficient functioning of the farm business. Furthermore, no evidence was presented to demonstrate that there are health or safety reasons that would merit an alternative site away from the existing farm. I have not been persuaded that a new building on an alternative site away from existing farm buildings is justified. The LPA has sustained its second reason for refusal based upon Policy CTY 12 of PPS 21.
12. Policy CTY 1 goes on to state that other types of development will only be permitted where there are overriding reasons why the development is essential. The Appellant argues that the new building cannot be erected at the main farm holding as the Appellant does not own land at that location. It was stated in the Statement of Case that the Appellant's mother owned the land. However, at the Hearing, it was confirmed that the land is owned by the Appellant's grandmother. How land on the agricultural holding is to be utilised is a matter for the family. The family stress and land ownership issues in this case do not constitute either an exceptional circumstance as envisioned by Policy CTY 12 or an overriding reason as envisioned by Policy CTY 1. Accordingly, the LPA has sustained its first reason for refusal based upon Policy CTY 1 of PPS 21.
13. In the event that I had found an alternative site away from the existing farm building to be justified, from the identified viewpoints, the proposed agricultural building, which is of an appropriate design and materials, would read against the three dwellings comprising Newton Court, which are located on higher ground. As such, the building would visually integrate into the landscape. Accordingly, the LPA has failed to sustain its third reason for refusal based upon Policy CTY 13 of PPS 21. However, I have already concluded above that the building is unacceptable in principle, therefore the appeal must fail.

This decision is based on Drwg 01, date stamped refused 7/12/2017, comprising:

- Site Location Map (Scale 1:2500)
- Site Layout Plan (Scale 1:500)
- Elevations (Scale 1:100)
- Ground Floor Plan (Scale 1:100)
- Section A-A (Scale 1:100)

COMMISSIONER D MCSHANE

List of Appearances

Planning Authority:- Mr G Murtagh
(Newry, Mourne and Down District Council)

Appellant:- Mr J Young (Collins and Collins)
Mr B Morgan

List of Documents

Planning Authority:- "LPA 1" Statement of Case

Appellant:- (AP 1)" Statement of Case

Submitted at the Hearing

PAC 1: Mr B Morgan: 2018 Scheme Map (Pages 1-3)



Appeal Decision

Park House
87/91 Great Victoria Street
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Appeal Reference:	2017/E0046
Appeal by:	Nu Screen Ltd
Appeal against:	The refusal of a Certificate of Lawfulness for Existing Use or Development
Subject:	Erection of an engineering workshop and the carrying on of a fabrication and glazing business
Location:	70 Ballywillwill Road, Castlewellan, BT31 9LG
Planning Authority:	Newry, Mourne & Down District Council
Application Reference:	LA07/2017/1400/LDE
Procedure:	informal Hearing on 17 th May 2018
Decision by:	Commissioner Julie de-Courcey dated 21 st May 2018

Decision

1. The appeal is allowed in respect of the works relating to the erection of an engineering workshop, shown cross-hatched on Plan PAC 1, and the carrying on of a fabrication and glazing business. This work is lawful and a certificate of lawfulness of existing use or development (CLUD) is attached.

Reasons

2. A CLUD is a statement specifying what is lawful on a particular date. In accordance with Section 169 (2) of the Planning Act (Northern Ireland) 2011 [the Act] a use or operation is lawful for planning purposes if (a) no enforcement action can be taken against it and (b) it does not constitute a contravention of any of the requirements of any enforcement notice then in force.
3. The application for a CLUD for "*Erection of an engineering workshop and the carrying on of a fabrication and glazing business*" was made to the Council on 8 September 2017, in accordance with Section 169 of the Planning Act (Northern Ireland) 2011 [the Act].
4. Section 169 (4) of the Act states that: "*If, on application under this section, the council is provided with information satisfying it of the lawfulness of the use at the time of the application of the use, operations or other matter described in the application, or that description as modified by the council or a description substituted by it, the council must issue a certificate to that effect; and in any other case must refuse the application*". The Council, not being satisfied that the entirety of the existing workshop was lawful at the time of the CLUD application, issued a refusal notice on 3 November 2017.

