



January 6th, 2020

**Notice Of Meeting**

You are invited to attend the Planning Committee Meeting to be held on **Wednesday, 8th January 2020** at **10:30 am** in **Boardroom, District Council Offices, Monaghan Row, Newry.**

**Committee Membership:-**

- Councillor M Larkin (Chair)
- Councillor H Reilly (Deputy Chair)
- Councillor P Brown
- Councillor W Clarke
- Councillor L Devlin
- Councillor G Hanna
- Councillor V Harte
- Councillor C Mason
- Councillor D McAteer
- Councillor H McKee
- Councillor M Ruane
- Councillor J Trainor

# Agenda

## 1.0 Introduction and Apologies

## 2.0 Declarations of Interest.

## 3.0 Declarations of Interest in relation to Para. 25 of Planning Committee Operating Protocol - Members to be present for the entire item.

## 4.0 Minutes of Planning Development Committee Meeting held on Wednesday 11 December 2019. (Attached).

📎 *Planning Committee Minutes 11.12.2019.pdf*

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### *For Discussion/Decision*

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

📎 *Addendum list - 08-01-2019.pdf*

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### *Development Management - Planning Applications for determination*






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## 6.0 LA07/2018/0001/0 - demolition of former school building, erection of food store and mountain rescue centre, provision of car parking and associated site works (Revised access position Shan Slieve Drive to be no longer used) - Site of former St Mary's Primary School (opposite and east of 1-15 Shan Slieve Drive and south of 32-38 Bryansford Road and 2-8 Tullybrannigan Road) and portion of Bryansford Road Newcastle. (Case Officer report attached).

Rec: APPROVAL

- A submission of objection has been received from Andy Stephens, Planning Consultant, in objection to the application. **(Submission attached)**
- A request for speaking rights has been received from Seamus McMullan, Architects, on behalf of Dr. M Rooney, objecting to the application. **(Submission attached).**
- A request for speaking rights has been received from Conleth Rooney BL, on behalf of Don Holdings Ltd, objecting to the application. **(Submission attached).**
- A request for speaking rights has been received from Dermot Monaghan, agent; Conor Boyle, Regional Director Lidl NI; Lidl legal representative; Nicholas McCrickard, Mourne Mountain Rescue Team and Tim Cousins, traffic engineer,

Lisbane Consulting. **(Submission attached).**

 <i>LA07-2018-0001-F Lidl Newcastle.pdf</i>	<i>Page 17</i>
 <i>Item 6 - la07-2018-0001-0 (A Stephens objection).pdf</i>	<i>Page 36</i>
 <i>Item 6 - Lidl application (objection S McMullan).pdf</i>	<i>Page 41</i>
 <i>Item 6 - LA07-2018-0001-0 Don Holding Objections lodged by CFR Solicitors.pdf</i>	<i>Page 46</i>
 <i>Item 6 - LA07-2018-0001-0 (Lidl).pdf</i>	<i>Page 75</i>

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***Development Management - Planning Applications for determination (with previous site visits)***

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**7.0 LA07/2019/1142/0 - proposed gap site for 1 No. dwelling - side garden at 75 Station Road, Saintfield. (Case Officer report attached).**

Rec: REFUSAL

- Refer back to Committee following a site visit.

 <i>LA07-2019-1142-O Station Road (Infill).pdf</i>	<i>Page 77</i>
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**8.0 LA07/2019/1231/0 - dwelling and garage on a farm - 80m south of 22 Drumgooland Road, Downpatrick. (Case Officer report attached).**

Rec: REFUSAL

- Refer back to Committee following a site visit.

 <i>LA0720191231O 22 Drumgooland Road.pdf</i>	<i>Page 83</i>
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**9.0 LA07/2019/1234/0 - dwelling and garage on an infill site - adjacent and south of 22 Rocks Chapel Road, Crossgar. (Case Officer report attached).**

Rec: REFUSAL

- Refer back to Committee following a site visit.

📄 *LA0720191234O 22 Rocks Chapel Road.pdf*

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## **10.0 LA07/2019/1257/F - two storey extension to side of dwelling - 87 Seaview, Killough. (Case Officer report attached).**

Rec: REFUSAL

- Refer back to Committee following a site visit.

📄 *LA0720191257F 87 Seaview Killough.pdf*

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### ***Development Management - Planning Applications for determination***

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## **11.0 LA07/2019/1221/F - proposed guest house tourist accommodation and associated site works - Land 10m NW of 180 Tullybrannigan Road, Newcastle. (Case Officer report attached).**

Rec: REFUSAL

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

📄 *LA07\_2019\_1221\_F\_Tullybrannigan Road.pdf*

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📄 *Item 11 - LA07-2019-1221-F (Tullybrannigan Road).pdf*

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## **12.0 LA07/2019/1302/F - provision of dwelling with associated parking and amendment of Application R/2011/0794/F to remove parking area for apartments and replace with shared amenity space - to the rear of nos 65-69 South Promenade Newcastle. (Case Officer report attached).**

Rec: REFUSAL

- Addendum list (to be removed from the addendum list at the request of Councillor Mason and re-presented at the February Planning Committee Meeting)

📄 *LA07\_2019\_1302\_F\_South Promenade.pdf*

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**13.0 LA07/2019/1362/0 - infill dwelling and garage - adjacent and immediately south of No. 64 The Heights, Loughbrickland. (Case Officer report attached).**

Rec: REFUSAL

- Addendum list (to be removed from the addendum list at the request of Councillor Clarke and re-presented at the February Planning Committee Meeting)

 *LA0720191362O 64 The Heights Loughanislnd.pdf*

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**14.0 LA07/2018/0231/F - development of 5 detached dwellings and all associated access, parking and site works (amended proposal) -lands adjacent and to the west of No. 10 Balmoral Avenue, Newry. (Case Officer report attached).**

Rec: APPROVAL

- Addendum list

 *LA07-2018-0231-F - Balmoral Avenue housing.pdf*

*Page 117*


**15.0 LA07/2019/1001/F - proposed one and a half-storey dwelling with attached single storey garage - to the rear of 2 Windsor Court, Rathfriland Road, Newry. (Case Officer report attached).**

Rec: APPROVAL


- A request for speaking rights has been received from John Harkness, Architect, in objection to the application. **(Submission attached).**
- A request for speaking rights has been received from Grainne O'Hagan in support of the application. **(Submission attached).**

 *LA07\_2019\_1001\_F- Rear of 2 Windsor Court.pdf*

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 *Item 15 - LA07-2019-1001-F - Windsor Court (objection).pdf*

*Page 136*

 *Item 15 - LA07-2019-1001-F - Windsor Court (support).pdf*


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**16.0 LA07/2019/1069/0 - site for dwelling and garage - lands approx. 20m NE of 31A Quarter Road, Glassdrumman, Annalong. (Case Officer report attached).**


Rec: REFUSAL

- A request for speaking rights has been received from Colin O'Callaghan, agent, in

support of the application. (Submission attached).

 *LA07\_2019\_1069\_O- Quarter Road.pdf*

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 *Item 16 - LA07 2019 1069 O.pdf*

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**17.0 LA07/2019/0036/F - upgrade to an existing path network around the Kilbroney Park hub to 'The Fairy Glen Walking Trail' in Kilbroney Park - A walk trail network which will be made up of existing trail walks with some new build on sections of the trail" - The Fairy Glen Walking Trail' Kilbroney Forest Park Shore Road Rostrevor Co Down BT34 3AA. (Case Officer report attached).**

Rec: APPROVAL

- Addendum list

 *LA0720190036F, The Fairy Glen Walking Trail.pdf*

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**18.0 LA07/2019/0253/F - proposed upgrade of an existing path network around the Kilbroney Park hub - "The Fallows Walking Trail" Kilbroney Forest Park Shore Road Rostrevor BT34 3AA. (Case Officer report attached).**

Rec: APPROVAL

- Addendum list

 *LA0720190253F, The Fallows Walking Trail, Rostrevor.pdf*

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**19.0 LA07/2019/1398/F - Environmental Improvements to include new granite paving, kerb trims and dished channels, tactile paving - section along Chapel Road, Meigh. (Case Officer report attached).**

Rec: APPROVAL

- Addendum list

 *LA07-2019-1398-F Chapel Road Meigh.pdf*


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*For Noting*

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**20.0 Historic Action Sheet. (Attached).**

 *Planning HISTORIC TRACKING SHEET - UPDATED 23-12-2019.pdf*

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**21.0 December 2019 Planning Committee Performance Report. (Attached).**

 *DECEMBER 2019 Planning Committee Performance Report.pdf*

*Page 183*

**22.0 Record of meetings between Planning Officers and public representatives. (Attached).**

 *Record of Meetings Report.pdf*


*Page 191*

**23.0 December Appeals and Decisions. (Attached).**

 *Current Appeals and Decisions issued in December 2019.pdf*

*Page 192*

**24.0 Contact from Public Representatives 1 October to 31 December 2019. (Attached).**

 *Councillor contacts Q3 Oct - Dec 2019 (003).pdf*

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## **NEWRY, MOURNE & DOWN DISTRICT COUNCIL**

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**Minutes of the Planning Committee Meeting of Newry, Mourne and Down District Council held on Wednesday 11 December 2019 at 10.00am in the Boardroom, District Council Offices, Monaghan Row, Newry**

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**Chairperson:** Councillor M Larkin

**Deputy Chairperson:** Councillor H Reilly

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

Councillor P Brown  
Councillor W Clarke  
Councillor V Harte  
Councillor G Hanna  
Councillor C Mason  
Councillor D McAteer  
Councillor H McKee  
Councillor M Ruane

**(Officials)**

Mr C Mallon	Director, Enterprise, Regeneration & Tourism
Mr A McKay	Chief Planning Officer
Mr P Rooney	Principal Planning Officer
Ms A McAlarney	Senior Planning Officer
Mr M Keane	Senior Planning Officer
Mr F O Connor	Legal Advisor
Ms L Coll	Legal Advisor
Ms N Largey	Legal Advisor
Ms C McAteer	Democratic Services Officer
Ms P McKeever	Democratic Services Officer

**(Others)**

Mr E Loughrey Inaltus Town Planning

**P/124/2019: APOLOGIES AND CHAIRPERSON'S REMARKS**

Apologies were received from Councillor Devlin.

**P/125/2019: DECLARATIONS OF INTEREST**

There were no Declarations of Interest.

**P/126/2019:      DECLARATIONS IN ACCORDANCE WITH PLANNING  
COMMITTEE PROTOCOL PARA. 25  
– MEMBER TO BE PRESENT FOR ENTIRE ITEM**

Declarations in relation to Para.25 of Planning Committee Operating Protocol – Members to be present for entire item:-

- Item 6 - LA07/2017/0542/F - retail park with ancillary coffee shop/restaurant units at Carnbane Industrial Estate, Newry - **Councillors Ruane, Harte, Larkin and McAteer** previously declared an interest and would not take part in the discussion/decision on this application.
- Item 7 - LA07/2016/1074 - Community Treatment and Care Centre - **Councillors Brown, Devlin, Reilly and Trainor** would not take part in the discussion/decision on this application.
- Item 9 - LA07/2018/1614/0 - dwelling on a farm at Island Road, Atticall - **Councillors Brown, Clarke, Devlin, Harte and Trainor** would not take part in the discussion/decision on this application.
- Item 10 - LA07/2019/0512/0 - proposed infill dwelling and detached garage - between 151 and 149 Dunmore Road, Ballynahinch - **Councillors Brown, Devlin, Mason and Trainor** would not take part in the discussion/decision on this application.
- Item 11 - LA07/2019/1130/0 - end of terrace dwelling adjacent to 33 Dunwellan Park, Newcastle - **Councillors Brown and Trainor** would not take part in the discussion/decision on this application.

**MINUTES FOR CONFIRMATION**

**P/127/2019:      MINUTES OF PLANNING COMMITTEE MEETING HELD ON  
WEDNESDAY 13 NOVEMBER 2019**

Read:                      Minutes of Planning Committee Meeting held on Wednesday 13 November 2019. **(Copy circulated)**

**AGREED:              On the proposal of Councillor Hanna, seconded by Councillor Clarke, it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 13 November 2019 as a true and accurate record.**

**FOR DISCUSSION/DECISION**

**P/128/2019:      ADDENDUM LIST**

Read:                      Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 11 December 2019. **(Copy circulated).**

Mr McKay asked that Planning Application LA07/2019/0773/0 be removed from the Addendum List as there had been a commitment to meet with the applicant and agent and to date this meeting had not taken place.

**AGREED:**        **On the proposal of Councillor Trainor seconded by Councillor Clarke it was agreed to remove the following Planning Application from the addendum list, to allow for a meeting to take place with planners, applicant and agent:-**

- LA07/2019/0773/0 – dwelling – to rear of 71 Church Street, Downpatrick. **REFUSAL**

**AGREED:**        **On the proposal of Councillor Trainor seconded by Councillor Clarke it was agreed to approve the Officer recommendation in respect of the following applications listed on the addendum list for Wednesday 11 December 2019: -**

- LA07/2019/0622/A – 1 No. wall fixed illuminated sign (retention) – Riverside RP Church, Basin Walk, Newry BT35 6HU. **APPROVAL**
- LA07/2019/1027/F – single storey rear extension to dwelling – external lift with complementary steps to front of dwelling – 4 Riverside Road, Ballynahinch. **REFUSAL**

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

### **P/129/2019:        PLANNING APPLICATIONS FOR DETERMINATION**

(Councillors Harte, Larkin, McAteer and Ruane withdrew from the Meeting, Councillor Reilly assumed the Chair).

The following applications were determined by the Committee:-

#### **(1)        LA07/2017/0542/F (Audio recorded - YES)**

#### **Location:**

Former HM Revenue Customs House and Clearance Station, Carnbane Way, Carnbane Industrial Estate, Newry.

#### **Proposal:**

Retail park with ancillary coffee shop/restaurant units (supporting statement April 2019)

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

Refusal



## **Speaking Rights:**

### In objection:

Andy Stephens, Glyn Roberts and Eamonn Connolly presented in opposition to the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

### In support:

Laurence Breen, Martin Kelly, Stephen Shaw QC and Mike Prentice presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

## **Power-point presentation:**

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

Ms Largey clarified that DfI Strategic Planning had advised Planning Application LA07/2017/0542/F was to be considered by the Committee, whereupon it would be referred back to DfI to decide whether or not to call it in. Should DfI decide to call it in, the Committee would have no further involvement in the decision making process, however, if they declined to call it in, it would be returned to Committee and a further pre determination meeting, followed by a final hearing would have to be carried out.

## **Issues raised:**

- Mr Rooney said the Impact Assessment submitted by the applicant had failed to satisfy the requirements of Planning.
- Mr Roberts said the proposal would take 30% of the trade away from the city centre.
- Mr Roberts advised that N.Ireland has twice the UK average of shop vacancies across the UK.
- Mr Roberts considered the Bridgewater development at Banbridge had resulted in significant loss to Banbridge town centre.
- Mr Loughrey, Inaltus Town Planning considered the proposal would result in significant job displacement.
- Planning acknowledged there was still a substantial amount of undeveloped employment lands in Newry.
- Mr Stephens considered the proposal was at a competitive advantage to Newry city centre and the town centre first approach needed to be respected.
- Mr Kelly said the Economic Assessment Report conducted took account of job displacement and there would be 1000 new jobs after displacement.
- Mr Rooney said the applicant had failed to demonstrate the need for the proposed development.
- The identities of the end users could not be divulged due to signed confidentiality agreements.
- Ms Largey said the request for information from Planning had not been forthcoming, even on a confidential basis, and it was up to the Committee to weigh up all the evidence in determining the application.

- The applicant considered it would not be viable to split the development over a number of sites as the end users worked together in clusters and large units were required to compete with the online market.
- Of the 60+ city centre sites considered, none were suitable, available or viable.
- The proposal would include bus links to take people into Newry city centre to mitigate against a potential loss to city centre trading.
- The applicant said shoppers were bypassing Newry due to congestion and going to Banbridge.
- The original application P/2009/0163/F was for mixed use, which included 70 light industrial / business units, however this had been on stilts to allow for car parking beneath the units and this design was no longer acceptable to the end users.
- Regarding confidentiality as to the identity of the end users, Mr Stephens said whilst he accepted verbal evidence could be used, there would be prejudice if the evidence was not submitted in this regard.
- Mr Shaw said the lack of written evidence did not mean the evidence did not exist, and it was up to the Committee to attach whatever weight they deemed appropriate.
- Ms Largey reiterated the issue for the Committee was to attach weight to the whatever evidence was before them. She acknowledged she would usually advise the Committee to request documentary evidence and said that Officers had asked for documentary evidence but this had not been forthcoming and the issue regarding confidentiality had just been raised by the applicant today, she said balance was required when making their determination.
- Mr Stephens said there was no evidence to substantiate the claim made by the applicant that RoI shoppers were by-passing Newry.

Councillor Clarke proposed to accept the Officer's recommendation on the basis that Council had a vision for a vibrant Newry City Centre regeneration with a lot of planned development and he considered the application was premature. Additionally, Councillor Clarke said it was important to adhere to the city centre first approach in terms of development and he said local city centre businesses would be decimated if the proposed development was to proceed.

Councillor Hanna seconded the proposal.

Councillor Reilly asked for a recorded vote, saying he had some concerns. Ms Largey advised that it was not customary to have recorded votes at Planning Committee Meetings, however it was up to the Committee to decide if they wished to have a recorded vote.

Councillor Reilly asked the Committee if anyone wished to propose a recorded vote be taken, this was declined by all Members.

Councillor Clarke's proposal was put to a vote by way of a show of hands and voting was as follows:

FOR:	4
AGAINST:	2



ABSTENTIONS: 1

The proposal was declared carried.

**Agreed:** On the proposal of Councillor Clarke seconded by Councillor Reilly it was agreed to issue a refusal in respect of Planning Application LA07/2017/0542/F as per the information and recommendation contained in the Case Officer report presented to Committee.

Ms Largey reminded the Committee Planning Application LA07/2017/0542/F would be referred to DFI and the Committee would be updated in due course.

(Break 12.15 - 12.25)

**(2) LA07/2016/1074/RM**  
**(Audio recorded -YES)**

(Councillors Brown, Reilly and Trainor withdrew from the Meeting)

**Location:**

Lands at Abbey Way/Courtney Hill, Newry

**Proposal:**

Development of a Community Treatment and Care Centre

**Conclusion and Recommendation from Planning Official:**

Approval

**Speaking Rights:**

In support

Eamon O'Hare, Karen McShane, Jim Kerr and David Mountstephen presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**Power-point presentation:**

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

**Issues raised:**

- In response to a query regarding the provision of a slip road at the access point, Ms McShane advised they had considered two options:
  1. A slip lane parallel to existing access, however, this would not be feasible as the slip lane would not be long enough to run parallel to existing access.

2. A second entrance, however there was no evidence there would be a queue of traffic as there would be no barrier into the carpark and additionally, they considered this option would cause confusion to drivers.

- With regard to the provision of a slip road, DfI advised a Safety Audit would be required to be carried out which would identify need.
- DfI welcomed the increased radii of 10m, however they had concerns regarding public transport, pedestrian access and reduced car parking.
- Applicant advised there was no proposal for a roundabout, however it was proposed to widen the rear access, fit an automatic sliding gate, allow for a turning point and a set down lay by within the site.
- In response to various concerns from Members including safety and traffic calming measures Mr McKay referred to Page 155 of the Case Officer Report which outlined a number of draft planning conditions which, he said would be included in all matters to be resolved at a later date.
- The applicant advised the Committee they had conducted a Road Safety Audit but said this could be updated as required and they were content to work alongside Officers' in relation to the travel plan and public transport.
- Mr McKay advised that a Road Safety Audit would reveal all further works that would be necessary and all conditions included in the Audit would have to be fulfilled.
- Ms Largey advised a Planning Agreement could be drawn up which would allow for more detail to be included and would require the applicant to carry out the recommendations outlined in the Transport Assessment and Road Safety Audit. Ms Largey said the benefit of having a Planning Agreement was that it was flexible in that any requirements arising from the Road Safety Audit could be added to the agreement.

Councillor Clarke proposed to accept the Officer's recommendation in principle, with conditions delegated, and said it was necessary that public transport was included in the proposal.

Mr McKay advised DfI had accepted a reduced level of parking spaces on the basis that a bus service was provided.

**Agreed:**

**On the proposal of Councillor Clarke seconded by Councillor Hanna it was unanimously agreed to issue an approval in respect of Planning Application LA07/2016/1074/RM as per the information and recommendation contained in the Case Officer report presented to Committee.**

**It was also agreed that Officers be delegated authority to impose any relevant conditions to cover all the issues raised by Members at the meeting.**

(Lunch 1.25pm – 2.10pm)

**(3)      LA07/2019/0645/F**  
**(Audio recorded – YES)**

**Location:**

Delamont outdoor education centre 88 Downpatrick Road Killyleagh.

**Proposal:**

Reconstruction of existing vehicle turning circle and replacement section of 1200 high stock proof fencing and construction of new boat slipway for the exclusive use of the Education Authority.

**Conclusion and Recommendation from Planning Official:**

Approval

Ms Largey asked the Committee if they were to agree to the proposal, that they considered removing the words 'for the exclusive use of the Education Authority' as to retain them could be potentially unlawful.

**AGREED:**

**On the proposal of Councillor Larkin, seconded by Councillor Hanna it was unanimously agreed to issue an approval in respect of Planning Application LA07/2019/0645/F subject to removing the words 'for the exclusive use of the Education Authority' from the proposal.**

(Councillors Brown, Clarke, Harte and Trainor withdrew from the Meeting)

**(4)      LA07/2018/1614/O**  
**(Audio recorded – YES)**

**Location:**

50m south of No. 24 Island Road, Atticall, Kilkeel.

**Proposal:**

Dwelling on a farm.

**Conclusion and Recommendation from Planning Official:**

Refusal

**Speaking rights:**

John Cole, agent, presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**Power-point presentation:**

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

Councillor Larkin proposed to issue an approval contrary to Officer recommendation on the basis that the proposed dwelling would be visually linked and cluster with the farm buildings, would not be prominent in the landscape, would have established boundaries and be sympathetic to the surrounding countryside.

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

FOR:	6
AGAINST:	1
ABSTENTIONS:	0

The proposal was declared carried.

**AGREED:**                      **On the proposal of Councillor Larkin seconded by Councillor McKee it was agreed to issue an approval in respect of Planning Application LA07/2018/1614/O contrary to Officer recommendation on the basis that the proposed dwelling would be visually linked and cluster with the farm buildings, it would not be prominent in the landscape, would have established boundaries and would be sympathetic to the surrounding countryside.**

**It was also agreed that Officers be delegated authority to impose any relevant conditions.**

**(5)        LA07/2019/0512/O**  
**(Audio recorded – YES)**

(Councillor Clarke rejoined the Meeting, Councillor Mason withdrew from the Meeting)

**Location:**

between 151 and 149 Dunmore Road, Ballynahinch

**Proposal:**

proposed infill dwelling and detached garage

**Conclusion and Recommendation from Planning Official:**

Refusal

**Speaking rights:**

Aodhan and Louise Murray, applicants, presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**Power-point presentation:**

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

Councillor Larkin said he had attended the site visit and was content the application was an infill opportunity and proposed to issue an approval contrary to Officer recommendation with conditions attached.

**AGREED:**

**On the proposal of Councillor Larkin seconded by Councillor McKee it was unanimously agreed to issue an approval in respect of Planning Application LA07/2019/0512/0 on the basis that the application represented an infill opportunity.**

**It was also agreed that Officers be delegated authority to impose any relevant conditions.**

**(6) LA07/2019/1130/O  
(Audio recorded – YES)**

(Councillor Mason rejoined the Meeting)

**Location:**

Site adjacent to 33 Dunwellan Park, Newcastle.

**Proposal:**

New end of terrace dwelling with associated site works.

**Conclusion and Recommendation from Planning Official:**

Refusal

**Speaking rights:**

Nicholas O'Neill, agent presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**Power-point presentation:**

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

**AGREED:**

**On the proposal of Councillor Larkin seconded by Councillor Reilly it was unanimously agreed to issue a refusal in respect of Planning Application LA07/2019/1130/O as per the information and recommendation contained in the Case Officer report presented to Committee.**



**(7) LA07/2019/1142/O**  
**(Audio recorded – YES)**

**Location:**

Side garden at 75 Station Road, Saintfield.

**Proposal:**

Proposed gat site for 1 no. dwelling.

**Conclusion and Recommendation from Planning Official:**

Refusal

**Speaking rights:**

Gary and Colette McCandless, applicants presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**Power-point presentation:**

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

**AGREED:**

**On the proposal of Councillor Reilly seconded by Councillor Hanna it was agreed to defer Planning Application LA07/2019/1142/O for a site visit to take place to allow Members to assess the site in more detail.**

**(8) LA07/2019/1231/O**  
**(Audio recorded – YES)**

**Location:**

80m South of 22 Drumgooland Road, Downpatrick.

**Proposal:**

Dwelling and garage on a farm under Policy CTY 10 of PPS21.

**Conclusion and Recommendation from Planning Official:**

Refusal

**Speaking rights:**

Gerry Tumelty, agent presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**Power-point presentation:**

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

**Issues raised:**

- The only objection to the application was the proposed location.

**AGREED:**

**On the proposal of Councillor Hanna seconded by Councillor Reilly it was agreed to defer Planning Application LA07/2019/1231/O for a site visit to take place to allow Members to assess the site in more detail.**

**(9) LA07/2019/1234/O  
(Audio recorded – YES)**

**Location:**

Adjacent and south of 22 Rocks Chapel Road, Crossgar.

**Proposal:**

Dwelling and garage on an infill site under Policy CTY 8 of PPS21.

**Conclusion and Recommendation from Planning Official:**

Refusal

**Speaking rights:**

Gerry Tumelty, agent presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**Power-point presentation:**

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

**AGREED:**

**On the proposal of Councillor Larkin seconded by Councillor Hanna it was agreed to defer Planning Application LA07/2019/1234/O for a site visit to take place to allow Members to assess the site in more detail.**

**(10) LA07/2019/1257/F  
(Audio recorded – YES)**

**Location:**

87 Seaview, Killough.

**Proposal:**

Two storey extension to side of dwelling.

**Conclusion and Recommendation from Planning Official:**

Refusal

**Speaking rights:**

Gerry Tumelty, agent presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**Power-point presentation:**

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

**AGREED:**

**On the proposal of Councillor Hanna seconded by Councillor Reilly it was agreed to defer Planning Application LA07/2019/1257/F for a site visit to take place to allow Members to assess the site in more detail.**

**FOR DISCUSSION/DECISION**

**P/130/2019: MINUTES OF LOCAL DEVELOPMENT PLAN STEERING GROUP**

Read: Minutes of Local Development Plan Steering Group Meeting held on 20 November 2019. (copy circulated)

**Agreed: On the proposal of Councillor Hanna, seconded by Councillor Reilly the Minutes of the Local Development Plan Steering Group were agreed.**

**P/131/2019: LOCAL DEVELOPMENT PLAN STEERING GROUP TERMS OF REFERENCE: AMENDMENT**

Read: Local Development Plan Steering Group Terms of Reference: Amendment. (copy circulated)

**Agreed: On the proposal of Councillor Larkin seconded by Councillor Clarke it was agreed to note the content of the report and agree the amendments to the ToR as detailed in report.**



**P/132/2019: RESPONSE TO LISBURN AND CASTLEREAGH CITY COUNCIL LOCAL DEVELOPMENT PLAN 2032 DRAFT PLAN STRATEGY**

**Read:** Response to Lisburn and Castlereagh City Council Local Development Plan 2032 Draft Plan Strategy. (copy circulated)

**Agreed:** **On the proposal of Councillor McAteer seconded by Councillor Trainor it was agreed to note the content of the report and agree the representation response to Lisburn and Castlerreagh City Council's Local development Plan – Draft Plan Strategy.**

**FOR NOTING**

**P/133/2019: LOCAL DEVELOPMENT PLAN STEERING GROUP PROGRAMME**

**Read:** Local Development Plan Steering Group: Programme (October 2019 – October 2020). (Copy circulated).

**P/134/2019: HISTORIC ACTION SHEET**

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

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

**P/135/2019: PLANNING COMMITTEE MEETING PERFORMANCE REPORT – NOVEMBER 2019**

**Read:** Planning Committee Performance Report November 2019. **(Copy circulated)**

**AGREED:** **It was agreed to note the Planning Committee Performance Report November 2019.**

**P/136/2019: MEETINGS BETWEEN PLANNING OFFICERS AND PUBLIC REPRESENTATIVES**

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

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

**P/137/2019: APPEALS & DECISIONS**

Read: Report re: Appeals and Decisions – November 2019. **(Copy circulated)**

**AGREED: It was agreed to note the Appeals and Decisions November 2019.**

The Meeting concluded at 3.20 pm.

For confirmation at the Planning Committee Meeting to be held on Wednesday 8 January 2020.

**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 8 January 2020

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:-

- LA07/2019/1302/F - provision of dwelling with associated parking and amendment of Application R/2011/0794/F to remove parking area for apartments and replace with shared amenity space - to the rear of nos 65-69 South Promenade Newcastle. **REFUSAL**
- LA07/2019/1362/0 - infill dwelling and garage - adjacent and immediately south of No. 64 The Heights, Loughbrickland. **REFUSAL**
- LA07/2018/0231/F - development of 5 detached dwellings and all associated access, parking and site works (amended proposal) -lands adjacent and to the west of No. 10 Balmoral Avenue, Newry. **APPROVAL**
- LA07/2019/0036/F - upgrade to an existing path network around the Kilbroney Park hub to 'The Fairy Glen Walking Trail' in Kilbroney Park - A walk trail network which will be made up of existing trail walks with some new build on sections of the trail" - The Fairy Glen Walking Trail' Kilbroney Forest Park Shore Road Rostrevor Co Down BT34 3AA. **APPROVAL**
- LA07/2019/0253/F - proposed upgrade of an existing path network around the Kilbroney Park hub - "The Fallows Walking Trail" Kilbroney Forest Park Shore Road Rostrevor BT34 3AA. **APPROVAL**
- LA07/2019/1398/F - Environmental Improvements to include new granite paving, kerb trims and dished channels, tactile paving - section along Chapel Road, Meigh. **APPROVAL**

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

**Application Reference:** LA07/2018/0001/O

**Date Received:** 02.01.2018

**Proposal:** Demolition of former school building, erection of food store and mountain rescue centre, provision of car parking and associated site works

**Location:** Site of former St Mary's Primary School (opposite and east of 1-15 Shan Slieve Drive and south of 32-38 Bryansford Road and 2-8 Tullybrannigan Road) and portion of Bryansford Road, Newcastle

## Site Characteristics & Area Characteristics



**Fig 1 Site Location**



**Fig 2 Aerial of Site**

The site is comprised of a 1.43 hectare site accessed off Bryansford Road, Newcastle. The site currently contains the former St Mary's Primary School and associated grounds and is relatively flat in nature. It is defined along its northern, western and southern boundaries with mature vegetation, the trees of which are subject to a TPO (see R/2001/0936/TPO) and fencing, while that to the east has been in recent times defined with temporary fencing.

The site is located immediately adjacent to a predominantly residential area known as 'Tullybrannigan' a number of dwellings within this residential area directly adjoin the site. In addition, the site is also adjacent to a recently erected apartment development known as Roslyn Place. A mix of dwelling types and apartments are therefore present within the immediate vicinity.

The site is located within the settlement limits of Newcastle as designated in the Ards and Down Area Plan 2015.



### **Proposed Development**

The application proposes the demolition of a former school building (St Mary's PS) and erection of a food store (Lidl) and a mountain rescue centre (MMR), provision of car parking and associated site works.

In addition to the application forms and drawings the application has also been supported by a Drainage Assessment, Arboriculture Impact Assessment, Biodiversity Checklist, Environmental Site Assessment, Lighting Impact Assessment, Noise Impact assessment, Outline Construction Assessment, PACC Report, Planning Design Assessment, Retail Impact Need and Sequential Assessment, Service yard management and Transport Assessment.

### **Site History**

The planning history of the site itself predominantly relates to applications associated with the school i.e temporary classrooms, storage facilities, toilet block.

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

The application exceeds the thresholds for major developments as set out in the Planning (Development Management) Regulations (Northern Ireland) 2015.

On this basis the applicant has undertaken the Pre Application Notification procedure and has submitted the required Pre-application Community Consultation Report (PACC) with the application itself. The report notes some limited feedback received during the consultation process of which they note was 'very positive'. A number of points were raised regarding increased traffic, potential for alternative uses on the site and concerns raised by Tollymore United FC about sale of alcohol to underage persons.

### **Consultations**

In assessment of the proposal consultations were carried out with

Transport NI – No objections in principle – A scale plan and accurate site survey at 1:500 shall be submitted as part of the reserved matters application showing access to be constructed and other requirements in accordance with attached form RS1

NIEA- No concerns subject to conditions

Rivers Agency – No objections in principle. Schedule 6 Culvert Consent has been approved by DFI Rivers.

Environmental Health – No objections in principle subject to conditions

Shared Environmental Services. - No objections in principle subject to conditions

### **Neighbour Notification**

The following neighbors were notified of the proposal initially on 11.01.18 and subsequently on 27.07.18 and 05.12.18, following amendments

- Nos 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 18 Roslyn Place
- Nos 1, 3, 5, 7, 9, 11, 13, 15, 17, 17a-d, 39 Shan Slieve
- Nos 2, 4, 6, 8, 10 Tullybrannigan Road
- Nos 19, 21, 21a, 23, 25, 27, 29, 32, 34, 36, 38, 39 Bryansford Road
- No 50 Shimna Road (Orange Hall)

### **Advertising**

The application was advertised in the local press initially on 17.01.2018 and subsequently following amendments on 19.02.2018

### **Objections & Representations**

#### **Objections**

17 letters of objection have been received

#### **Support**

5 Letters of support have been received

#### **Non committal**

1 non-committal comment has been received

### **Policy Context**

In assessment of this proposal regard shall be given to the

Strategic Planning Policy Statement (SPPS),  
 Ards Down Area Plan 2015,  
 Planning Policy Statement 2, Natural Heritage  
 Planning Policy Statement 3 Access Movement and Parking  
 Planning Policy Statement 15 Revised Planning and Flood Risk

### **Local Development Plan Context**

Section 6(4) of the Planning Act (Northern Ireland) 2011 requires that in making a determination on planning application regard must be had to the requirements of the local development plan and that determination must be in accordance with the plan unless material considerations indicate otherwise.

The Ards and Down Area Plan (ADAP) 2015 is the statutory development plan for the area. The application site lies within the settlement limits of Newcastle and within whiteland as identified in the ADAP 2015. The site is located outside the Town Centre Boundary.

## **Assessment**

### **Strategic Planning Policy Statement (SPPS)**

The SPPS published in September 2015 states that until the Council adopts the Planning Strategy for its new Local Development Plan there will be a transitional period in operation. During this period, planning policy within existing retained documents and guidance will apply. Any conflict between the SPPS and policy retained under transitional arrangements must be resolved in favour of the provisions of the SPPS.

The Statement indicates that a guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to the interests of acknowledged importance

In practice this means that development which accords with an up-to-date development plan should be approved and proposed development than conflicts with an up-to-date plan should be refused, unless other material considerations indicate otherwise.

The site has been previously developed through its use as a primary school and therefore represents a Brownfield site.

### **Retail Impact and Need**

The SPPS states that planning authorities should retain and consolidate existing district and local centers as a focus for local everyday shopping and ensure their role is complementary to the role and function of the Town Centre. Retailing will be directed to town centers and proposals must ensure there will be no unacceptable adverse impact on the vitality and viability of an existing Centre within the catchment and meet the requirements of policy elsewhere in the SPPS.

Paragraph 6.273 states that planning authorities must adopt a Town Centre first approach for retail and main town Centre uses. This is achieved by application of the 'sequential test' as set out at paragraph 6.280.

Paragraph 6.281 states that proposals should be considered in the following order of preference Primary Retail Core (PRC), town centres, edge-of-centre; and out-of-centre locations. The application site is located within 300m of the town centre boundary of Newcastle and is therefore considered as edge-of-centre.

All applications for retail or town centre type development above a threshold of 100 sqm gross external area, which are not proposed in a town centre location should be required to undertake a full assessment of retail impact as well as need. The SPPS notes where appropriate the planning authority may choose to apply a lower threshold taking into account local circumstance such as the size, role and function of their town centres.

It is further advised in the SPPS that in order to ensure high quality and otherwise satisfactory forms of development all applications for retail development uses will also be assessed in accordance with normal planning criteria including transportation and access arrangements, design, environmental and amenity impacts.

A Retail Impact and Need Assessment was submitted with the application which provided a background to the Lidl application and the need for a new store, consideration of the existing retail provision in and surrounding Newcastle, the impact the proposal will have on existing retail development and how the proposal meets the sequential test of the SPPS.

As identified in the ADAP 2015, Newcastle Town Centre is noted for its linear form, stretching along Main Street to either side of the Shimna Bridge. The Plan identifies a Primary Retail Core (PRC). The existing Lidl store is outside the PRC but within the Town Centre. All of Newcastle's local and through traffic use the town centre streets and often results in congestion particularly at peak tourist times. The plan also states that the environment of the main streets therefore suffers and the attraction of the shopping area is diminished.

The Town Centre is currently relatively healthy with a low vacancy level.

The current application proposes a gross floor space of 2206 sq, with 1338sqm dedicated to sales. The current Lidl store is located within the identified town centre and is housed within a Listed Railway Tower, opportunities for expansion are limited at their current location.

In consideration of the sequential test the Agent advises that Lidl have been looking for an alternative Town Centre site for 10+ years without success. It draws attention to the 11 Development Opportunity Sites within the Town Centre, as identified in the ADAP 2015. None of these sites have been considered suitable, predominantly because they are too small. There are no other available sites within the Town Centre which would accommodate a supermarket of this size.

In undertaking the sequential test, applicants should adopt a flexible approach to scheme design and consider the potential for their proposal to be accommodated in a different form on smaller sites. Given the format of Lidl stores it would not be possible to accommodate a Lidl store within the town centre even if there were smaller sites available in the Town Centre.

In assessing the need for the proposal, the agents' assessment advises that through the SPPS councils should require applicants to prepare an assessment of need which is proportionate to support their application. It also notes that 'need is not defined in the SPPS' and has provided a UK court ruling which 'held that it can mean necessity at one end of the spectrum and demand or desire at the other'.

In this case the Agent advises that Lidl's existing store has a sales area which is too small for the store to carry a full range of goods, it has narrow aisles with limited circulation space, its car park is too small, its servicing facilities do not meet Lidl's requirements and the general customer experience falls short of the standards expected of a modern foodstore.

The main like for like convenience retailer in the catchment is Tesco on the Castlewellan Road, this store is located outside the Town Centre and is therefore not afforded any policy protection in terms of retail impact. The next largest food retailer would be ASDA in Downpatrick. There are a number of other top up convenience retailers outside the town centre namely Barbican Supervalu and Nisa Castlewellan Road, however, these are not afforded protection either. Wider afield in Dundrum, Castlewellan and Clough there are a number of large PFS format convenience outlets which cater mainly for the top up shopper. Lidl is unlikely to impact on such outlets given the discount retailer format of Lidl, which will not appeal to every customer.



Centra (Smyths) on Railway Street is a newsagent with a convenience offer of top up shopping, it is located in the Primary Retail Core, the store already operates in the shadow of the existing Lidl store on Railway Street. It is considered that this store may suffer through loss of footfall if the existing Lidl store is relocated as proposed.

The RIA has assessed the competitors of Lidl and noted that the out-of-centre Tesco store is overtrading, thereby indicating that there is a clear need for another foodstore in Newcastle.

The RIA forecasts the highest retail impacts on the existing Lidl store, for obvious reasons, the out of town Tesco store at 7% Retail impact and the Mace in Tullybrannigan at 9% Retail Impact. Neither of which have protected status given their out of town location. Overall a retail impact on Newcastle Town Centre of 4.3%. A retail impact of >10% usually indicates an unacceptable impact occurring.

94% of the proposal turnover will be in trade diversion from within the catchment, with 92.6% coming from the 0-5 min catchment ie Newcastle itself. 6% of the proposal turnover will be clawback from trade leaving the catchment currently.

The Planning Office have considered the content of the RIA and would have no reason to disagree with its findings.

In assessment of the above, it is acknowledged that there are obvious restrictions for redevelopment or expansion of the Lidl current premises, there is also the unavailability of suitable vacant sites in the town centre which would accommodate such a store. An alternative retailer format would not be realistic for the current proposal. A suitable brownfield site has become available at the edge-of-centre which could accommodate the proposal, it is considered therefore that the proposal has met the requirements of the SPPS. The RIA has identified an acceptable level of impact on existing retail providers in the catchment, therefore, it is not considered that the proposal will have a significant or unacceptable retail impact on Newcastle Town Centre.

### **Impact on existing land uses within the vicinity of the site**

The current site is occupied by the former St. Mary's PS. The proposal seeks outline planning permission for the demolition of a former school building (St Mary's Ps) and erection of a food store (Lidl) and the Mourne Mountain Rescue Centre (MMR), provision of car parking and associated site works.

The proposed layout is shown below and identifies the only access via Bryansford Road.



**Fig 3 Proposed Foodstore Layout**

The site is surrounded predominantly by residential properties, Shan Slieve Drive, Bryansford Road and Roslyn Place, several of which immediately adjoin the site. These dwellings, particularly those at Bryansford Road, will notice an increase in activity from the proposed development. The Councils Environmental Health office have been requested to comment and have indicated that they have no objections in principle to the proposal provided conditions are attached to any forthcoming approval restricting hours of operation and deliveries, conditions relating to the noise levels of condenser units and the mushroom vents proposed on the indicative plans, conditions relating to floodlighting are also considered to be applicable in this case.

The adjoining site at Roslyn Place has a history of approvals granted for apartments and dwellings. The most recent approval being R/2008/0537/F for 14 No. apartments with associated car parking, LPG tank installation and amenity areas. The approval was granted in November 2009 with an expiry of November 2014.

The Council, in the absence of a CLUED being submitted on the site of R/2008/0537/F, is not in a position to comment on the status of approval R/2008/0537/F. However, in the interests of completeness the Planning Office has assessed the relationship of the approved apartment block to the proposed foodstore.



**Fig 4 Foodstore layout**



**Fig 5 Apartments R/2008/0537/F**

The apartment block is located 6m from the common boundary with the application site. The proposed foodstore is located a further 7m from the common boundary. The apartment block is some four storeys in height with the elevation along the application site having bedroom and living room windows (see Fig 6 circled). The foodstore is according to the information provided on the application of typical lidl format, single storey building 6.12m in height.





Fig 6 Elevations of Apartments

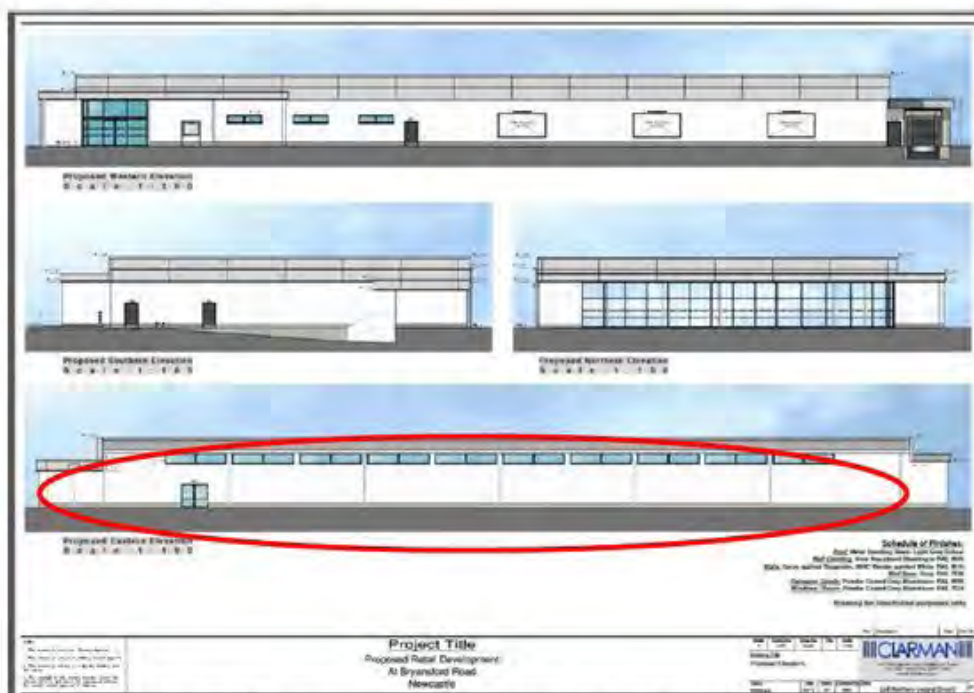


Fig 7 Elevation to Common boundary with Roslyn Place

Consideration is limited to the blocks eastern elevation with the application site. The Ground floor of the proposed apartment comprises the parking, lobby entrances bins and stores. The first floor comprises living rooms (2) and bedrooms (4). The first floor is separated from the boundary wall by patio areas/planted areas of amenity. The boundary treatment comprises a 1.3m high timber slat screen fence on top of a 500mm raised blockwork rendered planter. A 1m high hedge is indicated on the inside of the screen fence. There will therefore be limited appreciation from the 1<sup>st</sup> floor apartments or their associated amenity areas of the proposed foodstore.