5. The plans accompanying the application subject of this appeal were clear in the extent of workshop floorspace that the applicant was seeking to have certified as lawful. They did not include a smaller extension on the building's north-western gable. The CLUD was refused as the building subject of the application had been extended after 8 September 2012 and the Council considered that the extension was therefore not exempt from enforcement action being taken. However, this extension was outwith the scope of the application and is therefore not subject of this appeal. Although part of the same planning unit, the original workshop and subsequent extension are severable operational development.
6. The Council is content that the extent of the workshop subject of the application, not including the more recent extension, was erected prior to 8 September 2012. Therefore, it is exempt from enforcement action by virtue of Section 132 (1) of the Act and lawful in accordance with Section 169 (2) (a) thereof. Subject to the Commission ensuring that the CLUD relates only to the "original" workshop, the Council has no objection to its issue.
7. Issuing a CLUD relating only to the original workshop, erected prior to 8 September 2012, does not fetter the planning authority's discretion, in accordance with Section 138 (1) of the Act, in deciding whether or not it is expedient to take enforcement action in respect of the later extension or any other operations that are materially different from that described thereon. Accordingly, the appeal is allowed.

This decision relates to the development shown on drawing Nos. 01 – 08 inclusive stamped received by the council on 8th September 2017.

COMMISSIONER JULIE DE-COURCEY

PLANNING ACT (NORTHERN IRELAND) 2011: SECTION 169

CERTIFICATE OF LAWFULNESS OF EXISTING USE OR DEVELOPMENT

The Planning Appeals Commission hereby certifies that on 8 September 2017 the operation described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate was lawful within the meaning of section 169 of the Planning Act 2011, for the following reason:

1. The building, shown cross-hatched on the attached plan (PAC 1), has been used for the purposes stated in the First Schedule for more than five years up to and including the date of the application and the time for enforcement action has expired.

Signed

Julie de Courcey

COMMISSIONER JULIE DE-COURCEY

21st May 2018

FIRST SCHEDULE

2. Erection of an engineering workshop, shown cross-hatched on the attached plan (PAC 1), and the carrying on of a fabrication and glazing business

SECOND SCHEDULE

70 Ballywillwill Road, Castlewellan, BT31 9LG

Notes:

- (1) This certificate is issued solely for the purpose of section 169 of the Planning Act 2011.
- (2) It certifies that the operation described in the First Schedule taking place on the land described in the Second Schedule was lawful 8 September 2017 and was not liable to enforcement action under Section 138 or 139 of the Planning Act (Northern Ireland) 2011 on that date.
- (3) This certificate applies only to the extent of the operation described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operations that are materially different from that described or

which relate to other land may render the owner and occupier liable to enforcement action.

List of Appearances

Planning Authority: Ms G Cooney

Appellant: Mr T Wilson, Tom Wilson Planning
Mr P Mc Cullough, Nuscreen Ltd
Ms C Creaney, Nuscreen Ltd

List of Documents

Planning Authority: "PA 1" Statement of Case

Appellant: "APP 1" Statement of Case



Enforcement Appeal Decision

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Appeal Reference:	2017/E0037
Appeal by:	Mr J O'Hare
Appeal against:	An enforcement notice dated 15 th September 2017
Alleged Breach of Planning Control:	Unauthorised construction of an agricultural building and creation of unauthorised access Lands between Nos. 47 and 47a Ballintemple Road, Killeavy
Location:	Lands between Nos. 47 and 47a Ballintemple Road, Killeavy
Planning Authority:	Newry & Mourne District Council
Authority's Reference:	P/2013/0150/CA
Procedure:	Hearing on 20 th April 2018
Decision by:	Commissioner Julie de-Courcey, dated 8 th May 2018

Grounds of Appeal

1. The appeal was brought on Grounds (a), (b), (c) (f) and (g) as set out in Section 143 (3) of the Planning Act (Northern Ireland) 2011 [the Act].

Nullity

2. The land to which the Notice relates is described as being between No. 47 and No. 47a Ballytemple Road, Killeavy. The appellant pointed out that the site is at Ballintemple Road, which was the address given on the previous planning application and ensuing appeal in respect of the retention of the building and access. The Council acknowledged its mistake. In considering whether this renders the Notice a nullity as the appellant contends, account has been taken of the following considerations:
 - The Notice was accompanied by a map that identified the site subject of the Notice and was labelled "*Lands between 47 and 47a Ballintemple Road, Killeavy*";
 - In compliance with Article 8 of the Planning (General Development Procedure) Order (Northern Ireland) 2015, the Council's 6 identified neighbours all had addresses at Ballintemple Road – the address that the Commission wrote to them at;
 - Although the press notice used the (incorrect) road name set out on the Notice, 12 letters in support of the appeal were received by the Commission;
 - The appellant said that there is no Ballytemple Road in the whole of Northern Ireland; and

- He submitted a statement of case, attended and was professionally represented at the hearing;

On this basis, the Council's mistake does not render the Notice a nullity and I discern no associated prejudice to any potentially interested party who may have been minded to make representations had the road name been spelled correctly.

3. Section 142 (2) of the Act allows the Commission to correct any misdescription, defect or error in the EN, or vary its terms if it is satisfied that the correction or variation can be made without injustice to the appellant or to the council. I discern no injustice to either party in so doing. Therefore, paragraph 2 of the Notice should be corrected to refer to Ballintemple Road as opposed to Ballytemple Road.
4. The appellant considers the Notice a nullity as the breach and associated remedy incorrectly refer to a "*building*" as opposed to "*buildings*". Account has been taking of the following considerations:
 - The appellant's site layout, floor plans and elevations set out in Appendix 6 of his statement of case do not accurately reflect what exists on the ground. The overall structure consists of two parts. The smaller section/building to the rear has been extended since the plans were drawn. There was no evidence that this extension was added after issue of the Notice;
 - The smaller section/building to the rear has a separate entrance and it is not linked internally to the larger, higher component. There is a 1.2m difference in finished floor levels (FFL). Whereas the front section/building has a pitched roof, the mono-pitched roof at the rear is 3.7m than the adjoining ridge. Their finishes differ;
 - Section 250 of the Act defines a "*building*" as including any structure or erection, any part of a building, as so defined. Notwithstanding the preceding bullet point, this legal definition would allow for variations in FFL, ridge height, design and materials between the component parts of a single building;
 - Split level dwellings are described as a single building;
 - A flat-roofed garage physically attached to a pitched roof house would not normally be described as two distinct buildings; and
 - Notwithstanding the appellant's uncorroborated evidence that the larger section was built before the smaller (subsequently extended) section, when he applied on 6 February 2015 to retain the original structure, he described it as a "*building*". This was the description given on the decision notice and the ensuing appeal decision. He says this was a mistake on his behalf but, there is no evidence that in the 17+ months between lodging the planning application and the Commissioner's site visit, that he sought to correct the alleged misdescription. Extension of the smaller portion aside, I discern no material change in circumstances in the intervening period that would merit a change in description.

Assessing these considerations in the round, I discern no mistake or ambiguity in the Council describing the built development within the red line accompanying the Notice as a "*building*". The Notice is not a nullity on this basis.

5. The appellant said that the Notice was so unclear and ambiguous as regards both the description of breach and the remedy in respect of the lane and hard standing areas adjoining the building, as to render it a nullity. The elevation of the building facing the road is set approximately 83.5m from it. A hardcored lane leads from the point of access off Ballintemple Road to the hardcored area surrounding the building on 3 sides. Reading the Notice within its four corners, the breach of planning control is limited to the agricultural building and access only. Were it to say means of access or lane(way) and make specific mention of the hardcored "yard"/hard standing(s) then it would be clear that the breach subject of the Notice extends to the entirety of the operational development and engineering works that are contained within the red line on the map accompanying it. The remedy only requires the appellant to cease use of the access and permanently stop it up. The literal interpretation of returning the land to its prior condition relates only to demolition of the building and not the lane between the point of access and it or the area around it. The Council confirmed that it intended to enforce only against the building and point of access and not the lane and hardcored areas. The expediency for so doing is a matter solely for it. However, for the avoidance of any doubt, the parties agreed that the wording of Paragraph 4 could be amended without injustice to either so that It reads: "*Demolish building and return the land on which the building stands to its prior condition...*". This variation is consistent with section 144 (2) of the Act.
6. Given the scale of the map attached to the Notice, it is difficult to discern if the entirety of the hardcored area(s) adjoining the building comes within it. However, on the basis of the foregoing, that consideration does not go to the validity of the Notice, as those works are not being enforced against. As the Notice is not a nullity, I shall proceed to consider the other grounds of appeal.