The second floor comprises living rooms (2) and bedrooms (4). At this higher level the roof of the proposed food store and the car parking will come into view, however views will be had over the roof of the foodstore and beyond given the height of the foodstore at 6m and its distance of 7m from the common boundary.

At the 3<sup>rd</sup> and rooftop floors at this height the foodstore will not impede or hinder open views across the application site. Any potential occupants will have an open view across the application site, but views will not be impeded by the foodstore.

It is considered that whilst the apartment block has benefited from the vacant St Marys School site in proposing an apartment block close to the common boundary it is considered that there is no detrimental impact on the residential amenity of any future occupants of the apartment block as a result of the foodstore as proposed for the reasons given above.

### **Adequate access, car parking and maneuvering provision**

Vehicular access will be via a new access onto the Bryansford Road.

A Transport Assessment, Travel Plan and Service Yard Management Plan was submitted in support of the application. Given the nature of the proposal in comparison with that currently on site, it is envisaged that this will result in a greater number of car trips to the site.

The Transport Assessment concluded that all junctions in the vicinity of the site have been assessed and were all forecast to operate well within capacity for all scenarios. Facilities for pedestrians, cyclists and disabled people have been considered. A new pedestrian crossing at the Bryansford Road/ Shimna Road is proposed. Public transport provision was shown to be good and there were considered to be no environmental or safety problems associated with the development.

The indicative drawings show 147 car parking spaces in total, 8 of which are allocated to the MMR facility. It is noted that current car parking standards for the foodstore require 1 non-operational parking space for each 14sqm of gross floor area – the TA states that the GFA is 1848sqm therefore 132 spaces are required for the foodstore. Whilst no specific car parking standards apply for the MMR centre, it is considered that given the nature and proposed use of the facility that 8 allocated spaces represents sufficient parking. Overspill could potentially be accommodated in the car park for the foodstore. The Service Management Plan advises that the site will be serviced once a day by an articulated vehicle and a dedicated service area will be provided for the servicing vehicle.

A lengthy consultation has been carried out with Transport NI and a number of amendments have been submitted to address their concerns. DfI Roads are content with the proposal as now proposed.

### **Potential effects of flooding and water management as result of the proposal**

Planning Policy Statement 15 sets out the planning policies to minimise and manage flood risk to people, property and the environment. It adopts a precautionary approach to development and the use of land that takes account of climate change and emerging information relating to flood risk through the implementation of the EU Flood Directive in Northern Ireland and the implementation of sustainable drainage systems. The proposal is subject to consideration of its impacts in terms of flood risk at the site and potential for effects at other locations as a result of the development. A Drainage Assessment was submitted in support of the application.

Following consultation Rivers Agency advise that provision for access to the designated watercourse on the western boundary and the undesignated watercourse on the northern boundary have been addressed in the Drainage Assessment dated December 2017. DfI have issued Schedule 6 culvert consent for the works to the culvert. DfI Rivers accept the logic of the Drainage Assessment and have no reason to disagree with its conclusions.

NIEA Water Management have no objections to the proposal subject to conditions being applied as detailed in NIEA Standing Advice on Commercial and Industrial Developments.

### **Design and Landscaping of proposal**

While the application seeks approval in principle, indicative drawings have been submitted showing the retail unit (Lidl) with a mono-pitched roof approx. above 6.125m above ground level at its highest point. The walls are to be clad with 4mm Alucobond Sheeting, and painted white rendered walls with grey rendered base. The roof is to be metal standing seam light grey in colour. While the proposed eastern, western and southern elevations will have limited fenestration, the northern elevation will be almost completely glazed. Matters of finish will be reserved.

The indicative plans of the proposed Mountain Rescue Building show a mono-pitched building with a roof approximately 7.4m above finished ground level at its highest point. The building will be finished with smooth render walls, painted white, with natural local stone cladding where indicated. The roof will be clad with kingspan, while the windows and rainwater goods will be aluminium ppc in charcoal colour.

From a scale and massing perspective it is not considered that these indicative designs would be inappropriate in the area. Furthermore, it is noted that the development site while within the Area of Outstanding Natural Beauty is not within any area of Townscape Character or close to a listed building which would influence its design. The design would not be incompatible with the requirements for this AoNB in line with PPS 2 Natural Heritage NH6 similarly DES 2 Townscape of a Planning Strategy for Rural Northern is not offended.

From a landscaping perspective the existing site is defined on all boundaries by a number of mature trees which are subject to a Tree Preservation Order (TPO) – see R/20010936/TPO. It is noted in the Arboricultural Impact Assessment that two trees are proposed for removal – T1 (Silver Birch) to facilitate the development and T24 (Alder) which is dead and requires removal. The Assessment states that retained trees are to be protected in accordance with BSI and allied industry recommendations and construction methods and surface treatments sympathetic to the needs of the trees. This is considered appropriate.

In addition to the above a Biodiversity Checklist Report, ecological appraisal and bat survey report, which have been sent to NIEA Natural Environment Division (NED) for comment.

Following this consultation NED note that the site is subject to the Conservation (Natural Habitats, etc) regulations (NI) 1995 as amended (known as the Habitats Regulations) and that the site is hydrologically connected to the Shimna River ASSI which is of national importance and is protected by the Environment (NI) Order 2002 (as amended). The application site also contains bats as protected by the Habitats Regulations. SES have returned with no objection subject to a condition of NIEA requiring the submission of a final CEMP pre-commencement.

NED has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information has no concerns, subject to conditions.



## Representations

A number of objections have been received, issues raised can be summarised as follows:

- The proposal is not in keeping with the residential nature of the area.
- Closure of the existing store will have a detrimental impact on the town centre and surrounding convenience stores
- Traffic Issues – increased traffic and adequacy of traffic surveys undertaken
- Result in increased Flooding
- Concern regarding the impact of the sale of alcohol particularly to young people
- Residential amenity of No.32 Bryansford Road
- Japanese Knotwood present on site
- Proposal is contrary to the SPPS in that the proposal is located outside the primary retail core and proposal is not in the interest of the local community
- The proposal will impact on the residential amenity of those residents of Shan Slieve
- Inaccurate land ownership
- Failure of Lidl to recognise the extant apartment development adjacent and full extent of vehicular rights of way

SD Mullan on behalf of Don Holdings submitted on 26 February 2019 a detailed 62-page submission raising issues as previously rehearsed in its previous submissions and highlighted in the summary above. This submission was uploaded to the planning portal for public scrutiny and comment.

## Consideration of the Representations

### Proposal not in keeping with the character of the area

The site is located within the settlement limits of Newcastle, where there is a presumption in favour of development provided it does not cause demonstrable harm to interest of acknowledged importance. The proposal involves the redevelopment of a brownfield site, previously used as a primary school. The site was never in residential use. There are a number of non-residential uses in the area, public houses and restaurant, Donard Park Playing fields and changing facilities and an orange hall. There is no diminution in the residential character of the area as a result of this proposal.

### Contrary to SPPS in terms of the sequential test, need for new food store in Newcastle and impact on Town Centre

See assessment of the SPPS and assessment of retail impact above, which concludes that given the linear nature of Newcastle, the potential for adequately sized sites are limited, therefore, the applicant has explored the town centre and found it to be inadequate for its needs, the proposal has therefore moved to a more suitable site out-of-centre. The sequential test as outlined in the SPPS has been complied with. The RIA submitted has been found to be robust in its methodology and the Planning Office have no reason to disagree with its findings.

### Traffic impact including the underestimation of traffic flow, omission of seasonal info and use of Shan Slieve Drive as an access to the site.

The Shan Slieve Drive access has been removed from the proposal.

Transport NI have considered all the information submitted with the application and are content that the development proposed can be accommodated and will not have an adverse impact on

the existing road infrastructure and the proposed access is considered acceptable in terms of road safety.

#### Potential for Flooding

The potential effects of flooding and water management as result of the proposal have been considered through assessment under PPS 15 and a consultation with DfI Rivers Agency, who have concluded that they have no objections in principle to the proposal subject to clarification of the alignment and structural integrity of the culvert within the site.

#### Sale of Alcohol

Such a matter would be for the operator of the foodstore to ensure it is complying with its legal requirements in relation to the sale of alcohol to underage customers. This is not a matter which can be controlled by planning. This would not be a matter specific to the proposed development but would affect many establishments within the settlement limits of Newcastle.

#### Noise and General Disturbance

In consideration of the potential noise and general disturbance of the proposal, it is acknowledged the immediate neighbours of the site will experience and increase in potential disturbance, given that the site is currently no longer in use as a primary school, however, Newry, Mourne and Down Environmental Health Dept were consulted with a Noise Impact Assessment dated Dec 2017 and advised that there were no objections in principle provided conditions relating to hours of operation, restricted hours of delivery, delivery into specified service yard, restricted sound pressure level of condenser units etc.

#### Loss of Privacy / Amenity at No 32 Bryansford Road

No 32 Bryansford Road is particularly affected by the proposal given its proximity to the development. It is noted that the dwelling at No.32 is 24m (at its nearest point) to the Lidl building. The access – specifically the pedestrian footpath to the development will be located 12m from No 32 at its nearest point. The development will result in a notable change for No 32 given that the site adjacent has been vacant for some time. However, it is considered that given the position of No 32 within the settlement limit of Newcastle, along an already busy road, in addition to the separation distance between the dwelling and presence of mature vegetation along the boundary of No 32 that the proposal would not cause significant demonstrable harm to the amenity of No 32 that the proposal should be refused. I would, however, recommend that additional planting is carried out along the northern boundary the site shares with No 32.

#### Japanese Knotweed

Consultation has been undertaken with NIEA NED they note that the north eastern corner of the site contains a significant area of Japanese Knotweed (*Fallopia japonica*). Japanese Knotweed is an invasive alien species under Schedule 9 of the Wildlife (Northern Ireland) Order 1985 (as amended) and as such it is an offence to cause this plant to grow in the wild. The ecological appraisal report states that a detailed management plan to eradicate Japanese Knotweed from the site has been developed, agreed and is currently being implemented. NED is content that the proposal will not have a significant impact on natural heritage interests, subject to the attaching of conditions.

#### Inaccurate Land Ownership

The Planning Office can confirm that as required under Section 42 of the Planning Act (NI) 2011 a statement of ownership has been completed on the application by the applicant and on this basis the Planning office is content to proceed.

### Impact on apartments approved adjacent under planning application R/2008/0537/F

The Council acknowledge the submission of correspondence and a photographic record of works undertaken from SD McMullan to the Planning Office on the 24 November 2014 stating that the developer carried out substantial works approximately 2 years ago in the commencement of R/2008/0537/F. SD McMullan at that time requested that the information be placed on file. This information was placed on application reference R/2008/0537/F. The evidence as submitted would appear to suggest the commencement of R/2008/0537/F.

The Planning Office has had account of the relationship of the proposed foodstore to the approved apartment block under R/2008/0537/F. The relationship has been considered in full above and it has been concluded that there is no detrimental impact to the residential amenity of potential occupants of the apartment block as a result of the approval of the Foodstore and its associated development. Determining weight cannot be attached to any potential loss of outlook as raised by the objector.

### **Support**

5 Letters of Support have been received all of which refer to support for the Mourne Mountain Rescue Centre.

### **Conclusion**

Having assessed the proposal against planning policy and all material considerations which apply to the application and taking into account the input of consultees, it is determined that the proposal is acceptable in planning terms and approval is recommended subject to the following conditions.

**Recommendation:** Approval



## Conditions

1. Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-
  - i. the expiration of 5 years from the date of this permission; or
  - ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.

2. Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters"), shall be obtained from the Council, in writing, before any development is commenced.

Reason: This is outline permission only and these matters have been reserved for the subsequent approval of the Council.

3. A scale plan and accurate site survey at 1:500 shall be submitted as part of the reserved matters application showing access to be constructed and other requirements in accordance with attached form RS1

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

4. The net retail floorspace of the food store hereby approved shall not exceed 1340 square meters. No goods or merchandise shall be stationed or displayed on the forecourt of the premises.

Reason: To control the nature, range and scale of retailing activity so as not to prejudice the continued vitality and viability of existing retail centers

5. The store shall be used only for the retail sale and ancillary storage of the items listed below and for no other purpose, including any other purpose in Class A1 of the Schedule to the Planning (Use Classes) Order (Northern Ireland) 2015.

For the purposes of this permission, convenience goods are defined as:-

- (a) food and drink;
- (b) tobacco, newspapers, magazines and confectionery;
- (c) stationery and paper goods;
- (d) toilet requisites and cosmetics;
- (e) household cleaning materials; and
- (f) other retail goods as may be determined in writing by the Council as generally falling within the category of convenience goods or as generally being appropriate to trading in these premises.

Reason: To control the nature, range and scale of retailing activity so as not to prejudice the continued vitality and viability of existing retail centres.

6. The foodstore hereby approved shall be operated as a single unit and shall not be subdivided without the prior permission in writing of the Council.

Reason: To control the nature, range and scale of retailing activity so as not to prejudice the continued vitality and viability of existing retail centres.

7. No internal operations including the installation of mezzanine floors shall be carried out to increase the gross retail floorspace available for retail use without the prior written consent of the Council

Reason: To control the nature, range, and scale of retailing activity so as not to prejudice the continued vitality and viability of existing retail centres

8. The development hereby approved shall be operated in accordance with the approved Service Management Plan dated December 2017

Reason: To ensure that adequate provision has been made for servicing and traffic circulation within the site.

9. The food store hours of operation shall be limited to hours of 08:00 – 21:00 Monday to Saturday and 13:00 – 18:00 Sunday as specified in Noise Impact Assessment dated December 2017.

Reason: To protect the amenity of neighbouring dwellings

10. Deliveries to the site shall not occur between the hours of 23:00 and 07:00 as specified in the Noise Impact Assessment, dated December 2017.

Reason: To protect the amenity of neighbouring dwellings

11. A maximum of 2 condenser units, each not exceeding a sound pressure level of 47 dBLAeq at 5m, shall be located as shown in Figure 2, page 13 of Noise Impact Assessment, dated December 2017.

Reason: To protect the amenity of neighbouring dwellings

12. A maximum of 2 mushroom vents shall be located as shown in Figure 2, page 13 of Noise Impact Assessment, dated December 2017. There shall be no additional external plant installed without prior consultation and agreement in writing with the Council.

Reason: To protect the amenity of neighbouring dwellings

13. All Floodlighting on site shall be installed and maintained in accordance with the Lighting Impact Assessment Report dated 13 November 2017.

Reason: To protect the amenity of neighbouring dwellings

14. Floodlighting on site shall only operate within the hours of 07:00 to 23:00 and as specified on page 6 of the Lighting Impact Assessment Report dated 13 November 2017.

Reason: To protect the amenity of neighbouring dwellings

15. No development activity, including demolition, ground preparation or vegetation clearance, shall take place until a final Construction and Environmental Management

Plan (CEMP) has been submitted to and approved in writing by the Planning Authority. The approved CEMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved CEMP, unless otherwise agreed in writing by the Planning Authority. The CEMP shall include the following:

- a) Pollution Prevention Plan;
- b) Site Drainage Management Plan; including Sustainable Drainage Systems (SuDS), foul water disposal and silt management measures;
- c) Water Quality Monitoring Plan;
- d) Environmental Emergency Plan;
- e) Details regarding the timing of any necessary vegetation clearance to take place outside the bird breeding season and bat foraging season;
- f) Details of temporary protection barriers to be erected around retained trees to protect their root zones during the construction phase;

**Reason:** To protect Northern Ireland priority habitats and species, to ensure implementation of mitigation measures identified within the outline CEMP and to prevent likely significant effects on the Shimna River Area of Special Scientific Interest (ASSI).

16. At submission of Reserved Matters, a Bat Mitigation Plan (BMP) shall be submitted to and approved in writing by the Planning Authority. The approved BMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved BMP, unless otherwise agreed in writing by the Planning Authority. The BMP shall include the following:
  - a) Details of the provision of alternative roosting locations for bats, including the number, model, specifications and location (including height and aspect) of bat boxes;
  - b) Details of the timing of works and the implementation of mitigation measures;
  - c) Further details of the lighting proposed for the exterior of the site relevant to the location of the bat boxes;
  - d) Details of updated bat surveys prior to any demolition works commencing and the development of any additional mitigation measures should bats be found;
  - e) Details of the appointment of a suitably qualified and experienced bat ecologist to oversee all works and the implementation of mitigation measures.

**Reason:** To protect bats.

17. Prior to commencement a detailed Landscaping and Planting Plan shall be submitted to the Council. No site clearance or development activity shall take place until the Landscaping and Planting Plan has been agreed in writing by the Council. The Plan shall include details of compensatory and mitigatory planting with native species of trees, shrubs, grasses and wildflowers. Species and numbers of trees and shrubs to be planted must be provided.

**Reason:** To minimise the impact of the proposal on the biodiversity of the site, including protected species.

17. Prior to commencement a landscape management and maintenance plan shall be submitted to and approved by the Council. The plan shall set out the period of the plan, long term objectives, management responsibilities, performance measures and

maintenance schedules for all areas of landscaping. The landscape management plan shall be carried out as approved.

**Reason:** To ensure successful establishment and ongoing management and maintenance (in perpetuity) of the landscaped areas in the interests of visual and residential amenity.

18. The Travel Plan as submitted date stamped 19 December 2017 shall be implemented in line with provisions set out within the Plan upon any part of the development hereby approved becoming operational.

**Reason:** To support sustainable transport objectives including a reduction in single occupancy car journeys and the increased use of public transport, walking and cycling.

Signed .....Date .....

Signed .....Date .....





Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

<b>Application Reference:</b>	LA07/2018/0001/O
<b>Date Received:</b>	02.01.2018
<b>Proposal:</b>	Demolition of former school building, erection of food store and mountain rescue centre, provision of car parking and associated site works
<b>Location:</b>	Site of former St Mary's Primary School (opposite and east of 1-15 Shan Slieve Drive and south of 32-38 Bryansford Road and 2-8 Tullybrannigan Road) and portion of Bryansford Road Newcastle

### Addendum to Case Officers Report

The application was recommended for approval on the 22 November 2019 and placed on the Agenda for the 11 December 2019 Planning Committee. The Agenda was published on the 27 November 2019. The application was removed from the 11 December 2019 Committee Agenda.

On the 25 November 2019 additional information was submitted by the agent MBA Planning in the form of an addendum to the Noise Impact Assessment prepared by FR Mark and Associates in December 2017. The NIA Addendum specifically refers to the approved apartment block under R/2008/0537/F and not impact on those properties on the Bryansford Road/Shan Slieve as this was previously considered in the NIA of December 2017.

The Addendum report specifically assesses any potential for noise impact to those future occupants of the apartment block as a result of the development of the food store. The Addendum maintains there will be no loss of amenity to future occupants of the apartments as a result of noise from plant on the proposed food store or from any other aspect of the proposed development.

The additional information has been consulted upon with the Councils Environmental Health Department (EHO) and those persons making representation on the application have been notified of the submission of this information. At the time of writing the Planning Office have not received any further representations on the application.



The Councils Environmental Health Department have responded that they require additional acoustic screening to be put in place between the condenser units and the apartments (R/2008/0537). The screening should be placed close to the condenser units to produce effective screening for the upper level apartments and be a minimum of 2 metres in height. This acoustic screening shall be constructed of either masonry, timber panelling (close lapped with no gaps) or of earth and shall have a minimum self-weight of 25 Kg/m2. This can be attached as a condition of this approval.

Alternatively, EHO have suggested the relocation of the condenser units to the southern elevation as an alternative.

EHO recommend attaching the same conditions as previously offered (see body of main case officers report)

The Planning Office have considered the potential for noise impact on the adjacent approved apartment block. The Planning Office find no ground to reject the proposal on the basis of noise impact subject to the necessary acoustic screening as required by EHO being in place.

Signed .....

December 2019

**LA07/2018/0001/O - Demolition of former school building, erection of food store and mountain rescue centre, provision of car parking and associated site works**

I write further to our previous comments in respect of the above application on behalf of Retail NI and would make the following observations and commentary, which have not been considered so far;

**Strategic Planning Policy Statement for Northern Ireland - SPPS**

This is the latest expression of retail policy and advocates a "town centres first approach" for the location of future retailing and other main town centre uses.

In effect this proposal seeks to relocate Lidl away a prominent town centre site to an edge of centre site, which would be less sequentially preferable.

This approach would be completely contrary to the "town centres first approach" advocated in the SPPS.

Whilst we accept that there are limited alternative sites. However, the applicants have occupied and operated from their current site for a significant period despite indicating a desire to find alternative premises (10+years).

This demonstrates that the existing store is still functional, and the proposed edge of centre site is desirable, but not a necessity, which undermines the argument for the alternative site and exit from the town centre.

Paragraph 6.289 of the SPPS states that; *"Applicants will be expected to identify and FULLY demonstrate why alternative sites are not suitable, available and viable"*.

The applicants have discounted the existing site (640sqm net retail floorspace) but have not FULLY demonstrated how it could be adapted, through the use of creative or innovative design to accommodate 1,070sqm net retail floorspace.

The Planning Officers have not included a pre-occupation condition to ensure the Railway Street store remains occupied. This should not be problematic given the letter dated 24<sup>th</sup> November 2017 from Colin Mathewson of CBRE and the claimed expressions of interest.

The lack of consideration of this matter by officers is a fatal. As they are permitting the relocation of a multinational retailer from a town centre location to an edge of centre location, which is completely contrary to the town centre first approach in the SPPS.

Such a re-occupation condition would prevent a prominent/vacant unit in the town centre and would mitigate against harm and a reduction in footfall by maintaining the vitality and vibrancy of Newcastle, which is accepted to be seasonal.

It would also prevent any precedent for future retailers who occupy the Railway Street building seeking to relocate on them same premise.

The SPPS considers Open Space, Sport & Outdoor Recreation at Paragraphs 6.199 – 6.123.



Paragraph 6.205 highlights the presumption against the loss of open space to competing land uses and states that;

*"Any exception to this general approach should only be appropriate where it is demonstrated that redevelopment would bring substantial community benefit that outweighs the loss of the open space;*

**OR**

*where it is demonstrated that the loss of open space will have no significant detrimental impact.*

However, the exceptions in the SPPS are clearly less prescriptive than those contained within Policy OS1 of PPS8, so paragraph 1.12 of the SPPS is engaged as the SPPS should not be judged to lessen the weight to be afforded to the retained policies. Policy OS1 of PPSS 8 is therefore the determining policy context.

#### **Planning Policy Statement (PPS) 8 – Open Space, Sport and Outdoor Recreation**

Planning Policy Statement 8 is entitled 'Open Space, Sport and Outdoor Recreation and Policy OS1 relates to the protection of open space and states that permission will not be granted for development that would result in the loss of existing open space. It indicates that the presumption against the loss of existing open space will apply irrespective of its physical condition and appearance.

Annex A of PPS8 is headed 'Definition of Open Space' and states that "for the purposes of this Planning Policy Statement, open space is taken to mean all open space of public value". It is apparent that open space can provide a passive or active function.

Among the typology of open spaces of public value, the Annex lists, inter alia, "amenity green space (most commonly, but not exclusively in housing areas) – including informal recreation spaces, communal green spaces in and around housing, and village greens", and "natural and semi-natural urban green spaces –including woodlands, urban forestry, grasslands (eg. meadows), wetlands, open and running water, and rock areas".

In terms of function, the Annex indicates that these include "strategic functions - defining and separating urban areas; providing community greenways, 'green lungs' or landscape buffer within urban areas", and "urban quality - helping to support regeneration and improving quality of life for communities by providing visually attractive green spaces close to where people live". The Annex to PPS8 specifically refers to the **public value of amenity green space in housing areas**, and, with regard to function, indicates that open space can have **visual amenity** even where there is **no public access**, **can provide an outlook, variety in the urban scene, or be a positive element in the landscape.**

The application site included a large area of green public open space, which was used for recreation. The foodstore is being located on this area and as such would result in a loss of open space of public value. The applicants have not submitted any information as to why the site would constitute one of the permitted exceptions. Therefore, the proposal does not qualify as an exception to Policy OS 1 of PPS 8 and is contrary to that policy.

## Exhibit 5



Our Ref: 2953/CM/HW

24<sup>th</sup> November 2017

Dermot Monaghan  
MBA Planning  
4 College House  
Citylink Business Park  
Belfast  
BT12 4HQ

CBRE Limited  
The Linenhall  
32-38 Linenhall Street  
Belfast  
BT2 8BG

Switchboard +44 (0) 28 9043 8555

Dear Dermot,

**RE: LIDL'S PROPOSED RELOCATION IN NEWCASTLE, CO. DOWN**

You have asked me to provide comment on Lidl's existing premises in Newcastle and on recent levels of activity and rental tone within Newcastle Town Centre.

As you are aware, CBRE act on behalf of Lidl across Ireland with regard to property acquisition and disposal matters.

Lidl are proposing, subject to planning, to relocate from their existing premises at Railway Street in Newcastle to a new site on the Bryansford Road. The existing Railway Street premises are currently held under lease by Lidl from a local landlord. The lease is subject to 5 yearly tenant break options. The next break option will be in November 2018.

Should Lidl obtain planning permission and relocate their store within Newcastle. It is my understanding that they will seek to sub-let the existing premises to another retailer.

As part of our requirement to advise Lidl in respect of this proposed relocation, CBRE have undertaken an initial exercise to test the market for potential replacement occupiers for the subject unit.

Within Newcastle Town Centre we are aware of several brands who have an active requirement for the area. Large space occupiers include M&S Simply Food, Home Bargains and B&M Bargains. We have received initial expressions of interest in Lidl's existing premises from these parties and therefore it would appear reasonable to assume that a replacement occupier could be secured for this property. None of these retailers are currently represented in Newcastle.



### Schedule of Transactions in Newcastle Town Centre

Retail activity in Newcastle Town Centre is focused along Central Promenade and Main Street along with part of Railway Street. Below is a schedule of the most recent retail transactions in this area.

Date	Entrant	Use	Location	Size	Rent (p.a.)	Rent (psf)
July 15	Froth Coffee Co.	Café/Restaurant	8 Central Promenade	1,500 sqft	£16,500	£11
June 17	Caffe Nero	Café/Restaurant	111-115 Main Street	1,800 sqft	£35,000	£19.44
July 17	Nicki's Kitchen Café	Café/Restaurant	107 Central Promenade	2,200 sqft	£20,800	£9.09
October 17	JD Flynn and Co.	Estate Agency	33 Main Street	500 sqft	£8,000	£16
October 17	Time Piece Tattoo	Tattoo and Piercing	10b Donard Street	1,100	£12,000	£10.90

As you can see from the schedule there has been a much-increased level of letting activity in the current year when compared to the previous two. Four transactions have taken place this year to date in comparison to one across 2015 and 2016.

Newcastle is a popular tourist location which is highlighted by three of the five transactions being food and beverage uses. Trade would be largely seasonal and these transactions are correlated to the months of June and July. The retail transactions outside of food and beverage have concluded in October.

Given that three of five transactions are of a food and beverage use these have not been zoned as part of the letting and due to the lack of information from agents involved and no plans for the units we have compared the transactions on an overall basis per square foot. When offsetting the rent against the size of unit, from the schedule we can see a trend of average rate psf of c.£10. The anomaly within the schedule is the Caffe Nero lease and the variance within this transaction may be explained by the National covenant of the tenant and the building refurbishment that was undertaken to prior to contracts being signed.

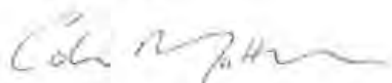
A transaction worth noting but not included in the schedule is the lease re-gear of the Superdrug at 77 Main Street. Superdrug experienced a nil increase on their rent of £35,000 p.a. on 2,915 sqft in December 2015. Taking this as a rate per square foot basis this translates to £12 and is in correlation with the lease transactions in the schedule above.



In summary, there have been relatively low levels of activity in the Newcastle retail core, which probably reflects the lack of available large units within the town centre. Analysing the small sample size, there appears to be a focus on food and beverage with the majority of transactions being in this use class. From the data gathered the rental tone appears to be identifiable at £10 psf.

Should you have any queries, please do not hesitate to contact me.

Yours sincerely



**Colin Mathewson**  
**Senior Director**  
**For and on behalf of CBRE NI Ltd**

Email: [colin.mathewson@cbre.com](mailto:colin.mathewson@cbre.com)

Tel: 028 9043 6919

**Expanded Version – Written Submission,  
To accompany shortened Bullet Point Summary.**

**Submission for and on behalf of Dr M Rooney, Shanslieve Drive, Newcastle**

In and around mid 2018, SD McMullan Architects were instructed to represent (amongst others)\* Dr M Rooney, Consultant Rheumatologist & Senior Lecturer at QUB School of Medicine, Belfast.

Dr M Rooney's family home is in Shanslieve Drive, in the immediate neighbourhood of the subject (LIDL) site. She has lived in this neighbourhood since childhood for 50 years & more.

Regarding Council's endeavours to move forward since the time of the 1st Planning Committee Meeting – now noting Council's apparent urgency to re-approve for the second time, Dr. Rooney finds the entire manner & demeanour in which Council have managed matters – both procedurally, and in matters of substance – somewhat discombobulating, illogical, and therefore unfair.

All for the following reasons (& others) :--  
both In MATTERS OF PROCEDURE & SUBSTANCE.

**(1) Has indeed the Current Outline Approval LA07/2018/0001/O ever been quashed?**

Legal inquiries as to the current status of the JR Outcome, as of 7/12/2019 @ 4:00pm, differ substantially from a cursory oversight of Council's own EPIC Planning Portal Reporting at exactly the same time.  
Council's Web Portal reports that the Parent Approval by Council in Spring 2019 remains alive and well & fully extant.



Legally, & procedurally, how can Council move to re-approve?

**(2) The Speaking Rights Protocol - the 5 minute time slot.**

Procedurally, at the time of the first determination, (in March 2019) there had been an reasonable expectation that each Objector would avail of a fair reasonable & equitable distribution of Speaking Right entitlements.

Ms ML Anderson (the 1<sup>st</sup> Speaker) in March 2019 was particularly well facilitated; the remaining Speakers weren't. Council stewardship in this matter was highly questionable. Council's attenuation of speaking time, arbitrarily applied, meant that the thrust of Dr Rooney's key points (& for that matter others parties represented by SMcMullan) were cropped short to the point of becoming ineffectual.

Is this (a) fair, (b) in the Public interest, & (c) is this to be he established template for the incoming PC meeting?

**(3) Councils hesitancy, & ambivalence in releasing Local Tourism & Traffic Month by Month Data.**

*given that such Data is patently not available on a seasonal basis anywhere else within the normal Statutory bodies – TNI, NISRA & others.*

Newcastle is a Tourism Seaside Town. Tourism is the predominant economic generator of Mournes & recognised so. There is no significant industry other than Tourism. Therefore in Planning & Traffic norms, Newcastle cannot be compared to the norms of normal Market Towns.

To drill into and interrogate this very matter, Council will be aware that in late Autumn 2018 onwards, Dr Rooney had made several unsuccessful representations both via her Elected Representatives, & thereafter directly to NM&D Council itself, aided by her Consultants in attempting to retrieve key Data relating to local Tourism, Economic & Traffic matters, relevant to the Area, all in a timely fashion.

It is significant that this Data had been held within NM&D Archives as Legacy STEAM Reports - that is since the more recent amalgamation of the Council Areas.

Unfortunately, Council were not only unhelpful but obstinate in facilitating the timely release of such Data, again in a timely & meaningful fashion.

This Data was only released 1 week after the 1<sup>st</sup> Planning Committee Meeting, 5 months after the initial attempts by Dr Rooney to retrieve this.

With the benefit of hindsight, especially where Council is expected to be transparent & helpful, all together this appears as somewhat reprehensible.

**(4) Lack of opportunity to proffer fresh / updated representations**

Dr Rooney is at a loss, (especially after the rigours of the first JR (by others)), as to why she (or alternatively any member of the public for that matter) has not been provided with a fresh opportunity to update earlier representation, especially in the context of (3) above.

Unfortunately, Speaking Rights, by themselves, don't facilitate the meaningful & effective updating of any representation. In the rollout of this Application, this remains unfair. Reports now available extend into multiple pages, not admissible procedurally at this stage.

**(5) Council Decision to recommend Approval prior to the timely & sequential conclusion of all necessary (re)consultations, now queried.**

Ms M McElhome's communication of 2/12/2019 reaffirms Consultation reports have since been tabled. Council's recommendation to Approve, as listed on the Planning Committee Agenda predates this timing of late reports

**(6) Traffic Safety Matters generally.**

Within the latest Case Officers Report(s), 8 out of 9 Objectors to this application major upon Traffic Related Concerns.

Traffic queries still remain at large regarding :-

- The decision to permit Oct Traffic Surveys as representative of Newcastle, a tourism seaside town.
- After Shanslieve Drive rear entrance was closed, the surcharge of additional traffic solely through the Bryansford Rd Entrance, did not escalate nor elevate Entrance Safety Standards.
- Failure by Council to interrogate the significance of their own STEAM Data (3) above \
- Queries if indeed Council had made TNI aware of all relevant representations tabled across the board in a timely fashion.

**(7) Make haste / less speed.**

As a matter of observation, given that eyebrows have already been raised by virtue of Council immediately conceding their intent not to challenge a JR Action, thereby heightening by implication public awareness on Councils shortcomings within their first Determinations, would it not be eminently much more sensible that the redetermination exercise this time round would be much more cautious, thorough, & measured, if only to regain the confidence of the Public generally. Council, if indeed they had permitted open & fair hearing during Speaking Rights in Spring 2019, such caution may very well have served Council well to have been sufficiently forearmed & forewarned, and to avoid the unnecessary & wasteful expense of the not insubstantial costs (to all parties) where a JR Challenge by others became to the fore.

SD McMullan  
pp  
Dr M Rooney.

7/12/2019.

SDMcMullan also represents

- M Donnelly - Don Holdings Ltd. Lead now taken by CFR Solrs Belfast)
  - Dr M Rooney Consultant Rheumatologist QUB Belfast
    - Mr R Macauley (only in earlier submissions)



**SPEAKING RIGHTS for Dr Rooney****Submission for and on behalf of Dr M Rooney. Shanslieve Drive, Newcastle****PRECIS - BULLET POINT HEADINGS only**

In and around mid 2018, SD McMullan Architects were instructed to represent (amongst others)\* Dr M Rooney, Consultant Rheumatologist & Senior Lecturer at QUB School of Medicine, Belfast.

Dr M Rooney's family home is in Shanslieve Drive, in the immediate neighbourhood of the subject (LIDL) site. She has lived in this neighbourhood since childhood for 50 years & more.

Regarding Council's endeavours to move forward since the time of the 1st Planning Committee Meeting – now noting Council's apparent urgency to re-approve for the second time, Dr. Rooney finds the entire manner & demeanour in which Council have managed matters – both procedurally, and in matters of substance – somewhat discombobulating, illogical, and therefore unfair.

A Drivll for the following reasons (& others) :-  
both In MATTERS OF PROCEDURE & SUBSTANCE.

**Her concerns surrounding**

- (1) **Has indeed the Current Outline Approval LA07/2018/0001/O ever been quashed?**
- (2) **The Speaking Rights Protocol - the 5 minute time slot.**
- (3) **Councils hesitancy, & ambivalence in releasing Local Tourism & Traffic Month by Month Data,**  
*given that such Data is patently not available on a seasonal basis anywhere else within the normal Statutory bodies – TNI, NISRA & others.*
- (4) **Lack of opportunity to proffer fresh / updated representations**
- (5) **Council Decision to recommend Approval prior to the timely & sequential conclusion of all necessary (re)consultations, now queried.**
- (6) **Traffic Safety Matters generally.**
- (7) **Make haste / less speed. The previous JR was avoidable.**

SD McMullan  
pp  
Dr M Rooney.



*SDMcMullan also represents*

- *M Donnelly - Don Holdings Ltd. Lead now taken by CFR Solrs Belfast*
  - *Dr M Rooney Consultant Rheumatologist QUB Belfast*
    - *Mr R Macauley (only in earlier submissions)*

**URGENT: BY EMAIL**

Newry Mourne & Down District Council  
O'Hagan House  
District Council Offices  
Monaghan Road  
Newry  
BT35 8DJ

Our Ref: BVM\JMM\50457-3  
Your Ref: LA07/2018/0001/O  
Date: 02 January 2020

Dear Sir/Madam

**Re: Our Client: Don Holdings Ltd  
Proposed Lidl Store at Byransford Road, Newcastle – Determination before the Planning Committee of Application LA07/2018/0001/O on Wednesday 8 January 2020  
Objections on behalf of Don Holdings Ltd**

On behalf of our client Don Holdings Ltd, we wish to lodge a further objection to the proposed Lidl development at Bryansford Rd, Newcastle. This letter of objection follows earlier submissions made by SD McMullan Architects, on behalf of our client, to the Council on 18<sup>th</sup> September 2018 and 19<sup>th</sup> February 2019. Mr McMullan also spoke briefly at the Council meeting on 13<sup>th</sup> March 2019 where he was unable to make his substantive points of objections due to the limited time he was afforded to speak at the meeting.

Our client has raised a number of fundamental points of objection regarding; serious errors in the submitted Transport Assessment, inaccurate land ownership information, unachievable visibility spays, out of season traffic surveys and residential amenity.

We note the advice provided at para 7.1 in Development Control Advice Note 04 (DCAN 04) in respect of outline planning applications, namely

*An outline planning application provides a means for an applicant to establish whether a proposal to build on any particular site is acceptable, in principle....*

Our client has significant concerns that in determining the planning application and making a recommendation to Councillors, the Council has done so without a thorough assessment having been undertaken, and without being furnished with all the necessary information required to support a robust decision that *the proposal to build on any particular site is acceptable, in principle*.

The applicant has submitted information and drawings for illustrative purposes only and we note from the draft planning conditions attached to the Development Management Report published on 2/12/19 (Condition No 02) that the fundamental elements of the proposal are to be considered as reserved matters;

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Cleaver Fulton Rankin Limited is a company registered in Northern Ireland with Company Number NI031078 having its registered office at 50 Bedford Street, Belfast BT2 7FW. Cleaver Fulton Rankin is a trading style of Cleaver Fulton Rankin Limited. A list of directors is available at the above registered office.



INVESTORS  
IN PEOPLE



*Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the Council in writing before any development is commenced.*

We contend that the acceptability in principle of the proposed development cannot be adequately considered on the basis of the flawed information currently submitted and we draw Council's attention to the Planning (General Development Procedure) Order (NI) 2015 where it states at Article 4;

*(2) Where the council or, as the case may be, the Department is of the opinion that, in the circumstances of the case, the application ought not to be considered separately from all or any of the reserved matters, the council or, as the case may be, the Department shall notify the applicant that it is unable to determine it unless further details are submitted, specifying the further details it requires.*

Furthermore, we refer the Council to the Strategic Planning Policy Statement (SPPS) paragraph 6.292 which directs the Council in considering the acceptability of retail proposals, to assess the matters raised in our objection notably, transport, access, design, environmental and amenity impacts;

*6.292. In order to ensure high quality and otherwise satisfactory forms of development all applications for retail development or main town centre type uses will also be assessed in accordance with normal planning criteria including transportation and access arrangements, design, environmental and amenity impacts.*

As summarised above we have a number of specific areas of concern and objection which are set out below:

### **1. Failings of the Transport Assessment (TA)**

The failings of the submitted Transport Assessment have been referred to in earlier submissions and are summarised below. Our comments are made on the basis of the proposed 2090sqm building and information included in the TA information whereby the Lidl store will generate 89.34 trips per 100sqm per day. The 2090sqm building will therefore generate 1867 vehicles trips per day.

- **Inadequate Visibility Splays - the visibility splays on Bryansford Road have not been modified to account for the closure of the access to Shan Slieve Drive.** The original proposal had the retail development served by two accesses, reducing the demand for access from Bryansford Road to less than 1000 vehicles per day, therefore splays of at least 2.4 x 70m would have been appropriate for an access serving between 60 and 1000 vehicles per day. With the closure of the Shan Slieve Drive access, all the traffic will now use the Bryansford Road store access – this will be 1867 based on the submitted information, well above 1000 vehicles per day, therefore the required visibility splays on Bryansford Road increase to at least 4.5 x 70m.

- **Out dated traffic information - the use of October/November traffic information for a tourism town is questionable, as it is minimising traffic flows.** Information from March or May would include an element of tourist traffic. We note that this matter has been raised as an objection by a number of local residents. Furthermore, relying on 2016 traffic information in 2019 is not consistent with the Transport Assessment guidance which requires data to be less than 3 years old. Given that the application is being reconsidered, up to date data should be used on which to base the decision.
  - **Flawed assessment - the Transport Assessment supplied by the applicant contains numerous flaws.** The Transport Assessment considers a building of 1848sqm GFA when the application is for a 2090sqm GFA building. The assessment relies on 1995 TRICS Report 95/2. This was replaced with 2014 TRICS Report 14/1, which stated "This report has found that many of the key conclusions made within the 1995 report are no longer valid as shopping trends and travel behaviours have changed". The TA is therefore based on invalid assumptions from an out of date report.
- 2. Inaccurate Land Ownership Information and Unachievable Visibility Splays – we refer to images prepared by SDMcMullen in Appendix 1 with our objections below**
- **Inaccurate Land Ownership Information -** the proposed development site includes land within the red line "planning" boundary as illustrated on Clarman Architects drawing which is (a) clearly in the ownership of our client, and therefore (b) not in LIDL's control. This has not been formally identified as such within the planning application.
  - **Careful inspection of LIDL's own Land Registry Title Deed Map DN221015,** will identify that the underlying curve on the OSNI base map, included as an integral part of Clarman Architects submissions to the LIDL application, on close observation, lies entirely outside LIDL's own Title Deeds.
  - **The information under consideration by Council and statutory consultees relies along the Bryansford Rd on an outdated base map [2012 OSNI digital Ace Map]** which based on recent OSNI Published Accuracy Statements only affords a general indication of L&PS published measurement accuracy limitations in the order of +/- 500 mm stated RSME Value. Common custom and practice demands that the level of relevant mapping detail required to accurately determine important road traffic matters can only be facilitated by way of a bespoke topographical up-to-date survey details along all frontages. This has not been provided. Curiously, Shanslieve Drive access (now omitted) mapping detail was provided in sufficient, but surprisingly not so along the Bryansford Rd Frontage. LIDL's current mapping representations inaccurately show the apparent acceptability of the proposed site access and visibility splays. The drawing is misleading as it ignores the current situation on the ground whereby the visibility splays of 2.4 x 70m cross our client's land and cannot physically be achieved on site. It is notable that the removal of the Shan Slieve Drive access and resultant uplift in vehicular movements using a single Bryansford Rd access, equates to a requirement of 4.5 x 70m visibility splays which have not been considered by either the applicant or DFI Roads and which we do not believe are achievable.



### 3. Failure to communicate our concerns to DFI Roads

Despite our client formally raising concerns and objections with Council on a number of occasions, notably in our clients submission of 19<sup>th</sup> February 2019, we see no evidence of these serious traffic matters having been relayed to and considered by DFI Roads who were last consulted on 24<sup>th</sup> January 2019 and who made their final substantive response on 1<sup>st</sup> February 2019.

### 4. Impact on Residential Amenity

We note the policy direction in the Strategic Planning Policy Statement (SPPS) at paragraph 4.34 which highlights the importance of considering the 'compatibility' of developments within the receiving environment;

*4.34 Key to successful place-making is the relationship between different buildings; the relationship between buildings and streets, squares, parks, waterways and other spaces; the nature and quality of the public domain itself; the relationship of one part of a village, town or city with other parts; and the patterns of movement and activity that are thereby established. The compatibility of a development with its immediate and wider context, and the settlement pattern of a particular area, are important considerations.*

We are encouraged that Council in its most recent Development Management report gives some consideration to planning application R/2008/0537/F which approved a residential development of 14 apartments on lands immediately adjoining the application site at Roslyn Place. Whilst the report (page 7) gives some consideration to the relationship between the two land uses, the assessment relies on two separate small scale site layout drawings, one showing the proposed food store and one showing the approved residential development, with no scaled drawings having been prepared which accurately show the relationship between the two land uses and the potential impact on residential amenity. The reliance on these separate drawings results in the absence of a thorough assessment of the physical relationship between the retail store and the apartments, notably the balconies facing shared boundary and would be only approximately 3.8m from the site boundary rather than the 6m stated in the Development Management report. We refer to SD McMullen's report of the separation distance in Appendix 2.

At the time of the determination of the R/2008/0537/F planning application, the close proximity of the apartments to the site boundary was considered acceptable due to the open aspect of 'Donard Park and Playing Fields' which were 'included within the open space zonings of the Down Plan 2015' (please the Development Control Officers Professional Planning Report R/2008/0537/F and SD McMullen's observations in Appendix 3). In the absence of site plans and cross sections which accurately show the relationship between the neighboring land uses, the SPPS requirement to consider 'the compatibility of a development with its immediate and wider context' has not been fulfilled by Council in its determination of the planning application.

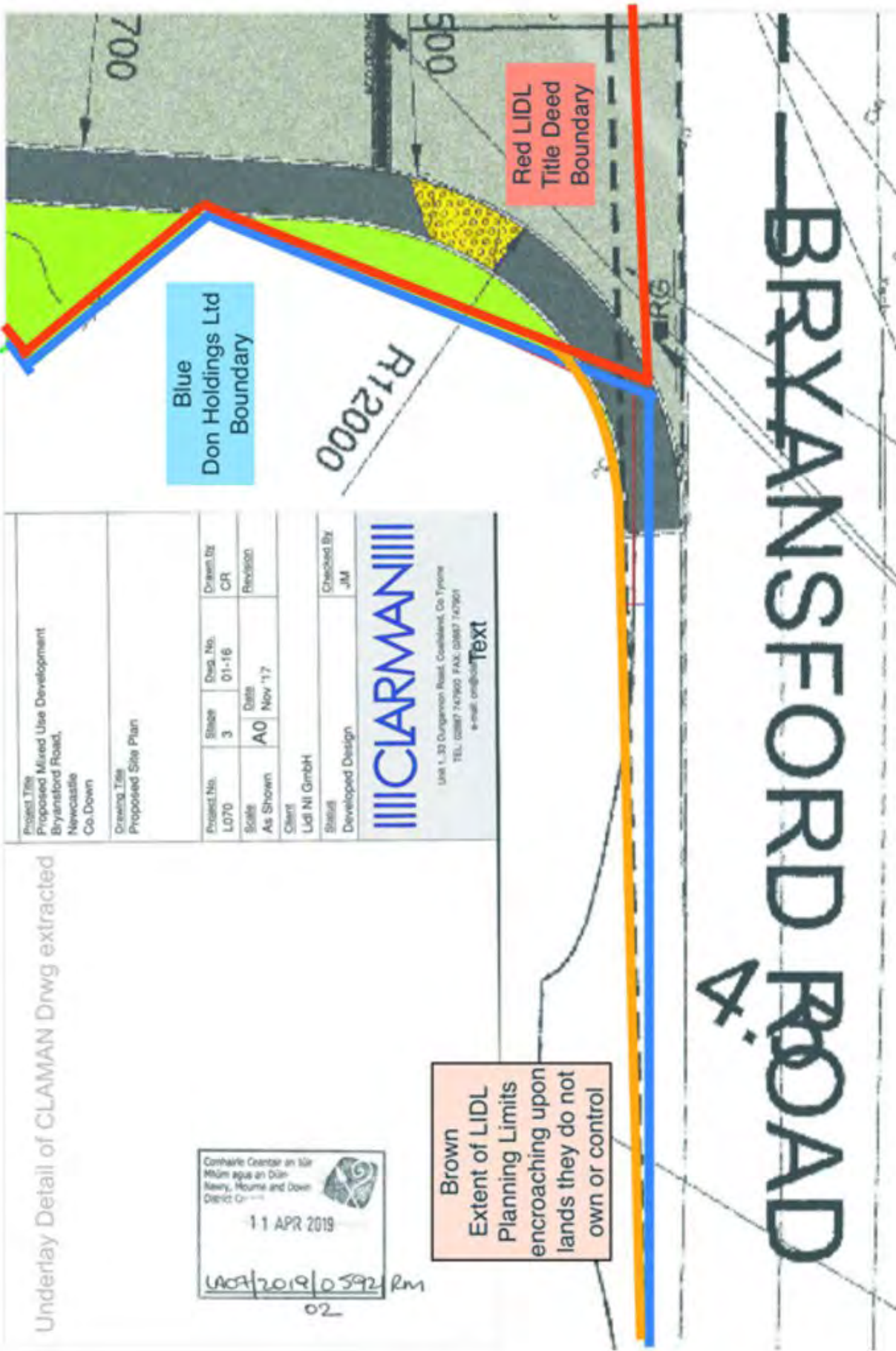
Our client considers that despite their best endeavors to contribute to the planning application process, their serious objections and concerns appear not to have been conveyed to the statutory consultees and have been largely overlooked in the Council's determination of this planning application thus far.

We respectfully ask for the matters referred to in our objection to be fully considered and assessed by the Council and its statutory consultees and for the applicant to be given the opportunity by Council to rectify the fundamental flaws with the current application and in so doing to ensure that Council members have the appropriate information in front of them when making a final decision on this application.

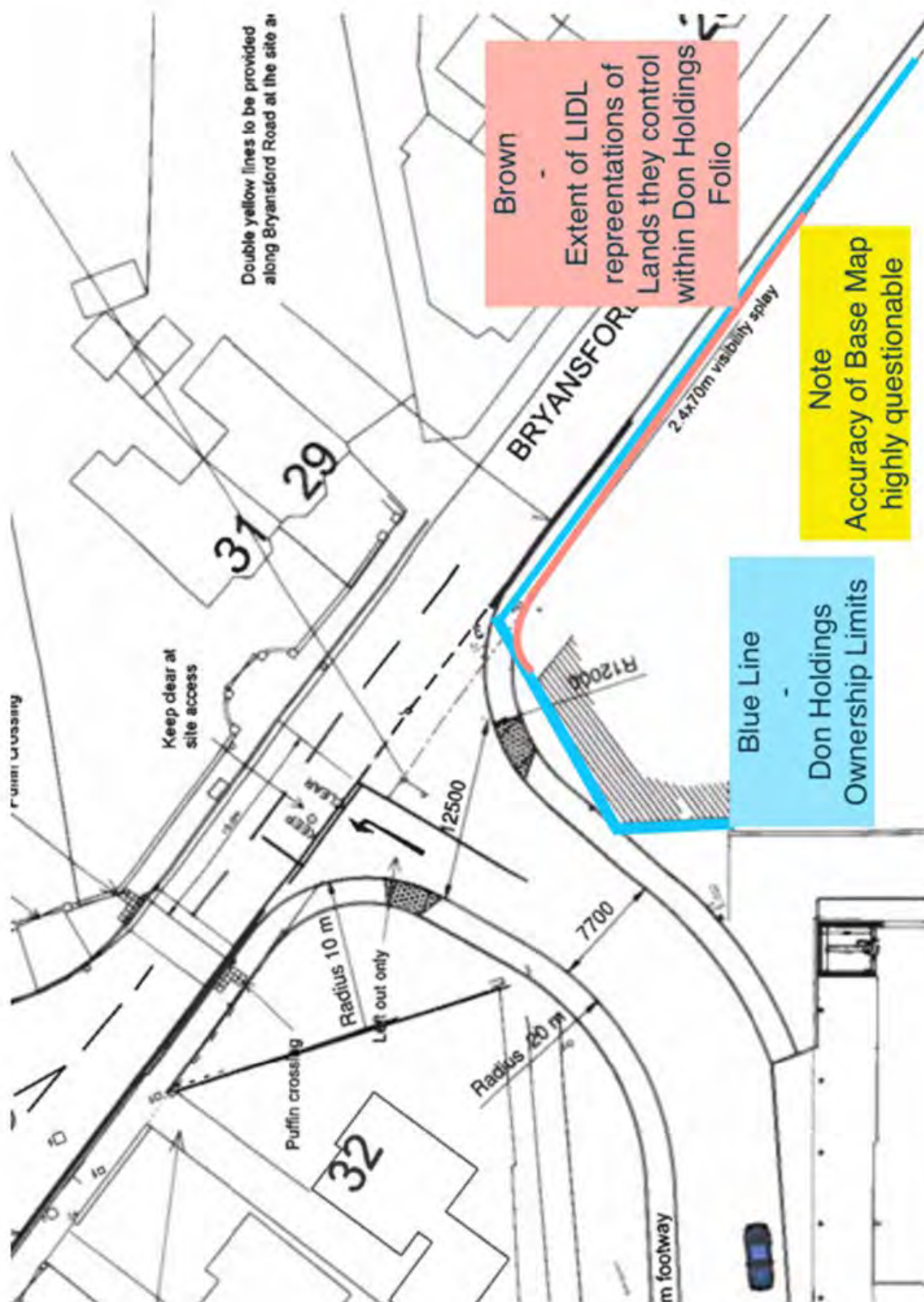
Yours faithfully

*Cleaver Fulton Rankin*

**Cleaver Fulton Rankin**









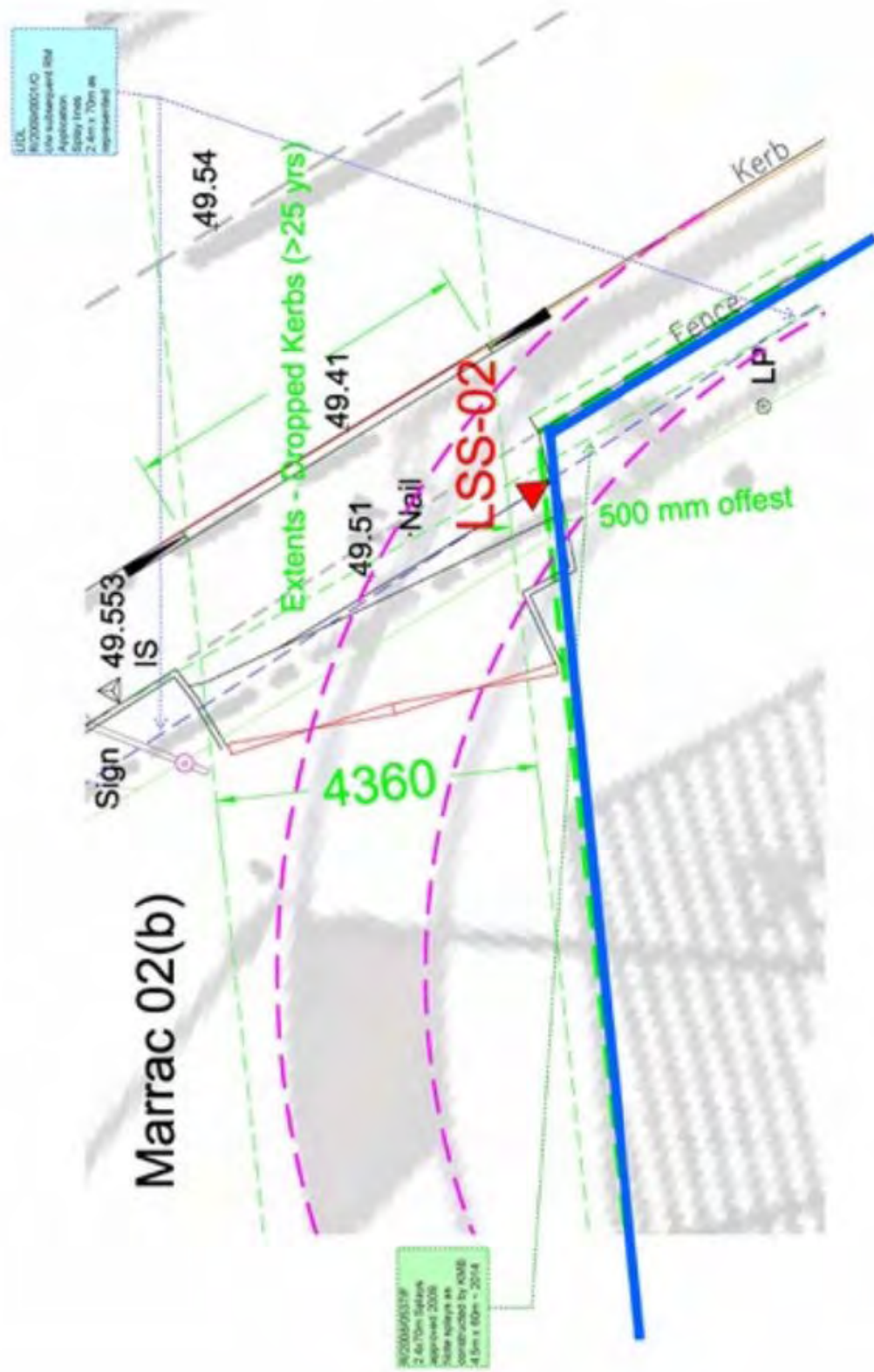
Corner Extract of :--  
Current 2018 LIDL LR Map



Old St Mary's P School Site  
Current DN 221015 LR Map  
2018 Copy

+++++







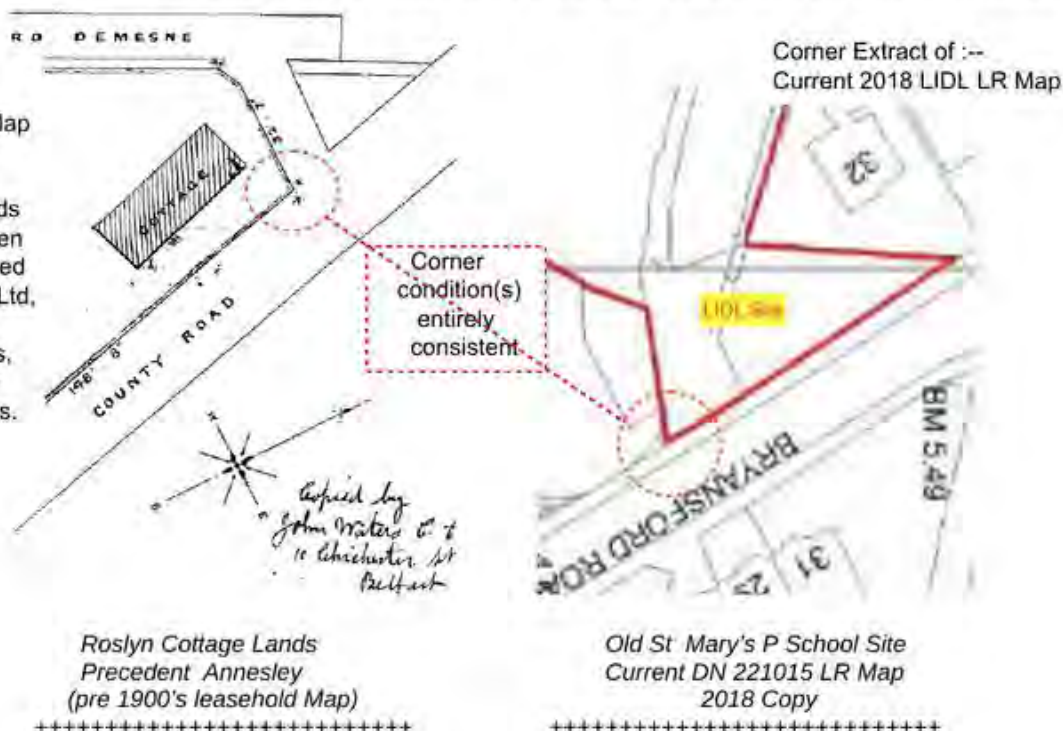
# SUMMARY FINDINGS

56

## Findings based on the following heads of mapping / photographic evidence - dimensions as extracted , tabulated on Page 2/2

1. Photocopy provided by MF Curran Solicitors referring to the parent Roslyn Cottage Land Map Mapper (John Waters & Co., Chichester St, Belfast) namely ex Leasehold – ex Annesley Estate, as mapped prior to 1900's.  
*Pay particular attention to the demarcations of the County Rd.  
This Map shows the carriageway, deemed inclusive of verges, footways etc. By virtue of both the scaled nature of the Map, together with a fixed longitudinal dimensional length of 148'8" along the County Rd, the width(s) of the carriageway in the 1900's can be readily extracted.*

Snapshot of corner of Roslyn Cottage Lands Pre 1900's Leasehold Map  
+++++  
Resulting from 1st registration of these lands in and around 2006, when this property was acquired by KMB Developments Ltd, the Annesley Estate Leasehold original Maps, by necessity, will reside within L&PS LR Archives.



It is clear when the current L&PS DN 221015 LR Map (2018) is benchmarked against the precedent Annesley Estate pre 1900's Leasehold Map, quite apart from the current Don Holdings DN203628 Sept 2018 LR map, all these maps, when viewed together , exhibit a substantial level of consistency, vis a vis :-  
- (a) a sharp square junction where the respective neighbouring properties abut the County Rd.  
- (b) increasing public footway setbacks from this junction along the County Rd- that is in the NW direction.

2. Proni Archive Maps Ed 1,2,3 & 4 stretching from the mid 1800's across the range of the Old County Series Maps (See Proni Map Report).
3. L&PS OSNI Archive Branch Aerial Photographic Records 1970's onwards.  
*These photos provide the necessary evidence to demonstrate the whereabouts of a historic boundary wall, constructed at the limits of the Roslyn Cottage Property*
4. L&PS OSNI Archive Branch Surveyors Trace Notes 1970's onwards.  
*These Surveyor field notes provide the evidential basis on which OS Field Staff recorded their findings of on ground property demarcations in the 70's – 90's*
5. L&PS LR Maps (Current Copy Issues more recently obtained) relating to Don Holdings Site & LIDL Site.
6. L&PS OSNI Digital Ace Map circa 2012 Newcastle.
7. LSS Accurate Topo Maps, 2015 & 2019 update, and again updated & resurveyed
8. Various interrogations / inquiries to DofI TNI / others, establishing via their records, that no lands have ever been adopted in any fashion since the mid 2000's onwards, adjacent to the Roslyn Cottage long standing boundary wall, kerbstone & other defined property limits, regarding Lands acquired in 2014 & currently owned by Don Holdings Ltd along the Bryansford Rd.

### APPENDICES ATTACHED

- 3/6 Full Copy of Roslyn Cottage pre 1900 Leasemap.
- 4/6 2012 Digital Overlays
- 5/6 LSS 2019 Topo Survey Overlay
- 6/6 Enlargements for ease of reference



Pictorial illustration  
key dimensions  
prepared by SDMcM  
Autumn 2019

Don Holdings Issue / 30/10/2019

Detailed Interrogation of  
Land Property Interface Matters  
between LIDL & Roslyn Apartment  
Developments

SD McMullan Architects

Extent of footpath Edge  
as illustrated within  
LIDL Spring 2019 RM  
Planning Application

1080mm Potential Trespass Zone

2120 mm Potential Trespass Zone

451

412

1367

1190

180

397

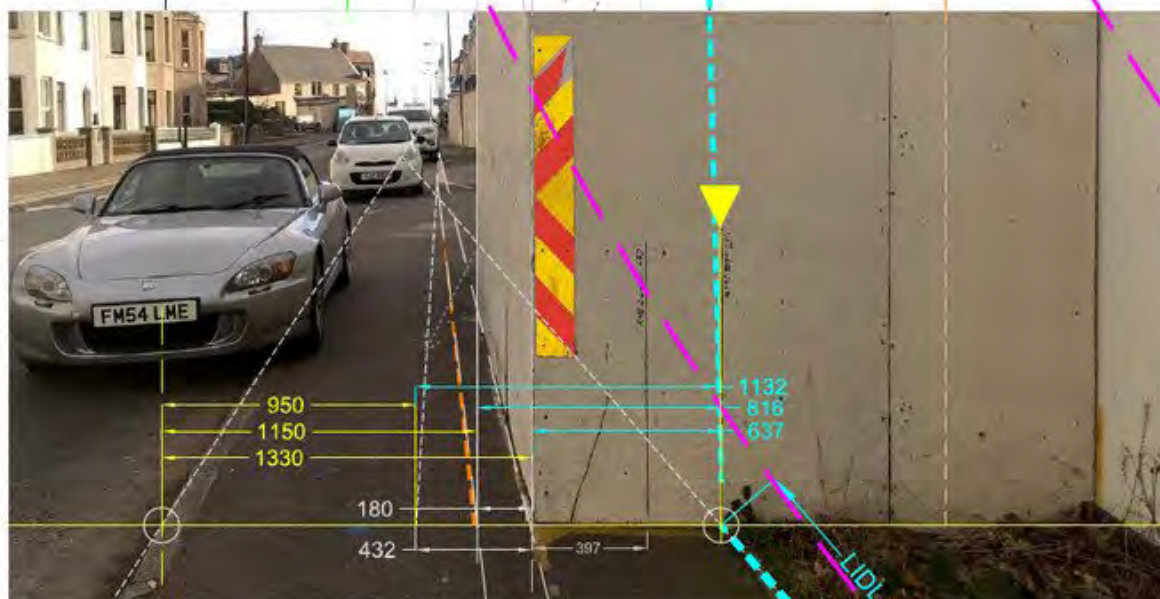
637

816

1052

Ownership Limits  
Don Holding Lands  
Note TarMacadamed  
Footpath (KMB Autumn  
2014) never adopted by  
DOE/TNI

Trespass Zone



950

1150

1330

180

432

397

1132

816

637

Non adopted Zone

LIDL 2.4 x 70m splay



## Commentary on key dimensions particular to the Roslyn Apartment / LIDL Site Boundaries

### Separation distance Assessments

The Dec 2019 NM&D Council Case Officers Report on Page 7 final paragraph confirms ".....The apartment block 6 metres from the common boundary. The proposed food store is a further 7 metres from the common boundary....."



### Observations

1. LIDL's block footprint drawing refers to a separation distance of 5843 mm



Clarman Architects confirmed separation distances expressly stated as 5843mm

2. Don Holdings take exercised due care & diligence in transposing LIDL Footprint drawing. Scale dimensions extracted from LIDL's drawing scales 5773mm - a comparative error of approx 1%.
3. Don Holdings Drawing separation distance from the balcony of the Apartment outlined in red within the Case Officers Report scales at 3880,

4. Don Holdings aggregated scaled distances between balcony edge and the rear of the LIDL Store is in the order of 10960mm
5. The normal recommended distance between the rears of a dwelling at the perimeter garden fence in most residential applications in the order of 10 metres.
6. Council's Planning Service representation of an aggregate distance of 13 metres represents a 30% overstatement, in doing so perversely skewing the reasonableness of Council's assessment position.
7. The Angle of view from the Roslyn Apartment across the magnitude of the rear LIDL Elevation, essentially industrial in nature is in the order of 142 degrees. In normal sightline viewing, an arc of 120 degrees applies. In simple terms the rear elevation dominates overbearingly so.
8. Short term longitudinal views from this balcony across the back elevation are in the order of 47 metres to the NW & 30.9 metres to the NE.
9. Medium term views across the Roof-scape are in the order of 59.7 metres in the NW direction, & 50.6 metres in the NE direction.
10. The overall rear width of the LIDL Elevation is 75.6 metres
11. The approved width of the Full size double height bay window across the entire living area is 4000, 5.2% of the width of LIDL's rear elevation.



These figures demonstrate the overwhelming levels of overbearing ness in terms of industrial scale massing

The domestic scale and nature of the residential units of the adjoining Apartments do not compete.



## Development Control Officer's Professional Planning Report

Case Officer: Ms K Killen		Application ID: R/2008/0537/F	
		Application Type: Full	
Applicant Name and Address:	KMB Developments Ltd Hillyard House 15 Castle Avenue Castlewellan Co Down	Agent Name and Address:	Mr S McKay SD McMullan Architects 2 Golf Links Road Newcastle Co.Down BT33 0AN

**Location:** 28 Bryansford Road, Newcastle  
**Development Type:** Erection of Building(s)  
**Proposal:** 14 No. apartments with associated car parking, LPG tank installation and amenity areas.  
**Date Valid:** 5th June 2008  
**Statutory Expiry Date:** 4th September 2008  
**Date of last Neighbour Notifications:** 13th June 2008  
**Date of District Council Consultation:** 23/11/09  
**Date of A31 Determination & Decision:** No  
**EIA Determination:** No Determination  
**Date First Advertised:** 25th June 2008  
**Date Last Advertised:** 25th June 2008

### Consultees

EHS - Water Management ( DEPARTMENTAL ), 17 Antrim Road, Lisburn, Co Antrim, BT28 3AL.

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

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

Downpatrick Divisional Planning Office ( INTERNAL ), Rathkeltair House, Market Street, Downpatrick, Co Down, BT30 6EJ

### Notified Neighbours

The Occupier ( NEIGHBOUR ), St. Marys Primary School, Shanslieve Drive, Newcastle, BT33 0HJ

The Owner/Occupier ( NEIGHBOUR ), 36 Bryansford Road, Ballaghbeg, Newcastle, BT33 0HJ

The Owner/Occupier ( NEIGHBOUR ), 34 Bryansford Road, Ballaghbeg, Newcastle, BT33 0HJ

The Owner/Occupier ( NEIGHBOUR ), 32 Bryansford Road, Ballaghbeg, Newcastle, BT33 0HJ

The Owner/Occupier ( NEIGHBOUR ), 28 Bryansford Road, Ballaghbeg, Newcastle, BT33 0HJ

The Owner/Occupier ( NEIGHBOUR ), 31 Bryansford Road, Ballaghbeg, Newcastle, BT33 0HJ

The Owner/Occupier ( NEIGHBOUR ), 29 Bryansford Road, Ballaghbeg, Newcastle, BT33 0HJ

The Owner/Occupier ( NEIGHBOUR ), 25 Bryansford Road, Ballaghbeg, Newcastle, BT33 0HJ

The Owner/Occupier ( NEIGHBOUR ), 20 Bryansford Road, Ballaghbeg, Newcastle, BT33 0HJ

The Owner/Occupier ( NEIGHBOUR ), 23 Bryansford Road, Ballaghbeg, Newcastle, BT33 0HJ

The Owner/Occupier ( NEIGHBOUR ), 21 Bryansford Road, Ballaghbeg, Newcastle, BT33 0HJ

The Owner/Occupier ( NEIGHBOUR ), 27 Bryansford Road, Ballaghbeg, Newcastle, BT33 0HJ

The Owner/Occupier ( NEIGHBOUR ), 18a, Bryansford Road, Ballaghbeg, Newcastle, BT33 0HJ

The Owner/Occupier ( NEIGHBOUR ), 19 Bryansford Road, Ballaghbeg, Newcastle, BT33 0HJ

#### Representations

No data found

No data found

#### 08 Consultations Summary

No data found

#### Consultation Summary

No data found

#### Consultation replies text

EHS - Water Management

Roads Service - Downpatrick Office

Water Service - Downpatrick Office

Downpatrick Divisional Planning Office

#### Consultee replies

EHS - Water Management, 17 Antrim Road, Lisburn, Co Antrim, BT28 3AL. (DEPARTMENTAL), Refusal recommended, Letter, 26th June 2008

Roads Service - Downpatrick Office, Rathkeltair House, DOWNPATRICK, BT30 6EA (DEPARTMENTAL), App subj to cond etc, Letter, 16th July 2008

Water Service - Downpatrick Office, Cloonagh Road, DOWNPATRICK, BT30 6ED (DEPARTMENTAL),  
Statutory, Consultation Reply, 27th August 2008

Downpatrick Divisional Planning Office, Rathkeltair House, Market Street, Downpatrick, Co Down, BT30 6EJ  
(INTERNAL), No objection, Letter, 18th June 2008

#### Site History

R/1987/0739

Very Rev H Canon O'Neill PP VF

Parochial House Newcastle

New mobile classroom and toilet block

ST MARY'S GIRLS PRIMARY SCHOOL SHANSLIEVE DRIVE NEWCASTLE

Full

Erection of Building(s)

Local Authority decision

Approval (historical)

16-NOV-87

R/1988/0009

Board of Trustees

C/o H F O'Neill PP Parochial House Newcastle

Vehicular road entrance to Bryansford Road

ST MARYS PRIMARY SCHOOL SHANSLIEVE DRIVE NEWCASTLE

Full

Minor Works/Env. Improve.

Local Authority decision

Approval (historical)

17-MAR-88

R/1993/0961

Tollymore Football Club

C/O Mr Paul Ireland 113 Central Promenade Newcastle

New floodlighting to playing fields

LANDS AT DONARD PARK NEWCASTLE

Full

Building Extension/Alteration

Local Authority decision

Approval (historical)

23-DEC-93

R/2001/0778/TPO

Mr K Mc Bride

6 Tullybrannigan Road Newcastle Co Down BT33 ODU

TPO.

St Marys Girls School, to rear of 34-38 Bryansford Road & 2-8 Tullybrannigan Road, Newcastle.

Tree Preservation Order

Unknown

20th June 2001

R/2005/0070/F

KMB Developments

Hillyard House 15 Castle Avenue Castlewellaan Co Down BT31 9DX

Residential development (12 apartments and 3 dwellings) with associated car parking and amenity area.

24/26 Bryansford Road, Newcastle

Full

Erection of Building(s)

31st January 2005

Local Authority decision

Approval

21-JUN-06

R/2007/0086/Q

SD Mc Mullan

2 Golf Links Road Newcastle Co Cown BT33 OAN

Housing Development

Bryansford Road, Newcastle

Pre App Preliminary Enquiry

Erection of Building(s)

24th January 2007

R/2007/0936/TPO

Woodland Trust

1 Dufferin Court Dufferin Avenue Bangor Co Down

Tree Preservation Order Request.

Donard Park, Newcastle, Co Down.

Tree Preservation Order

Unknown

5th October 2007

R/2007/1110/F

KMB Developments LTD

Hillyard House 15 Castle Avenue Castlewellan

2 No. replacement dwellings

18-20 Bryansford Road Newcastle BT33 0HJ

Full

Replacement

30th October 2007

Local Authority decision

Approval

23-SEP-08

### Constraints

AONB/003 - Mourne AONB

Mourne

AONB - Environment Areas

Designated

R/2007/0225CA - R/2007/0225CA

Donard Park, Newcastle

Enforcement Case - DC CASE

New

SD - South Down

South Down

Parl Constituency Boundary - RESIDUAL ITEMS



Effective

PLA2/6/018/08 - LANDS AT DONARD PARK, NEWCASTLE, CO DOWN  
LANDS AT DONARD PARK, NEWCASTLE, CO DOWN  
TPO - TREE PRES. ORDER  
Confirmed

**Representations – including objections**

1. Brief Summary of Issues

2. Consideration of Issues

**Policies**

ASC/006 - Area of Special Control (Amenity)

Mourne

ASC - PLAN POLICIES

Pending

L/R/003 - Development Limit of Newcastle

Down District Council

Development Limit - PLAN POLICIES

Adopted

HEQ/R/0001 - Newcastle Area of High Environmental Quality

Newcastle

LANDUSE ZONING - PLAN POLICIES

Adopted

**Case Officer Report****SITE VISIT DETAILS/DESCRIPTIONS****Characteristics of Site and Area**

The site is part of a larger and currently being built, housing and apartment site. The site is flat and non profiled with vegetation boundaries to the south and west. The northern boundary is shared with the access road to the development. The site is accessed from the Bryansford Road which is a residential area with mixed use development further to the east.

The neighbouring and completed 3 storey high apartment complex is a modern design with a pitched roof and projecting balcony features to the south elevation which neighbours the football pitch. The apartment complex is finished in grey tiles, red brick and smooth render painted yellow. The development also has 2.5 storey high town houses with roof dormers finished in smooth render.

Opposite the site are 2.5 storey high semi detached and terrace dwellings. To the west of the site along Bryansford Road is pedestrian access to a school, and a row of semi detached 2 storey dwellings.

The site is located within a larger residential development and abuts a public road within the settlement limit of Newcastle.

**Description of Proposal**

The proposal is for 14 apartments in a 4 storey high apartment block which would extend onto the existing (approved under R/2005/0070). The proposal includes planting details and ground floor car parking with 21 spaces and each unit has a balcony detail that overlooks the Donard football grounds, the architectural style reflects the existing apartment complex within the development. The proposal will be finished with natural slate roof tiles, brick work, smooth render and stonework.

The proposal consists of 10 3 bed apartments on floors 1 and 2, and 4 duplex 3 bed apartments on floors 3 and 4 (roof space).

The proposal was submitted with a concept plan in keeping with QD2 of PPS7.

**ASSESSMENT OF POLICY AND OTHER MATERIAL CONSIDERATIONS****CONSULTEES****NI WATER**

27.8.2008 – no objections to the application with the comment that there is no storm sewer.

16.12.2008 – email confirmation to NI Water regarding their previous comments stating foul sewer is available and no storm sewer, Dept wanted confirmation that this application would not cause any detrimental impact on the sewerage infrastructure of Newcastle.

18.12.2008 – email from John Quinn to state that NIWL have considered the proposed and future development for the 1<sup>st</sup> application for all the development site for which an Article 161 Agreement in April 2008 and a scheme is currently being considered for a storm water sewer for this and previous development – NI Water do not have any objections to this application.

15.6.2009 meeting with Department in which NI Water confirmed commitment has been given for the scheme.

**NIEA –WATER MANAGEMENT UNIT**

26.6.2008 - Recommends that Planning Service refuse the application unless the developer and NIWL can agree a temporary solution which will not have further impact on the environment.

#### ROADS SERVICE

16.7.2008 – no objections to the proposal with several conditions and informatives notes particularly that the site will remain private and pedestrian crossing points are to be provided each side of access, should the Department approve the application.

#### DEVELOPMENT PLAN

The Draft Ards and Down Area Plan 2015 16.6.2008 – site is within Whiteland and is not subject to any particular land use designation, the Plan draws attention to policy NE 12 to such no objections have been received. This policy is therefore included in the Policy considerations.

#### NO LETTERS OF OBJECTIONS/ REPRESENTATION

None received to date

#### ARDS AND DOWN ADOPTED PLAN 2015

Policy NE 14 refers specifically to apartment development. The Policy states that proposals for apartments must respect the setbacks of properties from the street, the treatment of boundaries, the structural landscape and retention of trees, the scale, height and massing when viewed from the street, the articulation of the roof and buildings lines as well as architectural detailing and use of materials.

#### POLICY

Plan – NE 14

PPS1

PPS12

PPS3

PPS7

Creating Places

PPS8

#### Parking Standards

The development provides its parking in curtilage, the apartments are 3 bedroom:

1.75 unassigned spaces

2.0 assigned spaces

The proposal includes 21 incurtilage spaces which works out at 1.5 spaces per unit. However it must be noted that this level of car parking was accepted under the completed apartment complex within this development.

#### ASSESSMENT

##### PRINCIPLE OF DEVELOPMENT

the proposal is sited within the settlement of Newcastle and its important to note that this site is part of a larger residential development that is partly complete. The site neighbours Donard Park and Playing fields and therefore has the benefit of neighbouring established open space that has been included within the open space zonings of the Down Plan 2015.

##### Impact on Character of Area: (see Circular PC/0307)

The Character of the vicinity has been largely affected by this larger residential development along Bryansford Road. The character ranges from terrace 2.5 storey dwellings to 1.5 storey high semi detached dwellings, not forgetting the existing and neighbouring 3.5 storey high apartment block. As a result I would consider the

character of the area to be higher density inner urban. In terms of scale, massing and height the proposal reflects the neighbouring apartment complex which is within the same residential development as the proposal, however by that measure the proposal is also in keeping with Policy NE 14 of the Down Plan. The proposal includes planting within the site, along the boundary shared with Donard Park as well as additional boundary treatments'. This is in keeping with both policy NE14 and PPS7.

The proposal includes a specific area for bin storage. The access for both vehicles and pedestrians are feasible and therefore the movement pattern through the site itself is both practicable and workable. The proposal will also be the entrance building for the existing access to the site and will create a feature building through architectural detailing that is also reflected in the neighbouring apartment building design – this is in keeping with Creating Places.

The proposal will be a highly visible feature within Bryansford Road, it will read with the existing development itself and therefore will not appear incongruous with the approved and existing built form and streetscape. The proposal is set back from the Bryansford road and therefore will not totally dominate the street scene and respects the building line or the existing built form.

#### **Impact on Residential Amenity:**

The main properties affected by the proposal are the dwellings within the development itself. There will be no issue of direct overlooking between existing and proposed units within the development and therefore there will be no harm to private amenity of these properties.

Due to the orientation of the proposal and the separation between units the proposal will not cause any significant loss of light to neighbouring properties.

#### **Layout/Design/Materials:**

The proposed layout will not create issues of overlooking between units, I considered this previously within the "impact on residential amenity". The design of the proposal will be in keeping with the context of the existing development and it will also be an attractive feature within the development itself. The layout is workable and practical and suitable bin storage has been provided for. There is a variation in materials for the road and walkway layout in keeping with policy and boundary treatments along the boundary shared with Donard Park will help ease the transition from the development to the zoned open space, this again reflects the existing development features.

### **RECOMMENDATION**

#### *Approval*

Considering the existing development on this site, this proposal will create a feature building that reflects the architectural style of the existing development which providing adequate car parking at a ratio of 1:1.5, Roads is



content with the proposal and they added a note that the development is to remain private, NIEA are content that Ni Water have provided commitment for the scheme.

Application ID: R/2008/0537/F

Case Officer: Ms K Killen

**Recommendations**

No data found

**Brief Summary of Reasons for Recommendation**

**Brief Summary of Conditions**

**Case Officer's Recommendation**

No data found

**Refusal Reasons**

No data found

**Conditions**

No data found

**Informatives**

No data found

DC Officer's Signature: \_\_\_\_\_



Date: \_\_\_\_\_

4/11/09

Application ID: R/2008/0537/F

Case Officer: Ms K Killen

Brief Summary of DC Group Discussion

Approve as per DCs recommendation

D.C. Group Signatures:

*[Handwritten signatures]*

Date:

4/11/09

Council View

No Comment

Agree

Disagree

Defer

Referral

☐
☒
☐
☐
☐

Application has been reconsidered under the Draft Addendum to PPS7, Policy LCI.

The current proposal is in agreement with this policy.

No change in opinion.

*[Handwritten signature]*

20/11/09

*[Handwritten signature]*

20/11/09

20/11/09

Application ID: R/2008/0537/F

Case Officer: Ms K Killen

**Late Items**

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



**Application ID:** R/2008/0537/F

**Case Officer:** Ms K Killen

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**Deferred Application – Consideration**

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

**D.C. Group Signatures:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Date:** \_\_\_\_\_

Application ID: R/2008/0537/F

Case Officer: Ms K Killen

Deferred Application – Reconsideration

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

D.C. Group Signatures: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

# MBA Planning

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## Statement to Planning Committee

on behalf of the Applicant, Lidl Northern Ireland

Proposed Foodstore & Mountain Rescue Centre, Bryansford Road,  
Newcastle (ref: LA07/2018/0001/O)

December 2019

1. This Statement on behalf of the Applicant, Lidl Northern Ireland, supports the Planning Department's recommendation to approve this application for a foodstore and mountain rescue centre.
2. The proposed foodstore will allow the Applicant to relocate from its current premises at Railway Street. It is too small to carry Lidl's full range of goods, it has narrow aisles with limited circulation space, it has insufficient car parking and it falls short of the standards required of a modern foodstore.
3. The Railway Street store was only supposed to be temporary until a larger site could be found. Lidl looked for an alternative site in and around Newcastle Town Centre for over 10 years but none were large enough and suitable until the application site became available. It is only 80 metres from the Town Centre and the application complies with the sequential test.
4. The proposal will be a freestanding foodstore with adequate parking facilities that will offer additional choice for local shoppers in modern and spacious surroundings without undermining the vitality and viability of Newcastle Town Centre.
5. The mountain rescue centre will provide a new permanent base for the Mourne Mountain Rescue Team (MMRT), allowing them to relocate from their current temporary premises at the PSNI Station in Newcastle. The proposed building will have a number of benefits:

- It will provide the MMRT with a permanent base, which will provide greater certainty in making strategic planning and investment decisions;
  - Unlike MMRT's existing building, it will be a purpose-built structure with a layout and facilities that will improve the efficiency of the Team;
  - It is well located to the "rescue hotspots" in the Mourne Mountains thereby allowing callouts to be dealt with quickly and it is well located to Donard Park where rescue helicopters land;
  - It will provide a covered storage area for emergency vehicles and will reduce maintenance costs;
  - It will facilitate the Council's stated aims of encouraging outdoor tourism, health and recreation and will provide education and rescue services in support of those aims.
6. A large number of reports have been submitted with the application and confirm that the proposal will have no adverse effects on the environment or the amenity of local residents. The vast majority of trees on the site will be retained and supplemented with additional planting, while Lidl also plan to have natural stone and a green roof on the store to help it blend into its surroundings (these matters would be agreed at reserved matters stage).
7. The proposed access to the site is at Bryansford Road. It was initially planned to also have an entrance from Shan Slieve Drive but following consultations, it was decided that this access should be closed up. DfI Roads are content with the proposal.
8. The proposal involves an investment of £3.2 million in construction, the creation of 12 additional retail jobs (in addition to the 14 existing jobs that will be maintained) and an annual rates contribution of c. £150,000.
9. This is a sustainable development that complies with the local development plan and all other relevant planning policies. It will regenerate a brownfield site with modern, attractive buildings and has significant social and economic benefits. We commend it to the Council.





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**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2019/1142/O

**Date Received:** 23<sup>rd</sup> July 2019

**Proposal:** Proposed gap site for 1No. dwelling

**Location:** Side garden at 75 Station Road Saintfield



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

The site is located off Station Road, Saintfield and is comprised of a 0.1hectare portion of land consisting of the side garden associated with No 75 Station Road. The is defined along the northern, western and southern boundaries by mature vegetation. The boundary to the east of the site outlined in the red and that shown immediately

north of No 75 are currently undefined. The site is relatively flat well-maintained garden.

The site lies within a row of several dwellings – to the west the plots are larger and mature containing large detached properties, while to the immediate east of the site small semi-detached dwellings are noted at Jacksons Crescent.

The site is not located within any settlement development limits and is located within the rural area as defined in the Ards and Down Area Plan 2015. There are no site-specific constraints identified on the lands in question.

#### **Site History:**

R/1979/0237 - CARSONSTOWN, SAINTFIELD – BUNGALOW - PERMISSION GRANTED

R/1983/0482 - STATION ROAD, SAINTFIELD – DWELLING - PERMISSION GRANTED

R/1984/0851 - ADJ TO 75 STATION ROAD, SAINTFIELD. – DWELLING - PERMISSION GRANTED

R/1987/0112 - ADJ TO 75 STATION ROAD SAINTFIELD – Bungalow - PERMISSION GRANTED

R/1987/0165 - ADJACENT TO 75 STATION ROAD SAINTFIELD - Dwelling and garage - PERMISSION GRANTED

**Planning Policies & Material Considerations:**

The application is considered against Ards and Down Area Plan 2015 and in addition to this is also considered against PPS 3, Access, Movement and Parking, PPS 21 Sustainable Development in the Countryside and SPPS.

**Consultations:**

Transport NI AND Northern Ireland Water (NIW) were consulted in relation to the proposal and have responded with no objections.

**Objections & Representations**

The application was advertised in the local press on 7th August 2019 which expired on 21<sup>st</sup> August 2019. All relevant neighbour notifications issued on 27<sup>th</sup> September 2019 which expired on 11th October 2019.

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

**Consideration and Assessment:**

The Ards and Down Area Plan 2015 has identified the site as falling within the open countryside. The plan does not contain any policies or provisions relevant to the proposal.

**SPPS**

The Strategic Planning Policy Statement for NI Ireland (SPPS) is material to all decisions on individual applications. The SPPS retains policies within existing planning policy documents until such times as a Plan Strategy for the whole of the Council Area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in favour of the provisions of the SPPS.

**PPS 21**

The relevant policy context is provided by Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21).

### CTY 1 – Development in the Countryside

Policy CTY 1 of PPS 21 states that there are a range of types of developments which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. The applicant has submitted the application on the basis that he considers the proposal to comply with CTY 8 of PPS 21 (infill dwelling).

### CTY 8 – Ribbon Development

Policy CTY 8 of PPS 21 states that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respect the existing development pattern along the frontage in terms of the size, scale, siting and plot size etc.

In assessment of the proposal, it is Councils opinion that a substantial and continuous built up frontage exists and is comprised of No. 52 Carsonstown Road, Nos 73 and 75 Station Road and No 1 Jacksons Crescent.

It may be noted that at No 52 Carsonstown Road and No1 Jacksons Crescent are not directly accessed off Station Road, however, their associated curtilages abut Station Road and therefore share a frontage with the site.