Ground (c)

7. The appellant pleaded ground (c) only in respect of the access.
8. Part 3, Section 23 (1) of the Act defines "development" and creation of the access involved the carrying out of engineering operations on land thus bringing it within the scope of the definition. Section 23 (3) sets out operations and uses of land that shall not be taken for the purposes of the Act to involve development of the land. Section 23 (3) (d) refers to the use of any land for the purposes of agriculture or forestry and the use for any of those purposes of any building occupied together with land so used. Whilst the access serves agricultural land in addition to the building subject of this Notice, as its creation constitutes operational development, it falls outwith the provisions of Section 23 (3) (d).
9. Part 7 of the Schedule to The Planning (General Permitted Development) Order (Northern Ireland) 2015 [GPDO] sets out permitted development rights in respect of agricultural buildings and operations. Class C relates to the construction, formation, laying out or alteration of a means of access to a road. This right is qualified by Class C1 (a), which states that development is not permitted if it is required in connection with development for which a planning application is necessary under Part 3 of the 2011 Act. The building constitutes development and is not permitted development in accordance with Part 7, Class A of the GPDO. Therefore, retention of the access is not permitted development and

requires express planning permission. Accordingly the appeal under ground (c) fails.

Ground (d)

10. The appellant pleaded ground (d) only in respect of the access. The onus is on him to explain why that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters. In accordance with Section 132 (1) of the Act, the access would have to have been substantially complete by 15 September 2012 in order for it to be exempt from enforcement action.
11. The Council's photos show the access in place on 4 October 2013 whereas the appellant's aerial photos show that it was created between 2 September 2010 and 5 June 2013. Mr O'Hare said that one of the first things done when building his house was to lay out the access to it and his farmland. Whilst planning permission for the dwelling was granted on 24 November 2011, he said that the house was occupied in early-mid 2012 and contends that the Council's aforementioned photos show it to be so in October 2013. Whilst the latter show the dwelling to be substantially complete on that date, it is not possible to conclude from the photos that it was occupied. On this evidential basis and the balance of probabilities, I am persuaded that it is more likely than not that the access was not in place on 15 September 2012. Therefore, the appeal on ground (d) fails.

Ground (a)

12. The site is in the rural area and within an Area of Outstanding Natural Beauty (AONB) as designated in the Banbridge, Newry and Mourne Area Plan 2015. There is no specific policy in the plan material to this development and it provides limited assistance in dealing with this appeal.
13. The provisions of the Strategic Planning Policy Statement for Northern Ireland (SPPS) are material in all decisions on individual planning applications and appeals. The SPPS sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area. During this transitional period planning authorities will apply the SPPS and retained planning policy statements. Planning Policy Statement 2: "*Natural Heritage*" (PPS 2) and Planning Policy Statement 21: "*Sustainable Development in the Countryside*" (PPS 21) are such retained policy documents. Paragraph 1.12 of the SPPS says that any conflict between them and PPS 21 must be resolved in favour of the provisions of the latter.
14. Policy CTY1 of PPS 21 sets out the types of development that are considered to be acceptable in the countryside. These include agricultural and forestry development in accordance with Policy CTY 12. Therefore, if a proposal complies with Policy CTY 12, it satisfies Policy CTY 1. Policy CTY 12 says that planning permission will be granted for development on an active and established agricultural holding. Paragraph 5.56 of PPS 21 states that the determining criteria for an active and established business will be that set out under Policy CTY 10. As the Council is satisfied that the development subject of the deemed planning application meets those requirements, only the site-specific