In assessment of whether the site respects the existing development pattern along the frontage in terms of the size, scale, siting and plot size etc, it is noted that the pattern of development is predominantly defined by those dwellings to the west of the site at No 52 Carsonstown Road and Nos 73 and 75 Station Road. These dwellings are noted to be large detached properties, set within large mature plots. Those dwellings to the east of the site are single storey semi-detached dwellings which, do not contribute to the overall development pattern, as those dwellings listed to the west of the site form the majority of the frontage development.

The proposal intends to site a new dwelling in a portion of garden to the side of No 75 Station Road. This would result in the plot size of the proposed dwelling appearing significantly smaller than those to the west.

The dwellings at No 52 Carsonstown Road, Nos 73 and 75 Station Road are noted to present large front elevations to the road, the indicative site layout plan submitted in support of the application shows a narrow (gable type) frontage to the road, which would not be in keeping with the pattern of development along the majority of the frontage.

On this basis it is considered that the proposal does not comply with the exceptions of CTY 8 and is therefore contrary to policy.

### **Conclusion**

Having assessed the proposal against the various planning policies and material considerations which apply to the application and taking into account the input of the

Councils consultees, it is determined that the proposal is unacceptable in planning terms and refusal is recommended for the following reason

**Recommendation:**

Refusal

**Reason:**

The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal, is not in keeping with the existing development pattern along the frontage in terms of its siting and plot size.

Signed .....

Date .....

Signed .....

Date .....



Comhairle Ceantair  
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agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2019/1231/o

**Date Received:** 14<sup>th</sup> August 2019

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

**Location:** 80m South of 22 Drumgooland Road, Downpatrick

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

The site subject of this application is a long and narrow irregular shaped field which extends to the north west of the Drumgooland Road and curves northwards. It runs along the length of the access track to no.22 Drumgooland Road. The site has an existing field access from the field to the road. To the north of the site is the main farm yard including farm buildings and a dwelling.

The area surrounding the site is generally agricultural and rolling drumland in topography. The site is not within any settlement development limits as defined in the Ards and Down Area Plan 2015.

#### **Site History:**

R/2008/0983/F - 22 Drumgooland Road, Downpatrick, Co Down

Retention of dwelling as - constructed in substitution for previously approved dwelling granted permission under R/2002/0377/F and amended by R/2003/1266/F

Permission Granted 26/02/2009

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

The application is considered against Ards and Down Area Plan 2015, PPS 3 Access, Movement and Parking and PPS 21 Sustainable Development in the Countryside and SPSS.

#### **Consultations:**

NI Water was consulted and responded with no objections to the proposal.

Transport NI was consulted and responded with no objections.

DAERA responded to say that the farm business has been in existence for more than 6 years and that a farm payment had been claimed in each of the last 6 years and that the application site is on land which payments have been claimed by the farm business for the last 6 years.

### **Objections & Representations**

The application was advertised in the local press on 28<sup>th</sup> August 2019 which expired 11<sup>th</sup> September 2019; neighbour notification which was issued on 20<sup>th</sup> August 2019 expired on 3<sup>rd</sup> September 2019. To date there have been no objections lodged in relation to the application.

### **Consideration and Assessment:**

As this application is for a dwelling on a farm the initial policy context considered is CTY 10 Dwellings on Farms.

The farm business in question appears to be currently active and established and DAERA were able to confirm that the farm has been active for the last 6 years and that the farm business has claimed payments through the Basic Payment scheme in each of the last 6 years.

The P1C states that the farm business was established in over 20 years ago with DAERA confirming the allocation of the farm business identification number in 2012. Point A of CTY 10 has been met.

A site history check has been carried out on the lands submitted and shown on the farm maps and there does not appear to have been any development opportunities sold off from the farm holding. This is further confirmed by the answer to Q5 of form P1C which states that there have been no dwellings or development opportunities sold off from the farm holding since 25<sup>th</sup> November 2008.

The proposed dwelling would sit approx. 70m from the nearest building which forms part of the farm, which is the dwelling, no.22. On the farm itself are two large farm sheds and another farm outbuilding. From aerial photographs, one large shed and the farm outbuilding have been in existence for several years. The other farm shed has been in existence only since 2019. The site sits a distance from the nearby farm buildings. It is not considered that it would particularly cluster with the existing farm buildings. The site sits closer to no. 20 Drumgooland Road than it does with no.22.

The proposed dwelling would have a new access created through the gate which currently serves the field.



Policy CTY10 policy also states that CTY 13, 14 and 16 must be adhered to.

### CTY13

Given the long and narrow shape of the site, it is rather constrained in terms of where the proposed dwelling could actually be facilitated. The submitted concept plan shows the dwelling proposed would have a side-on orientation to the Drumgooland Road which officers consider would be visually at odds with the arrangement of dwellings in the adjacent area which generally are orientated facing the road or laneway which they are served by. This side-on orientation highlights the fact that this particular site is not suitable for occupation with a suitably positioned dwelling due to its long and narrow width.

This application is for an outline dwelling and therefore the design of this dwelling is not taken into consideration at this stage. It is nonetheless considered that while the proposed dwelling would be set back from the road, its orientation would be visible from views along while travelling along Drumgooland Road in both directions.

Officers are of the opinion that the siting of the proposed dwelling is inappropriate, and that the orientation is out of keeping with the wider area.

### CTY 14

Officers consider that even a modest sized dwelling would be difficult to accommodate on this site given its long and narrow shape. The proposed concept plan depicts a dwelling set side-on to the road which is not in keeping with the wider area and does not respect the traditional settlement pattern exhibited in the area. The proposed dwelling would sit in between the two adjacent dwellings, no.20 and 22 and would result in a line of three dwellings in the countryside, or a ribbon of development.

As such, the proposed development would not be considered appropriate in terms of Rural character.

### CTY16

Foul Sewage is proposed to be disposed of via a bio disc. Further details of this would be submitted at reserved matters stage and the necessary permission from NIEA Water Management Unit and NI Water are required. The proposal is not contrary to CTY16.

### ACCESS

DFI Roads were consulted as part of this application They have no objections subject to access arrangement compliance with RS1 form at a Reserved Matters stage.

As such, the proposed new dwelling is not considered to be in accordance with the guidelines of PPS 13 and PPS 14 and as such would not be considered acceptable development in the countryside.

**Recommendation:**

Refusal is recommended

**Reasons for refusal:**

1. The proposed development would fail to comply with Policy CTY14: Rural Character in that the dwelling would not respect the traditional pattern of settlement in the area. Furthermore, the dwelling would be poorly sited in relation to surrounding development, to the detriment of the area.

The drawing numbers to which this decision relates are: LA07/2019/1231/01 - 02

**Case officer:**

**Authorised by:**

**Date:**



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

**Application Reference: LA07/2019/1234/O**

**Date Received: 13<sup>th</sup> August 2019**

**Proposal: Dwelling and garage on an infill site**

**Location: Adjacent and south of 22 Rocks Chapel Road, Crossgar**

#### **Site Characteristics and Area Characteristics:**

The site is located along the Rocks Chapel Road in Crossgar and is comprised of a 0.13 hectare of land which is currently occupied as garden and hardstanding of the dwelling at 22 Rocks Chapel Road. The site is located between the dwelling and two stable buildings to the south east.

The site is defined along the road frontage with a stone wall and some mature vegetation, while the remaining boundaries are undefined at present. Beyond the rear of the site is the garden of no.22. To the south of the site is a paddock and a sand school associated with no.22.

The surrounding land is predominantly agricultural in use with a number of dwellings dispersed throughout the land. The site is located within the rural area, outside any designated settlement areas.

#### **Site History**

LA07/2019/0498/LDE – 22 Rocks Chapel Road, Crossgar

Stables, Yard, Sand School and Grass Paddock

Permitted Development 12/04/19

**Planning Policies and Material Considerations:**

In assessment of this proposal, regard shall be given to the Regional Development Strategy (RDS) 2035, Strategic Planning Policy Statement (SPPS), Ards and Down Area Plan 2015, PPS3, 6 and 21 (CTY1, 8, 13, 14, 15), Building on Tradition (Guidance Document), in addition, to the history and any other material consideration.

**Consultations:**

DFI Roads – No objections subject to compliance with access arrangements set out in RS1.

NI Water – No objections

**Objections & Representations:**

The application was advertised in the local press on 21<sup>st</sup> August 2019 which expired on 4<sup>th</sup> September 2019 and neighbour notification issued on 15<sup>th</sup> August 2019 expired on 29<sup>th</sup> August 2019. To date there have been no objections received in relation to the proposal.

**Consideration and Assessment:**

The policy context for this application is provided for by Planning Policy Statement 21 'Sustainable development in the countryside' (PPS21). Policy CTY1 of PPS21 states that there are a range of types of developments which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. The applicant has submitted the application on the basis that he considers the proposal to comply with CTY8 of PPS21 (infill dwelling).

Policy CTY8 of PPS21 states that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of the size, scale, siting and plot size etc.

In assessment of this, the proposed site sits between the dwelling at no.22 Rocks Chapel Road and two stable buildings. The dwelling at no.22 has an active frontage which presents to the road. One of the stable buildings sits side on to the road and the other stable building is built with its back directly to the road. As such, officers consider that there is a substantial and continuously built up frontage of three buildings along a road frontage and this site forms an infill opportunity.



In terms of calculating plot size, this application site poses an unusual arrangement given that the proposed infill site sits between the dwelling at no.22 and two stable buildings, both within the same site. The current dwelling frontage of no.22 Rocks Chapel Road has a plot width of 52m. The frontage of the stables area has a plot width of approx. 60m. Therefore, the average of the two plot widths is 56m. The width of the site proposed is 22m at the road and 30m at its widest. The width of this proposed site falls significantly short of the surrounding plot widths and would not be considered to respect the surrounding pattern of development. The size of the curtilage of the proposed site would appear small and cramped compared to the surrounding sites. Given the size of the site, there would be a limited amount of garden space in comparison to the surrounding dwellings given that there would need to be adequate space retained for access and egress into the stable which sits to the south eastern boundary of the site. The proposed site would also appear to be artificially subdivided given its small size. Furthermore, the proposed dwelling would sit in close proximity to the existing dwelling at no.22 given its rural setting. As such, Officers consider that the site proposed under this application would appear out of keeping with the site pattern and plot size of the surrounding sites given that it would have a plot width of only 30m. It would therefore be to the detriment of the countryside.

Policy AMP2 of PPS3 states that planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access onto a public road where:

- (A) Such access will not prejudice road safety or significantly inconvenience the flow of traffic and
- (B) The proposal does not conflict with Policy AMP3 – Access to protected Routes (which is not applicable in this case).

In assessment of this policy requirement, DfI Roads has no objections to the application, subject to compliance with the access arrangements set out in the RS1 form.

As such, officers consider that while there is a line of 3 buildings present, the proposed site does not respect the existing development pattern along the frontage in terms of size, scale, siting and plot size. The site would result in a plot width which is significantly below that of the adjacent sites and this would be to the detriment of the character, appearance and amenity of the countryside. As such, refusal is recommended.

**Recommendation:**

Refusal is recommended

**Reasons for refusal:**

1. The development proposed is in conflict with Policy CTY8 of PPS21 in that the proposed site does not respect the existing development pattern along the frontage in terms of size, scale, siting and plot size. The site would result in a plot width which is significantly below that of the adjacent sites and this would be to the detriment of the character, appearance and amenity of the countryside.

**Case officer:**

**Authorised by:**

**Date:**



**Application Reference:** LA07/2019/1257/F

**Date Received:** 15<sup>th</sup> August 2019

**Proposal:** two storey extension to side of dwelling

**Location:** 87 Seaview, Killough

**Site Characteristics and Area Characteristics:**

The application site comprises an end of terrace dwelling which has a garage set behind the dwelling. There is a garden area to the rear of the dwelling and hardstanding to the side which is used for parking. There is a small front garden.

The dwelling is located within the residential development known as Seaview which is within the settlement limits of Killough. Immediately surrounding the site are dwellings of a similar design and scale. The site lies within the AONB.

**Planning History**

No relevant planning history.

**Planning Policies and Material Considerations:**

The application is considered against the Ards and Down Area Plan 2015 and in addition to this is also considered against Addendum to PPS 7 Residential Extensions and Alterations and SPPS.

**Consultations:**

No consultations were necessary to allow this application to proceed.

**Objections & Representations:**

The application was advertised in the local press on 4<sup>th</sup> September 2019 which expired on 18<sup>th</sup> September 2019 and neighbour notification issued on 5<sup>th</sup> September 2019 and expired on 19<sup>th</sup> September 2019. To date there have been no objections received in relation to the proposal.

**Consideration and Assessment:**

The proposal is for the erection of a two-storey side extension upon the northern elevation of the dwelling which would have a depth of 8m and a width of 3m. The extension would have a pitched roof with a ridge height of 7.3m and an eaves of 4.7m. There would be a set back of 0.35m from the front and back elevation and a set down of 0.25m from the main roof ridge. The ground floor of the extension would be made up of a car port with a front garage door. Above the car port would be a fourth bedroom and an ensuite. There would be one rear window at first floor level and one front window at first floor level which would span the eaves in line with the adjacent window.

• **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.**

In terms of design, the proposed two storey extension would be slightly set down from the ridge height and set back from the front elevation to appear subordinate and the roof form and the dormer.

The proposed extension would increase the scale, bulk and mass of no.87 given the two storey nature of this side extension. The northern elevation of the extension would, at its closest point sit some 20cm from the boundary with no. 89. This would result in a cramped appearance. The proposed location of the extension would result in an awkward relationship between the existing garage and the new built form rendering it of limited use and very hemmed in by the rear elevation of the proposed extension. There would furthermore be unsatisfactory circulation space on site. While officers note that bins and services could be moved from the rear of the site to the front of the site for collection through the car port at ground floor level, there does not appear to be adequate circulation space for general movement around the site.

Officers raise concern that there would be a terracing effect resulting in there being only a separation distance of 1m between the northern elevation of the extension and the nearest wall of no.87. The proposed two storey extension would significantly fill



the gap between no. 87 and 89 which would result in a terracing effect given that the gap between the dwellings would be only 1m. When viewed from the surrounding streetscene, the absence of this gap would be out of character with the surrounding area. It is considered that the presence of gaps between the dwellings form an important relief from the bulk of the terraces and their loss would negatively impact upon the area. While officers note that there have been two storey extensions proposed elsewhere in Seaview, those were on end of terrace properties which had more space on both sides of the boundary. The site proposed is more restricted in terms of space, and there is minimal space on the other side of the boundary at no. 89 and as such a terracing effect would be created.

- **The proposal does not unduly affect the privacy or amenity of neighbouring residents.**

The proposed extension would add significant bulk upon this northern elevation of no.87. The extension would extend close to a first-floor window of no. 89 which appears to serve a hallway. The proposed extension would lead to some overshadowing of this window, however given that the hallway is not a habitable room, this would not be considered materially harmful. The proposed extension would not extend built form any further to the east than the existing building line and so there would not be any loss of light or outlook to the front elevation of no.89. Officers consider however that the proposed extension would project quite close to the front door of no. 89 and may be considered somewhat overbearing to these residents.

The proposed extension would be orientated away from no. 85, and as such, would not result in any materially harmful impact upon their residential amenities.

- **The proposal will not cause the unacceptable loss of, or damage to, trees or other landscape features which contribute significantly to local environmental quality.**

There are no significant trees or landscape features likely to be affected as a result of the works, the area to be developed is currently an area of hardstanding and there are no trees present on site.

- **Sufficient space remains within the curtilage of the property for recreational and domestic purposes including the parking and manoeuvring of vehicles.**

The proposed extensions would not alter any parking arrangements on site as there would remain 2 parking spaces, one of which would be in the car port. There would be adequate space for recreational and domestic purposes as the extension would sit upon the side area of hardstanding previously used for parking. This extension will not impact on either aspect of the above policy requirements.

**Recommendation:**

Refusal is recommended

**Reasons for Refusal**

1. The proposed development conflicts with criterion (a) of EXT1 of Addendum to PPS7 in that the scale and massing of the proposed extension would cause a cramped appearance on site and result in a terracing effect which would detract from the appearance and character of the surrounding area.

**Informatives:**

The drawing number to which this decision relates is: LA07/2019/1257/F 01 – 06.

**Case officer:**

**Authorised by:**

**Date:**



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2019/1221/F

**Date Received:** 13.08.2019

**Proposal:** The application is for full planning permission for Proposed Guest House Tourist Accommodation & associated site works.

**Location:** The application site is located outside the settlement limits in the open countryside, within Tollymore Park Historic Park, Garden and Demesne and Area of Outstanding Natural Beauty (AONB) as designated in the Ards and Down Area Plan 2015.



**Site Characteristics & Area Characteristics:**

The site is located off Tullybrannigan Road, Newcastle and to the eastern side of Tollymore Park which is designated as an Historic Park, Garden and Demesne in the ADAP 2015. Access is via an existing laneway which serves a number of other properties and lies westwards from Tullybrannigan Road approx. 360 from the road. The site lies within the forest and therefore is surrounded by trees. The site accommodates an existing detached two storey building, garage and a number of outbuildings

**Site History:**

R/1984/0844 - Extension To Dwelling 180, Tullybrannigan Road, Newcastle.

**Planning Policies & Material Considerations:**

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

**Consultations:**

NI water – No objections

DFI Roads – Objection

NIEA Water management – No objections

Historic Environment Division – No objections

Rivers Agency – No objections, however, although this development does not exceed the thresholds as outlined in Policy FLD 3 and subsequently a Drainage Assessment is not required, there may be potential for surface water flooding as indicated by the surface water layer of the Flood Hazard Maps (NI). As such it is the developer's responsibility to assess the flood risk and drainage impact and to mitigate the risk to the development and any impacts beyond the site.

**Objections & Representations**

In line with statutory requirements four neighbours have been notified on 30.08.2019. The application was advertised in the Mourne Observer and the Down Recorder on 28.08.2019.

**Consideration and Assessment:**

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 the determination must be made in accordance with the Plan unless material considerations indicate otherwise.

The Strategic Planning Policy Statement for NI Ireland (SPPS) is material to all decisions on individual applications. The SPPS retains policies within existing planning policy documents until such times as a Plan Strategy for the whole of the Council Area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in favour of the provisions of the SPPS.



## PPS 21 Sustainable Development in the Countryside

The site is located in the countryside, therefore the policy context is provided by Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21). Policy CTY 1 indicates that there are a range of types of development which in principle are considered acceptable in the countryside and that contribute to the aims of sustainable development.

PPS 21 states that planning permission will be granted for tourism development in accordance the TOU Policies of PSRNI. The TOU policies within PSRNI have since been superseded by SPPS and Planning Policy Statement 16: Tourism (PPS 16), published in its final form in June 2013. It follows that compliance with any of the policies in PPS16 would mean that the principle of such development in the countryside has been established in accordance with Policy CTY 1 of PPS 21. The SPPS also contains policies dealing with tourism, these do not conflict with any retained policies and consequently the relevant policy context in respect of tourist development is provided by Planning Policy Statement 16 – Tourism (PPS 16).

The proposal is to replace a number of existing buildings within the site with a building to be used for tourist accommodation. The building is 6.2m to FFL and comprises timber clad vertical boards (brown), corrugated tin roof (black) aluminium frames, double glazed and hardwood framed doors. The accommodation provides for 3 double bedrooms all three with ensuite and two with dressing rooms, kitchen/living/dining, utility and car port.

In the agents Design and Access & supporting Statement he deems the application to meet the requirements of PPS 16 – Tourism policy TSM 3 – Hotels, Guest Houses and Tourist Hostels in the Countryside.

### TSM 3 – Hotels, Guest Houses and Tourist Hostels in the Countryside

TSM 3 states that planning permission will be granted for a new hotel/ guest house/ tourist hostel in the countryside in the following circumstances and will be assessed under the specified criteria:

#### Circumstances

- (a) The replacement of an existing rural building;
- (b) A new build proposal on the periphery of a settlement

It goes on to state the specified criteria in such circumstances.

Before this criteria can be considered it is important to refer to Appendix 1 – Glossary Of Terms at the end of PPs 16. The definition of a guest house – As defined by the Tourism (NI) Order 1992 – Categories of Tourist Establishment (Statutory Criteria) Regulations

"A guest house shall provide overnight sleeping accommodation for visitors in separate rooms comprising not less than three double bedrooms".

In the same glossary, Self Catering Establishment is also defined by the Tourism (NI) Order 1992 – Categories of Tourist Establishment (Statutory Criteria) Regulations – Schedule 4 – Criteria for self catering Establishments

"A self catering establishment shall comprise one or more self contained units providing furnished accommodation (including sleeping accommodation and catering facilities for visitors".

It goes on to state that The Tourism Order defines a self catering unit as including "houses, cottages, apartments or rooms, bungalows, chalets, cabins and caravans". The following categories of tourist accommodation established by the Article 12 of the Tourism (NI) Order 1992 and Amendment – Categories of Tourist Establishment Order (NI) 2011, have no specific policy provisions included in PPS 16: Bed & Breakfast Accommodation, Bunk Houses, Campus Accommodation, Guest Accommodation.

The agent is misguided in his assessment of the proposal as a guest house, the proposal would seem to fit as self catering accommodation in which case the application would need to be assessed under TSM 5 – Self Catering Accommodation in the Countryside

#### **TSM 5 – self catering accommodation in the countryside**

Policy TSM 5 states that planning permission will be granted for self catering units of tourist accommodation if any of the three listed circumstances are met. Circumstance (a) requires that one or more units be located within the grounds of an existing or approved hotel, self catering complex, guest house or holiday park, this would not be the case in this context. Circumstance (b) is not relevant as the proposal does not provide a cluster of three or more new units but seeks to replace two existing buildings with one building of tourist accommodation. Circumstance (c) of Policy TSM 5 allows for the restoration of an existing clachan or close through conversion and/or replacement of existing buildings. Whilst "clachans" are not defined in PPS 16, the existing buildings could not be described as a clachan. Circumstance (c) allows for the replacement of existing buildings, not just conversion, subject to the retention of the original scale and proportions of the buildings and sympathetic treatment of boundaries. In this evidential context, it is considered that the proposed development does offend circumstance (c) as it seeks to replace existing buildings not within a group of buildings defined to be a clachan. As such, it does conflict with Policy TSM 5.

Thus following consideration of the proposal against Policy TSM 5, the proposal does not meet any of the specified circumstances.

In terms of assessment of other relevant policies of PPS 21, Policy CTY4 which is entitled 'Conversion and re-use of an existing buildings' is one such instance. However, as the application is to replace the existing building, it would not fall into this category.

#### **PPS 3 - Access, Movement and Parking AMP 2**

PPS 3 sets out the planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking. It forms an important element in the integration of transport and land use planning. Transport NI have been consulted regarding the proposal and would deem that there would be an intensification of the access.

#### **Conclusion**

Following consideration of the proposal against TSM 5 – self-catering accommodation in the countryside, the proposal does not meet any of the specified circumstances. In addition, it would fail the tests of AMP 2 of PPs 3

**Recommendation:**

Refusal

**Refusal Reasons:**

1. The proposal is contrary to Policy CTY 1 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 and Policy TSM 5 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposal does not meets any of the specified criteria.
3. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the width/visibility of the existing access renders it unacceptable for intensification of use and is not in accordance with the standards contained in the Department's Development Control Advice Note 15.

Case Officer Signature

Date

Appointed Officer Signature

Date



BF / J550 / 02 January 2020

FAO Democratic Services,

**Re: PROPOSED DEMOLITION OF OUTBUILDINGS & PROVISION OF GUEST HOUSE TOURIST ACCOMMODATION & ASSOCIATED SITE WORKS ASSESSED UNDER PPS16, TSM3 AT LAND 10m NORTH WEST OF 180 TULLYBRANNIGAN ROAD, NEWCASTLE, CO. DOWN**

**REF: LA07/2019/1221/F**

## Refusal Reasons:

1. The proposal is contrary to Policy CTY 1 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 and Policy TSM 5 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposal does not meet any of the specified criteria.
3. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the width/visibility of the existing access renders it unacceptable for intensification of use and is not in accordance with the standards contained in the Department's Development Control Advice Note 15.

Following a full assessment of the Council's initial assessment of this planning application and the recommended reasons for refusal the following should be outlined.

1-This application was submitted seeking permission for a 'Proposed Guest House Tourist Accommodation & associated site works' as described within the submitted P1 application form.

2-As is outlined within the Council's planning report the definition of a guest house is as follows;

'A guest house shall provide overnight sleeping accommodation for visitors in separate rooms comprising not less than 3 double bedrooms'.

An assessment of the submitted floor plans clearly illustrates that the proposed development provides three separate double bedrooms within, for guests, providing overnight sleeping accommodation. The above definition of a guest house does not preclude the provision of dining/living areas.

The Council within their planning assessment have assessed the proposal as being self-contained accommodation.

The definition of self-contained accommodation outlines that 'a self-catering establishment shall comprise one or more self-contained units providing furnished accommodation (including sleeping accommodation and catering facilities) for visitors'. It is further stated that 'The Tourism Order defines a self catering unit as including "houses, cottages, apartments or rooms, bungalows, chalets, cabins and caravans". This application does not propose a house, cottage, apartment (or rooms), bungalow, chalet, cabin or caravan. The application



does not seek to sub-divide the plot and the existing access to the site shall be used. The guest house shall be sub-ordinate to the residential function found within the site.

It is noted within the case officers report that it is stated that the proposal 'would seem to fit as self-catering accommodation'. It would appear from the case officer's statement that they are unclear/uncertain in their categorisation/assessment of the proposal.

This application seeks to provide a guest house within the applicant's holding which shall add to the tourist offer within the Council area. It is considered that the Council have incorrectly assessed this application against the wrong planning policy.

The applicant wishes to provide a guest house, has submitted a planning application for same and wishes for it to be assessed against the relevant planning policy which in this case is TSM3 of Planning Policy Statement 16. It is considered that the Council have incorrectly assessed this application.

## **TSM 3 Hotels, Guest Houses and Tourist Hostels in the Countryside**

### **New / Replacement Buildings**

Planning permission will be granted for a new hotel / guest house / tourist hostel in the countryside in the following circumstances and will be assessed under the specified criteria:  
Circumstances

(a) The replacement of an existing rural building:

*It is proposed to replace a number of existing outbuildings/garages within the site within the proposal.*

A proposal to replace an existing building in the countryside with a hotel, guest house or tourist hostel will be permitted subject to the following specific criteria:



- the building is of permanent construction;  
*The buildings to be replaced can be seen to be of permanent construction, are structurally sound and have been in situ for many years.*

- the existing building and its replacement are both of sufficient size to facilitate the proposed use in accordance with the accommodation requirements set out in Tourism (NI) Order 1992  
*Both the existing building and the proposed building are of sufficient size to provide the proposed tourist use as required via the Tourism (NI) order 1992.*

- the existing building is not a listed building;  
*The building is not listed*

- where the existing building is a vernacular building and is considered to make an important contribution to local heritage or character, replacement will only be approved where it is demonstrated that the building is not reasonably capable of being made structurally sound or otherwise improved;  
*The existing building would not be seen to be vernacular. As it is not highly visible it does not make an important contribution to the local heritage or character. Therefore, its replacement is deemed to be acceptable.*

- the redevelopment proposed will result in significant environmental benefit;  
*The removal of the existing buildings and the provision of the guest house shall provide environmental benefits to the site and local area. The proposal shall remove old vacant buildings from the site. The guesthouse shall provide a sustainable unit of tourist accommodation within an environmental sensitive area. It shall be constructed from sustainably sourced timber and utilise sustainable rain water harvesting systems.*

- the overall size and scale of the new development, including car parking and ancillary facilities, will allow it to integrate into the surrounding landscape and will not have a visual impact significantly greater than the existing building;  
*The modest size and scale of the development as proposed including proposed car parking will permit it to visually integrate into the site and local landscape. Given the in situ mature trees which surround the site, limited public views and scale of the development it is seen that it will not have a visual impact significantly greater than the existing buildings.*

- the design is of high quality, appropriate to the rural setting and has regard to local distinctiveness;  
*The design of the building is seen to provide a building which shall be appropriate to its rural setting and has regard to the site and heritage of the local area. The building exhibits many features of traditional rural design including a pitched roof, rectangular footprint and windows with a vertical emphasis. The building shall be finished with locally sourced timber cladding in homage to the adjacent former Forestry Service HQ building.*

- access, car parking and other necessary services are available or can be provided without significant adverse impact on the environment, the appearance and character of the locality and road safety.  
*The existing access of the site shall be utilised and appropriate car parking provision shall be provided without any adverse impacts upon the local environment or the appearance or character of the local area or road safety.*

A recent similar case in which the Council (NMD) misinterpreted the requirements of PPS 16 includes planning approval ref: LA07/2018/0915/F. In this case the Council initially sought to refuse permission via a misinterpretation of policy TSM3 which was incorrect. Following a full assessment by the planning committee this application was granted planning approval on 20<sup>th</sup> Feb. 2019.

An assessment of the case officer report provides no objections to the development in relation to neighbouring amenity levels, natural or built heritage features or the visual impact



of the proposal. It is also noted that no 3<sup>rd</sup> party objections have been lodged against the proposal.

It is noted that within the case officer report for planning approval ref: LA07/2016/0964/O 'Site for 4 No. earth integrated houses (Underground Houses) for holiday rental... at 30m South East of No 280 Moyad Road Kilkeel, the Council concedes that 'there is a general need for more tourist accommodation in the Mourne area'. This development seeks to provide further tourist accommodation within this area.

The site is ideally located to be able to provide a secluded guest house within one of the Councils main tourist attractions/parks. This shall add to the range of tourist accommodation within the council area. The applicant is content that a condition of approval would be the inclusion of a use condition which shall ensure that the proposal is utilised for tourist accommodation only.

### PPS 3; Access Movement & Parking

The applicant also wishes to be given the opportunity to address the concerns raised by DFI Roads, namely, provision of width for access & its sight visibility splays to meet the standards.

The access width is measured at 3.4m wide for the first 10m. This could be widened to 4.8m.

The sight visibility splays to the south is measured at 2 x 33m.

The applicant can provide a letter from the land owner to the south which would confirm that he has permission to maintain the hedge to provide a sight visibility splay of 2 x 33m.

It is felt that 2 x 45m sight splay is unreasonable considering that the traffic approaching the single vehicle bridge from the south would be traveling at low speeds. This can be justified by a Transport Consulting Engineers report.



Access is adjacent to Priest's Bridge (single file traffic over bridge at slow speeds)





Sight visibility splay of 2x33m to the south

This proposed development seeks to provide a modest unit of accommodation within the Tollymore Forest Park. The successful provision of this development shall help the Council to move towards its stated number one strategic objective.

The key Policy Objectives of 'PPS16 - Tourism' is to manage the provision of sustainable and high quality tourism developments in appropriate locations within the built and natural environment to:

- facilitate sustainable tourism development in an environmentally sensitive manner
- contribute to the growth of the regional economy by facilitating tourism growth
- safeguard tourism assets from inappropriate development
- utilise and develop the tourism potential of settlements by facilitating tourism development of an appropriate nature, location and scale
- sustain a vibrant rural community by supporting tourism development of an appropriate nature, location and scale in rural areas
- ensure a high standard of quality and design for all tourism development.

When assessed against prevailing/applicable planning policy it can be seen that it is in keeping with same and in turn shall provide a sustainable tourist development which shall be acceptable in terms of its visual and environmental impact.

The facility shall be utilised by hikers, mountain bikers and cyclists who wish to stay close to the amenities they will use.

As such, it is respectfully requested that the merits of this application are assessed and looked upon favourably by the council and that planning approval is granted.

Yours sincerely

**Barry Fletcher RIBA**





Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

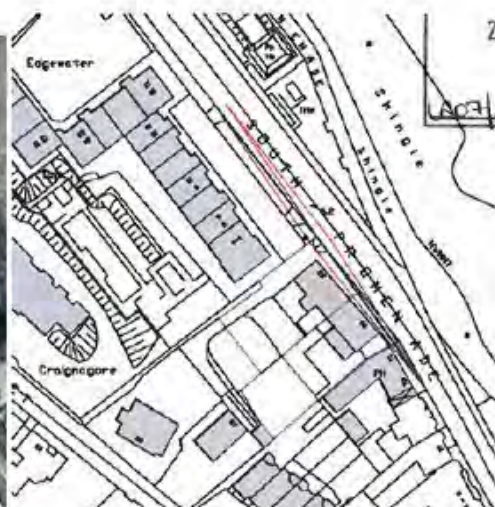
**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2019/1302/F

**Date Received:** 27.08.2019

**Proposal:** The application is for full planning permission Provision of dwelling with associated parking and amendment of Application R/2011/0794/F to remove parking area for apartments and replace with shared amenity space.

**Location:** The application site is located within the settlements limits of Newcastle and in an Area of Townscape Character as designated in the Ards and Down Area Plan 2015.



**Site Characteristics & Area Characteristics:**

The site is located off South Promenade Newcastle and is comprised of roughly square and rectangular plot located to the rear of Nos. 65-69 South Promenade and immediately to the front of No 63 South Promenade. The site is grassed at present and rises steeply from South Promenade in a SW direction toward the properties at No 63 South Promenade and 28 King Street which sit at a higher level than those along South Promenade. The existing access to No 63 runs parallel to the NW boundary along the site, which will also serve this site. The immediate area is predominantly residential, however there are retail premises to the east of the site.

**Site History:**

R/1994/0072 REAR OF 65B South Promenade Newcastle Bungalow Granted

R/2000/0330/F 67 South Promenade, Ballaghbeg, Newcastle, Change of use of part of supermarket to a hot food carry out PERMISSION GRANTED 26.05.2000

R/2011/0794/F 65 and 67 South Promenade Newcastle, Proposed change of use of restaurant to retail unit on ground floor and 2no 1 bedroom apartments on the first floor PERMISSION GRANTED 03.09.2012

LA07/2017/1614/F Apartment B 65 South Promenade Newcastle Bedroom and utility room extension PERMISSION GRANTED 12.12.2017

LA07/2018/0061/F To the rear of 65-69 South Promenade, Newcastle, Proposed dwelling Permission Refused 24/01/2019.

LA07/2018/0750/F - Apartment B 65 South Promenade

Newcastle - Proposed bedroom and utility room extension to first floor apartment, with additional bedroom at second floor Permission Refused - 07.03.2019

**Planning Policies & Material Considerations:**

The application site is located within the settlement limits of Newcastle, within the Mourne AONB, an Area of Townscape Character (ATC) and sphere of influence of an archaeological site and monument as designated in the Ards and Down Area Plan 2015 and as such the SPPS is the relevant policy document, which is read in conjunction with PPS 2, PPS 3, PPS 6, PPS 7 'Quality Residential Environments' and the second addendum to PPS7 'Safeguarding the Character of Established Residential Areas' (the Addendum). Supplementary guidance contained in 'Creating Places - Achieving Quality in Residential Developments' (CP) is also material to the consideration of the application as is DCAN 8 'Housing in Existing Urban Areas'.

**Consultations:**

NI Water – statutory response

DFI Roads – objection – detailed below

Historic Environment Division – No objections

**Objections & Representations**

In line with statutory requirements seventeen neighbours have been notified on 09.09.2019. The application was advertised in the Mourne Observer on 11.09.2019.

Two letters of objection have been received from the occupants at No 63 South Promenade and No 28 King Street. No 63 has also sent in a second letter to counter argue the parking survey that was submitted.

Kieran Fitzpatrick 63 South Promenade, Newcastle raises the following issues:

- Inadequate vehicular access to the site

- Build restrictions and guidance (and the need to avoid town cramming)
- Issues regarding boundaries and proposal in close proximity
- Previous application for a refusal on the same site
- Loss of privacy and overlooking
- Inaccuracies on current plans
- Allocation of parking for the apartments already approved

Robert Martin 28 King Street, Newcastle raises the following issues

- Objections from the previous application
- Existing Right of way
- Commercial storage already on the site
- Incorrect sightlines
- Additional vehicles and their impact and access to the site
- Access serves 63 South promenade and 28 King Street
- Nature of amenity space for apartments
- Excavation work has already taken place on the site, now a steep topography
- Loss of amenity to property

One letter of support has been received from Jim Wells MLA stating that the applicant has met Roads concerns and the site is brownfield site within Newcastle.

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

Section 45 of the Planning Act (NI) 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 application is located within the settlement of Newcastle, within the ATC and with the Mourne AONB.

The Strategic Planning Policy Statement for Northern Ireland 2015 (SPPS) provides advice regarding housing in settlements to planning authorities engaged in preparing new area plans. Whilst advocating increased housing density without town cramming, its provisions do not conflict with extant regional policy in respect of proposals for dwellings within settlements.

#### **PPS 7 -Planning Policy Statement 7 Quality Residential Environments**

##### **Planning Policy Statement 7 Quality Residential Environments**

Planning Policy Statement 7 Quality Residential Environments (PPS7) sets out planning policies for achieving quality in new residential development. 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. Notwithstanding the strategic objective of promoting more housing in urban areas, paragraph 1.4 of PPS7 states that this must not result in town cramming. It adds that in established residential areas the overriding objective will be to avoid any significant erosion of the local character and the environmental quality, amenity and privacy enjoyed by existing residents.



Policy QD1 thereof states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable environment.

The current proposal seeks full planning permission for the erection of a detached dwelling. The dwelling has an overall height of 5.8m to FFL and an underbuild of 0.35m. There is a single storey rear return which extends 6.3m to the rear and which drops in ridge height to 4.4m above FFL. The dwelling will be finished with smooth rendered walls and black plinth, aluminium windows, aluminium and glass front door, black PPC Aluminium rainwater goods and dark flat roof tile / slate.

Within Policy QD1 of PPS 7 there is a requirement for all proposals for residential development to conform to the listed criteria A – I.

**(a) the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas;**

This is a full application to establish whether a dwelling at the site to the rear of No's 65 and 69 South Promenade is acceptable. The site layout provided shows the proposal in relation to Number 63 South Promenade and No 28 King Street. The plot on which the actual dwelling will sit is 15.5m x 15m. The remaining portion of the red line is being used to reconfigure the amenity space for the apartments at No 65 South Promenade.

DCAN 8 discusses that for a site to be successful backland development it must have appropriate plot depth and configuration. DCAN 8 states 'Backland development on plot depths of less than 80m is unlikely to be acceptable, except where the existing urban grain is very urban in character, and where careful design can overcome concerns of overlooking and day lighting'. The site size is less than a quarter of this, with the overall backland plot approx. half of the recommended 80m. The urban grain could not be described as a 'tight urban grain' nor would it be sufficiently tight to overcome concerns regarding residential amenity and character and to allow for a lesser plot depth.

The layout arrangement shows a dwelling positioned close to the boundaries with No 63 and 69 South Promenade and with No 30 King Street which results in poor private amenity space which is approx. 45m<sup>2</sup> of useable space (plans indicate 62m<sup>2</sup> some of which is to the rear of the rear return of the proposal which is located approx. 2m from the boundary with lands just to the NE of No 30 King Street). This is at the lower end of the guidance from Creating Places whereby amenity space should be between 40m<sup>2</sup> – 70m<sup>2</sup>. The dwelling is 6.5m to the boundary with No 63 South Promenade and 1m from the boundary with No 69 South Promenade (indicated as being owned /controlled by the applicant). The front of the dwelling which includes two living room windows and a bedroom window is approx. 1.5m from the grassed bank owned by No 63 where there is a change in levels of approx. 1.5m and thus the outlook for potential residents would be poor. The owner/occupiers of No's 65 and 69 may be prepared to tolerate a lower level of amenity than is required is not a sufficient reason to permit an otherwise unacceptable proposal as its neighbours or future occupiers may not. Thus a dwelling on the plot would be overdevelopment of the site and not



respect the surrounding context and is inappropriate to the character and topography the site.



**(b) features of the archaeological and built heritage, and landscape features are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development;**

Historic Environment Division have been consulted regarding the proposal and archaeological and built heritage will not be impacted upon.

**(c) adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area;**

Given the nature of the development public open space is not a requirement. There is adequate private space within the application site to accommodate the private open space provision.

**(d) adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development;**

The provision of neighbourhood services is not applicable to this application given the scale of development.

**(e) a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures;**

Given the scale of development a movement pattern is not required.

**(f) adequate and appropriate provision is made for parking;**

The proposal is able to provide off street in curtilage parking which is deemed to be acceptable. Parking for the adjacent proposal will be discussed later in the report.

**(g) the design of the development draws upon the best local traditions of form, materials and detailing;**

The proposal is for a 3 bedroom dwelling, with no issues regarding the materials and finishes of the dwelling.

**(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**

The dwelling has been designed with 3 blank wall/gables in order to reduce overlooking, however, this contrived design solution, is a reflection of the restricted nature of the plot as is the orientation of the dwelling. There will however, still be some element of overlooking of the proposal from the neighbouring properties Nos 28-30 and No 63 South Promenade.

**(i) the development is designed to deter crime and promote personal safety.**

It is considered that the proposal would not give rise to crime or antisocial behaviour and should promote personal safety in the same regard as the existing dwellings.

**PPS 3 - Access, Movement and Parking** PPS 3 sets out the planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking. It forms an important element in the integration of transport and land use planning.

The applicant has indicated two parking spaces to serve the proposal. Also as part of this proposal the area to the rear of the apartments which is currently used for parking is to be reconfigured to remove any parking and provide communal amenity space for the apartments.

Transport NI has advised that if the proposal is permitted it would prejudice the safety and convenience of road users since it proposes to intensify the use of an existing access at which visibility splays of 2m x 60m cannot be provided in accordance with the standards contained in the Departments DCAN 15 due to parked cars. Consequently, it is considered that the proposal would prejudice road safety and is therefore contrary to Policy AMP 2 of PPS 3.

In relation to the reconfiguration of the amenity space for the apartments, these had been approved under the previous application R/2011/0794/F showing two car parking spaces, it is not appropriate to now remove parking spaces so that the additional parking can now be used to serve the proposed new dwelling.

## **PPS 6 Planning, Archaeology and the Built Environment**

Planning Policy Statement 6 Planning, Archaeology and the Built Heritage sets out planning policy for the protection and conservation of archaeological remains and features of the built heritage. HED Historic Monuments has assessed the application and on the basis of the

information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

#### Addendum to PPS 6 – Areas of Townscape Character

##### Policy ATC 2 – New Development in an area of Townscape Character

The Department (Council) will only permit development proposals in an Area of Townscape Character where the development maintains or enhances its overall character and respects the built form of the area. As mentioned previously the proposal is located within the ATC in Newcastle. The proposal would not provide a quality residential development and in this respect, it would not maintain or enhance the overall character of the area.

#### Conclusion

Based on careful consideration of all the relevant material planning considerations including objections, it is contended that the application does meet the planning policies as outlined above and permission should be refused based on the refusal reasons below.

#### **Recommendation:**

Refusal

#### **Refusal Reasons:**

1. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Criteria A of Policy QD1 of Planning Policy Statement 7 (PPS7): Quality Residential Environments, as the development does not respect the surrounding context and is considered inappropriate to the character and topography of the site in terms of layout, as it is considered overdevelopment of the site and an unacceptable form of backland development.
2. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Criterion C of Policy QD 1 of PPS 7: Quality Residential Environments, in that the proposal has not made adequate provision for private amenity space.
3. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Criterion F of Policy QD 1 of PPS 7: Quality Residential Environments, in that there is inadequate provision for parking within the scheme as the proposal is utilising the parking provision for No 65 South Promenade to service the proposed dwelling.
4. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy AMP 2 of Planning Policy Statement 3 (PPS3) Access, Movement and Parking in that it would, if permitted, prejudice the safety and convenience of road users since it proposes to intensify the use of an existing access at which visibility splays of 2m x 60m cannot be provided in accordance with the standards contained in the Department's Development Control Advice Note 15 due to parked cars.

5. The proposal is contrary to Policy ATC 2 of Addendum to PPS 6 Areas of Townscape Character, in that the proposed development fails to maintain or enhance the overall character of the ATC and does not respect the built form of the area.

Case Officer Signature

Date

Appointed Officer Signature

Date





Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference: LA07/2019/1362/O**

**Date Received: 13<sup>th</sup> September 2019**

**Proposal: Infill dwelling and garage**

**Location: Adjacent and immediately south of no. 64 The Heights, Loughinisland**

#### **Site Characteristics and Area Characteristics:**

The site is located on the northern western side of the minor road known as The Heights, Loughinisland. The site comprises an elongated narrow plot which rises steadily in height from the roadside up to the north west. The site is much higher in level to the north than to the south. The site contains a number of farm buildings and a large shed abuts the site to the west. To the north is no.64 which is on a higher level than the site. There is a large area of gorse to the roadside portion of the site. The northern boundary of the site, shared with no. 64 is defined by hedging. The southern boundary is largely undefined. Part of the south eastern boundary is defined with a wall, the rest with a post and rail fence along the roadside.

#### **Site History**

LA07/2019/0489/F – 40m South of 64 The Heights, Loughinisland

Infill Dwelling

Refused 13.06.2019

LA07/2019/1478/F – 40m South of 64 The Heights, Loughinisland

Infill dwelling

Refused 13.08.2018

**Planning Policies and Material Considerations:**

The application site is located outside the settlements in the open countryside as designated in the Ards and Down Area Plan 2015 and as such the SPPS is the relevant policy document which is read in conjunction with PPS 3 and PPS21.

**Consultations:**

DFI Roads – No objections subject to conditions

NI Water – no objections

**Objections & Representations:**

The application was advertised in the local press on 2<sup>nd</sup> October 2019 which expired on 16<sup>th</sup> October 2019 and neighbour notification issued on 26<sup>th</sup> September 2019 expired on 29<sup>th</sup> August 2019. To date there have been no objections received in relation to the proposal.

**Consideration and Assessment:**

Ards and Down Area Plan

Section 45 of the Planning Act (NI) 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 application is located in the open countryside outside the settlement of Loughinisland. There are no specific policies in the Plan material to this application. Paragraph 6.73 of the SPPS provides strategic policy for residential and non-residential development in the countryside. The SPPS states that in the case of infill/ribbon development provision should be made for the development of a small gap site in an otherwise substantial and continuously built up frontage. This is less prescriptive than the content of PPS21 regarding infill dwellings, however, the SPPS states that the policy provisions of PPS21 will continue to operate until such time as a Plan Strategy for the whole of the Council area has been adopted.

PPS 21 - Sustainable Development in the Countryside

Policy CTY 1 states that a range of types of development are acceptable in principle in the countryside. Planning permission will be granted for an individual dwelling house in the countryside in which a number of cases which are listed, CTY 8 – titled Ribbon Development is one such instance. Integration and design of buildings in the Countryside CTY 13 and Rural character CTY 14, CTY 16 will also be considered.

The proposal seeks outline permission for the erection of a dwelling and garage. The indicative location is shown to be to the south of no. 64 and to the east of the large agricultural shed. Given that this is an outline application, no details of design have been submitted.

Policy CTY 8 states that planning permission will be refused for a building, which creates or adds to a ribbon of development. It continues that any exception to the policy will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. Paragraph 5.33 of Policy CTY 8 makes specific reference to 'buildings sited back, staggered or at angles and with gaps between them' representing ribbon development, if they have a common frontage or they are visually linked.

Paragraph 5.33 of Policy CTY 8 reads 'For the purpose of this policy, the definition of a substantial and continuously built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear'. When considering what a small gap site is for the purposes of the Policy, the Policy headnote's wording directs the reader to consider the existing development pattern along the frontage in terms of size, scale, siting and plot size.

The justification and amplification in paragraph 5.34, comments that the infilling of these gaps will therefore not be permitted except where it comprises the development of a small gap within an otherwise substantial and continuously built up frontage. Applicants must take full account of the existing pattern of development and can produce a design solution to integrate the new buildings.

Accordingly, it is the gap between buildings that is required to be assessed.

The gap is set out in the Design and Access statement as being between no. 60 and 64, The Heights. In assessment of whether this site represents a gap site within an otherwise substantial and continuously built up frontage, it is considered that No 64, no 60 and the agricultural shed to the west have a frontage to the roadside. As such, there appears to be a substantial and built up frontage. It must also be considered whether the application site constitutes a 'gap' for the purposes of the policy. The site subject of this application is a parcel of land to the front of the shed, some of which has been taken from no. 64. The Council does not consider that the site constitutes a gap site owing to the fact that the gap between the shed and no. 64 is not sufficient to accommodate one building. The building to building distance between no 64 and the shed is 21m which is insufficient to comfortably accommodate a new dwelling. In considering the existing line of development, there does not appear to be a gap between dwellings.

Policy CTY8 further requires all proposals to respect the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. Officers consider that the proposed development would not respect the existing development pattern in terms of size and scale given that the area and size of the plot would be sufficiently below that of surrounding plots. The plot is furthermore shallower than the surrounding plots, which when combined with its reduced size, makes it appear out of keeping with the character of the area in conflict with CTY14.

In terms of siting, the site extends to the front of the existing building line and so, does not read as a gap in a line of buildings but rather a new artificially subdivided site to the front of a line of existing development, further in conflict with CTY14.

Considering that the proposed development is not considered to form a gap site, it would add to a ribbon of development along this stretch of The Heights, which conflicts with CTY8.

As such, the proposed development would not be in accordance with Policy CTY8 and CTY14 of PPS21.

**Recommendation:**

Refusal is recommended.

**Reasons for refusal:**

1. The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policies CTY8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not respect the existing development pattern of development in terms of plot size, depth and siting, and would, if permitted, result in the creation of ribbon development along The Heights.

**Case officer:**

**Authorised by:**

**Date**





Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2018/0231/F

**Date Received:**

**Proposal:** Development of 5 Detached Dwellings and all associated access, parking and site works.

(Note: When originally submitted in Feb 2018 this application sought permission for a total of 7 units with improvements to the road, however this has since been amended and reduced to the current proposals).

**Location:** Lands adjacent and to the West of No. 10 Balmoral Avenue Newry BT34 1JR

**Applicant:** Cunningham Contracts

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

The site is within the development limit of Newry City as defined on the Banbridge, Newry & Mourne Area Plan 2015. The land is unzoned white land. It is located in the eastern part of the city in a predominantly residential area, with a mix of detached and semi-detached house types.

This site is located towards the top end of the cul-de-sac of Balmoral Avenue and comprises a rectangular shaped plot consisting mostly of vacant overgrown land along with an access road which leads to a dwelling and a nursing home. The site is fenced off at present, and occupies an elevated position above the adjoining development of Dora Avenue to the rear.

A footpath runs along the site frontage. Access is via Balmoral Park, with the site being located beyond a sharp corner, with this stretch of road serving the application site, 2 dwellings and a nursing home.

The boundary with the properties along Dora Avenue is formed by mature planting and trees.

**Site History:**

A history search has been undertaken for the site and surrounds whereby the most relevant history observed includes:

P/2003/2554/F- 4 dwellings, Full, Approval, 10-11-04

This permission was enacted within the time limit of this permission. There are Building Control records confirming this (Letter dated 10<sup>th</sup> November 2009).

This permission included gabion-style retaining structures along the rear of the dwellings. Eight dwellings were initially applied for, but the scheme was reduced to four during processing.

As this permission had commenced it is a material consideration in the processing of this case, and the associated 'fall back' position is acknowledged.

P/2014/0423/F- 4 dwellings and associated site-works, Full, Approval, 01-09-16

This application was also initially for a total of 8 units, but was subsequently reduced to 4, and approved as such.

This application remains live and extant, thus is also a material consideration.

The red line of both these applications was the same as the current proposal, i.e the rectangular shaped plot opposite no.8 and 10.

Application P/2003/2554 comprised 4 detached two storey dwellings which occupied the entire width of the site, each with individual entrances and front and rear gardens.

Application P/2014/0423 again comprised 4 detached two storey dwellings, the footprint of which tallied with 3 of the previously approved dwellings. The remainder of the site (that to the rear of no.33 Dora Avenue was left clear and did not form part of this application.

As such, in effect, there are live permissions for a total of 5 detached dwellings on this site.

This current application (LA07/18/0231) therefore effectively seeks amendments to these 5 dwellings.

It is noted there have also been a number of previous permissions for alterations and extensions to several properties within Dora Avenue to the rear of the site.

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

- The NI Regional Development Strategy 2035
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Banbridge, Newry & Mourne Area Plan 2015
- PPS3 – Access, Movement & Parking
- DCAN15 – Vehicular Access Standards
- Parking Standards
- PPS6 – Planning, Archaeology and the Built Heritage
- PPS7 – Quality Residential Environments – Policy QD 1
- Addendum to PPS7 – Safeguarding the Character of Established Residential Areas
- PPS8 – Open Space, Sport and Outdoor Recreation
- DCAN8 – Housing in Existing Urban Areas
- PPS12 – Housing in Settlements
- A Planning Strategy for Rural Northern Ireland (Policies DES2 & SP18)
- Creating Places
- Living Places Urban Stewardship and Design Guide

### **Consultations:**

Having account the constraints of the site and area and nature of this proposal, consultation has been undertaken with several bodies including:

NIEA Monuments Unit - No archaeological objections –

NIEA- No objections

Environmental Health - No objections, informative on noise –

NI Water – Water and sewerage capacity available; Standard informatives supplied –

Transport NI – No objections, as the site will remain private.

It is noted there were several previous consultations undertaken with TNI during the processing of the case, however the latest comments in respect of the latest proposals are outlined above.

### **Objections & Representations**

Having account the red line and current practice neighbour notification has been undertaken with properties within Balmoral Avenue (No.6, 8, 10), Balmoral Park (18, 19), and Dora Avenue (17, 33, 34, 35, 36).

Neighbour notification was initially undertaken in Feb 2018, and then again in July 2018 and Oct 2019 following receipt of amended plans.

Similarly the application was initially advertised in Feb 2018 and again in July 2018 and Oct 2019 following receipt of amendments.

A total of 8 objections have been received to date (20-12-19) from Carson McDowell (on behalf of no. 8 Balmoral Avenue, Cairnhill Group, 12 and 14 Balmoral Avenue,

14 and 19 Balmoral Park, and 33 Dora Avenue, whereby the main issues raised include:

#### March 2018

- Increased traffic volumes/flow and safety issues,
- The site is adjacent to a right angled bend and blind corner and the road is narrow, which already presents difficulties for larger vehicles,
- The road needs to be up to an adoptable standard which is not possible without widening the lane, providing footpath and improving the corner. This would require the agreement of no.10 Balmoral Avenue,
- Adequate forward visibility of vehicles cannot be achieved,
- The turning radius on exiting the site does not comply with requirements,

#### July 2018

- The number of units will degrade the character of the street,
- The number of units will vastly increase traffic flow, which will cause delays exiting onto the Rathfriland Rd. There is already too much traffic,
- Increased pollution from vehicles
- Concerns regarding safety from traffic (particularly children and elderly),
- This stretch of road is single vehicle width with no footpath,
- The road infrastructure is not suitable for the building of 6 new houses.

#### Oct 2019 (Latest revised scheme)

- Concerns regarding the retaining wall to the rear which will impact on the amount of light enjoyed by residents in Dora Avenue. This is already an issue from trees, but which will be exacerbated, as these properties are at a lower level,
- The existing roadway turns into private property at the end of the site. As such any delivery vehicles will be required to reverse back down along the roadway, as there is no turning facility. This will pose a safety risk to road users,
- The increase from 4 to 5 units will give rise to traffic flow and safety issues. The previous proposal for 8 was rejected and the same issues remain,
- Increased traffic volumes/flow and safety issues, (repeated from March 18)
- The site is adjacent to a right angled bend and blind corner and the road is narrow, which already presents difficulties for larger vehicles (repeated from March 18)
- The road needs to be up to an adoptable standard which is not possible without widening the lane, providing footpath and improving the corner. This would require the agreement of no.10 Balmoral Avenue. (repeated from March 18). This would require a footpath on both sides of the road,
- Adequate forward visibility of vehicles cannot be achieved (repeated from March 18)
- The turning radius on exiting the site does not comply with requirements (repeated from March 18).

The above is a summary of the main issues raised, and not an exhaustive list. The issues raised will be considered further below.



In line with the Councils Scheme of Delegation as more than 6 objections have been received from different addresses the application is required to be presented to the Planning Committee.

### **Consideration and Assessment:**

As stated above this application is for 5 detached dwellings.

When originally submitted in Feb 2018 this application initially sought permission for a total of 7 units with improvements to the road, however this has since been amended and reduced to the current proposals.

This reduced scheme now proposed does not include improvements or realignment of the road and this stretch of road will remain private.

### **STRATEGIC POLICY**

RG8 of the RDS aims to manage housing growth to achieve sustainable patterns of residential development. It aims to provide more high quality accessible housing within existing urban areas without causing unacceptable damage to the local character and environmental quality or residential amenity of these areas. Therefore the principle of developing this site within the urban footprint is in line with the regional housing policy of the RDS.

The SPSS sets out core planning principles to be employed in the quest to achieve sustainable development. Of particular relevance to this application are the aim of supporting good design and positive place making while preserving and improving the built and natural environment.

The design of the scheme has been amended during the course of the application in response to concerns raised and will be assessed further below.

The SPSS also addresses housing in settlements. It repeats the planning control principles listed in PPS12. The proposal complies with these as follows:

- *increased housing density without town cramming* – the proposal will increase the housing density in this area without erosion of local character, environmental quality or amenity. The design draws on some of the characteristics of adjacent development.
- *sustainable forms of development* – the use of sites like this within the urban footprint is more sustainable than one-off housing developments outside development limits and is therefore to be encouraged. There are local facilities and services available on Rathfriland Road at walking distance from the site.
- *good design* – The design of the scheme successfully respects the context of the area and follows local traditions of form, materials and detailing, while taking advantage of the characteristics of the site.
- *balanced communities* – as this proposal is for a small development, there is limited scope to provide different unit sizes. The area is dominated by larger detached properties such as those proposed. The developer will not be required by condition to provide any social housing.

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is currently within the remit of the Banbridge / Newry & Mourne Area Plan 2015 as the new council has not yet adopted a local development plan. The site is located within the settlement limit of Newry City on the above Plan, and is unzoned. The Housing Growth Indicators in the plan make provision for additional housing development on unzoned 'windfall sites' such as this. There are no specific policies in the Plan that are relevant to the determination of the application. It will be assessed against regional operational policy.

#### URBAN DESIGN

Planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment.

It is considered the amended proposal now meets the criteria of policy QD1 and other policy requirements below.

The 'fall-back' position including extant permission are also material considerations.

- (a) The proposed development is in keeping with the context and density of the area which is predominantly residential in nature and the majority of properties are 2 storey as proposed. The topography of the site which slopes from east to west requires some alteration (infilling) to create a level site. This is not unusual in Newry given the topography of the wider area. It is noted the site is elevated above the adjoining Dora Avenue development.

Consequently a retaining wall is proposed along the side and rear of Site 1 which adjoins Dora Avenue. The plans submitted indicate this will be 1.5m high, although which will be set in at least 5m from the boundary with Dora Avenue with an intervening belt of planting. It is noted the previous approved schemes also indicated a retaining wall along a large portion of the entire rear boundary with graded bank. As such it is not possible to object to the use of such measures in this instance.

Based on the plans submitted, it is considered this structure will not have a significant visual impact given the existing vegetation to the western boundary which will be conditioned to be retained.

The overall layout and number of dwellings proposed is not considered excessive for the site area. The massing and appearance of the buildings are of a standard nature and acceptable in relation to the wider area.

- (b) There is no adverse impact on the archaeological monument to the NE of the site. There are no built heritage features worthy of protection on the site. There are a number of landscape features, particularly various species of trees that ought to be protected and integrated into the overall layout, as these provide screening and amenity value. They will be conditioned to be retained.
- (c) Private open space provision for each of the dwellings is generous and above the average of 70 sq.m required by Creating Places and the rear gardens will be screened from one another by 1.8m close board fencing. No public open space needs to be provided for a development of this size.
- (d) Given the small scale of the proposal, the developer should not be required to provide any local neighbourhood facilities as part of the development.
- (e) The site adjoins the road while a pedestrian link runs along the side boundary of Site 1 which connects Balmoral Avenue with Dora Avenue. The site is within

walking or cycling distance of local services and facilities including convenience shops, schools and public transport at Rathfriland Road.

As stated above this stretch of road is to remain private, with no improvements made to the road or corner. A turning area is provided in the centre of the site for vehicles as required. TransportNI is now content with the proposal.

- (f) Two car parking spaces are provided within the curtilage of each dwelling and there is additional space for visitors.
- (g) The design of the dwellings is of a standard nature, though there is sufficient variation in the use of materials and projections on the front elevations to create a suitable street scene in keeping with the townscape of the area. The proposed external finishes are acceptable.
- (h) The design and layout has been formulated with reference to surrounding adjacent land uses and should not conflict with them. The dwellings will not overlook the dwellings to the west at Dora Avenue as the existing vegetation can be retained. There is a suitable separation distance of over 20m to both the front and rear of the new dwellings. Windows on side elevations of the new houses are mainly stairwells (not at full first floor height), so there should be no unacceptable overlooking. Given the separation distances and orientation of the new dwellings, there will be no adverse impacts on existing properties through loss of light.
- (i) Buildings within the site face onto the access road to provide informal surveillance and their curtilages back onto private land to the rear in order to deter crime.

The size of the proposed dwellings is above the minimum space standards specified in policy LC1 of the Addendum to PPS7 – Safeguarding the Character of Established Residential Areas and the proposed density is very similar to that found in the surrounding area. The development design and layout relates satisfactorily to its townscape setting. The proposal is not contrary to the ten desirable qualities for the urban environment identified in Living Places.

#### ACCESS ARRANGEMENTS

As stated above the site accesses onto a private road beyond the end of the adopted extent of Balmoral Avenue and Park. This existing un-adopted access road already serves the residential home and one detached dwelling. It is approx. 5m wide at the point where it leaves Balmoral Park and involves 2 sharp turns with limited visibility. TNI offer no objections to the proposals whereby the development is to remain private. As such No roads conditions are required.

While it is noted there is opposition to this proposal having account the site history, and also applicable policy context it is considered there are no grounds to sustain a refusal.

As such Approval is recommended subject to conditions.

**Recommendation:** Approval



**Conditions:**

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

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

2. The existing natural screenings along the western and southern boundaries of the site, as indicated in green, on approved drawing No. 02 REV 5 date stamped 25th August 2016 shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: To safeguard the amenities of neighbouring occupiers and in the interests of visual amenity and to ensure that the proposed development does not prejudice the appearance of the locality.

3. All hard and soft landscape works shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out prior to the occupation of any part of the development.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.

4. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless the Council gives its written consent to any variation.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.

5. If during the development works, new contamination or risks are encountered which have not previously been identified, works should cease and the Council shall be notified immediately. This new contamination shall be fully investigated in accordance with the Model Procedures for the Management of Land Contamination (CLR11). In the event of unacceptable risks being identified, a remediation strategy shall be agreed with the Council in writing, and subsequently implemented and verified to its satisfaction.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

6. After completing any remediation works required under condition 5 and prior to occupation of the development, a verification report needs to be submitted in writing and agreed with the Council. This report should be completed by competent persons in accordance with the Model Procedures for the Management of Land Contamination (CLR11). The verification report should



present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

7. No development should take place on site until the method of sewage disposal has been agreed in writing with NIW or a consent to discharge has been granted.

Reason: To ensure a practical solution to sewage disposal is possible at this site.

8. Each building shall be provided with such sanitary pipework, foul drainage and rain water drainage as may be necessary for the hygienic and adequate disposal of foul water and rain water separately from that building. The drainage system should also be designed to minimise the risk of wrongly connecting the sewage system to the rain water drainage system, once the buildings are occupied.

Reason: In order to decrease the risk of the incorrect diversion of sewage to drains carrying rain/surface water to a waterway.

9. All storm water from the development site should not be discharged to nearby watercourses unless first passed through pollution interception and flow attenuation measures.

Reason: To prevent pollution of surface waters.

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date:**



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

**Application Reference:** LA07/2019/1001/F

**Date Received:** 19/06/2019

**Proposal:** Proposed one and a half-storey dwelling with attached single storey garage

**Location:** New dwelling to the rear of 2 Windsor Court, Rathfriland Road, Newry

**Site Characteristics & Area Characteristics:**

The application site relates to a roughly rectangular parcel of land located to the rear of dwelling No's 1, 2, 5 and 6 of Windsor Court, Rathfriland Road. The site is adjoined to the west by open space associated with Windsor Bungalows. The site boundaries to the east and south are formed by wooden fencing c.2m in height; the boundaries to the north and west are formed by hedgerows and mature trees. The site is accessed via an existing laneway between 2 and 4 Windsor Court from the Rathfriland Road which is a Protected Route. The application site is located within the settlement limit of Newry.



*Application Site*

### Planning Policies & Material Considerations:

This application will be assessed under the following policy considerations:

- The NI Regional Development Strategy 2035
- Strategic Planning Policy Statement (SPPS)
- Banbridge, Newry and Mourne Area Plan (2015)
- PPS 3- Access, Movement and Parking
- DCAN 15- Vehicular Access Standards
- Parking Standards
- PPS 7- Quality Residential Environments
- Addendum to PPS 7- Safeguarding the Character of Established Residential Areas
- DCAN 8- Housing in Settlements
- Creating Places
- Living Places Urban Stewardship and Design Guide

### Site History:

- **LA07/2018/1324/F-** Proposed 2-storey dwelling with attached garage and bedrooms above, New dwelling to the rear of 2 Windsor Court, Rathfriland Road, Newry, BT34 1JF. Permission refused 12<sup>th</sup> February 2019.

#### *Reasons for refusal:*

1. The proposal is contrary to the SPPS, DCAN 8 and Policy QD1 (criteria a, c, f, g & h) of Planning Policy Statement 7 'Quality Residential Environments' and Policy LC1 (b) of the Addendum to PPS7 'Safeguarding the Character of Established Residential Areas' and would therefore be detrimental to the character and general appearance of the area and have an unacceptable impact on the on existing and potential residents in terms of overlooking, loss of light and overshadowing
- **P/2005/1853/F-** Erection of dwelling at garage to the rear of 2 Windsor Court granted 16<sup>th</sup> July 2008. The dwelling approved had a ridge height of 6.2 on the front elevation orientated facing east with a single storey element and garage to the rear with a ridge height of 3.9 m. Permission approved 16<sup>th</sup> July 2008.

### Consultations:

- **NI Water-** No objections, informatives provided.
- **DFI Roads-** No objections to this proposal.
- **DFI Rivers-** No objections, informatives provided.

### Objections & Representations:

Nine neighbours were notified of the application on 05/07/2019 and the application was advertised within three local newspapers. Two objections were received with the issues raised summarised below:

- Since the granting of P/2005/1853/F the Addendum to PPS7 has come into operation and this new application will create a significantly higher density as is apparent from the block plan and location map.



- The proposal will create a pattern of development which is not in keeping with the overall character and environmental quality of the established residential area
- The proposal will result in overlooking of neighbouring rear gardens and significant loss of privacy and light for existing residents.
- The first floor windows on the front elevation look directly into the rear gardens of dwellings numbered 1 and 3.
- All three proposed first floor bedrooms overlook neighbouring rear gardens to rear front and north east side of the proposed dwelling.

Correspondence was issued to the Agent on 29<sup>th</sup> August 2019 stating:

*"The Planning Department are content with the principle of a dwelling on the site there are concerns with the proposal. The previous approval, P/2005/1853/F was single storey with roof lights. We would request the proposal reverts back to this as the raising of the ridge height and the inclusion of first floor windows is not appropriate for this small site and would cause adverse impacts on adjoining residents.*

*In addition, there appears to be discrepancies on the north/ side elevation in terms of window openings and the garage location on floor plans and elevations and the Block Plan scale of 1:500 is incorrect".*

Following email correspondence from the Agent the Planning Department outlined further detailed amendments required via email on 24<sup>th</sup> September 2019 as follows:

*"The application has been discussed with Senior Management and whilst we are content to allow the ridge height proposed, the two upper floor windows on the front elevation (serving bedrooms 2 and 3) and the window on the side elevation serving bedroom 3 are unacceptable and must be removed as they will result in unacceptable overlooking over No's 1,2 and 5 Dora Avenue and consequently a loss of privacy".* Discrepancies on the plans were also detailed.

Following receipt of amended plans, all neighbours were notified. Two further objections were received raising the following issues:

- The dwelling is being built on land that is higher than the levels of Dora Avenue
- The proposal will create a significantly higher density as is apparent from the block plan and location map.
- The proposal will create a pattern of development which is not in keeping with the overall character and environmental quality of the established residential area
- The amended plans still show overlooking to the rear garden of 3 Dora Avenue from a first floor bedroom

The Agent was contacted and requested to show additional levels on the site and levels at the public road which have been provided. The application will be assessed based on the most recent plans received.



## Assessment

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 site lies within the settlement limit of Newry and is unzoned, as depicted in the Banbridge/Newry and Mourne Area Plan 2015. RG8 of the RDS aims to manage housing growth to achieve sustainable patterns of residential development. It aims to provide high quality accessible housing within existing urban areas without causing unacceptable damage to the local character and environmental quality or residential amenity of these areas.

The SPPS sets out that the policy approach must be to facilitate an adequate and available supply of quality housing to meet the needs of everyone; promote more sustainable housing development within existing urban areas; and the provision of mixed housing development with homes in a range of sizes and tenures. The SPPS also addresses housing in settlements. It repeats the planning control principles set out within PPS12.

### **DCAN8- Housing in Existing Urban Areas**

DCAN 8 paragraph 4.9 states that In line with PPS 7 *"the Department considers that an analysis of context is particularly important for infill housing, backland development or redevelopment schemes in established residential areas"*.

Paragraph 5.7 states that there is potential in appropriate circumstances to integrate new residential development into backland areas to produce a high quality residential environment. However, to be successful, there are a number of important design principles that should be followed. The study of 'Sustainable Residential Quality' (London Planning Advisory Committee, 1998) identified a number of key principles which are reproduced here. The proposals should:

#### **i. Relate to a site which has appropriate plot depth and configuration**

*A fundamental requirement for successful backland development is for the backland plot to be of sufficient depth to accommodate new housing in a way which provides a quality residential environment for new and existing residents.*

*Backland development on plot depths of less than 80m is unlikely to be acceptable, except where the existing urban grain is very urban in character, and where careful design can overcome concerns of overlooking and day lighting.*

The proposed site has a depth of 26.2m at the longest part which is at odds with the above criterion however it is in keeping with the plot depths of surrounding dwellings within Windsor Court.

#### **ii. Be of a form and scale which respects the local context**

*It is important to ensure that new development respects the scale and density of existing development. In general the scale and massing of new housing in backland areas should not exceed that of the existing dwellings fronting the surrounding streets.*

The proposed site sits to the rear of rows of existing two storey semi-detached dwellings along Windsor Court and Dora Avenue which front onto public roads. The plot size is comparable with the surrounding area and the dwelling proposed is one and a half storey. The scale and massing proposed would not exceed that of the existing dwellings in the surrounding area.

**iii. Achieve a coherent and legible form**

*A coherent form is important for all new development, however, it will be different for backland schemes with through access and those without. A through access will effectively sub-divide a large perimeter block into two smaller blocks thus maintaining legibility. Where the development is effectively a cul-de-sac, buildings will be most legible when they are organised into crescents, clusters and squares.*

The proposal seeks to use an existing access to the backland site and no other form is possible.

**iv. Integrate existing landscape features**

*Where trees or landscape features form part of a backland plot, the design should seek to retain these and integrate them into the new development.*

The northern and western site boundaries are formed by mature trees and hedgerows, if this application was to be approved it should be conditioned that these features are maintained.

**v. Provide a residential aspect onto the new road**

*New residential development should seek to reinforce the existing organisation of the fronts and backs of the dwellings. It should also seek to organise aspects to increase street overlooking where this is deficient.*

The proposal will result in a dwelling located to the rear of existing dwellings with the only view onto the public road from the access to the site. Due to the site location there will be part views onto the existing road.

**vi. take care over the integration of the existing and new landscapes and streets**

*The threshold between the new development and surrounding streets requires very careful attention. The aim must be to achieve continuity in design and character in terms of both the streetscape and landscape. It should not simply be seen as an add-on or solely a road engineering issue.*

The addition of one new dwelling and the siting to the rear of existing dwellings will result in minimal impact on the existing streetscape.

**Planning Policy Statement 7**

The planning context is also provided by PPS7 and its Addendum with the guidance contained in Creating Places also applicable.

Whilst, there is a need to provide more development in existing urban areas, this must be balanced with sensitivity to the character and amenity of the existing and proposed properties. Policy QD1 of PPS7 requires that proposals in established residential areas should not result in unacceptable damage to the local character, environmental quality or residential amenity of these areas.

**Policy QD1- Quality New Residential Development**

Policy QD1 states that all proposals for residential development will be expected to conform to all the following criteria:

- a) *The development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas;***

The surrounding area comprise a mix of semi-detached and detached dwellings. The site is large enough for one dwelling and the scale and appearance of the dwelling is appropriate to the surrounding context.

- b) *Features of the archaeological and built heritage, and landscape features are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development;***

The site has no features of archaeological or built heritage importance. It could be conditioned that the mature landscaping is retained.

- c) *Adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area;***

Creating Places provides a figure that private amenity space for family sized homes should be around 70 sq.m or greater for back garden provision. There is a rear garden area proposed which extends to the side of the dwelling with the total area of private open space provided exceeding 70sq.m.

- d) *Adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development;***

Given the location and size of the site this is not considered necessary.

- e) *A movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures;***

This criterion is met with through the provision of links to existing footpaths.

**f) Adequate and appropriate provision is made for parking;**

The site layout plans shows the provision of a parking space to the front of the dwelling and a parking space within the garage. The Parking Standards states that for three bedroom detached dwelling there should be 2.5 spaces per dwelling, the site could accommodate the required parking.

**g) The design of the development draws upon the best local traditions of form, materials and detailing;**

The proposed dwelling has a ridge height of 7.2m at the highest point and is to be finished in red and brown bond walls with a blue/black slate roof and uPVC windows and doors. Dwellings within Windsor Court and Dora Avenue are a mix of red brick and render , the design of the dwelling is considered acceptable given the surrounding context.

**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**

The proposal design has been amended to remove first floor windows to the front elevation which will ensure no unacceptable overlooking of No's 1 and 2 Windsor Court. To the eastern elevation there are three velux windows serving one bedroom and a further velux window serving a bathroom, the window type will ensure there is no unacceptable overlooking of dwellings to the east. At first floor level the rear elevation has a velux window and a small escape window, again given the type of window proposed and the existing vegetation along the rear boundary the residents to the rear should not experience any unacceptable overlooking. The western boundary is well defined by mature vegetation and a considerable distance from dwellings within Windsor Bungalows. I consider that the design and layout will not create conflict with adjacent land uses and not result in any unacceptable effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance.

**i) The development is designed to deter crime and promote personal safety.**

The proposal is for a single dwelling and it is felt there can be measures put in place to deter crime and promote personal safety.

The proposal is considered to be in accordance with Policy QD1.

**Addendum to Planning Policy Statement 7- Safeguarding the Character of Established Residential Areas**

Policy LC1 is an amplification of Policy QD1 and is intended to strengthen existing policy criteria to ensure that the quality of residential areas is maintained, if not enhanced. Policy LC1 states:



*"In established residential areas planning permission will only be granted for the redevelopment of existing buildings, or the infilling of vacant sites (including extended garden areas) to accommodate new housing, where all the criteria set out in Policy QD 1 of PPS 7, and all the additional criteria set out below are met:*

- a) *the proposed density is not significantly higher than that found in the established residential area;*  
The proposed dwelling on a site measuring 0.06 hectares would result in a density of 17dhp which would not be significantly higher than that found in the established residential area. (Windsor Court density of 30dph, No's 5-15 Rathfriland Road density of 15.09 dhp, Knockdarragh density of 18.42dph, Windsor Bungalows density of 12dph).
- b) *the pattern of development is in keeping with the overall character and environmental quality of the established residential area; and*  
The erection of one dwelling on a site of comparable size to surrounding plots of the design and scale proposed is considered to be in keeping with the overall character and environmental quality of the established residential area.
- c) *all dwelling units and apartments are built to a size not less than those set out in Annex A."*  
the proposal exceeds the minimum space standards required.

The proposal is in accordance with Policy LC1.

### **Planning Policy Statement 3- Access, Movement and Parking**

The application site proposes to use an existing access from a Protected Route. Policy AMP3 relates to access to protected routes within settlement limits. There are no proposed changes to the access although the erection of a dwelling on the site would result in the intensification of the use of the existing access. Access cannot be reasonably taken from an adjacent minor road and DFI Roads are content with the access. The proposal is considered to be in accordance with Policy AMP3.

**Recommendation:** Approval

### **Conditions:**

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

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

2. The existing natural screenings of the site, as indicated in green, on approved drawing ref 01 date stamped received 19th June 2019 shall be retained fully intact unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: To safeguard the amenities of neighbouring occupiers.

3. Notwithstanding the provisions of the Planning (General Permitted Development) Order (Northern Ireland) 2015, or any Order revoking and/or re-enacting that Order, no roof

space conversion, extension or enlargement (including alteration to roofs) shall be made to the dwelling house hereby permitted without the grant of a separate planning permission from the Council.

Reason: The further extension or creation of additional living accommodation within this dwelling requires detailed consideration to safeguard the private amenities of the surrounding residents.

#### **Informatives:**

##### **1. EXISTING WATER AND SEWER INFRASTRUCTURE**

1. The onus is on the householder/developer to find out if there is existing water and sewer infrastructure within their property.
2. It is an offence under Article 236 of the Water and Sewerage Services (Northern Ireland) Order 2006, to build over or near watermains, sewers, pipes and associated works owned and maintained by Northern Ireland Water unless with the prior consent by NI Water.
3. House owners and developers should obtain details of existing infrastructure from NI Water by requesting a copy of the water and sewer records. Copies of our records are supplied under Articles 257 and 258 of the 2006 Order. There is a nominal charge for this service.
4. Where existing water and sewer infrastructure is located within a property and proposed development of the site interferes with the public watermains, sewers and associated works, the householder/developer may make a Notice under Article 247 of the 2006 Order to have the public infrastructure diverted, realigned. Each diversion and realignment request is considered on its own merits and approval is at the discretion of NI Water. The applicant is required to meet any financial conditions for realignment or diversion of the water and sewer infrastructure, including full costs, company overheads, etc.
5. It is the responsibility of the house builder/builder/developer to establish if existing public watermains, foul/storm sewers, together with appropriate waste water treatment facilities, have adequate capacity to serve the proposal. To establish how best any development may be served by existing public water and sewerage infrastructure, a Pre Development Enquiry (PDE) would require to be submitted. There is a charge for this service.
6. If your proposed development is not near a public watermain, foul sewer or surface water sewer and you cannot discharge your surface water to a natural watercourse you may wish to consider making a requisition Notice asking NI Water to extend the public watermain or foul/storm sewer system to service your development. This can be done by requisitioning a watermain under Article 76 of the 2006 Order and sewers under Article 154 of the 2006 Order. House builders and developers may have to contribute to the cost of extending watermains and sewers.
7. Septic Tank emptying. The applicant must provide a hard standing area with a 3.5m wide access capable of supporting the weight of a sludge tanker within 30 metres of the septic tank.

If you wish to find out more about what you can or cannot do if there is existing water or sewer infrastructure in, over or under your property, or you want to find out how your proposed development can be serviced contact NI Water staff on the Developers Services Business Line 08458770002 and ask for the Developers Services Co-Ordination Team.

Copies of our Application Forms can be obtained by contact the Developers Services Business Line 08458770002 or by downloading from our web page [www.niwater.com/servicesfordevelopers.asp](http://www.niwater.com/servicesfordevelopers.asp) and Forms.

2. Developers should acquaint themselves of their statutory obligations in respect of watercourses as prescribed in the Drainage (Northern Ireland) Order 1973, and consult the Rivers Agency of the Department of Agriculture accordingly on any related matters.
3. Any proposals in connection with the development, either temporary or permanent which involve interference with any watercourse at the site:- such as diversion, culverting, bridging; or placing any form of structure in any watercourse, require the written consent of the Rivers Agency. Failure to obtain such consent prior to carrying out such proposals is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.
4. Any proposals in connection with the development, either temporary or permanent which involve additional discharge of storm water to any watercourse require the written consent of the Rivers Agency. Failure to obtain such consent prior to permitting such discharge is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.
5. If, during the course of developing the site, the developer uncovers a watercourse not previously evident, he should advise the local Rivers Agency office immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the watercourse.
6. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
7. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date:**

## **REQUEST FOR SPEAKING RIGHTS**

**NEW DWELLING TO THE REAR OF 2 WINDSOR COURT, RATHFRILAND ROAD, NEWRY**

**PLANNING REF: LA07/2019/1001/F**

Please note that we request speaking rights for the Planning Committee meeting on the 8th January 2020.

We believe that the proposal is very much contrary to the Addendum to PPS7, in that it does not, in any way, concur with the stated criteria below

*(a) The proposed density is not significantly higher than that found in the established residential area;*

*(b) The pattern of development is in keeping with the overall character and environmental quality of the established residential area;*

Should you require clarification on any matter please do not hesitate to contact me at any time.

Yours faithfully,

**John Harkness**

John Harkness

for

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**PLANNING REFERENCE LA07/2019/1001/F – PROPOSED DWELLING TO REAR OF WINDSOR COURT**

**BRIEFING NOTE FOR PLANNING COMMITTEE MEETING ON WEDNESDAY 8 JANUARY 2020 AT 10.30 AM**

Current proposals (Planning Reference LA07/2019/1001/F) are based on original approved proposals for site, Planning Ref: P/2005/1853/F. Approved application P/2005/1853/F was deemed to satisfy PPS7.

Addendum to Policy PPS7 did not exist at time of 2005 application. There were 3 objections raised in relation to this policy:

- Density:
- Pattern of Development: New development could not reasonably be expected to be semi-detached dwellings.
- Size of Units in compliance with Annex A: Proposed dwelling complies

The objections to the proposed development are as follows:

1. *The density is greater than that found in the established residential area.*

The density is in fact lower than that found in 1-6 Windsor Court which borders the south and east boundaries of the proposed dwelling. The footprint and density of the proposed dwelling is similar to that previously approved under Planning Reference P/2005/1853/F which was deemed to satisfy PPS7 in terms of density.

2. *Creates a pattern of development which is not in keeping with the overall character and environmental quality of the residential established area.*

New development could not reasonably be expected to be semi-detached dwellings as per existing residential development.

Planning have recommended the application for approval and are therefore satisfied that the proposal meets the relevant criteria set out in Addendum to Planning Policy Statement 7 (PPS7) – Safeguarding the Standard of Established Residential Areas.



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

**Application Reference:** LA07/2019/1069/O

**Date Received:** 28/06/2019

**Proposal:** Site for dwelling and garage

**Location:** Lands approximately 20 metres North East of No. 31A Quarter Road, Glassdrumman, Annalong

**Site Characteristics & Area Characteristics:**

The application site forms part of an existing larger agricultural field which has frontage onto Quarter Road but extends to the rear of No's 31 and 31A Glassdrumman Road. The application site is adjoins the settlement limit of Glassdrumman/ Mullartown but is located within the countryside. The site is relatively flat and is enclosed by a concrete wall which extends from the entrance to the north round the frontage of the dwelling. The site is adjoined to the north east by a dwelling and farm complex and to the south west by a single storey dwelling. The site is within an Area of Outstanding Natural Beauty and Site of Local Nature Conservation Importance (NC 03/155).



*Application Site*

### Planning Policies & Material Considerations:

The following policy documents provide the primary planning context for the determination of this application:

- Strategic Planning Policy Statement (SPPS)
- Banbridge/ Newry and Mourne Area Plan (2015)
- Planning Policy Statement 2- Natural Heritage
- Planning Policy Statement 3- Access, Movement and Parking
- Planning Policy Statement 21- Sustainable Development in the Countryside

### Site History:

- **P/1989/0792-** Erection fo 9 mobile houses for temporary period of 1 year to allow for replacement of adjacent orlits to rear of Nos 11 and 12 Derryhea Park, Quarter Road, Annalong. Permission granted 06/10/1989.

### Consultations:

- **NI Water-** Generic response provided
- **DAERA-** No objections, refer to advice and guidance
- **DFI Roads-** No objection in principle
- **Development Plan-** This response will be detailed within the assessment section of this report.

### Objections & Representations:

Three neighbours were notified on 23/07/2019 and the application was advertised within one local newspaper with statutory expiry on 07/08/2019. No objections or representations have been received.

### Assessment:

The site lies outside any settlement limits defined by the Banbridge/ Newry and Mourne Area Plan (2015) and within an Area of Outstanding Natural Beauty.

### Strategic Planning Policy Statement for Northern Ireland

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. However, the SPPS does not introduce a change of policy direction nor provide a policy clarification in respect of proposals for residential development in the countryside. Consequently the relevant policy context is provided by the retained Planning Policy Statement 21- Sustainable Development in the Countryside. Policy CTY1 of PPS 21 sets out a range of types of development which in principal are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.

### PPS21- Sustainable Development in the Countryside

Policy CTY1 of PPS 21 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development.

Policy CTY1 states that planning permission will be granted for an individual dwelling house in the countryside in the following cases:

- *A dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a;*  
The proposal is not located at an existing cluster of development.
- *A replacement dwelling in accordance with Policy CTY 3;*  
The proposal is not for a replacement dwelling.
- *A dwelling based on special personal or domestic circumstances in accordance with Policy CTY 6;*  
No personal or domestic circumstances information has been provided with this application.
- *A dwelling to meet the essential needs of a non-agricultural business enterprise in accordance with Policy CTY 7;*  
No evidence of a non-agricultural business enterprise has been provided with this application.
- *The development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8; or*

The proposal is not located on a gap site within a substantial and continuously built up frontage in the countryside.

- *A dwelling on a farm in accordance with Policy CTY 10.*  
The proposal is not located on a farm nor has a P1C and farm maps been provided.

Planning permission will also be granted in the countryside for:

- *A small group of houses in a designated Dispersed Rural Community in accordance with Policy CTY 2;*  
The site is not within a Dispersed Rural Community.
- *The conversion of a non-residential building to a dwelling(s) in accordance with Policy CTY 4;*  
The proposal is not for the conversion of a non-residential building.
- *The provision of social and affordable housing in accordance with Policy CTY 5;*  
The proposal is not for social or affordable housing.
- *A residential caravan or mobile home in accordance with Policy CTY 9;*  
The proposal is not for the temporary use of a residential caravan or mobile home.
- *The conversion of a listed building to residential accommodation in accordance with the policies of PPS 6;*  
The proposal is not for the conversion of a listed building to residential accommodation.
- *An extension to a dwelling house where this is in accordance with the Addendum to PPS7; or*  
The application is not for an extension to a dwelling.



- *Travellers Accommodation where this is in accordance with Policy HS 3 of PPS12.*  
The application of not for travellers accommodation.

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.

### **Supporting Statement**

Supporting documentation accompanied the application which acknowledged that the proposal is not a typology that is provided for under CTY1 of PPS21. The Agent's argument is summarised below:

- It is perfectly lawful to depart from planning policies and to approve applications that are contrary to policy on the basis of some factor or other.
- The principle of "rounding off" or consolidating the development at the edge of the SDL is long-established as a means of setting aside "greenbelt" or similar planning policy-based concerns.
- Ribboning has already occurred along this laneway, filling the gap between buildings to either side of this site will have negligible consequences, visually, because the site is so small and because there is such a transient, sequential awareness of development fronting onto the lane as one travels in either direction.
- We cannot attempt to cluster with a group of building at a focal point in the countryside because the majority of building that would have to be relied on are within the countryside.
- Policy CTY2a offers no support to this proposal.
- The proposal appears as a near perfect infill opportunity but the requisite number of buildings sharing this common frontage are not located in the open countryside.
- Refer to PAC 2017/A0147 for two semi-detached dwellings within Causeway Coast and Glens Borough Council and similarities:
  - The proposal was deemed to 'round off' or consolidate the periphery of the settlement development which was deemed sufficient to outweigh the absence of policy-based support for the proposal.
  - *"The appeal site is an open rectangular field with a shed and trimmed hedge boundaries. In its setting, it does not appear as unambiguously agricultural or rural in character. Rather, it presents as a side garden area to adjoining property or as a remnant site just as much as it would an agricultural field within the countryside. It is proposed to site the proposed pair in line with the existing pair of semi detached properties. This arrangement, which could be secured by condition, would respect the existing development pattern along the frontage. Furthermore, on approach along the road in either direction, the proposed development, because of its design, the composition of the appeal site and its juxtaposition with adjacent development, would read as an integral, albeit extended part of the urban fabric of Dunloy. In these circumstances, while the proposal would offend policy, if constructed no detriment to rural character would be visually apparent."*

*Also, given existing vegetation and boundary treatment, the retention and augmentation of which can be secured through condition, the proposal marks an opportunity to deliver an environmental enhancement through provision of a clearer, coherent, logical and unambiguous edge to the settlement limit. The fact that the proposal would deliver a better environmental outcome without visual detriment to rural character leads me to conclude there to be overriding material considerations that outweigh any academic conflict with policy and justifies a contrary decision. Required visibility splays should be provided in the interests of road safety. In these circumstances the appeal succeeds and outline planning permission is granted."*

- This decision will reinforce the principle of 'rounding off' can be used to justify approval of a planning application that does not comply with any other planning policy.
- Refer to PAC Decision under 2008/A0342 and acknowledge the appeals do not stand on all fours.