- criteria within Policy CTY 12 fall to be considered. Of criteria (a) – (e), the Council is only concerned with the first whereby it is demonstrated that the building and access are necessary for the efficient use of the agricultural holding.
15. Following submission of post-hearing evidence the Council is content that the appellant owns the land shown on the 2013 "farm map" and that there are no other buildings thereon. The 2013 map is not in the usual Departmental format and refers to owned fields rather than those that are part of the appellant's farm business (ID number 654517). Neither does it give the area of each field. The appellant advised that these lands extend to around 8 acres. The 2013 "farm map" and Land Registry information do not preclude the possibility that the extent of the holding has increased in the intervening 5 years and that there may be another building or buildings on such land. Whilst the Council did not specifically say that the deemed application in respect of the building is contrary to the first of the 3 bullet points in Policy CTY 12, I cannot set aside this additional requirement. The appellant has submitted insufficient information to confirm that there are no suitable existing buildings on the holding that can be used. In the absence of a more recent farm map, there is no persuasive evidence that the appellant farms the lands he owns as part of his farm business and to corroborate his contention that the situation is unchanged in the intervening 5 years. Whilst there is no dispute that the business is active and established this is a material consideration in assessing whether the building is necessary for the efficient use of the agricultural holding.
 16. At the date of the Hearing, Mr O'Hare had 18 ewes registered to his flock. He had 15 lambs and a one of the ewes was still pregnant. He said that he had bought 5 ewes and 10 lambs either the day immediately before the Hearing or the one previous to that but that as it would take two weeks until they were tagged, they would not be registered to his flock number (782434) until after that date. In addition, Mr O'Hare had 3 calves registered to his herd number (244650) in December 2017.
 17. At the time of my site visit, 3 of the five animal pens were in use with 3 calves, 2 ewes and 5 lambs therein. Feedstuff, a tractor and trailer and firewood were also stored within the larger section of the building (approximately 180 sq.m.). I was told that the remainder of the flock were in the field fronting Trasna Road and was asked to check that for myself. However, there were no animals in the field. As it is separated from the remainder of the appellant's land by an intervening field, the sheep were unlikely to have had free passage to the neighbouring lands. The building's smaller section is sub-divided into 10 small pens/cages that I was told at the site inspection are used to keep Collie dogs that are trained to work with sheep. I was advised that they were all out on the mountain undergoing instruction. No previous mention was made of this activity and there was no evidence as to whether the space is rented out or if the appellant owns the dogs and trains them himself. Whilst the dogs may work with livestock, their keeping and training does not fall within the definition of "agriculture" at Section 250 of the Act.
 18. The appellant's evidence was not persuasive that the building, compared to a cattle crush/animal pens, is necessary for restraining livestock for veterinary inspection/routine treatment or handling of animals. Reference was made to the Farm Welfare Council's "five freedoms" that the appellant acknowledged: "define

ideal states rather than standards for acceptable welfare". He made a generic reference to welfare legislation pertaining to beef cattle as justification for the building but did not cite what statutory provision he was relying on. At any rate, given that 3 calves were acquired last December, it was not explained how the legislative welfare provisions for beef cattle currently apply to his farm business and/or equate to floor space requirements for that size of herd. The appellant referred to situations where the Department for Agriculture, Environment & Rural Affairs consider cattle unfit to be transported but he did not have the guidelines to hand and was unable to provide an authority for his citation.