Whilst the appeal references have been considered, they are not considered comparable with the current proposal:

- In PAC Reference 2017/A0147 the Commissioner deemed the site does not appear as an unambiguously agricultural or rural in character rather it presents as a side garden to adjoining property or a remnant site. This is not comparable to the application site which is an agricultural field and clearly reads as rural in character particularly given its location beside a farm holding, indeed at the time of the site visit it contained hay bales.
- The site does not read as part of the urban fabric of Glasdrumman/ Mullartown, the character of this node changes from a more built up semi-detached dwellings at Derryhea Park towards the rural appearance of Quarter Road. The proposal is not similar to PAC 2017/A0147 in this regard.
- Weight was given to the fact that the proposal under PAC 2017/A0147 would deliver a better environmental outcome without visual detriment to rural character which lead to the conclusion that there was overriding material considerations that outweigh any academic conflict with policy and justifies a contrary decision. The application site is clearly rural in character and provided a visual break between the settlement limit and the countryside, there would be no environmental benefit gained from a departure from planning policy to allow a dwelling on this site.
- In PAC Decision 2008/A0342, the application site previously had permission for two dwellings and this was given weight and the application was assessed under Policy QD1 of PPS7.
- Other applications referenced in the supporting statement, include:
  - 2003/A070- no information was available on the PAC website.
  - 1995/A225 was not assessed under current planning policies
  - S/2014/0910/F was for 123 dwellings and overturned at Planning Committee for the following reasons:
    - The suitability of the site for the proposed development.
    - The economic benefits of the development through the creation of new jobs and the community benefit.
    - The emerging policies in a local development plan that has not yet been approved or adopted.
    - The suitability of the type of development in terms of compatibility with neighbouring property and the locality; and

- The potential positive impact on adjoining property from noise, odours, fumes etc.

This application is in no way comparable to the application site.

- LA07/2016/0307/O- Erection of a new multi-franchise car showroom to include a car workshop and 3 adjoining showrooms. Grounds of building to make provision for vehicle display areas and customer parking was again overturned at Planning Committee as is not a comparable scheme to a single dwelling in the countryside.
- There are also numerous appeal examples of where the PAC has resisted single dwelling which adjoin the settlement limit, as does the present application. These appeals highlight that it is not common practice to simply set aside planning policies and mar the settlement limits which Policy CTY15 seeks to protect.
  - **2016/A0119-** Single dwelling and garage dismissed by the PAC. The Commissioner stated: “*The appellant however advanced an argument on fairness by contending that precedent has been set for development adjacent to and immediately outside development limits with reference to planning permissions granted close to two settlements. The Ministerial Statement of July 2013 indicated that appropriate steps be taken to ensure everyone is treated consistently whilst paragraph 2.3 of the SPPS indicates that fairness is one of the yardsticks against which development proposals will be measured. The Lamont judicial review judgment (Lamont vs DOE, 2014) established that though policy should be adhered to where possible, it also indicated that policy could and should be disapplied in circumstances where there is good reason to do so and that it was entirely lawful for the planning authority to choose to disapply or modify a policy. This means that a planning authority does not have to slavishly follow policy but rather that due regard must be had to other material considerations.*”

*With respect to the grant of approval for a dwelling and garage outside the settlement of Craigavole in November 2013, the Council gave reasons for the planning authority's departure from policy in that it had placed determining weight on previous planning approvals on that site. This distinguishes it from the appeal site where there is no prior planning history. In the other example quoted by the appellant, notwithstanding that there had been a previous refusal on a site just outside the settlement limit of Waterfoot, the principle of a farm dwelling at that location was deemed acceptable under Policy CTY10 in 2013. This differentiates that approval from the appeal proposal which is unacceptable in principle. Though a subsequent approval for relocation of the farm dwelling to a more road frontage position in 2015 would appear to be at odds with other policy requirements under PPS21 as suggested by the appellant, I do not consider that this sets a precedent or provides good reason to disapply policy and set aside the objection in principle to the appeal proposal.*

*In essence to allow the appeal would involve perpetuating planning decisions not reflective of policy and add weight in future to precedents relied on by applicants and appellants. I conclude that the appeal proposal is contrary to Policy CTY1 of PPS21.* The appellant did not argue that there are any overriding reasons why the dwelling was essential and could not be located in a settlement. The planning authority has sustained its first reason for refusal."

- **2014/A0112-** Two infill dwellings dismissed by the PAC. The commissioner stated "Whilst I acknowledge that on the approach from the west, the appeal site is visually linked with the terrace and school to the east, these buildings lie within the urban fabric and settlement limit, occupying a different policy context from the appeal site. This reflects the approach taken in Appeals 2012/A0219 and 2013/A0114.... I judge that the proposal would result both in urban sprawl and a marring of the distinction between the urban and rural areas."
- **2016/A0145-** Erection of two semi-detached dwellings dismissed at appeal. The Commissioner concluded: "Policy CTY 15 is a visual test and No. 11 is visually and physically divorced from the land included in the urban area. No. 11 does not read as part of Maguiresbridge settlement and the appeal site acts as a buffer in this respect. I judge that the proposal would result both in urban sprawl and a marring of the distinction between the urban and rural areas. I am not persuaded that this appeal proposal is supported by Policy CTY 15 and the third reason for refusal is sustained."

### **Development Plan Consultation**

Development Plan have been consulted on this application and their response is summarised below:

- It should also be noted that the most recent housing land availability data for the District which covers the period up to the 31st March 2018, indicates that there is 1.7 hectares of housing land remaining within the settlement of Glassdrumman/Mullartown which could deliver 42 housing units. There is thus an adequate supply of housing land and no justification in terms of housing need for this site to be included within the SDL.
- The principle of rounding off/consolidating development is indeed an appropriate approach in reviewing development opportunities within the District's small settlements. However it is through the Development Plan process, rather than the Development Management process, that the settlement development limits should be reviewed with any proposed revisions being subject to consideration through an Independent Examination process.
- As highlighted above given the level of development opportunities within this small settlement there is no need for additional lands to be included within the settlement limit. There is an adequate provision for the settlement of Glassdrumman/ Mullartown which is in line with its designation as a small settlement.



- *Any changes to established SDLs should be done in a comprehensive, open and transparent manner which allows the public the opportunity to engage in the decision making process. The development plan process, not the development management process, is therefore the appropriate mechanism for bringing forward any changes to SDLs.*
- *The site in question is set back from the public road at the end of a ribbon of development that forms the existing SDL. Adjoining the site to the north east is a farm complex. There would appear to be only scope for the provision of a single dwelling with no further extension of the ribbon being feasible. It is considered that a suitably sited single dwelling could be accommodated within this site without impacting on the character of the settlement. Careful consideration would be required in respect of the curtilage of any approved dwelling to reflect the existing character of this node. Incorporating this site or a portion thereof into the existing SDL has the potential to represent an appropriate rounding off opportunity to this particular node of development. Under these circumstances it is considered that the potential to undermine the plan process is limited.*

### **Policy Consideration**

Despite the supporting information provided, I do not consider that the proposal would deliver environmental enhancement to justify a departure from all planning policy given the proposal given it meets none of the types of development outlined within Policy CTY1. Any changes to a settlement limit should be done through the Development Plan process, not through the Development Management process. The proposal would create a ribbon of development with the existing dwelling and farm buildings to the north east which is contrary to Policies CTY8 and criterion d of Policy CTY14.

The application site is a rural field which makes a clear distinction between the settlement limit and the countryside, the proposal would mar the distinction between the settlement limit and countryside and would result in urban sprawl by forming a continuing line of development from the settlement limit which is contrary to Policy CTY15.

### **PPS3- Access, Movement and Parking**

Transport NI have been consulted on this application and have no concerns subject to conditions.

### **PPS2- Natural Heritage**

Policy NH6 relates to new development within an Area of Outstanding Natural Beauty. This is an outline application and therefore it is not possible to assess the design size and scale of the proposal and how which would impact on the character of the AONB.

### **Recommendation: 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 Policy CTY8 and criterion d of Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along Quarter Road.
3. The proposal is contrary to 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 Glassdrumman/ Mullartown and the surrounding countryside resulting in urban sprawl.

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date:**

Planning permission is sought for a new dwelling in a line of existing buildings. The intention is to round off and consolidate development at an existing cluster of buildings. The site is designated as open countryside, despite being surrounded by buildings. Had the adjoining buildings all been located inside the open countryside this would be approved either as an infill site or on the basis of its consolidation of a formal cluster of buildings. Because the buildings are not inside the countryside, the permissive provisions for countryside development are not engaged.

This application has been recommended for refusal because it does not neatly comply with planning policy. However, compliance with policy has not been achieved due to a minor technicality (i.e. the surrounding buildings are mostly within a settlement) – which is why the exercise of judgement is required. Situations like this can be dealt with pragmatically, and dispensation can be given because Section 45 of the Planning Act NI 2011 states: *where an application is made for planning permission, the council or, as the case may be, the Department, in dealing with the application, must have regard to the local development plan, so far as material to the application, and to any other material considerations.*

Planning policies are material considerations, which cannot be ignored in the planning process. However, failure to comply with a planning policy is not automatically fatal to the prospects of an application, since all other material considerations must also be taken into account. Further, the courts' attitude, as per the *Lamont* judgement in particular, is that planning policies are not to be applied as if they were singular rules with immutable meanings. The basic legal principle is that it is perfectly legitimate to depart from a planning policy where a decision-maker sees fit to do so, provided the departure is acknowledged and provided also the reasons for so doing are made clear.

Now it is established that the failure to comply with planning policy is not fatal, and it is established that policy can lawfully be departed from, we must simply ascertain whether there are valid reasons to set aside planning policy in this instance.

The rationale behind this application is that a new dwelling would round off and consolidate development at the edge of Glasdrumman, resulting in a more coherent and legible definition of the settlement limit. The planning department feels that amendments to the settlement limit ought to be carried out only through the formal local development plan process (this is not strictly correct – this is based upon a mere preference). We perceive that the planning department is concerned that approving this application, in these circumstances, would create a precedent for other cases. However, this is not actually a significant concern because applications of this nature must, by their nature, be determined on a case-by-case example. Seldom will there be two identical precedents. The planning department evidently does not feel circumstances warrant setting aside policy in this instance (it has not acknowledged our argument, that the policy can be set aside if the circumstances are deemed appropriate). Examples / precedents have been presented to show how this approach (rounding off or consolidating development) can be applied, despite not being written down expressly in any planning document. The planning department simply dismisses the other examples cited as being dissimilar, however the greater omission is the lack of analysis in relation to the actual principle of rounding off. The failure to consider whether or not the approach could be implemented is indicative of a lack of objectivity. All efforts have been committed to try and distinguish this proposal from the precedents cited, and if there had been an acceptance at the outset that the principle could actually be applied we believe that a positive decision would have been arrived at - owing to the fact that this proposal will have such limited consequences.

If the planning committee satisfies itself that the approach can be implemented, in principle, and we see no reason why it cannot (list of appeals that were allowed on the basis of "rounding off" include: 2017/A0147, 2008/A0342, 2003/A070), the next part of the assessment would involve consideration of the physical impact of the proposed development.



In the most recent PAC approval granted using this approach, the logic was that:

*In these circumstances, while the proposal would offend policy, if constructed no detriment to rural character would be visually apparent.* We submit that the same is true of this case.

The site is physically and visually contained within the existing cluster of development including the adjacent houses (within the settlement) and the adjacent rural house. Because the development will not encroach or break out into the open countryside, approval will not result in any diminution in character or the quality of the surrounding landscape.

That the site is an integral part of the group of buildings is evidenced by the fact that there was a temporary permission for development on this site (P/1989/0792) for the erection of 9 mobile houses for 1 year to allow for replacement of adjacent orlits, to rear of Nos 11 and 12 Derryhea Park, Quarter Road, Annalong. Permission was granted on 06/10/1989. Officers make no mention of this history in their assessment.

The planning department felt that the recent appeal decision cited is not comparable to the application site which, in its eyes, *is an agricultural field and clearly reads as rural in character particularly given its location beside a farm holding, indeed at the time of the site visit it contained hay bales.* The Dunloy example was an agricultural field and it clearly read as rural in character given it was sited beside an agricultural building while it was surrounded by agricultural lands and was perceptible from a main road as such (whereas this site is only visible from the end of a lane).

The principle of rounding off has not been applied as this site is purportedly beside a farm holding. The adjacent dwelling was indeed a farmstead however the applicant's grandfather is critically ill and has not actively farmed the land for some time, while the outbuildings are not in agricultural use and do not have the appearance of substantial farm buildings. The rationale for not applying the principle of rounding off is therefore questionable. Officers consider the site does not read as part of the urban fabric of Glassdrumman/ Mullartown, as they consider that the character of this node changes from a more built up semi-detached dwellings at Derryhea Park towards the rural appearance of Quarter Road. This attempted distinction is questionable and it ignores the reality that there are two detached bungalows after the semi-detached cottages on this lane. The two bungalows are similar in character to the old farmstead at the far end of this site. The character of the area is actually that of a sequential, continuous, line of buildings excluding only this site.

The settlement limit does not end at the last of the semi-detached dwellings. One must therefore question the logic of including the two bungalows within the settlement but excluding this site. We submit that, there being no logic for same, the proposal ought to be appreciated for its rationalisation of the settlement limit, making the limit more coherent.

Officers consider the application site is clearly rural in character and provides a visual break between the settlement limit and the countryside, however the site is large enough only for a single dwelling. It is clearly visible only from its frontage. From the site frontage, because the adjoining buildings are so close to the site, there is no perception of this site constituting a visual break between the settlement limit and the countryside.

The Council's own Development Plan team consultation response makes a number of important concessions:

- *It is considered that a suitably sited single dwelling could be accommodated within this site without impacting on the character of the settlement.*
- *Incorporating this site or a portion thereof into the existing SDL has the potential to represent an appropriate rounding off opportunity to this particular node of development. Under these circumstances it is considered that the potential to undermine the plan process is limited.*

In the circumstances, given there is an acknowledged potential to round off the settlement limit and given the PAC is content to adopt this practice, we ask the Members of this Committee to follow suit and to approve this application.





Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2019/0036/F

**Date Received:** 06.02.2019

**Proposal:** Upgrade to an existing path network around the Kilbroney Park hub to 'The Fairy Glen Walking Trail' in Kilbroney Park - A walk trail network which will be made up of existing trail walks with some new build on sections of the trail".

**Location:** 'The Fairy Glen Walking Trail' Kilbroney Forest Park, Shore Road, Rostrevor

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

The application site consists of existing trails and fields within Kilbroney Park and the Fairy Glen, Rostrevor.

#### **Site History:**

Site history relevant to the application includes:

LA07/2019/0656/F - Change of Use of ground floor reception to Narnia themed audio/visual room, Narnia Visitor Centre', Kilbroney Reception block – Permission granted, 22.08.2019

LA07/2016/0500/F – Bridge on pedestrian path/mountain bike trail, over the yellow water river, Footpath across Yellow Water river approximately 1000m East of the Newtown Road, Newtown Upper, Rostrevor – Permission granted, 22.12.2016.

LA07/2016/0500/F – Bridge on pedestrian path/mountain bike trail, over the yellow water river, Permission granted, 22.12.2019

P/2013/0163/F - Development of 28Km of Mountain Bike Trail System throughout the forest, Permission granted, 17.05.2013

P/2010/0824/F - Works to include extension to existing car park, construction of new amenity building, site furniture, entrance features and interpretation boards, Permission granted, 30.09.2013

P/2010/1007/F - Development of 28km of mountain bike trail system throughout the forest

P/2000/0655/F - Development of gaelic pitch and changing rooms with associated fencing, landscaping, access road and car parking Kilbroney Park, Rostrevor, Permission granted, 20.11.2001

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

Banbridge Newry and Mourne Area Plan 2015  
Strategic Planning Policy Statement (SPSS) for Northern Ireland  
Planning Policy Statement 2 – Natural Heritage  
Planning Policy Statement 8 – Open Space, Sport and Outdoor Recreation  
Planning Policy Statement 15 (Revised) - Planning and Flood Risk  
Planning Policy Statement 21 – Sustainable Development in the Countryside  
Planning Policy Statement 6 – Archaeology and the Built Heritage

### **Consultations:**

DAERA – no objections, subject to conditions  
Historic Environment Division – no objections, subject to conditions  
Shared Environmental Services - see discussion below  
Rivers Agency – see discussion below

### **Objections & Representations**

11 neighbour notifications were issued on the 11 January 2019. Following a review of the file, a further neighbour notification was issued on 18 December 2019.

The application was advertised in local papers on 04 and 06 February 2019.

One letter of objection was received on 11 January 2019 in relation to the proposal. The issues raised by this letter of objection are discussed below.

### **The Proposal**

The report, "The Fairy Glen Walking Trail Upgrade" sets out upgrades including widening to a maximum of 1.2m (occasionally 2m), surfacing and installation of culverts. Details of these are set out in the report and appendices. The report divides the application site into sections as follows:

G01 – this section runs through Kilbroney Park, past the café to the entrance of the Narnia Trail. The only works proposed to this section is "overtip" i.e. the use of imported materials to create an elevated trail surface or appropriate trail undulation or feature as required.

G02 – this section runs from the entrance to the Narnia Trail to the entrance/exit of Kilbroney Park. A new dropped kerb is proposed as well as 2 new waymarkers shown in drawings G02-1 and G02-3

G03 – This section of trail runs along the Fairy Glen. A culvert and french drain are proposed to this section as well as new waymarker.

G04 – no works proposed to this section of existing trail.

G05 – resurfacing is proposed to this section of trail which follows a tributary of the Fairy Glen River. Map G05 shows a new waymarker.

G06 – A new 5 metre bridge is proposed at the beginning of this section which takes users across a field. 7 culverts are proposed as well as a new waymarker and the import of quarried stone, geotextile and top ditching. Although not specified in the report, "The Fairy Glen Walking Trail upgrade", Newry Mourne and Down District Council have clarified by email that this is a new section of track.

G07 – Overtip to this section of existing trail is proposed as well as a new waymarker at the start of this section.

G08 - Overtip to this section of existing trail is proposed as well as 2 new waymarkers and 2 culverts.

### **Consideration and Assessment:**

The site falls within the remit of the Banbridge Newry and Mourne Area Plan (BNMAP) 2015. The application site is hydrologically connected to Carlingford Lough Special Protection Area (SPA)/ Ramsar site/ Area of Special Scientific Interest (ASSI) which is of national and international importance and is protected by Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) and The Environment (Northern Ireland) Order 2002. The application site intersects the Kilbroney Site of Local Nature Conservation Importance (SLNCI) which is of local importance.

The site lies within the Mourne Area of Outstanding Natural Beauty as set out in BNMAP 2015. Kilbroney Park is designated as a Historic Park/Domain and the site falls within a Local Landscape Policy Area as set out in BNMAP 2015. The site is in close proximity to a number of listed buildings, as well as being adjacent to the Victoria Square Area of Townscape Character - RR08.

## **BNMAP 2015 – Local Landscape Policy Area (LLPA) and SLNCI**

As the site which lies within LLPA RR 09, Policy CNV 3 of BNMAP 2015 is applicable.

Policy CVN 3 Local Landscape Policy Areas states that within designated LLPAs, planning permission will not be granted to development proposals that would be liable to adversely affect their intrinsic environmental value and character, as set out in Volumes 2 and 3 of the Plan. Where riverbanks are included within LLPAs, public access may be required to the river corridor as part of the development proposal. Where proposals are within and/or adjoining a designated LLPA, a landscape buffer may be required to protect the environmental quality of the LLPA.

I consider that the proposal will not affect the intrinsic environmental value and character of the LLPA as set out in BNMAP 2015. Access to river banks are provided and given the nature of the proposal a landscape buffer is not considered necessary.

## **BNMAP 2015 – Site of Local Nature Conservation Importance (SLNCI)**

Policy CVN 1 Sites of Local Nature Conservation Importance Planning permission will not be granted to development that would be liable to have an adverse effect on the nature conservation interests of a designated Site of Local Nature Conservation Importance. The impact of the proposal on the conservation importance of designated SLNCIs is considered in more detail below, and the proposal is considered to comply with CNV 1.

## **PPS8 - Open Space, Sport and Outdoor Recreation**

Policy CTY 1 of PPS 21 outlines that planning permission will be granted for non-residential development in the countryside for outdoor sport and recreation uses in accordance with PPS 8. Policy OS3 of PPS 8 relates to proposals for outdoor recreation in the countryside and sets out 8 criteria for the assessment of this type of application, considered below.

- (i) there is no adverse impact on features of importance to nature conservation, archaeology or built heritage;

Further detailed discussion of the impact of the proposal on features of importance to nature conservation, archaeology or built heritage is set out below. Overall, taking into account responses from statutory consultees, it is considered that the proposal will not adversely affect these features.

- (i) there is no permanent loss of the best and most versatile agricultural land and no unacceptable impact on nearby agricultural activities;



The proposal consists of an upgrade to existing tracks and one new section of track within Kilbroney Park/The Fairy Glen. Therefore, there is no loss of the best and most versatile agricultural land.

- (ii) there is no adverse impact on visual amenity or the character of the local landscape and the development can be readily absorbed into the landscape by taking advantage of existing vegetation and/or topography;

I do not consider that the proposal would have an adverse impact on visual amenity. Due to the nature of the proposed trail upgrades and new build sections, the visual impact of the proposal is low impact and mitigated by existing natural features. The proposed bridge and waymarkers are of an appropriate scale and can be absorbed into the landscape. I therefore consider that criterion (iii) is met.

- (iii) there is no unacceptable impact on the amenities of people living nearby;

The proposal consists of upgrades to the existing walking track with one new section of track which is located away from residential properties. I do not consider that the proposal would unacceptably affect the amenity of people living nearby.

- (iv) public safety is not prejudiced and the development is compatible with other countryside uses in terms of the nature, scale, extent and frequency or timing of the recreational activities proposed;

The proposal will improve and consolidate existing walking trails. It is therefore considered to be compatible with other existing countryside uses and will not prejudice public safety.

- (v) any ancillary buildings or structures are designed to a high standard, are of a scale appropriate to the local area and are sympathetic to the surrounding environment in terms of their siting, layout and landscape treatment;

The only structures are the proposed culverts and bridges which are considered to be of an acceptable scale and design.

- (vi) the proposed facility takes into account the needs of people with disabilities and is, as far as possible, accessible by means of transport other than the private car;

The proposal includes upgrades to the existing track and new links between tracks, therefore improving accessibility.

- (vii) the road network can safely handle the extra vehicular traffic the proposal will generate and satisfactory arrangements are provided for access, parking, drainage and waste disposal.

The proposal will improve and consolidate existing walking trails. Significant additional traffic is therefore not anticipated and existing access and parking already exists in the vicinity of the application site.

### **PPS6 – Archaeology and Built Heritage**

The majority of the scheme falls within The Lodge (Kilbroney), an 18th century designed landscape and historic park on the Department's Register of Historic Parks, Gardens and Demesnes of Special Historic Interest, Policy BH 6 of PPS 6 refers in this case. The historic park is also designated within the Newry and Mourne Area Plan 2015. The application site is in close proximity to a number of listed buildings, which are of special architectural and historic interest and protected by Section 80 of the Planning Act (NI) 2011.

Historic Environment Division considered the impact of the proposal on the listed buildings on the basis of additional information published 25/2/2019 and advises that subject to a condition, it is content with the proposal under paragraph 6.12 of Strategic Policy Planning Statement for Northern Ireland and policy BH 11 (Development affecting the Setting of a Listed Building) of Planning Policy Statement 6. HED have also considered the potential impact of the proposal upon the setting and original design concept of the historic park and find the proposal to be acceptable under Policy BH 6 of PPS 6, subject to conditions.

### **PPS2 - Natural Heritage**

The site is located within the Mourne Area of Outstanding Natural Beauty. Therefore policy NH6 of PPS2 is applicable. I consider that the design, size and scale of the proposal is appropriate for the locality and will not harm the special character of the AONB.

The application site is hydrologically connected to Carlingford Lough Special Protection Area (SPA)/Ramsar site/ Area of Special Scientific Interest (ASSI) which is of national and international importance and is protected by Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) and The Environment (Northern Ireland) Order 2002. The application site intersects the Kilbroney Site of Local Nature Conservation Importance (SLNCI) which is of local importance.

NIEA Natural Environment Division (NED) has acknowledged receipt of the Construction Method Statement, reference number RAMS 001 and date stamped by the Countryside, Coast & Landscape Team 26/02/2019. NED has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns subject to conditions.

This planning application was considered in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern

Ireland) 1995 (as amended) by Shared Environmental Service (SES) on behalf of Newry City, Mourne and Down District Council which is the competent authority responsible for authorising the project and any assessment of it required by the Regulations.

SES has reviewed the Habitats Regulations Assessment carried out by WM Associates Ecology NI for Newry, Mourne and Down District Council on 16/08/2019. It is concluded that, provided the following mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on site integrity of any European site. The following mitigation should be included through conditions: A Final Construction Environmental Management Plan (CEMP) must be submitted by the appointed contractor to Planning for consultation and agreement prior to the commencement of works. This document should reflect all the mitigation and avoidance measures to be employed, as outlined in the submitted Construction Method Statement, and Construction Environmental Management Plan, dated 21/02/2019, and all additional submitted information. The approved CEMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved CEMP, unless otherwise agreed in writing by the Planning Authority. Reason: To ensure the appointed contractor undertaking the work is aware of the proposed mitigation measures to protect water quality within adjacent watercourses.

### **PPS 15 (Revised) Planning and Flood Risk**

FLD1 - Development in Fluvial and Coastal Flood Plains – DfI Rivers PAMU has reviewed the supporting document titled "Fairy Glen Walking Trail" received by email on 22nd October 2019 from Newry, Mourne & Down District Council and while not responsible for the preparation of this document, DfI Rivers PAMU accepts its logic and has no reason to disagree with its conclusions.

It should be brought to the attention of the applicant that the responsibility for the accuracy of this submitted document and implementation of the proposed flood risk and drainage measures rests with the developer and their professional advisors.

FLD2 - Protection of Flood Defence and Drainage Infrastructure – A watercourse which is undesignated under the terms of the Drainage (Northern Ireland) Order 1973 and known to DfI Rivers as the 'Rostrevor River' flows adjacent to the northern boundary. A watercourse which is undesignated under the terms of the Drainage (Northern Ireland) Order 1973 and known to DfI Rivers as the 'Glen Stream' flows centrally throughout the site. An undesignated watercourse flows adjacent to the north-eastern boundary of the site. The site may be affected by further undesignated watercourses of which we have no record.

In accordance with point 6.32 of the revised Policy PPS 15 FLD 2, an adjacent working strip along any watercourse(s) is required to facilitate future maintenance by DfI Rivers, other statutory undertaker or the riparian landowners. The working strip should have a minimum width of 5m, but up to 10m where considered necessary, and be provided with clear access and egress at all times.



**FLD3 - Development and Surface Water - DfI Rivers PAMU** has reviewed the supporting document titled "Fairy Glen Walking Trail" received by email on 22nd October 2019 and while not responsible for the preparation of this document, DfI Rivers PAMU accepts its logic and has no reason to disagree with its conclusions. It should be brought to the attention of the applicant that the responsibility for the accuracy of this submitted document and implementation of the proposed flood risk and drainage measures rests with the developer and their professional advisors.

**FLD4 - Artificial Modification of watercourses**

In relation to policy FLD 4 of PPS 15 (Revised), DfI Rivers has noted that artificial modification of a watercourse is not normally permitted unless it is necessary to provide access to a development site or for engineering reasons and note this is a matter for the planning authority.

The proposal includes 10 culverts. 6.54 of PPS 15 (Revised) states that culverting of short lengths of the watercourse (usually less than 10m) is acceptable to enable access to and from the development as required. The report shows that other methods of drainage have been considered in accordance with paragraph 6.53 and the environmental impacts of the proposal have been found to be acceptable. In this instance the proposed culverts are therefore considered to be acceptable.

**FLD5 - Development in Proximity to Reservoirs – Not applicable to this site.**

Under the terms of Schedule 6 of the Drainage (NI) Order 1973, any proposals either temporary or permanent, in connection with the development which involves interference with any watercourses such as culverting, bridging, diversion, building adjacent to or discharging storm water etc requires the written consent of DfI Rivers. This should be obtained from the Eastern Regional Office at Ravarnet House, Altona Road, Largymore, Lisburn BT27 5QB

DAERA Water Management Unit has also considered the impacts of the proposal on the surface water environment and on the basis of the information provided is content subject to the applicant complying with Standing Advice and any relevant statutory permissions being obtained.

**Objection**

Issues raised by the objector to this proposal are that:

- The objector does not agree with further development within Kilbroney Park stating that the area is relatively small;
- Pathways have already been made into roadways; and
- Adding buildings would interfere with the nature of the public park.

No buildings are proposed as part of the proposal, with the only proposed structures are a new bridge, culverts and waymarkers with no loss of existing pathways. Given that the proposal is to upgrade existing pathways with only one new section of pathway, I consider it to be appropriate to the character of the area.



**Recommendation:**

Approval – subject to suitable resolution of issues raised by DfI Rivers in relation to working strip and required approvals under Schedule 6 of the Drainage Order 1973;

**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. A Final Construction Environmental Management Plan (CEMP) must be submitted by the appointed contractor to Planning for consultation and agreement prior to the commencement of works. This document should reflect all the mitigation and avoidance measures to be employed, as outlined in the submitted Construction Method Statement, and Construction Environmental Management Plan, dated 21/02/2019, and all additional submitted information. The approved CEMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved CEMP, unless otherwise agreed in writing by the Planning Authority.

Reason: To ensure the appointed contractor undertaking the work is aware of the proposed mitigation measures to protect water quality within adjacent watercourses.

3. The size, location and materials proposed for the Interpretation Sign Board 2 shall be agreed in writing with HED through an application to council, prior to erection.

Reason: to protect the character of the setting to the nearby listed buildings, in compliance with BH11 (a) and (b).

**Case officer:**

\_\_\_\_\_

**Authorised officer:**

\_\_\_\_\_



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2019/0253/F

**Date Received:** 06.02.2019

**Proposal:** Proposed upgrade of an existing path network around the Kilbroney Park hub.

**Location:** "The Fallows Walking Trail", Kilbroney Forest Park, Shore Road, Rostrevor

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

The application site extends through forest and open areas as well as existing tracks and part of the Mourne Way and ends in Kilbroney Park.

#### **Site History:**

LA07/2016/0500/F – Bridge on pedestrian path/mountain bike trail, over the yellow water river, Footpath across Yellow Water river approximately 1000m East of the Newtown Road, Newtown Upper, Rostrevor – Permission granted, 22.12.2016.

LA07/2016/0500/F – Bridge on pedestrian path/mountain bike trail, over the yellow water river, Permission granted, 22.12.2019

P/2013/0163/F - Development of 28Km of Mountain Bike Trail System throughout the forest, Permission granted, 17.05.2013

P/2010/1007/F - Development of 28km of mountain bike trail system throughout the forest

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

Banbridge Newry and Mourne Area Plan 2015  
Strategic Planning Policy Statement (SPSS) for Northern Ireland  
Planning Policy Statement 2 – Natural Heritage  
Planning Policy Statement 8 – Open Space, Sport and Outdoor Recreation

Planning Policy Statement 15 (Revised) - Planning and Flood Risk  
 Planning Policy Statement 21 – Sustainable Development in the Countryside  
 Planning Policy Statement 6 – Archaeology and the Built Heritage

### **Consultations:**

Forest Service – no objections  
 DAERA – no objections, subject to conditions  
 Historic Environment Division – no objections, subject to conditions  
 Shared Environmental Services - see discussion below  
 Rivers Agency – see discussion below

### **Objections & Representations**

No neighbour notifications were initially issued given the proposed location of the site. The ariel images provided in the report “The Fallows Walking Trail Upgrade” show that there are no dwellings or properties within 20m of the application site, with the exception of council owned buildings. Although it is noted that there are residential properties within the Kilbroney Park these are located more than 20m from the application site. Ariel images of sections F11 – F14 have not been included in “The Fallows Walking Trail Upgrade” report submitted with the application as this makes use of the existing Mourne Way trail. Having reviewed this section of the application site I consider that number 67 Newtown Road Rostrevor should have been consulted as it falls within 20 metres of the application site. A neighbour notification has therefore been issued.

The application was advertised in local papers on 27 February 2019. No objections or representations have been received in relation to the proposal.

### **The Proposal**

The proposal is for a proposed upgrade of an existing path network around the Kilbroney Park hub. Drawings 01 and 02 show broadly the location of the proposed works with the associated report “The Fallows Walking Trail Upgrade” providing further detail. The report states that the trail constitutes a combination of the following:

- Using existing tracks and forest roads with no need for upgrade;
- Using existing tracks but requiring some upgrades;
- Rationalising desire lines;
- Completed new build in some sections.

Upgrades include widening to a maximum of 1.2m (occasionally 2m), surfacing and installation of culverts. Details of these are set out in the report and appendices.

The report divides the application site into sections as follows:

F01 – new build section including 7 culverts and 3 waymarkers

F02 – Existing trail following a drystone wall – no works are proposed to this existing section except re-building the existing drystone wall

F03 – this section includes retaining some of the existing trail as is, upgrading of the existing trail and some new build. The proposed works include 1 culvert, 2 waymarkers and 250m of single strand fencing wire. A 5m bridge is also shown on drawing F03-6.

F04 – this is a new build section of the trail with a total of 30 culverts and 2 waymarker posts. Part of this section crosses the existing mountain bike trail.

F05 – this is a new build section which includes 7 culverts and 1 waymarker post.

F06 – this is a new build section which includes 10 culverts and 2 waymarker post.

F07 – this is a new build section which includes 5 culverts, 1 waymarker post and 2 5m bridges. A silt fence is also shown on drawing F07-2.

F08 – this is an upgrade to an existing trail including 6 culverts. Hydrological works are also noted on drawing F08-1. This section of the trail runs close to the Red Bog Lake.

F09 – no work is required to section F09 which is an existing forest road except 3 new waymarkers.

F10 – this section of trail includes use of the existing trail, upgrade to the existing trail and a new build section. The trail follows the line of the Yellow Water River and connects to the existing Mourne Way Trail. 2 waymarkers and 1 culvert are proposed. Drawing F10-3 shows a bridge across the Yellow Water River. However, this has been previously approved. (LA07/2016/0500/F)

F11 – F14 – this is a section of the existing Mourne Way trail and extends from the Yellow Water pic-nic area into Kilbroney Park. No work is required to this section of the trail with the exception of 9 new waymarker posts.

F15 – this section links the trail back to the existing Kilbroney Park car park. New fencing is proposed along this section and 2 waymarkers.

Other works along the trail include removal of existing boardwalks, regrading and other works as indicated in The Fallows Walking Trail Upgrade report.

### **Consideration and Assessment:**

The site falls within the remit of the Banbridge Newry and Mourne Area Plan (BNMAP) 2015. The application site is in close proximity and hydrologically connected to Carlingford Lough ASSI/SPA, Kilbroney River ASSI, Rostrevor Wood ASSI/SAC and Western Mournes & Killeaghan Upper ASSI (hereafter referred to as



the designated sites) which are of international and national importance and are protected by Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) and The Environment (Northern Ireland) Order 2002. The majority of the application site also lies within a Special Countryside Area and all the site lies within the Mourne Area of Outstanding Natural Beauty as set out in BNMAP 2015. Kilbroney Park is designated as a Historic Park/Domain and part of the site falls within a Local Landscape Policy Area as set out in BNMAP 2015. The site contains ancient woodland and is in close proximity to an archaeological sites and monuments.

### **BNMAP – Special Countryside Area**

Paragraph 6.75 of the SPSS notes that, “Some areas of the countryside exhibit exceptional landscapes, such as mountains, stretches of the coast or lough shores, and certain views or vistas, wherein the quality of the landscape and unique amenity value is such that development should only be permitted in exceptional circumstances. Where appropriate these areas should be designated as Special Countryside Areas in LDPs, and appropriate policies brought forward to ensure their protection from unnecessary and inappropriate development.”

The special status of Special Countryside Areas is also noted in the preamble to Planning Policy Statement 21 (PPS 21) which states that the provisions of PPS 21 will take precedence over the policy provisions for certain designations contained in existing statutory and published draft development plans with the exception of five Special Countryside Areas (SCAs). Policy CTY 1 of PPS 21 states that where a SCA is designated in a development plan, no development will be permitted unless it complies with the specific provisions of the relevant plan.

The relevant policy against which to assess this proposal is therefore Policy COU 1 of BNMAP 2015 which states that,

“Within Special Countryside Areas, planning permission will only be granted to development proposals which are:

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

The proposed development is considered to be a consolidation of the existing trail network and as discussed further below will not threaten any nature conservation or built heritage interest and can be integrated with the landscape. The proposal therefore complies with policy COU 1 of BNMAP 2015.

### **BNMAP 2015 – Local Landscape Policy Area (LLPA)**

In relation to those parts of the site which lie within LLPA RR 09, Policy CNV 3 of BNMAP 2015 is applicable.

Policy CVN 3 Local Landscape Policy Areas states that within designated LLPAs, planning permission will not be granted to development proposals that would be liable to adversely affect their intrinsic environmental value and character, as set out in Volumes 2 and 3 of the Plan. Where riverbanks are included within LLPAs, public access may be required to the river corridor as part of the development proposal. Where proposals are within and/or adjoining a designated LLPA, a landscape buffer may be required to protect the environmental quality of the LLPA.

I consider that the proposal will not affect the intrinsic environmental value and character of the LLPA as set out in BNMAP 2015. Access to river banks are provided and given the nature of the proposal a landscape buffer is not considered necessary.

**BNMAP 2015 – Site of Local Nature Conservation Importance (SLNCI)**

Policy CVN 1 Sites of Local Nature Conservation Importance Planning permission will not be granted to development that would be liable to have an adverse effect on the nature conservation interests of a designated Site of Local Nature Conservation Importance. The impact of the proposal on the conservation importance of designated SLNCIs is considered in more detail below, and the proposal is considered to comply with CNV 1.

### **PPS8 - Open Space, Sport and Outdoor Recreation**

Policy CTY 1 of PPS 21 outlines that planning permission will be granted for non-residential development in the countryside for outdoor sport and recreation uses in accordance with PPS 8. Policy OS3 of PPS 8 relates to proposals for outdoor recreation in the countryside and sets out 8 criteria for the assessment of this type of application, considered below.

- (i) there is no adverse impact on features of importance to nature conservation, archaeology or built heritage;

Further detailed discussion of the impact of the proposal in features of importance to nature conservation, archaeology or built heritage is set out below. Overall, taking into account responses from statutory consultees, it is considered that the proposal will not adversely affect these features.

- (i) there is no permanent loss of the best and most versatile agricultural land and no unacceptable impact on nearby agricultural activities;

The proposal consists of an upgrade to existing tracks with some new build sections through existing forest, on high ground, along an existing river corridor and within the

existing park. Therefore, there is no loss of the best and most versatile agricultural land.

- (ii) there is no adverse impact on visual amenity or the character of the local landscape and the development can be readily absorbed into the landscape by taking advantage of existing vegetation and/or topography;

I do not consider that the proposal would have an adverse impact on visual amenity. Due to the nature of the proposed trail upgrades and new build sections, the visual impact of the proposal is low impact and mitigated by existing natural features for many sections. Proposed bridges and fences are of an appropriate scale and can be absorbed into the landscape. I therefore consider that criterion (iii) is met.

- (iii) there is no unacceptable impact on the amenities of people living nearby;

The application site is not located in close proximity to any residential properties with the exception of 67 Newtown Road, Rostrevor. Although this property is located close to the red line of the application site, there are no works proposed to this section of the application site as the track is existing and the only proposed changes are waymarkers which it is considered will not adversely affect amenity.

- (iv) public safety is not prejudiced and the development is compatible with other countryside uses in terms of the nature, scale, extent and frequency or timing of the recreational activities proposed;

The proposal will improve and consolidate existing walking trails. It is therefore considered to be compatible with other existing countryside uses and will not prejudice public safety.

- (v) any ancillary buildings or structures are designed to a high standard, are of a scale appropriate to the local area and are sympathetic to the surrounding environment in terms of their siting, layout and landscape treatment;

The only structures are the proposed culverts, bridges and fencing and these are considered to be of an acceptable scale and design.

- (vi) the proposed facility takes into account the needs of people with disabilities and is, as far as possible, accessible by means of transport other than the private car;

The proposal includes upgrades to the existing track and new links between tracks, therefore improving accessibility.

- (vii) the road network can safely handle the extra vehicular traffic the proposal will generate and satisfactory arrangements are provided for access, parking, drainage and waste disposal.

The proposal will improve and consolidate existing walking trails. Significant additional traffic is therefore not anticipated and existing access and parking already exists in the vicinity of the application site.

#### **PPS6 – Archaeology and Built Heritage**

The proposed scheme 'The Fallows Walking Trail' runs close to a prehistoric cairn (DOW 053:021) located near the summit of Slieve Martin. Due to the proximity of the trail to this monument there is potential for associated below ground archaeological remains to be uncovered during construction works. Historic Environment Division: Historic Monuments (HED: HM) has considered the additional information submitted in relation to construction depths for the proposed path and is content that the proposal satisfies PPS 6 policy requirements, subject to conditions for the agreement and implementation of a developer-funded programme of archaeological works. In relation to the Historic Park/Demense, HED has been consulted on the proposal and has raised no objection on this basis.

#### **PPS2 - Natural Heritage**

The application site is in close proximity and hydrologically connected to Carlingford Lough ASSI/SPA, Kilbroney River ASSI, Rostrevor Wood ASSI/SAC and Western Mourne & Killeaghan Upper ASSI (hereafter referred to as the designated sites) which are of international and national importance and are protected by Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) and The Environment (Northern Ireland) Order 2002.

The P1 Form (date stamped, 06.02.2019) details the intention to upgrade sections of "The Fallows walking trail" which links Kilbroney Park and the Western Mourne. It also states that surface water runoff will be disposed of using culverts. The Fallows trail will be constructed from permeable quarry material, therefore water will be disposed of by natural percolation.

The Habitats Regulation Assessment Stage 1 Screening (dated, 30.01.2018) identifies the designated features that the proposal must be screened against and identifies potential risks to the specified feature, while illustrating the environmental precautions that will be adopted.

A number of the key mitigations highlighted within the HRA include:

- Imported stone for path construction will not be lime rich;
- Good construction management practices including: the correct storage of fuel and oil, refuelling and concrete/cement storage sited 20m from any water course and adherence to COSHH regarding hazardous waste;
- Installation of silt curtains or temporary diversions to settlement sumps;



- Specialist invasive species mitigation;
- No disposal of waste into any watercourse.

As the work will be primarily focused on existing paths and routes, with no construction or development within any designated site, there is unlikely to be any direct impact. However, a number of watercourses such as The Yellow Water and The Rostrevor/Kilbroney Rivers, flow in close proximity to construction works, therefore there is potential to impact a designated site through a hydrological connection. The Fallows Walking Trail upgrade document (date stamped, 06.02.2019) includes a number of photographs which illustrate the specific areas of the pathway and the associated works with each area. It also highlights some habitat and species-specific mitigation measures. NED is content with the proposal, providing it adheres to their recommendations set out in their consultation response dated 26 June 2019 .

NIEA has considered the Preliminary Ecological Assessment - Supplement dated April 2019.

A section of priority habitat will be lost to facilitate the proposed development and a concept restoration plan has been outlined within the Preliminary Ecological Appraisal. NIEA are broadly happy with this approach and have suggested conditions to ensure an appropriate restoration plan is implemented. NED also recommend that a competent ecologist is appointed as an Ecological Clerk of Works (ECoW) and the details, roles and responsibilities of the ECoW submitted to, and agreed in writing by, the Planning Authority prior to works commencing.

This planning application was considered in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service on behalf of Newry, Mourne and Down District Council which is the competent authority responsible for authorising the project and any assessment of it required by the Regulations. Having considered the nature, scale, timing, duration and location of the project it is concluded that, provided the following mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on site integrity of any European site.

The following mitigation should be included through conditions.