19. Mr O'Hare placed reliance on the need for the building as an isolation facility but the quotation cited in support of this contention made 3 references to an isolation pen or pens and did not specify that these must be within a building. On the other hand, The Welfare of Farmed Animals Regulations (Northern Ireland) 2012 says that, where necessary, sick or injured animals shall be isolated in suitable accommodation with, where appropriate, dry comfortable bedding. The Welfare of Animals (Transport) Regulations (Northern Ireland) 2006 was relied upon as precluding the transport of sick and/or pregnant animals to a building outwith the holding. However, the appellant did not specify what provision he was referring to. Article 4 thereof states that it is an offence to transport any animal in a way which causes, or is likely to cause, injury or unnecessary suffering to that animal. This does not square with his contention. Indeed, for the period 2008-2013, when the cited legislation was in force, Mr O'Hare leased a farm building a mile from his holding. Convenience aside, there was no persuasive evidence of material change in circumstances in the intervening period that meant that this arrangement, albeit maybe not ideal, could not persist without prejudice to animal welfare.
20. That consideration aside, there is no persuasive evidence that the size of building is commensurate with the current scale of farming activity. That part of it is not in use for agriculture reinforces the conclusion that the proposal is inconsistent with criterion (a) of Policy CTY 12. The appellant's contention that he would not have invested in the building were it not needed, does not outweigh this conclusion. His submission that the building is only 40% of the area that can be erected under agricultural permitted development rights does not assist his case as, Class A of Part 7 of Schedule 1 of the GDPO stipulates that such development is not permitted if the building is not reasonably necessary for the purposes of agriculture within the unit.
21. Of the 3 additional criteria that Policy CTY 12 requires new buildings to comply with the third requires that the proposal is sited beside existing farm buildings. Although the Council has not pursued this concern, it is a policy requirement that I cannot set aside on that basis. The Justification and Amplification text to Policy CTY 12 does not require those buildings to be on the appellant's holding. However, paragraph 6.73 of the SPPS says that new buildings must be sited beside existing farm buildings on the holding. Notwithstanding the Council's stance and Commissioner O'Donnell's apparent reliance on the buildings to the south-west of the appellant's building in appeal decision 2016/A0046, outside his holding, in light of the provisions of paragraph 1.12 of the SPPS, policy requires that the new building must be sited beside existing farm buildings on his holding. In this instance, as the appellant has no other farm buildings on his holding, I must consider whether the building is essential for the efficient functioning of the

- business and/or there are demonstrable health and safety reasons. Other than animal welfare issues that have already been considered, the appellant provided no evidence as to why exceptional circumstances apply in this case.
22. The objector raised civil legal matters and a number of other issues that are not pertinent to consideration of the deemed planning application arising under this Notice. Policy NH 6 of PPS 2 relates to AONBs and states that planning permission for new development therein will only be granted where it is of an appropriate design, size and scale for the locality and that 3 additional criteria are met. If the building were acceptable in principle and its size was deemed to be necessary for the efficient use of the agricultural holding, there is no persuasive evidence that its design and scale are out of keeping with the locality and/or the special character of the AONB and I do not consider it to be so. It is of agricultural design, appearance and finish, set below road level, visually related to adjoining development and not out of character with the rural area where such buildings are a common feature. Accordingly, Policy NH 6 of PPS 2 does not weigh against the development subject of the deemed planning application.
 23. I note the 12 letters of support submitted by neighbours who say that they have no objection to the building or the keeping of livestock therein. The writers testify to the appellant's family ties to the land, his commitment to agriculture and to this neighbourliness. However, these considerations carry insufficient weight to overcome objections to the building on policy grounds set out in the SPPS and Policy CTY 12. As the latter does not support this aspect of the deemed planning application and there are no overriding reasons why the building is essential, its retention is also at odds with Policy CTY 1 of PPS 21.
 24. Whilst each proposal must be considered on its own merits in light of prevailing planning law and policy, allowing the retention of a building that is contrary to policy would set an undesirable precedent for similar proposals. Compliance with planning policy is in the public interest and a matter of acknowledged importance. The failure of this aspect of the deemed planning application to meet the requirements of policy means that it could result in demonstrable harm in this respect.
 25. The access serves 4 of the appellant's 7 fields that extend in a linear fashion from Ballintemple Road. It is the sole means of access to those lands and, given the width of the roadside field's frontage, the only possible means of access thereto from the public road save for sharing the access to the dwelling. Apart from mentioning this as a possible alternative, the Council gave no evidence as to: why this would be preferable in terms of visual amenity or road users' safety; or why it considers it not to be necessary for the efficient use of the agricultural holding. Given the separation distance between the dwelling and the existing lane and the size of its curtilage, separation of farm traffic from the amenity area around the dwelling would have benefits in terms of health and safety and relative ease of access for movement of farm vehicles, machinery and animals. Therefore, its retention is consistent with criterion (a) of Policy CTY 12. The Council raised no other policy-based objection to retention of the access and had no associated technical concerns about the adequacy of visibility splays, forward sight distance, radii etc. Therefore, the appeal under ground (a) in respect of the access is allowed and planning permission is granted for its retention.

Ground (f)

26. The onus is on the appellant to explain why, in the event of her other arguments being rejected and the EN being upheld, the steps required by the Notice to be taken exceed what is necessary to remedy the breach of planning control or the injury to amenity caused by that breach. Aside from aforementioned concerns about the Notice being a nullity, the appellant offered no specific evidence to support his appeal on this ground. As regards the unauthorised building, the breach can only be remedied by its demolition and returning the land within its footprint to its prior condition. Accordingly, the appeal on ground (f) fails.

Ground (g)

27. The appellant considers that the 56-day period for compliance with the Notice falls short of what should reasonably be allowed. His argument that as it took more than 56 days to erect the building, then it would take considerably longer to return the site to its former condition is not persuasive. Whilst expressing concern the time needed to garner finances, the appellant had no idea of the cost of complying with the Notice. Mr O'Hare considered that 365 days from the date of the appeal decision would be a more appropriate period for compliance. This would allow him to relocate his animals, bedding, feedstock and other farming materials to accommodation on third party lands and to carry out the necessary physical works required to comply with the terms of the Notice. On the basis of this evidence, I agree with the appellant that the period for compliance is unreasonably short. However, as the lambing season is at a finish and animals can be kept outdoors for the summer and autumn seasons, based on the submitted evidence, I consider that a period of 6 months from the date of this decision is ample time to allow for compliance with the requirements of the EN.

Decision

- The enforcement notice is corrected by amending Paragraph 2 to read as follows:

2. The Land to which this Notice relates

Lands between No. 47 and No. 47a Ballintemple Road, Killeavy shown edged red on the attached map.

- The appeal on Ground (c) fails.
- The appeal on Ground (d) fails.
- The appeal on Ground (a) fails in respect of retention of the agricultural building.
- The appeal on Ground (a) succeeds in respect of the access and unconditional planning permission is granted for its retention.
- The appeal on Ground (f) fails.

- The appeal on ground (g) succeeds and the Notice is varied so that Paragraph 4 reads as follows:

4. What you are required to do

Demolish building and return land on which the building stands to its prior condition within 6 months from the date of this decision.

- The notice, as varied and corrected, is upheld.

COMMISSIONER JULIE DE-COURCEY

List of Appearances

Planning Authority: Mr D Stewart
Mr P Smyth

Appellant: Mr J O'Hare, Appellant
Mr S Hughes, Blackgate Property Services

List of Documents

Planning Authority: "PA 1" Statement of Case
"PA 2" Letter dated 30 April 2018

Objector: "OBJ 1" Statement of Case from Mr S Murphy

Appellant: "APP 1" Statement of Case
"APP 2" DARD ovine moved out trace submitted at
Hearing (782434)
'APP 3" DARD Herd List (244650)
"APP 4" Letter dated 26.04.18 and attachments from
Mr S Hughes, Blackgate Property Services
Ltd

PLANNING COMMITTEE MEETING

Date	Time	Location
6 June 2018	10.00am	Boardroom, Monaghan Row, Newry
4 July 2018	10.00 am	Boardroom, Monaghan Row, Newry
1 August 2018	10.00 am	Boardroom, Monaghan Row, Newry
29 August 2018	10.00 am	Boardroom, Monaghan Row, Newry
26 September 2018	10.00 am	Boardroom, Monaghan Row, Newry
24 October 2018	10.00 am	Boardroom, Monaghan Row, Newry
21 November 2018	10.00 am	Boardroom, Monaghan Row, Newry
19 December 2018	10.00 am	Boardroom, Monaghan Row, Newry
16 January 2019	10.00 am	Boardroom, Monaghan Row, Newry
13 February 2019	10.00 am	Boardroom, Monaghan Row, Newry
13 March 2019	10.00 am	Boardroom, Monaghan Row, Newry
10 April 2019	10.00 am	Boardroom, Monaghan Row, Newry
May 2019		Decision required on when to hold first Planning Committee Meeting following LG elections