1. A Construction Environmental Management Plan (CEMP) must be submitted by the appointed contractor to Planning for consultation and agreement prior to the commencement of works. This document should reflect all the mitigation and avoidance measures to be employed to protect water quality within the adjacent watercourses, as outlined within documents submitted with the application (including Fallows Walking Trail – Further Information for DfI Rivers), and all additional information. The approved CEMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved CEMP, unless otherwise agreed in writing by the Planning Authority. Reason: To ensure that the appointed contractor undertaking the work is aware of the proposed mitigation measures to protect water quality within adjacent watercourses.

The site is located within the Mourne Area of Outstanding Natural Beauty. Therefore policy NH6 of PPS2 is applicable. I consider that the design, size and scale of the proposal is appropriate for the locality and will not harm the special character of the AONB. There will be limited views of it due to existing structures on the site. Therefore, the proposal is not contrary to this policy.

#### **PPS 15 (Revised) Planning and Flood Risk**

DfI Rivers has considered the report uploaded to the portal on 22 August 2019, "Fallows Walking Trail – Further Information for DfI Rivers" and have stated that they have no reason to disagree with its conclusions in relation to policies FLD 1 and FLD 3. They also note that the responsibility for the accuracy of the submitted reports and the proposed flood risk measures rest with the developer and their professional advisors. There may be potential for surface water flooding and the developer is advised to carry out their own assessment of flood risk and construct in a manner that minimises flood risk to the proposed development and potential impacts beyond the site.

DfI Rivers have stated that a working strip of 5-10m is required along any undesignated watercourse to allow for future maintenance by DfI Rivers.

In relation to policy FLD 4 of PPS 15 (Revised), DfI Rivers has noted that artificial modification of a watercourse is not normally permitted unless it is necessary to provide access to a development site or for engineering reasons and note this is a matter for the planning authority.

The proposal includes 67 culverts ranging in size from 300mm – 1050mm to allow passage of water under the trail surface. 6.54 of PPS 15 (Revised) states that culverting of short lengths of the watercourse (usually less than 10m) is acceptable to enable access to and from the development as required. The report "The Fallows Walking Trail upgrade" shows that other methods of drainage have been considered in accordance with paragraph 6.53 and the environmental impacts of the proposal have been found to be acceptable. In this instance the proposed culverts are therefore considered to be acceptable.

DfI Rivers notes that any culverting approved by the Planning Authority will also be subject to approval from the DfI Rivers local area office under Schedule 6 of the Drainage Order 1973.

**Recommendation:**

Approval – subject to suitable resolution of issues raised by DfI Rivers in relation to working strip and required approvals under Schedule 6 of the Drainage Order 1973; and review of condition 3 below.

**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. A Construction Environmental Management Plan (CEMP) must be submitted by the appointed contractor to Planning for consultation and agreement prior to the commencement of works. This document should reflect all the mitigation and avoidance measures to be employed to protect water quality within the adjacent watercourses, as outlined within documents submitted with the application (including Fallows Walking Trail – Further Information for DfI Rivers), and all additional information. The approved CEMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved CEMP, unless otherwise agreed in writing by the Planning Authority.

Reason: To ensure that the appointed contractor undertaking the work is aware of the proposed mitigation measures to protect water quality within adjacent watercourses.

3. The 6 recommendations as set out in DAERA's consultation response dated 26 June 2019 shall be incorporated into the Construction Environmental Management Plan required by condition 2.

Reason: To ensure that the appointed contractor undertaking the work is aware of the proposed mitigation measures to protect water quality within adjacent watercourses.

4. No site works of any nature or development shall take place until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted by the applicant and approved in writing by Newry, Mourne and Down District Council in consultation with Historic Environment Division, Department for Communities. The POW shall provide for:
  - The identification and evaluation of archaeological remains within the site;
  - Mitigation of the impacts of development through licensed excavation recording or
  - by preservation of remains in-situ;
  - Post-excavation analysis sufficient to prepare an archaeological report, to publication standard if necessary; and
  - Preparation of the digital, documentary and material archive for deposition.

Reason: to ensure that archaeological remains within the application site are properly identified and protected or appropriately recorded.

5. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 4.

Reason: to ensure that archaeological remains within the application site are properly identified, and protected or appropriately recorded.

6. A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under condition 4. These measures shall be implemented and a final archaeological report shall be submitted to Newry, Mourne and Down District Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with Newry, Mourne and Down District Council.

Reason: To ensure that the results of archaeological works are appropriately analysed and disseminated and the excavation archive is prepared to a suitable standard for deposition.

7. No development activity, including ground preparation or vegetation clearance, shall take place until a competent ecologist has been appointed as an Ecological Clerk of Works (ECoW) and the details, roles and responsibilities of the ECoW submitted to, and agreed in writing by, the Planning Authority.

Reason: To ensure no protected species are impacted by the proposal

8. No development activity, including ground preparation or vegetation clearance, shall take place until a Habitat Management Plan (HMP) has been submitted to and approved in writing by the Planning Authority. The approved HMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved HMP, unless otherwise agreed in writing by the Planning Authority. The HMP shall include the following:
  - a) Details of the area to be restored and its suitability for restoration
  - b) Aims and objectives of proposed habitat management;
  - c) Appropriate assessment and description of pre-construction, baseline habitat conditions;
  - d) Appropriate maps, clearly identifying adequate habitat management areas;



- e) Detailed methodology and prescriptions of habitat management measures and with defined criteria for the success of the measures;
- f) Timescales for the implementation of habitat management measures;
- g) Details of the monitoring of the effectiveness of habitat management measures using appropriate methodology (e.g. fixed vegetation quadrats, fixed point photography)
- h) Details of contingency measures to be implemented should monitoring reveal unfavourable results.

Reason: To compensate for the loss of and damage to Northern Ireland priority habitats.

**Case officer:**

\_\_\_\_\_

**Authorised officer:**

\_\_\_\_\_



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2019/1398/F

**Date Received:** 20.09.2019

**Proposal:** Environmental improvements to include, new granite paving, kerb trims and dished channels, tactile paving.

**Location:** Section along Chapel Road, Meigh.

**Site Characteristics & Area Characteristics:**

The application site is located within the settlement limits of Meigh as defined within the Banbridge / Newry and Mourne Area Plan 2015, the site is within an Area of Outstanding Natural Beauty.

The site runs along part of Chapel Road and the area close to the junction with Newry road, the site includes the public footpath areas on the edge of the public road, the site fronts many properties which include a variety of land uses.

**Site History:**

LA07/2019/0529/F - Drumintee Road from junction with Mallon's Lane to point adjacent to 2 Forkhill Road incorporating the junction with Chapel Road and Railway Road, Meigh - Environmental improvements to include: New granite paving, kerb trims and dished channels. Tactile paving. Asphalt footpath with stone chippings. New street lighting and removal of overhead wires. Tree surrounds and tree planting. Coloured road coatings – Permission Granted 22/08/2019.

**Planning Policies & Material Considerations:**

The following policy documents provide the primary planning context for the determination of this application:

- Banbridge / Newry and Mourne Area Plan 2015
- 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 / DCAN 15
- Planning Policy Statement 6 - Planning, Archaeology and The Built Heritage
- Planning Policy Statement 2 Natural Heritage

**Consultations:**

- **Department for Infrastructure Roads –**

Following the submission of coloured drawings for determination a response was received in which no objections were raised, a number of conditions were suggested.

**Objections & Representations:**

The application was advertised on 9<sup>th</sup> October 2019, fifteen (15) neighbouring properties were notified on 1<sup>st</sup> October 2019, no objections or representations were received.

**Consideration and Assessment:**

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.

The Banbridge / Newry and Mourne Area Plan 2015 has objectives to:

- Facilitate appropriate development within existing urban areas that will promote urban renaissance, create ease of access to services and community facilities and to maximise the use of existing infrastructure.
- To conserve, sustain and enhance the area's environmental qualities, local distinctiveness and sites of environmental importance in terms of landscape character and diversity, wildlife and habitats, townscape and archaeology.

The application is for an environmental improvement scheme, this includes the provision of new granite paving for footpaths, granite trim and granite road kerbs.

The proposed improvements will help to improve the character and appearance of the area as a whole. It is considered that the proposed environmental improvement scheme will make a positive contribution to the townscape of Meigh and that it is sensitive to the surrounding area in accordance with Des2 of PSRNI. The proposed materials to be used are considered acceptable by the planning section of the Council, the materials and construction methods to be used must meet relevant standards which are an issue outside the planning system, the planning section however are content that if all standards are adhered to then the proposed materials are acceptable and will not impact on the character or appearance of the area.

The proposal is considered acceptable in terms of PPS2 as there will be no adverse impacts on the Area of Outstanding Natural Beauty.

The site area is close to a few Listed Buildings and also the site is adjacent to the area of a Monument, HED advised under the previous approval LA07/2019/0529/F that they are content the proposal is satisfactory when considered against the SPPS and PPS6.

DFI Roads stated they have no objection and as such the proposal is considered acceptable in terms of PPS3.

It is considered that the proposal meets all relevant policy requirements and that it will help to improve the character and appearance of Meigh.

### **Recommendation: Approval**

#### **Conditions:**

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

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

2. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. The Council hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawings No 05 bearing the date stamp 28/10/2019.

Reason: To ensure there is a safe and convenient road system within the development and to comply with the provisions of the Private Streets (Northern Ireland) Order 1980.

3. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. No other development hereby permitted shall be commenced until the works necessary for the improvement of a public road have been completed in accordance with the details outlined in blue on Drawing number 05 bearing the date stamp 28/10/2019. The Department hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

Reason: To ensure there is a safe and convenient road system within the development and to comply with the provisions of the Private Streets (Northern Ireland) Order 1980.

4. The development hereby permitted shall not be commenced until any (highway structure/retaining wall/culvert) requiring Technical Approval, as specified in the Roads (NI) Order 1993, has been approved and constructed in accordance with BD2 Technical Approval of Highways Structures : Volume 1: Design Manual for Roads and Bridges.

Reason: To ensure that the structure is designed and constructed in accordance with BD2 Technical Approval of Highways Structures: Volume 1: Design Manual for Roads and Bridges.

5. Any telegraph poles / street furniture must be re-sited to the rear of sight visibility splays and to the satisfaction of Transport NI.

Reason: To ensure that the structure is designed and constructed in accordance with BD2 Technical Approval of Highways Structures: Volume 1: Design Manual for Roads and Bridges.



6. The development hereby permitted shall not be commenced until a Street Lighting scheme design has been submitted and approved by the Department for Infrastructure Street Lighting Section.

Reason: Road safety and convenience of traffic and pedestrians.

7. The Street Lighting scheme, including the provision of all plant and materials and installation of same, will be implemented as directed by the Department for Infrastructure Street Lighting Section.

Reason: To ensure the provision of a satisfactory street lighting system, for road safety and convenience of traffic and pedestrians.

8. All appropriate road markings and associated signage within the development and on the public road shall be provided by the developer in accordance with the Department's specification (Design Manual for Roads and Bridges) and as directed by Transport NI Traffic Management Section prior to the development becoming occupied by residents.

Reason: In the interests of road safety and traffic progression.

9. The gradient of a private access shall not exceed 8% for the first 5 metres outside the public road boundary and a maximum gradient of 10% thereafter.

Reason: In the interests of road safety.

10. Prior to the commencement of any road works, the developer shall provide a detailed programme of works and associated traffic management proposals to DFI Roads for agreement in writing.

Reason: To facilitate the free movement of road users and the orderly progress of work in the interests of road safety.

11. The developer shall contact DFI Roads Traffic Management prior to the commencement of works on the site to agree suitable positions for any existing road signage and traffic calming measures that will require being relocated as a result of this proposal.

Reason: In the interests of road safety and traffic progression.

### **Informatives**

1. Private Streets Order (Northern Ireland) 1980 and The Private Streets (Amendment) (Northern Ireland) Order 1992.

Under the above Order the applicant is advised that before any work shall be undertaken for the purpose of erecting a building the person having an estate in the land on which the building is to be erected is legally bound to enter into a bond and an agreement under seal for himself and his successors in title with the Department to

make the roads and sewers in accordance with the Private Streets Construction Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001. Sewers require separate bond from Northern Ireland Water to cover foul and storm sewers.

2. Separate approval must be received from DfI Transport NI in respect of detailed standards required for the construction of streets in accordance with the Private Streets Construction Regulation (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001.

3. Under the terms of the Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001, design for any Street Lighting schemes will require approval from Transport NI, Street Lighting Consultancy, Benson Street, Lisburn. The Applicant is advised to contact Transport NI Street Lighting Section at an early stage. The applicant/developer is also responsible for the cost of supervision of all street works determined under the Private Streets (Northern Ireland) Order 1980.

4. It is a Transport NI requirement that all structures which fall within the scope of the current version of DB2 Technical approval of Highways Structures: Volume 1: Design Manual for Roads and Bridges shall require Technical Approval. Details shall be submitted for the Technical Approval Authority through the relevant division.

5. The development shall not be commenced until a Certificate issued by a chartered structural engineer certifying that the structure has been designed in accordance with the relevant standards and guidance, has been submitted to and accepted by DfI Transport NI. This certificate should state:

"I/We certify all reasonable professional skill and care has been used in the design and check of the above named structure in accordance with the following design standards and advice notes".

6. Precautions shall be taken to prevent the deposit of mud and other debris on the adjacent road by vehicles travelling to and from the construction site. Any mud, refuse, etc. deposited on the road as a result of the development, must be removed immediately by the operator/contractor.

7. Geotechnical activities which require Geotechnical Certification shall be submitted to Engineering Policy and Parking Services through the relevant division. Geotechnical Certification shall be in accordance with the Department of Infrastructure's Geotechnical Certification procedures as laid down in the current version of HD22 Managing Geotechnical Risk: Volume 4: Design Manual for Roads and Bridges.

8. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.

9. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

**Case Officer:**

**Date:**

**Authorised Officer:**

**Date**

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

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
		<b>PLANNING MEETING – 09 MAY 2018</b>			
LA07/2017/1721/F	Millvale Services Ltd – proposed parking for neighbouring Millvale Service Station – Millvale Road, Bessbrook	<b>Defer Planning Application LA07/2017/1721/F to allow for a Health and Safety Report / Road Traffic Report to be conducted as soon as possible and report back to Committee for further consideration of the application.</b>	Pat Rooney	<p><b>21 day letter issued to agent requesting the said information. Expiry date for info is 9.7.18.</b></p> <p><b>Application deferred at meeting on 29 August 2018 until issues raised by SPO have been considered and Planning Officers are to liaise with the agent/applicant at the earliest possible opportunity.</b></p> <p><b>Remains under consideration</b></p>	N
		<b>PLANNING MEETING – 1 AUGUST 2018</b>			



Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
LA07/2017/1261/0	Thomas Mageean – proposed dwelling and garage – site abutting 20 Junction Road, Saintfield	<b>Defer application to enable the Council's Legal Advisor to consider issues raised regarding ownership of the application site (Mr Thomas Mageean); the farm business in the name of Mr Bernard Mageean, who takes land in conacre from his brother and this farm business being altered by adding the applicant as an additional member of the business and in so doing have the applicants buildings at No. 20 Junction Road included within the farm business criterion © of CTY10</b>	Annette McAlarney	<b>Await legal advice.</b>	N
		<b>PLANNING MEETING – 29 AUGUST 2018</b>			
LA07/2017/0821/0	Mr C Kane - Proposed off site replacement dwelling and garage - 123 Magherahamlet Road, Moneynabane, Ballynahinch.	<b>Defer application for further discussion between agent/applicant and planning officers re: new information submitted and issues raised at the Planning Committee Meeting</b>	Annette McAlarney	<b>Issues raised at Planning Committee referred to the outcome of an application which has yet to be submitted to planning. In line with Committee wishes we have to</b>	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
				<p>await the submission of this application and its conclusion before returning to consider the current deferred application. Contact made with agent re progress on potential new application which has yet to be submitted. Meeting to be convened. Agent advised on 19 March 2019 that the application for the 2no broiler houses was to be submitted within the next 3 weeks. No application has been received at time of update 29/04/2019.</p> <p>No application submitted to date 04/06/2019</p>	

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
				Application for poultry houses received LA07/2019/0953/F on 13/06/2019 Being processed.	
		<b>PLANNING MEETING - 13 FEBRUARY 2019</b>			
LA07/2015/0149/F	Change of use of building to provide storage and distribution of fuel with alterations and new bulk fuel tank in yard – site between 54 and 58 Edenappa Road, Jonesborough	<b>Withdrawn by the Planning Department to allow further consultation to be completed</b>	A Davidson	<b>Remains under consideration</b>	N
LA07/2018/0820/F	Erection of a semi-detached pair of dwellings and associated car parking – lands to the rear of Nos 1 and 2 Sally Gardens and 31-35 Mourne Rise Newcastle	<b>Defer to allow revised plans to be considered and ensure a maintenance strip was provided for use by Rivers Agency.</b>	A McAlarney	<b>Applicant has met with Rivers Agency. Planning office has requested updated position from applicant. No response. Proceed to return to May 2019 Committee – DEFER</b>  <b>Under consideration</b>	N



Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
		<b>PLANNING MEETING – 26 JUNE 2019</b>			
LA07/2018/0930/F	New build residential development of 1 No. apartment block consisting of 13 No. 3P2B apartments, 12 No. 2PIB apartments and 1 No. 2PIB wheelchair apartment (26 apartments in total) with 19 No. basement parking spaces 2.0 – 41 Belfast Road, Newry	Defer for a site visit	M Keane	Site visit held – 08-07-2019 – application returned to July Committee Meeting – agreed to defer for further discussions between applicant/planning officers to see if an acceptable proposal can be agreed and decision making powers be delegated to Planning Officers <b>Further office meeting held with applicant. Awaiting final amended scheme for consideration</b>	N
		<b>PLANNING COMMITTEE MEETING – 24 JULY 2019</b>			
LA07/2018/1787/F	Proposed extension to existing Materials Recovery Facility	Defer this application, which the Committee agreed was an exception under FLD 1, and refer	A McAlarney	Application to come back to Committee	N



Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
	Building – 23 Downpatrick Road, Killough	the completed Flood Risk Assessment to Rivers Agency to be reviewed.		<b>Under consideration.</b>	
		<b>PLANNING COMMITTEE MEETING – 17 SEPTEMBER 2019</b>			
LA07/2017/1235/F	Demolition of No. 31 and erection of two shop units on ground floor with 4 No. apartments on first and second floors – No. 31 Cardinal O’Fiaich Square, Crossmaglen	<b>Defer for discussions between agent and Planning Officers to agree a suitable scheme and delegate authority to Planning Officers to issue the decision</b>	A Davidson		
LA07/2018/1670/F	Proposed two storey dwelling with integral garage as a change of house type from approval LA07/2015/1171/F with revised vehicular access from Church Road Road – 30m NE of 6 Main Street, Camlough	<b>Defer for discussions between agent and Planning Officers to agree a suitable scheme and delegate authority to Planning Officers to issue the decision</b>	A Davidson		
LA07/2018/0860/F	Proposed replacement dwelling (amended drawings) – 45 metres NE of No. 14 Rath Road, Clonallon Glebe tb Warrenpoint	<b>Defer for further discussion between Planning Officers and agent/applicant – additional information to be provided</b>	M Keane	<b>Remains under consideration</b>	
		<b>PLANNING COMMITTEE MEETING – 16 OCTOBER 2019</b>			
LA07/2019/1031/F	Extension to side dwelling – 4 Oldpark Road, Loughinisland	<b>Defer for further discussions between agent/Planners with a view to agreeing a suitably</b>	A McAlarney	<b>Meeting held with Agent and applicant on 5 Dec 2019.</b>	

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
		<p>designed extension which would not impact on the streetscene.</p> <p>Planners to be given authority to issue the decision</p>		Agent to make amendments.	
<b>PLANNING COMMITTEE MEETING</b> <b>11 DECEMBER 2019</b>					
LA07/2019/0773/0	Dwelling – to rear of 71 Church Street, Downpatrick	<b>Withdraw from the addendum list for a meeting with Planners, applicant and agent</b>	A McAlarney		
LA07/2019/1142/0	Proposed gap site for 1 no dwelling – side garden at 75 Station Road, Saintfield	<b>Site Visit – 06-01-2020</b>	A McAlarney	<b>Application to come back to January 2020 Planning Meeting</b>	
LA07/2019/1231/0	Dwelling and garage on a farm – 80m south of 22 Drumgooland Road, Downpatrick	<b>Site Visit – 06-01-2020</b>	A McAlarney	<b>Application to come back to January 2020 Planning Meeting</b>	
LA07/2019/1234/0	Dwelling and garage on an infill site – adjacent and south of 22 Rocks Chapel Road, Crossgar	<b>Site Visit – 06-01-2020</b>	A McAlarney	<b>Application to come back to January 2020 Planning Meeting</b>	
LA07/2019/1257/F	Two storey extension to side of dwelling – 87 Seaview, Killough	<b>Site Visit – 06-01-2020</b>	A McAlarney	<b>Application to come back to January 2020 Planning Meeting</b>	

## Newry, Mourne & Down District Council – December 2019

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### 1. Live Applications

MONTH 2019/20	NEW APPLICATIONS	LIVE APPLICATIONS	LIVE APPLICATIONS OVER 12 MONTHS
April	177	1,173	269
May	192	1,196	266
June	155	1,184	264
July	139	1,157	250
August	127	1,108	249
September	110	1,026	241
October	155	981	234
November	149	963	229
December	106	933	221



## Newry, Mourne & Down District Council – December 2019

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

Month 2019/20	Under 6 months	Between 6 and 12 months	Between 12 and 18 months	Between 18 and 24 months	Over 24 months	Total
April	701	203	89	60	120	<b>1,173</b>
May	718	212	81	61	124	<b>1,196</b>
June	718	202	86	57	121	<b>1,184</b>
July	664	243	76	51	123	<b>1,157</b>
August	632	227	77	44	128	<b>1,108</b>
September	574	211	70	45	126	<b>1,026</b>
October	534	213	80	39	115	<b>981</b>
November	522	212	71	40	118	<b>963</b>
December	496	216	70	43	108	<b>933</b>

### 3. Live applications per Case Officer

Month 2019/20	Average number of Applications per Case Officer
April	78
May	79
June	73
July	76
August	76
September	76
October	67
November	58
December	57



## Newry, Mourne & Down District Council – December 2019

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### 4. Decisions issued per month

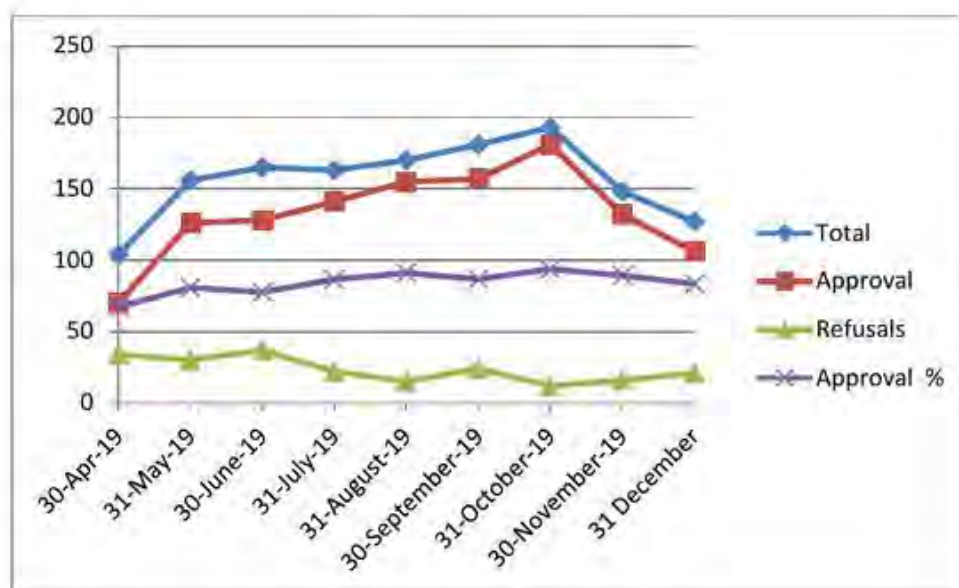
Month 2019/20	Number of Decisions Issued	Number of Decisions Issued under delegated authority
April	104	95
May	156	152
June	165	148
July	163	157
August	170	142
September	181	158
October	193	185
November	148	138
December	127	121

## Newry, Mourne & Down District Council – December 2019

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### 5. Decisions Issued YTD

Month 2019/20	Number of Decisions Issued	Breakdown of Decisions	
April	104	Approvals (70)	67%
		Refusals (34)	33%
May	260	Approvals (196)	75%
		Refusals (64)	25%
June	425	Approvals (324)	76%
		Refusals (101)	24%
July	588	Approvals (465)	79%
		Refusals (123)	21%
August	758	Approvals (620)	82%
		Refusals (138)	18%
September	939	Approvals (777)	83%
		Refusals (162)	17%
October	1,132	Approvals (958)	85%
		Refusals (174)	15%
November	1,280	Approvals (1090)	85%
		Refusals (190)	15%
December	1,407	Approvals (1196)	85%
		Refusals (211)	15%



## Newry, Mourne & Down District Council – December 2019

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### 6. Enforcement Live cases

Month 2019/20	<=1yr	1-2 yrs	2-3 yrs	3-4 yrs	4-5 yrs	5+ysrs	Total
April	329	230	183	79	63	179	1,063
May	308	247	174	85	62	178	1,054
June	286	249	171	83	61	174	1,024
July	283	261	166	83	60	170	1,023
August	264	256	179	81	55	175	1,010
September	248	264	179	89	45	174	999
October	240	260	169	84	38	164	955
November	244	256	165	89	35	151	940
December	230	251	152	90	35	146	904

### 7. Planning Committee

Month	Number of Applications presented to Committee	Number of Applications Determined by Committee	Number of Applications Withdrawn/ Deferred for future meeting	Number of Officer recommendation overturned
10 April 2019	17	11	6	5
29 May 2019	15	12	3	5
26 June 2019	16	13	3	3
24 July 2019	27	18	9	8
21 August 2019	34	29	5	5
18 September 2019	17	12	5	6
16 October 2019	15	12	3	3
13 November 2019	11	8	3	2
11 December 2019	14	7	7	2
<b>Totals</b>	<b>166</b>	<b>122</b>	<b>44</b>	<b>39</b>

## Newry, Mourne & Down District Council – December 2019

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### 8. Appeals

Planning Appeal Commission Decisions issued during November 2019

Area	Number of current appeals	Number of decisions issued	Number of decisions Allowed	Number of decisions Dismissed	Withdrawn
Newry & Mourne	23	2	1	1	0
Down	16	7	4	3	0
<b>TOTAL</b>	<b>39</b>	<b>9</b>	<b>5</b>	<b>4</b>	<b>0</b>



## Newry, Mourne &amp; Down District Council – December 2019

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Statutory targets monthly update - April 2019 - November 2019 (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 <sup>1</sup>	Average processing time <sup>2</sup>	% of cases processed within 30 weeks	Number received	Number decided/ withdrawn <sup>1</sup>	Average processing time <sup>2</sup>	% of cases processed within 15 weeks	Number opened	Number brought to conclusion <sup>3</sup>	"70%" conclusion time <sup>3</sup>	% of cases concluded within 39 weeks
April	1	1	51.8	0.0%	163	81	22.0	22.2%	28	66	192.0	30.3%
May	0	1	600.0	0.0%	152	138	21.1	28.3%	29	36	85.4	44.4%
June	2	3	230.8	33.3%	123	145	24.6	22.1%	25	48	114.7	37.5%
July	0	-	0.0	0.0%	110	152	20.2	36.2%	41	44	165.2	29.5%
August	0	2	55.4	50.0%	100	159	22.2	29.6%	24	42	83.5	47.6%
September	1	1	321.0	0.0%	114	166	22.4	24.1%	34	35	185.7	40.0%
October	1	-	0.0	0.0%	117	158	19.2	38.6%	44	72	162.9	30.6%
November	0	2	169.4	0.0%	130	136	24.3	33.8%	22	55	192.0	29.1%
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	5	10	169.4	20.0%	1,009	1,135	21.6	29.8%	247	398	151.3	34.9%

Source: NI Planning Portal

## Notes:

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

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

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

## Newry, Mourne & Down District Council – December 2019

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## 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
05/04/2019	A McAlarney	Cllr Curran
22/05/2019	A McAlarney	Cllr Curran
04/06/2019	A McAlarney	Colin McGrath
04/06/2019	A McAlarney	Colin McGrath
06/06/2019	A McAlarney	Cllr Andrews
11/06/2019	A McAlarney	Colin McGrath (Dominic O'Reilly)
12/06/2019	A McAlarney	Cllr Walker
18/07/2019	A McAlarney	Cllr Doran
06/08/2019	A McAlarney	Cllr Walker Jim Shannon
12/08/2019	A McAlarney	Cllr McEvoy
13/08/2019	A McAlarney	Cllr McEvoy
16/08/2019	A McAlarney	Cllr Curran
06/09/2019	A McAlarney	Colin McGrath
10/09/2019	A McAlarney	Cllr Burgess
07/10/2019	A McAlarney	Cllr Walker
06/11/2019	A McKay	Chris Hazzard
14/11/2019	A McKay	Colin McGrath
12/12/2019	A McAlarney	Cllr Andrews

**AUTHORITY** Newry, Mourne and Down

**ITEM NO** 1  
**Planning Ref:** LA07/2018/0410/ **PAC Ref:** 2018/A0201  
**APPELLANT** Mr And Mrs Stevenson **DEA** Rowallane  
**LOCATION** 80m South East Of 2 School Road Saintfield BT24 7JH

**PROPOSAL** Proposed dwelling and garage (Change of design from that previously approved under R/2015/0060/F)

**APPEAL TYPE** DC- Refusal of Planning Permission

**Appeal Procedure** **Date Appeal Lodged** #####

**Date of Hearing**

**Date Statement of Case Due for Hearing**

**Date Statement of Case Due - Written Representat**

**Date of Site Visit**

**ITEM NO** 2  
**Planning Ref:** LA07/2018/0015/ **PAC Ref:** 2018/A0251  
**APPELLANT** Gordon Graham **DEA** The Mournes  
**LOCATION** Between 20 And 22 Ulster Avenue Annalong Co Down  
 Northern Ireland BT34 4TX

**PROPOSAL** Proposed change of house type and integrated domestic garage (Amended scheme)

**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 Representat**

**Date of Site Visit**

**ITEM NO** 3  
**Planning Ref:** LA07/2018/0264/ **PAC Ref:** 2019/A0023  
**APPELLANT** Steven Skelly **DEA** Downpatrick  
**LOCATION** 36 Demense Heights Downpatrick

**PROPOSAL** Extension to dwelling

**APPEAL TYPE** DC- Refusal of Planning Permission

**Appeal Procedure** **Date Appeal Lodged** #####

**Date of Hearing**



Date Statement of Case Due for Hearing  
 Date Statement of Case Due - Written Representat  
 Date of Site Visit

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<b>ITEM NO</b>	<b>4</b>		
<b>Planning Ref:</b>	LA07/2018/0128/	<b>PAC Ref:</b>	2019/A0031
<b>APPELLANT</b>	Paul Scott	<b>DEA</b>	Rowallane
<b>LOCATION</b>	Lands 195m SSE Of 95 Cahard Road Cahard Ballynahinch		

**PROPOSAL** New private access to dwelling previously approved under LA07/2017/1210/RM

**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** **Date Appeal Lodged** #####  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representat**  
**Date of Site Visit**

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<b>ITEM NO</b>	<b>5</b>		
<b>Planning Ref:</b>	LA07/2017/1799/	<b>PAC Ref:</b>	2019/A0041
<b>APPELLANT</b>	H Lynch & E Ferguson	<b>DEA</b>	The Mournes
<b>LOCATION</b>	Land East Of 2 Castle Place Newcastle BT33 0AA		

**PROPOSAL** 2 No Apartments with associated parking and amenity

**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** **Date Appeal Lodged** #####  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representat**  
**Date of Site Visit**

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<b>ITEM NO</b>	<b>6</b>		
<b>Planning Ref:</b>	LA07/2017/1488/	<b>PAC Ref:</b>	2019/A0049
<b>APPELLANT</b>	Blackgate Developments Ltd	<b>DEA</b>	The Mournes
<b>LOCATION</b>	Lands Approximately 60 Metres East Of No. 4 Beach Side Harbour Road Kilkeel Newry BT34 4GE		

**PROPOSAL** Proposed demolition of existing building and erection of 2 No,

dwelling houses, retaining wall, landscaping and ancillary site works

**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 Representat**  
**Date of Site Visit**

**ITEM NO** 7  
**Planning Ref:** LA07/2018/0785/ **PAC Ref:** 2019/A0064  
**APPELLANT** Mr W McMahon **DEA** Crotlieve  
**LOCATION** Approximately 50 Meters North West Of 78 Upper Dromore Road Warrenpoint  
**PROPOSAL** Proposed dwelling and detached garage (infill site)

**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** Written Reps **Date Appeal Lodged** #####  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representat**  
**Date of Site Visit**

**ITEM NO** 8  
**Planning Ref:** P/2014/0920/F **PAC Ref:** 2019/A0065  
**APPELLANT** Mr Brian Mulholland **DEA** Crotlieve  
**LOCATION** To The Rear Of 37A Ballyholland Road Ballyholland Lower Newry Down BT34 2LU  
**PROPOSAL** Retention of existing agricultural shed, hardstanding, agricultural laneway and earthen embankments

**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 Representat**  
**Date of Site Visit**

**ITEM NO** 9  
**Planning Ref:** LA07/2018/0496/ **PAC Ref:** 2019/A0069

**APPELLANT** Eugene Stranney **DEA** Slieve Croob  
**LOCATION** 149 Ballydugan Road Downpatrick BT30 8HH

**PROPOSAL** Change of use of existing garage, study & games room to a dwelling as ancillary to the main existing dwelling

**APPEAL TYPE** DC- Refusal of Planning Permission

**Appeal Procedure** **Date Appeal Lodged** #####

**Date of Hearing**

**Date Statement of Case Due for Hearing**

**Date Statement of Case Due - Written Representat**

**Date of Site Visit**

**ITEM NO** 10  
**Planning Ref:** LA07/2019/0013/ **PAC Ref:** 2019/A0082  
**APPELLANT** Niall Branniff **DEA** Slieve Croob  
**LOCATION** 50 Drumkeeragh Road Ballynahinch

**PROPOSAL** Replacement dwelling

**APPEAL TYPE** DC- Refusal of Planning Permission

**Appeal Procedure** **Date Appeal Lodged** #####

**Date of Hearing**

**Date Statement of Case Due for Hearing**

**Date Statement of Case Due - Written Representat**

**Date of Site Visit**

**ITEM NO** 11  
**Planning Ref:** LA07/2017/1068/ **PAC Ref:** 2019/A0094  
**APPELLANT** Mr And Mrs M Pedan **DEA** The Mournes  
**LOCATION** Between No's 42 And 46 Fair Road Greencastle BT34 4LS

**PROPOSAL** Erection of dwelling on gap site

**APPEAL TYPE** DC- Refusal of Planning Permission

**Appeal Procedure** **Informal Hearing** **Date Appeal Lodged** #####

**Date of Hearing**

**Date Statement of Case Due for Hearing**

**Date Statement of Case Due - Written Representat**

**Date of Site Visit**

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**ITEM NO** 12  
**Planning Ref:** LA07/2017/1064/ **PAC Ref:** 2019/A0096  
**APPELLANT** Mr Pat McCartan **DEA** The Mournes  
**LOCATION** 60 Metres South East Of No. 77 Tullyframe Road Kilkeel  
 BT34 4RZ  
**PROPOSAL** Site for dwelling and garage on equestrian holding  
**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** Informal Hearing **Date Appeal Lodged** #####  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representat**  
**Date of Site Visit**

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**ITEM NO** 13  
**Planning Ref:** LA07/2017/1845/ **PAC Ref:** 2019/A0097  
**APPELLANT** Mrs Celine McMullan **DEA** Downpatrick  
**LOCATION** Between 4 And 8 Ballintogher Road Saul Downpatrick  
 BT30 7LB  
**PROPOSAL** 2no new dwellings and garages and associated site and access  
 works  
**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** **Date Appeal Lodged** #####  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representat**  
**Date of Site Visit**

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**ITEM NO** 14  
**Planning Ref:** LA07/2019/0005/ **PAC Ref:** 2019/A0104  
**APPELLANT** Clare Higgins & Shauna Magee **DEA** Downpatrick  
**LOCATION** Between 45 And 49 St Patrick's Road Raholp Downpatrick  
**PROPOSAL** Proposed two one and half storey dwelling and detached  
 garages  
**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** **Date Appeal Lodged** #####



Date of Hearing  
 Date Statement of Case Due for Hearing  
 Date Statement of Case Due - Written Representat  
 Date of Site Visit

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<b>ITEM NO</b>	<b>15</b>	<b>PAC Ref:</b>	2019/A0106
<b>Planning Ref:</b>	P/2014/0427/O	<b>DEA</b>	Crotlieve
<b>APPELLANT</b>	Joseph McGivern		
<b>LOCATION</b>	To The Rear And South Of 2 Berkley Grove Warrenpoint		

**PROPOSAL** Site for dwelling (amended plans)

**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** Written Reps **Date Appeal Lodged** #####  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representat**  
**Date of Site Visit**

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<b>ITEM NO</b>	<b>16</b>	<b>PAC Ref:</b>	2019/A0108
<b>Planning Ref:</b>	LA07/2019/1054/	<b>DEA</b>	Newry
<b>APPELLANT</b>	EDB Construction		
<b>LOCATION</b>	On Lands Between The Sacred Heart Grammar School And Newry High School Ashgrove Avenue Newry		

**PROPOSAL** Erection of approved dwellings on sites 9 & 10 of approval P/2011/1067/F

**APPEAL TYPE** DC - Non Determination of a Planning Application  
**Appeal Procedure** Informal Hearing **Date Appeal Lodged** #####  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representat**  
**Date of Site Visit**

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<b>ITEM NO</b>	<b>17</b>	<b>PAC Ref:</b>	2019/A0111
<b>Planning Ref:</b>	LA07/2017/0078/	<b>DEA</b>	Slieve Croob
<b>APPELLANT</b>	Mr D Mahon		
<b>LOCATION</b>	20m East Of 223a Newcastle Road Seaforde BT30 8NP		

**PROPOSAL** Erection of 3 light industrial units(Additional supporting info

received)

**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** **Date Appeal Lodged** #####  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representat**  
**Date of Site Visit**

**ITEM NO** 18  
**Planning Ref:** LA07/2018/1023/ **PAC Ref:** 2019//A0112  
**APPELLANT** Mr & Mrs D Sloan **DEA** The Mournes  
**LOCATION** 10 Tullybrannigan Brae Newcastle

**PROPOSAL** Loft conversion & rear 1.5 storey extension with integral single storey garage with utility room to side & rear of dwelling

**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** **Date Appeal Lodged** #####  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representat**  
**Date of Site Visit**

**ITEM NO** 19  
**Planning Ref:** LA07/2018/1758/ **PAC Ref:** 2019/A0121  
**APPELLANT** Around A Pound **DEA** Crotlieve  
**LOCATION** 19 Church Street Warrenpoint

**PROPOSAL** Retrospective shop sign with static exterior illumination

**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** **Written Reps** **Date Appeal Lodged** #####  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representat**  
**Date of Site Visit**

**ITEM NO** 20  
**Planning Ref:** LA07/2019/0462/ **PAC Ref:** 2019/A0126

<b>APPELLANT</b>	Mr Colm Watters	<b>DEA</b>	Slieve Gullion
<b>LOCATION</b>	118 Cullaville Road Crossmaglen Newry BT35 9AQ		

**PROPOSAL**                      Erection of replacement dwelling house, ancillary site works and landscaping

**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 Representat**

**Date of Site Visit**

<b>ITEM NO</b>	<b>21</b>		
<b>Planning Ref:</b>	LA07/2015/1302/	<b>PAC Ref:</b>	2019/A0129
<b>APPELLANT</b>	EDB Construction	<b>DEA</b>	Newry
<b>LOCATION</b>	Lands To Rear Of 11-29 Thomas Street And Adjacent To Access Road To Buttercrane Shopping Centre		

**PROPOSAL**                      Proposed new retail development at ground floor with 4No. 2 bedroom apartments at first floor level, relocation of existing NIE sub-station and provision of associated carparking and landscapinn

**APPEAL TYPE**                      DC- Refusal of Planning Permission

**Appeal Procedure**                      **Informal Hearing**                      **Date Appeal Lodged**                      #####

**Date of Hearing**

**Date Statement of Case Due for Hearing**

**Date Statement of Case Due - Written Representat**

**Date of Site Visit**

<b>ITEM NO</b>	<b>22</b>		
<b>Planning Ref:</b>	LA07/2017/1213/	<b>PAC Ref:</b>	2019/A0143
<b>APPELLANT</b>	Tullyherron Farm Feeds	<b>DEA</b>	Slieve Gullion
<b>LOCATION</b>	38 Tullyherron Road Mountnorris Armagh BT60 2UF		

**PROPOSAL**                      Retention of extension to existing farm feeds business, including extension to hard standing area, storage buildings silos and associated works.

**APPEAL TYPE**                      DC- Refusal of Planning Permission

**Appeal Procedure**                      **Written Reps**                      **Date Appeal Lodged**                      #####

**Date of Hearing**

**Date Statement of Case Due for Hearing**

**Date Statement of Case Due - Written Representat**

**Date of Site Visit**

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<b>ITEM NO</b>	<b>23</b>		
<b>Planning Ref:</b>	LA07/2019/1056/	<b>PAC Ref:</b>	2019/A0150
<b>APPELLANT</b>	Felix McEvoy	<b>DEA</b>	Slieve Croob
<b>LOCATION</b>	60m South East Of No 36 Derryneill Road Ballyward Castlewellan		
<b>PROPOSAL</b>	Proposed holiday chalet with retention of sub structure as commenced on site		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	#####
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representat</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>24</b>		
<b>Planning Ref:</b>	LA07/2019/0181/	<b>PAC Ref:</b>	2019/A0155
<b>APPELLANT</b>	Anthony Flanagan	<b>DEA</b>	Slieve Croob
<b>LOCATION</b>	152 Ballylough Road Castlewellan		
<b>PROPOSAL</b>	2 Storey side and rear extension to provide ancillary accomodation (Retrospective)		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	#####
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representat</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>25</b>		
<b>Planning Ref:</b>	LA07/2019/1313/	<b>PAC Ref:</b>	2019/A0159
<b>APPELLANT</b>	EDB Construction Ltd	<b>DEA</b>	Newry
<b>LOCATION</b>	58 Armagh Road Newry		
<b>PROPOSAL</b>	Demolition of existing building and erection of apartment development		
<b>APPEAL TYPE</b>	DC - Non Determination of a Planning Application		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	#####



Date of Hearing  
 Date Statement of Case Due for Hearing  
 Date Statement of Case Due - Written Representat  
 Date of Site Visit

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<b>ITEM NO</b>	<b>26</b>	<b>PAC Ref:</b>	2019/A0165
<b>Planning Ref:</b>	LA07/2019/0450/	<b>DEA</b>	Crotlieve
<b>APPELLANT</b>	Mr Paul Murney		
<b>LOCATION</b>	39 Chapel Hill Road Mayobridge Newry BT34 2EX		

**PROPOSAL** Retention of Agricultural Shed used for the wintering of animals and the storage of fodder and farm machinery.

**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** **Date Appeal Lodged** #####  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representat**  
**Date of Site Visit**

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<b>ITEM NO</b>	<b>27</b>	<b>PAC Ref:</b>	2019/A0168
<b>Planning Ref:</b>	LA07/2018/0995/	<b>DEA</b>	Slieve Croob
<b>APPELLANT</b>	Ian Taylor		
<b>LOCATION</b>	Site South-east Of 123b Ballylough Road Castlewellan		

**PROPOSAL** Replacement dwelling previously approved under application R/2011/0332/F with new access

**APPEAL TYPE** DC - Conditions of Approval  
**Appeal Procedure** **Date Appeal Lodged** #####  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representat**  
**Date of Site Visit**

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<b>ITEM NO</b>	<b>28</b>	<b>PAC Ref:</b>	2019/A0169
<b>Planning Ref:</b>	LA07/2019/0866/	<b>DEA</b>	Newry
<b>APPELLANT</b>	EDB Construction Ltd		
<b>LOCATION</b>	Lands Opposite Numbers 20-24 Watsons Road Newry		

**PROPOSAL** Proposed residential development comprising 20 No dwellings

(18 Semi-detached and 2 detached) change of house type in respect of Approval P/2006/1117/F.

**APPEAL TYPE** DC - Non Determination of a Planning Application  
**Appeal Procedure** **Date Appeal Lodged** #####  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representat**  
**Date of Site Visit**

**ITEM NO** 29  
**Planning Ref:** LA07/2019/0990/ **PAC Ref:** 2019/A0181  
**APPELLANT** The Trustees Of Newry I.N.F. **DEA** Newry  
**LOCATION** To Rear Of No. 2 John Mitchell Place Newry BT34 2BP

**PROPOSAL** Erection of illuminated signage (pixel pitch on road fronting elevation of commercial premises)

**APPEAL TYPE** DC - Advertisement Consent  
**Appeal Procedure** **Date Appeal Lodged** #####  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representat**  
**Date of Site Visit**

**ITEM NO** 30  
**Planning Ref:** LA07/2018/0442/ **PAC Ref:** 2019/A0190  
**APPELLANT** Mr M McCartan **DEA** The Mournes  
**LOCATION** 12-14 Seacliff Close Ballaghbeg Newcastle Co Down BT33 0LH

**PROPOSAL** Retrospective approval for existing constructed dwelling at 14 and approval for new dwelling at 12 incorporating new road layout and turning head (Road layout approved by Road Service Engineer)

**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** **Date Appeal Lodged** #####  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representat**  
**Date of Site Visit**

**ITEM NO** 31  
**Planning Ref:** LA07/2018/1975/ **PAC Ref:** 2019/A0192

<b>APPELLANT</b>	Joanna Groves	<b>DEA</b>	Downpatrick
<b>LOCATION</b>	To The Rear Of 15A Lisoid Road Rossglass With Access From Ballylig Road Rossglass		
<b>PROPOSAL</b>	Dwelling		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission
<b>Appeal Procedure</b>	<b>Date Appeal Lodged</b> #####
<b>Date of Hearing</b>	
<b>Date Statement of Case Due for Hearing</b>	
<b>Date Statement of Case Due - Written Representat</b>	
<b>Date of Site Visit</b>	

<b>ITEM NO</b>	<b>32</b>		
<b>Planning Ref:</b>	LA07/2019/0459/	<b>PAC Ref:</b>	2019/E0025
<b>APPELLANT</b>	Roger And Simon Foster	<b>DEA</b>	Slieve Gullion
<b>LOCATION</b>	165m North West Of 20 Barkers Road Newtownhamilton Newry		

<b>PROPOSAL</b>	To confirm that the works which were undertaken to construct a building to accommodate heating boilers, associated plant and staff welfare facility and the erection of a vertical storage silo were lawful
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<b>APPEAL TYPE</b>	DC- Refusal of CLUD
<b>Appeal Procedure</b>	<b>Written Reps</b> <b>Date Appeal Lodged</b> #####
<b>Date of Hearing</b>	
<b>Date Statement of Case Due for Hearing</b>	
<b>Date Statement of Case Due - Written Representat</b>	
<b>Date of Site Visit</b>	

<b>ITEM NO</b>	<b>33</b>		
<b>Planning Ref:</b>	LA07/2019/0460/	<b>PAC Ref:</b>	2019/E0026
<b>APPELLANT</b>	Roger And Simon Foster	<b>DEA</b>	Slieve Gullion
<b>LOCATION</b>	65m SW Of 8 Blaney Road Newtownhamilton Newry		

**PROPOSAL**

<b>APPEAL TYPE</b>	DC- Refusal of CLUD
<b>Appeal Procedure</b>	<b>Date Appeal Lodged</b> #####
<b>Date of Hearing</b>	
<b>Date Statement of Case Due for Hearing</b>	
<b>Date Statement of Case Due - Written Representat</b>	
<b>Date of Site Visit</b>	

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<b>ITEM NO</b>	<b>34</b>		
<b>Planning Ref:</b>	LA07/2019/1057/	<b>PAC Ref:</b>	2019/E0037
<b>APPELLANT</b>	EDB Construction	<b>DEA</b>	Newry
<b>LOCATION</b>	Lands To Rear Of 11-29 Thomas Street And Adjacent To Access Road To Buttercrane Shopping Centre.		
<b>PROPOSAL</b>	Completion of retail building granted planning permission by approvals P/2009/0003/F and P/2011/1020/F.		
<b>APPEAL TYPE</b>	DC - Non Determination of a Planning Application		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	#####
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representat</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>35</b>		
<b>Planning Ref:</b>	LA07/2019/0514/	<b>PAC Ref:</b>	2019/E0043
<b>APPELLANT</b>	Alastair Chestnutt	<b>DEA</b>	The Mournes
<b>LOCATION</b>	177a Kilkeel Road Annalong BT34 4TN		
<b>PROPOSAL</b>	Retention of existing building		
<b>APPEAL TYPE</b>	DC- Refusal of CLUD		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	#####
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representat</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>36</b>		
<b>Planning Ref:</b>	LA07/2019/0746/	<b>PAC Ref:</b>	2019/E0044
<b>APPELLANT</b>	Anna Marie Quinn	<b>DEA</b>	The Mournes
<b>LOCATION</b>	20A Cranfield Road Kilkeel		
<b>PROPOSAL</b>	Existing Dwelling		
<b>APPEAL TYPE</b>	DC- Refusal of CLUD		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	#####



Date of Hearing  
 Date Statement of Case Due for Hearing  
 Date Statement of Case Due - Written Representat  
 Date of Site Visit

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ITEM NO 37  
 Planning Ref: LA07/2019/0907/ PAC Ref: 2019/E0050  
 APPELLANT EDB Construction Ltd DEA Newry  
 LOCATION Site 5 Of Approval P/2006/1117/F On Watsons Road 100m  
 West Of No. 26 Lis Ard Court Newry  
 PROPOSAL Erection of approved dwelling on site 5 of approval  
 P/2006/1117/F

APPEAL TYPE DC- Refusal of Planning Permission  
 Appeal Procedure Date Appeal Lodged #####  
 Date of Hearing  
 Date Statement of Case Due for Hearing  
 Date Statement of Case Due - Written Representat  
 Date of Site Visit

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ITEM NO 38  
 Planning Ref: LA07/2019/1216/ PAC Ref: 2019/E0053  
 APPELLANT Mary Rooney DEA Crotlieve  
 LOCATION 80A Kilbroney Road Rostrevor BT34 3BL  
 PROPOSAL Dwelling

APPEAL TYPE DC- Refusal of Planning Permission  
 Appeal Procedure Date Appeal Lodged #####  
 Date of Hearing  
 Date Statement of Case Due for Hearing  
 Date Statement of Case Due - Written Representat  
 Date of Site Visit

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ITEM NO 39  
 Planning Ref: LA07/2018/0128/ PAC Ref: 07/2018/0128/F  
 APPELLANT Paul Scott DEA Rowallane  
 LOCATION Lands 195m SSE Of 95 Cahard Road Cahard  
 Ballynahinch  
 PROPOSAL New private access to dwelling previously approved under

LA0//2017/1210/RM

**APPEAL TYPE**

DC- Refusal of Planning Permission

**Appeal Procedure**

**Date Appeal Lodged** #####

**Date of Hearing**

**Date Statement of Case Due for Hearing**

**Date Statement of Case Due - Written Representat**

**Date of Site Visit**

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# Appeal Decision

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<b>Appeal Reference:</b>	2019/A0031
<b>Appeal by:</b>	Mr Paul Scott
<b>Appeal against:</b>	The refusal of full planning permission
<b>Proposed Development:</b>	Retention of private access to dwelling previously approved under LA07/2017/1210/RM (as amended)
<b>Location:</b>	Lands 195mSSE of 95 Cahard Road, Ballynahinch
<b>Planning Authority:</b>	Newry Mourne and Down District Council
<b>Application Reference:</b>	LA07/2018/0128/F.
<b>Procedure:</b>	Written representations and Commissioner's site visit on 25 September 2019
<b>Decision by:</b>	Commissioner Pauline Boomer, dated 28 November 2019

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## Decision

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

## Preliminary Issue

2. Although the appeal proposal is described as "New private access to dwelling" on the planning application when submitted to the Local Planning authority (LPA), this access has since been constructed. It is therefore necessary to alter the description to "Retention of private access" to accurately reflect the situation on the ground, to which all parties agreed.

## Reasons

3. The main issue in this appeal is the impact of this access on the visual amenity of the area.
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 Ards and Down Area Plan 2015 (ADAP) operates as a LDP. The appeal site is located outside any designated settlement development limit and within the countryside in the ADAP. The plan however has no material policies for dealing with dwellings in the countryside. The relevant policy context is therefore provided by Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21) which is identified by the Strategic Planning Policy Statement for NI (SPPS) as a retained policy document.
5. In 2017, outline planning permission was granted for a dwelling on a farm under R/2013/0551/O in accordance with Policy CTY 10 with the site accessed off the

adjoining farm Lane. A subsequent Reserved Matters application LA07/2017/1210/RM saw approval granted for a substantial detached dwelling with separate garage erected alongside two small farm buildings which were removed from the main farm group. Again this allowed for access via the existing farm lane alongside which served a number of other farms and businesses. The appellant states that he purchased the appeal site unaware of the significant traffic using this shared laneway and whilst no traffic figures were produced, I note that the laneway provides access to 5 further dwellings, two farm groups and a Christmas tree producer. It is also used by the adjoining farmer to transfer his cows from the adjacent farmland to the neighbouring farmyard for milking twice daily. The lane is in poor condition, of narrow width with no passing bays available. The appellant stated that his work as a freelance pilot requires him to get easy access to flights from neighbouring airports with little notice and that his departure has been delayed in the past by the movement of cows along the shared laneway as well as slow moving vehicles, resulting in a loss of work. It was as a direct result of these difficulties getting in and out of his property in the past that he applied for and constructed the separate laneway to serve his new dwelling, for which he apologised.

6. I note that under Criterion (c) of Policy CTY 10 there is no requirement for the access for a new dwelling on a farm to be via an existing laneway but, where practicable, (my emphasis), access should be obtained using an existing lane. The appellant now argues that it is not practicable for him to use the existing laneway given the volume and nature of other users of this shared facility of which he was not aware when he purchased the plot. He contends that a separate access is also required to offer greater security for his family and household which may be compromised by utilizing the shared laneway. A letter has been provided by the adjoining farmer who sold the plot confirming that this laneway is used twice daily to transfer sizeable herd from his lands off that laneway to the farmyard further east. A further letter from a potential employer Execujet emphasized the nature of the work required a last minute request for the appellant to report for duty and the importance of him arriving at Belfast City /Aldergrove airports within 45 minutes and Dublin airport within 1 hour 45 minutes of receiving that request without any undue delay.
7. The LPA consider that the laneway as now constructed fails to comply with Policy CTY 13 as it does not achieve a satisfactory level of integration but introduces a prominent feature in the landscape. Whilst the title and headnote of Policy CTY 13 of PPS 21 refers specifically to buildings in the countryside, the headnote of Policy CTY 1 requires that all proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for access and road safety. There is no issue with the provision of the necessary sightlines which the LPA acknowledged can be achieved within the appellant's ownership. Whilst Criterion (d) of Policy CTY13 indicates that ancillary works should integrate with their surroundings, Paragraphs 5.71- 5.74 of the Justification and Amplification text deals specifically with accesses.
8. Paragraph 5.72 reiterates that access to a new building should be taken from an existing laneway wherever possible (my emphasis). However where a new access drive is required, it goes on to say that the laneway should, as far as practicable, run unobtrusively along existing hedgerows and be accompanied by



landscaping measures. The original farm laneway is enclosed by banks with high hedgerows on both sides and the new laneway runs parallel to that, availing of the enclosure of the mature vegetation on its southern side. It is 5m wide, finished in gravel and extends 120m in length. Although not indicated on the 1:500 block plan originally submitted, the appellant has erected a post and wire fence along the northern side of the laneway, enclosed with a green mesh and introduced a substantial landscaping scheme incorporating 100 native species whips which are now over 1m in height. Furthermore he has supplemented that with 12 holly bushes and 6 mature rowan trees interspersed along the 120 m stretch of the laneway. Whilst the LPA consider that the laneway is unacceptable as it is reliant on new landscaping which conflicts with Criterion (c) of Policy CTY 13, it benefits from the mature hedgerow on one side and the recent planting already established which offers some screening at present but will become more effective with time. The key test here is how visible the additional laneway will be in the landscape and whether or not it is unduly prominent.

9. The recently constructed laneway runs parallel to the original laneway and although rising with the field gradient in a westerly direction from the public road, it respects the existing contours, preserving the original field pattern. To minimise the visual impact of the laneway, the appellant has excavated into the gradient to reduce its level below that of the adjacent field where the rising slope immediately beyond offers some screening on the approach from the north. The LPA consider that the critical viewpoints are immediately south of the existing laneway where there is an awareness of the double laneway and from the localised crestline to the north. The existing mature hedgerow along the frontage of No. 82 blocks any view of the double laneway on the southern approach until within 5m. The necessary sightlines are available within the existing roadside verge which allows for the retention of the entire frontage hedge which extends 2m in height at present and the appellant indicated that he has control of this and this can be allowed to grow on to offer further screening. Whilst I acknowledge that from the localised crestline to the north there is a filtered view of the new planting, little can be seen of the laneway itself. Given the retention of the adequate roadside vegetation on either side, there is no awareness of the dual laneway until the approach from 10m either side and I do not consider that this short range view justifies dismissal of this appeal. There is no test of invisibility in Policy CTY 13 and I am satisfied that given the existing mature hedgerow enclosing the new laneway, supplemented by the recent planting, it will not be unduly prominent in the landscape. I agree with the appellant that it is distinguishable from the dual laneway serving the farmyard at No. 94 referred to me which is totally devoid of any vegetation and is indeed visually prominent in the landscape. I therefore conclude that the retention of this laneway does not offend Policy CTY 13 and the second reason for refusal is not sustained.
10. The third reason for refusal states that the appeal development would result in a detrimental change in the rural character, contrary to Policy CTY14. To justify this, the LPA in its statement of case only indicated that the additional laneway would draw attention to and increase awareness of the large dwelling which it approved under LA07/1210/RM. I have already outlined above that the enclosure by existing hedgerows on one side supplemented by a substantial and well established landscaping scheme on the other ensures that this laneway would not be prominent in the landscape. Given its adequate enclosure and limited visibility, it is distinguishable from the open and exposed dual laneway at No. 94 and I am

satisfied that it would not therefore have an adverse impact on the rural character of the area. I find no conflict with Policy CTY 14 and the third reason for refusal is not sustained.

11. The first reason for refusal refers to conflict with Policy CTY 1. This policy addresses the issue of suitable and sustainable development in the countryside but the LPA did not adequately explain why the proposal failed to comply with this policy. Policy CTY1 sets out a range of development types that are acceptable in principle in the countryside. A new access is not within the development types listed, although it can be regarded as ancillary development associated with an existing farm dwelling, which was accepted in principle in the countryside. Although the proposal is not listed as an exception to Policy CTY 1, it would be development captured by the second paragraph of the policy that requires there to be overriding reasons why the development is essential. However, that paragraph must be read with Paragraph 5.0 of PPS 21. This advises that the provisions of the policies contained within PPS21 will prevail unless there are other over-riding policy or material considerations that outweigh them and justify a contrary decision. In this particular case there are a number of points to be considered: -

- The original laneway serving the appellant's dwelling is shared with 7 other users, including other farmers, businesses and dwellings and the appellant had not realised the full implications on his working pattern until recently when the house was built.
- The original landowner of the site has confirmed in writing that he uses this laneway twice daily to move his dairy herd to and from the main farm group further east which can disrupt movement along that laneway for a considerable period of time four times each day.
- The existing laneway is in poor condition with no passing bays available, so regular delays can result.
- The appellant's job as a private chartered pilot requires quick access to the local airports where any undue delay can result in work lost with potentially severe ramifications given that his work involves Air Ambulance call outs and human organ transplant flights. The essence of his profession is defined as periods of 'home stand-by' involving last minute urgent and emergency requests to report for duty. The nature of the work is unpredictable and can come at any time. A pre-condition of his working relationship is that he is available to fly at short notice. The manager of ExecuJet has confirmed by letter that his requirement to report for duty at either Belfast airport (within 45 minutes) or Dublin airport (within 1 hour and 45 minutes) and his reputation relies on his continued reliability and punctuality.
- Use of an existing laneway as opposed to a new one is a policy preference rather than a specific policy requirement.
- I have concluded that the laneway would not be visually prominent in the landscape, given the mature landscaping introduced and would not have an adverse impact on the rural character of the area.

I consider that the particular circumstances of this case are material considerations which outweigh the failure of the proposal to comply with Policy CTY 1 and justifies allowing this appeal. The first reason for refusal has not therefore been sustained.

12. As none of the reasons for refusal have been sustained, the appeal is allowed.

13. With regards to conditions, in the interest of road safety, visibility splays of 2.4m by 80m are required to be provided within 6 weeks of the date of this decision and permanently retained. In the interest of visual amenity, the existing hedgerow along the southern boundary should be retained and allowed to grow on to a height of 4m, as should the roadside hedge to the north of the laneway. A detailed landscaping plan including the planting scheme in situ should be submitted to and agreed with the LPA within 6 weeks of the date of this decision with any trees or hedgerow dying within 5 years to be replaced. Whilst the appellant has indicated his intention to provide traditional stone pillars with a traditional farm gate to enhance security, all details of any entrance features should be submitted to and agreed with the LPA.

### **Conditions**

- (1) Within 6 weeks of the date of this decision, sightlines of 2.4m by 80m shall be provided. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.
- (2) Within 6 weeks of the date of this decision, a landscaping scheme shall be submitted to and approved by the Council, including retention of the existing hedgerow along the southern boundary of the laneway and along the roadside boundary, both of which shall be allowed to grow up to a height of 4m. Details of all new planting along the northern boundary of the laneway shall also be submitted, providing the location, numbers, species and sizes of trees and shrubs planted. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation.
- (3) Notwithstanding the provisions of the Planning (General Permitted Development) Order (Northern Ireland) 2015, or any Order revoking and/or re-enacting that Order, no buildings, walls, gate pillars or other structures shall be erected within the curtilage of the dwelling house and access hereby permitted without the grant of a separate planning permission from the Council.

This decision is based on the 1:2500 site location plan and 1:500 site layout plan, both date stamped received by Newry Mourne and Down District Council on 2 February 2018.

**COMMISSIONER PAULINE BOOMER**

2019/A0031

**List of Appearances**

Planning Authority:-	Ms Ciara Cunningham from Newry Mourne and Down District Council
Appellant(s):-	Mr and Mrs Scott Mr G. Tumelty (agent)

**List of Documents**

LPA 1	Statement of Case and Appendices from Newry Mourne and Down District Council
APP1	Statement of Case and Appendices from Appellant
APP 2	Rebuttal from Appellant





# Appeal Decision

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<b>Appeal Reference:</b>	2019/A0059
<b>Appeal by:</b>	Mr M Hillis
<b>Appeal against:</b>	The refusal of outline planning permission
<b>Proposed Development:</b>	Erection of dwellings and garage and associated site works
<b>Planning Authority:</b>	Newry, Mourne & Down District Council
<b>Application Reference:</b>	LA07/2018/1343/F
<b>Procedure:</b>	Informal Hearing on 9 October 2019
<b>Decision by:</b>	Commissioner Brigid McGlinchey, dated 9 December 2019

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## Decision

1. The appeal is dismissed.

## Reasons

2. The main issues in this appeal are:
  - whether the principle of development is acceptable in principal in the countryside;
  - the impact of the proposal on rural character;
  - whether further details are necessary to determine the extent of the fluvial floodplain in proximity to the site;
  - the setting of a listed building;
  - whether sufficient information is available to determine the impact of the proposal on road safety.
3. Section 6(4) of the Planning Act (NI) 2011 requires that the determination of proposals must be in accordance with the local development plan unless material considerations indicate otherwise. The plan in this instance is the Banbridge, Newry & Mourne Area Plan 2015 which identifies the appeal site as falling within the open countryside. It contains no material policies relating to dwellings in the countryside. The provisions of the Strategic Planning Policy Statement for Northern Ireland (SPPS) are a material consideration. This policy document sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area. During this transitional period planning authorities will apply the SPPS and retained planning policy statements (PPSs). The retained policy documents relevant in this case are PPS21: Sustainable Development in the Countryside, PPS3: Access, Movement & Parking, PPS6: Planning, Archaeology & the built environment and PPS15: Planning & Flood Risk.
4. Policy CTY1 of PPS21 identifies a range of types of development which in principle are considered to be acceptable in the countryside. The appellant contends that the proposal falls into two of these categories - a dwelling within an existing cluster of buildings in accordance with Policy CTY2a and the development of a small gap within an otherwise substantial and continuously built-up frontage in accordance with Policy CTY8.

5. Policy CTY2a indicates that planning permission will be granted for a dwelling at an existing cluster of development subject to six criteria being met. Though what is meant by a cluster is not defined in the policy, the first three criteria nonetheless provide an indication of the intended meaning. The appellant argues that there is an existing cluster of development formed by the buildings either side of the appeal site and other development to the east on the other side of the Clanrye River. At the hearing, he illustrated the extent of the cluster on the site location plan as encompassing the vacant dwelling at No.7 which abounds the appeal site to the north and the dwelling and outbuilding at No.9 which are positioned to the south. The other identified buildings were located to the east on the other side of the Clanrye River included Nos. 11, 12 and 14 and indicated development further north that was not captured by the map as also being included.
6. To the extent that there are four or more buildings within the defined area with at least three of them being dwellings, I find that the identified grouping complies with the first criterion of Policy CTY2a. However, based on my assessment of the disposition and visual relationship of the buildings in the identified area, I do not consider that there is a cluster of development which appears as a visual entity in the landscape from any of the identified perspectives. Rather the identified buildings appear as two diffuse nodules of development dissected by the Clanrye River which creates a significant visual gap in between. Consequently, the second criterion is not met. The junction of the Drennan Road with the Crohill Road is not a crossroads and whilst the listed bridge over the river may be in the local consciousness as a focal point as argued by the appellant, it does not represent a community building/facility. Accordingly, the third criterion is not met.
7. The appeal site rises upwards in a westerly direction from the road and is undulating with much of it overgrown with mature trees and vegetation. The site would provide enclosure subject to boundary trees being retained and the Council accepted that the site is bounded on two sides by the derelict dwelling of No.7 to the north and by the roadside building positioned at the southern corner of the site. In this evidential context, the proposal would meet the fourth criterion. However, given the separation between the two buildings, I do not consider that the proposed development would be absorbed into an existing cluster and thus it would not represent rounding off or consolidation. The proposal therefore fails to meet fifth criteria. The proposal would meet the sixth criterion as I am satisfied that subject to conditions, there would be no potential for adverse impact on residential amenity of existing properties. Nonetheless, I conclude that as three of the six criteria are not met, Policy CTY2a does not support the proposed development.
8. Policy CTY8 - Ribbon Development provides that an exception to the policy will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage provided this respects the existing development pattern along the frontage. A substantial and continuously built up frontage is defined as including a line of 3 or more buildings along a road frontage without accompanying development to the rear. In considering if the appeal site meets the policy exception the appellant focussed on the derelict house at No.7 and a roadside building positioned at the sharp bend of Benagh Road and its junction with Crohill Road. Though this agricultural building has three separate doors and varying roof levels, it appears as one building which has evidently been extended. Even if I accept the appellant's argument that the agricultural building shares the same continuous frontage with that of No.7, I find that these two buildings do not constitute a substantial and continuously built up frontage as defined by CTY8. Consequently, the appeal site cannot qualify as a gap site and no infill opportunity therefore arises. In this circumstance, such matters of



development pattern, plot size, frontage width and scale of development are irrelevant. I conclude that the exception to Policy CTY8 does not support the appeal proposal.

9. The Council objected on the grounds that the proposal would create a ribbon of development along Benagh Road contrary to Policy CTY8. Paragraph 5.33 of the Justification and Amplification text states that a ribbon does not have to have a continuous or uniform building line. It goes on to state that buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development if they have a common road frontage or they are visually linked. The proposal would visually connect the existing development at No.7 and the agricultural outbuilding when travelling in either direction along the road. It would consequently create a ribbon of development along the road. The Council has sustained its second reason for refusal.
10. The appeal proposal is contrary to the provisions of both and CTY2a and Policy CTY8 and as such, it does not represent one of the types of development specified as being acceptable under Policy CTY1. Policy CTY1 states that other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement. There was no persuasive evidence to demonstrate that the proposal is essential. The proposal is therefore also contrary to Policy CTY1 and the Council's first reason for refusal is upheld.
11. Policy CTY14 of PPS21 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to or further erode the rural character of an area. Approval of the appeal dwelling and garage would create a ribbon development. Irrespective of retention of existing boundary features of the site or the design and siting of the dwelling in question, it would cause a detrimental change to the rural character of the area. Policy CTY14 of PPS21 is therefore not met and the Council's third reason for refusal is sustained.
12. Policy FLD1 of PPS15 states that normally, development will not be permitted within the 1 in 100 year fluvial flood plain unless the applicant can demonstrate that the proposal constitutes an exception to the policy. Where the exceptions test is met, the applicant is required to submit a Flood Risk Assessment (FRA). The policy states that planning permission will only be granted if the FRA demonstrates that (a) all sources of flood risk to and from the propose development are assessed; and (b) there are adequate measures to manage and mitigate any increase in flood risk arising from the development.
13. Paragraph 6.5 of the amplification of Policy FLD1 states that the Rivers Agency advises the planning authority on the extent of river flood plains based on current information on flooded areas available in the Strategic Flood Maps for Northern Ireland (SFM). Paragraph 6.6 states that the information is being regularly updated as more detailed flood hazard and risk maps are prepared as required by the EU Floods Directive. The extent of flood plains may therefore change over time in response to any updated flood risk maps. Paragraph D4 of Annex D states that due to the nature of the SFM, the geographical extent of predicted flood areas cannot be precisely defined. It states that a FRA to determine a more accurate extent of flooding is therefore necessary for development proposals located in proximity to the margins of the predicted flood plain, irrespective of whether the site lies just outside or just inside the extent on the SFM.
14. It is clear that whilst the current SFM is the first source of information, it is not always definitive and more detailed local information may be required. Policy FLD1 must be

read in the context of the overall PPS15 objectives which refer to a precautionary approach and the need to ensure that the most up to date information on flood risk is taken into account. In this case, Rivers Agency advised that the eastern side of the appeal site lies close to the estimated Q100 flood plain of the Clanrye River and in line with the direction in PPS15, a FRA is required to verify a more accurate extent of the flood plain at this location. Though the elevated nature of much of the site could potentially accommodate a dwelling that would not be at risk from flooding, the access to the site is comparable to the level of the road which forms the edge of the flood plain in the SFM. Notwithstanding the raised bank along the road, in the absence of a FRA there is no clear assurance that this would provide adequate protection for an access to the site in a 1 in a 100 year flood event. There was no arguments advanced that the proposal constitutes an exception to policy. As no FRA has been provided to determine the extent of the fluvial floodplain in proximity to the appeal site, the proposed development fails the requirements of Policy FLD1 of PPS15. The Council has sustained its fourth reason for refusal.

15. The appeal site is in close proximity to Glenny's Bridge, a Grade B1 listed structure which is of special architectural and historic importance. Section 91(2) of the Planning Act places a statutory duty on decision makers to have special regard to the desirability of preserving a listed building or its setting. Paragraph 6.12 of the SPPS stresses that it is important that development proposals impacting upon listed buildings and their settings are assessed with due regard to intrinsic value and contribution to the character and quality of settlements and the countryside. Policy BH11 of PPS6 provides the detailed policy context for assessing the impact on the setting of a listed building. It indicates that development that would adversely affect the setting of a listed building would not normally be permitted. Guidance on the setting of a listed building is provided in the amplification text of the policy and indicates that this is usually a matter of judgement for the decision maker, in the particular circumstances of the case in question.
16. The Historic Environment Division (HED) of the Department for Communities indicated that the setting of the bridge included a 'green' backdrop when approaching from the east. This green backdrop is formed by the appeal site which slopes upwards and is extensively wooded. Whilst the Council also referred to an approach from the south, the view from this more distant perspective is restricted by intervening buildings and filtered by mature vegetation. The green backdrop setting in my opinion is that viewed on the approach from the east and this is formed primarily by the trees located on southern portion of the site. This is an outline application and no indicative concept plan was submitted to indicate how the site was to be developed. It is nonetheless evident from my site visit that an element of excavation and infilling would be required to facilitate development anywhere on this sloping site and would necessitate removal of trees. I consider however that protection of the setting of the bridge could be secured if the proposed dwelling was sited on the northern portion of the site which would facilitate retention of much of the green vegetated backdrop on the southern portion of the site as suggested by the appellant at the hearing. As these elements could be secured by conditions, I am satisfied that a dwelling could be developed on the appeal site without adversely affecting the setting of the listed bridge. In this evidential context, the Council has not sustained its objection under Policy BH11 of PPS6.
17. Policy AMP2 of PPS3 states that planning permission will be granted for a development proposal involving direct access onto a public road where such an access will not prejudice road safety or significantly inconvenience the flow of traffic. Whilst the proposal entails a new access onto Benagh Road, the indicative position of the access was not indicated on the submitted site location plan. Transport NI did not



provide a substantive response to the proposal but rather stated that before it would make a comment, it requested that a 1:500 scale block plan be submitted showing the access gradient and the septic tank and soakaways a minimum of 10m from the edge of the public road. The agent at the hearing stated that the applicant did not submit the drawing as a detailed survey of the site would have been required. Whilst he argued that the site is large enough to take a driveway in a gentle slope across the contours and also accommodate a septic tank and soakaways, my observations are that much of the gradient on the site is quite steep. In the absence of the details requested, the provision of a safe access is difficult to ascertain. Whilst sometimes it is possible to deal with the access arrangement at reserved matters stage, in this case there seems to be a doubt whether a safe access could be achieved. As the appellant has not provided sufficient information to allow a proper assessment, the Council's objection in its fifth reason for refusal is sustained.

18. As five of the six reasons for refusal have been sustained, the appeal must fail.

This decision is based on Drawing 01 - 1:1250 scale Site location plan submitted with the planning application.

**COMMISSIONER BRIGID McGLINCHEY**

**List of Appearances**

Planning Authority:- G Murtagh

Appellant:- T Wilson

**List of Documents**

Planning Authority:-  
 C1 Statement of case  
 C2 Farm map accompany planning application for dwelling on farm associated with No.9 Benagh Rd

Appellant:-  
 A1 Statement of case  
 A2 Map outlining the buildings within the identified cluster



# Appeal Decisions

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<b>Appeal Reference:</b>	2019/A0037.
<b>Appeals by:</b>	Mr Christopher Rea.
<b>Appeal against:</b>	The refusal of outline planning permission.
<b>Proposal:</b>	Single dwelling house and garage.
<b>Location:</b>	Between Nos. 52 and 52A Magheralone Road, Ballynahinch.
<b>Planning Authority:</b>	Newry Mourne and Down District Council.
<b>Application Reference:</b>	LA07/2018/1371/O
<b>Procedure:</b>	Accompanied site visit on 9 October 2019
<b>Decisions by:</b>	Commissioner Pauline Boomer, dated 2 December 2019.

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## Decision

1. The appeal is dismissed.

## Reasons

2. The main issue in this appeal is whether the appeal proposal is acceptable in principle in the countryside and its impact on rural character.
3. 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 Ards and Down Area Plan 2015 (ADAP) operates as a LDP. The appeal site is located outside any designated settlement development limit and within the countryside in the ADAP. The plan however has no material policies for dealing with dwellings in the countryside. The relevant policy context is therefore provided by Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21) which is identified by the Strategic Planning Policy Statement for NI (SPPS) as a retained policy document.
4. Policy CTY 1 of PPS 21 lists a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. A number of instances when planning permission will be granted for an individual dwelling house are outlined. The Appellant argues that the appeal proposal represents the development of a small gap site within a substantial and continuously built up frontage in accordance with Policy CTY 8. It automatically follows that if the proposal is in accordance with Policy CTY 8, it will comply with Policy CTY 1.

5. Policy CTY 8 entitled 'Ribbon Development' states that planning permission will be refused for a dwelling that creates or adds to a ribbon of development. Notwithstanding that this form of development has been consistently opposed, policy goes on to state that an exception will be permitted for the development of a gap site. The amplification text at paragraph 5.34 is clear that the gap is between houses or other buildings. An exception will be permitted, even where the gap provides relief and a visual break in the developed appearance of the locality that helps maintain rural character, providing four elements are met. Namely, the gap site must be within an otherwise substantial and continuously built up frontage; the gap site must be small; the existing development pattern along the frontage must be respected; and other planning and environmental requirements must be met.
6. The appellant relies on the roadside dwelling and attached outbuilding at No. 50 and a large 2-storey dwelling within substantial grounds at No. 52 to the west and the newly constructed bungalow at No. 52A and roadside cottage at No. 54 to the east. In their Statement of Case, the Local Planning Authority (LPA) did not dispute that the appeal proposal meets the first element that is required in order to qualify as an infill site. A similar conclusion had been reached by the former Planning Authority, the Department of the Environment, when approval was granted for an infill dwelling under R/2015/0108/O within the frontage section of the host field within which the appeal site sits. However at the site visit, it became apparent that circumstances on the ground had changed as following the subsequent sale of the property at No. 52, the large garden had been subdivided with two paddocks extending either side of the laneway. It was clearly evident that only the driveway and not the curtilage of No. 52 extends to the public road with sheep grazing in both adjacent plots. The LPA offered no explanation why they had not assessed the current and changing situation on the ground upon which I must base this appeal. In light of these changing circumstances, I conclude that No. 52 does not now form part of a substantial and continuously built up frontage along this section of the Magheralone Road. In finding that only Nos. 52A and 54 to the east have a frontage onto Magheralone Road and not No. 52 to the west, the appeal site does not therefore form part of a substantial and continuously built up frontage. Although No. 50 does have a frontage onto the public road, it cannot be taken into account, given the break in the frontage development between it and the appeal site. Based on my assessment on the ground, I conclude that the appeal site does not form a gap site within a substantial and continuously built up frontage and the first test in Policy CTY 8 is not therefore met.
7. The second step in determining whether an infill opportunity exists is whether the gap site is small. The appellant had submitted drawings showing the appeal site with a frontage of 20m, incorporating the residual plot which lay outside the site boundaries approved under R/2015/0787/RM, the latter also shown with a frontage of 20m. Whilst the original outline approval accepted the principle of an infill site extending across the frontage of the entire host field, the Reserved Matters application reduced the frontage width of that dwelling to 23m, which I agree with the appellant opened up a residual plot extending 17m. The LPA was unable to offer any explanation why the former Planning Authority



considered this appropriate and in accordance with Policy CTY 8. Notwithstanding the fact that the previous approval created a residual plot 17m wide, the new dwelling at No. 52A has expanded its curtilage with its frontage extended from 20m to 30.5m. Despite the submitted drawings showing the appeal site with a frontage of 20m, on the ground it was measured by the appellant and all parties agreed that it currently measures 8.5m in width. Whilst the appellant indicated that the party boundary between No. 52A and the appeal site could be realigned to increase the width of the appeal site, as a family member lives there, I have to consider the plot on the ground. I note that the plot widens considerably as you move away from the public road and the submitted block plan shows the proposed dwelling sited behind No. 52A. I acknowledge that there is no uniformity of plot frontages along this section of road, extending from 45m at No. 54 to 58m at No. 50 but the narrow plot now under consideration does not respect the size, scale, siting and plot size of adjacent properties. Based on the existing measurements of the appeal site, I am not persuaded that it reflects the pattern of development along this road frontage and the 2<sup>nd</sup> element of Policy CTY 8 is not complied with.

8. There is an existing line of buildings incorporating the dwellings, garages and outbuilding associated with No. 50, 52, 52A & 54 which read as ribbon development and the LPA considers that the appeal proposal would add to that suburban form. All parties agreed that the appeal site would only be visible across its frontage and that of No. 52A, screened by the vegetation enclosing those adjoining properties. I note that, given its setback within the appeal site, the proposed dwelling would be partially obscured from view on the approach from the east by the sizeable property at No. 52A. Nonetheless, I am satisfied that the introduction of an additional dwelling with a shared access and extended driveway would increase the visual linkages between No. 50 & 52 to the west/north-west and Nos. 52A & 54 to the east, so adding to the existing ribbon which offends Policy CTY 8. In failing to form part of the existing line of three or more buildings and failing to respect the existing character of that grouping, the appeal site is not an exception to the requirements of Policy CTY 8. As it does not represent a small gap site within a substantial and continuously built-up frontage, it is not an acceptable form of infill development and the 2<sup>nd</sup> reason for refusal is therefore sustained.
9. I have found no policy support for the appeal proposal in Policy CTY 8. There is no evidence to suggest that the appeal proposal falls into any other types of development that are listed as acceptable in principle in the countryside under Policy CTY 1 or that there are overriding reasons why the development is essential and could not be located in a settlement. The LPA has also sustained its first reason for refusal based on Policy CTY 1 of PPS 21.
10. The LPA also considers that the proposed development offends Policy CTY 14 as the introduction of an additional dwelling and garage here would have a detrimental change to the character of the area by virtue of build-up. I have already concluded that development of the appeal site would increase the visual linkages between Nos. 50, 52, 52A & 54. I agree with the LPA that the introduction of a further dwelling on the appeal site would result in a suburban

style build-up of development which would be detrimental to the character of the area, contrary to Policy CTY 14. The 3<sup>rd</sup> reason for refusal is therefore sustained.

11. I acknowledge that the appellant seeks to return home to live close to his family but this does not justify setting aside the policy objections to the appeal proposal. As all three reasons for refusal have been sustained, the appeal is dismissed.

This decision is based on the 1:2500 site location plan, 1:500 block plan and 1:500 access details, all date stamped received by LPA on 10 September 2018.

**COMMISSIONER PAULINE BOOMER**

**2019/A0037****List Of Documents**

LPA 1 Statement of Case and appendices from Newry Mourne and Down District Council

APP1 Statement of Case from Appellant

APP 2 Rebuttal from Appellant

**List of Appearances**

LPA Ms Kira Cunningham from Newry Mourne and Down District Council

APPELLANT Mr Michael Rea (Appellant's father)  
Mr Gerry Tumelty (Agent)



# Appeal Decision

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<b>Appeal Reference:</b>	2019/A0058.
<b>Appeal by:</b>	Mr Graham Hancock.
<b>Appeal against:</b>	The refusal of full planning permission.
<b>Proposed Development:</b>	Retention of 2 no. outbuildings within curtilage of existing dwelling for purposes ancillary to the enjoyment of the dwelling house.
<b>Location:</b>	64 Drummanmore Road, Maghery, Kilkeel.
<b>Planning Authority:</b>	Newry Mourne & Down District Council.
<b>Application Reference:</b>	LA07/2018/1451/F.
<b>Procedure:</b>	Written representations and accompanied site visit on 23 October 2019.
<b>Decision by:</b>	Commissioner Mark Watson, dated 18 December 2019.

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## Decision

1. The appeal is allowed and full planning permission is granted, subject to the condition below.

## Preliminary Matter

2. The Council in its Rebuttal Statement introduced an additional objection relating to what it considered to be the expansion of the existing curtilage to the host dwelling. It is poor practice to introduce an additional objection at such a late stage in the process. The Appellant considered this to be unfair, however, as he was afforded opportunity to respond he has not been prejudiced.
3. Section 59(1) of the Planning Act (NI) 2011 prohibits the introduction of a matter by a party to the proceedings which was not before the Council at the time the decision was made unless that party can demonstrate to the satisfaction of the Commission: (a) that the matter could not have been raised before that time, or (b) that its not being raised before that time was a consequence of exceptional circumstances. The matter of the extent of the curtilage did not arise during processing of the planning application subject of this appeal, which was processed by the Council as a householder application. The proposal description explicitly included reference to the buildings being within the existing curtilage. This was not challenged during processing of the application. The Case Officer Report for the application stated that the subject buildings were located 'within the rear garden'. Whilst the Case Officer Report is the professional opinion of one individual, that Report was accepted by and formed the basis for the decision the Council issued. The matter of the alleged curtilage extension was not referred to



in the Council's initial appeal submission, which was constituted by the Case Officer Report and accompanied by draft planning conditions without prejudice.

4. The matter of the alleged curtilage extension was not before the Council at the time the decision appealed against was made. There is nothing to demonstrate to my satisfaction that this matter could not have been raised before that time, nor is there anything to demonstrate that its not being raised before that time was a consequence of exceptional circumstances. The introduction of this matter at the point the Council chose to do so is contrary to Section 59(1) of the Planning Act and is therefore inadmissible.

## Reasons

5. The main issue in this appeal is whether the appeal buildings are sympathetic with the built form and appearance of the host dwelling.
6. 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 countryside. The BNMAP offers no specific policy or guidance in respect of the proposed development and in this case 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 those of Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS21) and the Addendum to Planning Policy Statement 7 – Residential Extensions and Alterations (APPS7). PPS21 and APPS7 policy provisions remain applicable to the proposed development.
7. Policy CTY1 of PPS21 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development. This includes an extension to a dwelling house where this is in accordance with the Addendum to Planning Policy Statement 7 – Residential Extensions and Alterations (APPS7). It follows that if the development complies with the provisions of APPS7 it will comply with Policy CTY1 of PPS21, though I note the Council's reason for refusal did not raise issue against Policy CTY1.
8. The appeal site comprises No. 64 Drummanmore Road and land to its rear and west. No. 64 is situated at the end of a long gravelled laneway that serves two other dwellings, one of which has an associated farm complex. No. 64 is a single storey cottage of traditional design, finished in white render and grey roof slates. There is a stone outbuilding attached to the south-eastern gable end which has been converted to provide additional accommodation (ref. LA07/2016/0229/F). The appeal development comprises a garage building and a wooden cabin building, both of which are in-situ. The garage accommodates gardening machinery and various tools, whilst the wooden building accommodates hobby materials and domestic storage. The two buildings are set next to one another end to end. The garage measures approximately 12m long by approximately 5m wide, with a ridge height of approximately 3m. It is finished in profiled sheet metal cladding painted dark green. The wooden building measures approximately 9m long by approximately 5m wide, with a ridge height of approximately 3.8m. There is a terrace section attached to its western gable end. There is a well maintained

grassed area to the south and front of the appeal buildings, which contains an old water well, as well as an enclosure for birds. The site boundaries to the rear of No. 64 are defined along the southern, eastern and western boundaries by mature vegetation of varying height, whilst a stone field wall with mature vegetation along part of its rear forms the northern boundary.

9. 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. Policy 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 criterion (a): that 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. The Council accepted there were no public views of the site or appeal buildings, its objection relating to the impact on the host property. From my own assessment I agree that there are no public views available of either appeal building, or indeed No. 64 itself.
10. 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.
11. No. 64 itself is a traditionally built cottage, thus any modern domestic outbuilding would jar to some degree. The scale of the metal clad garage is not subordinate to No. 64 given the modest size of the dwelling, though any adverse effect on No. 64 in this regard is largely offset by the siting to the rear and side of the host dwelling. The use of corrugated steel sheeting, a more modern material which although now not uncommon in the countryside, along with the functional design of the appeal structure, nevertheless render the garage as being unsympathetic with the built form and appearance of the traditionally designed and finished No. 64.
12. Although the overall design of the wooden building is a simple one, it is alien to the local rural landscape in terms of finish. To be sympathetic to an existing property does not require slavish replication, however the style and finish of the wooden building is in no way similar to that of the traditionally finished dwelling and does not compliment it. The building reads as subordinate in scale to the host dwelling given its siting. I do not agree that the siting of both appeal buildings is such that they do not read as part of the overall layout to result in an integrated rural group of buildings. A linear building arrangement can still read as an integrated group and in this case does so given the relative positioning of the appeal buildings to No. 64 and their respective positions within the landform. However, for the reasons given above the appeal development does not fully meet criterion (a) of Policy EXT1 of APPS7 and the related aspect of the SPPS.
13. Whilst the appeal development does not fully comply with the provisions of APPS7 and the related aspect of the SPPS, the matter of need for the buildings remains a material consideration. No. 64 is a modest dwelling, even with the sympathetic

extension added to it, which consequently removed a portion of outbuilding storage capacity. It would not be possible to extend the dwelling itself to accommodate a garage structure that could accommodate the Appellant's tools and equipment that would be in keeping with Policy EXT1. The same is the case in respect of his art related hobby and domestic items, which I observed stored in the wooden building. Taking account of the materials, the local character and the level of visibility of the appeal buildings from surrounding views, which in this case is nil, although unsympathetic to the built form and appearance of the host property, I do not judge this to be a determining matter given the absence of public views of the buildings and their limited impact against the built form and appearance of No. 64. The particular set of circumstances in this case are such that the need for the appeal buildings outweighs the limited harm to policy outlined above. Thus whilst the Council's objections relating to the design of the buildings are not without some merit, for the reasons given above, they are not determining in this instance. Accordingly the appeal shall succeed. The matter of conditions remains to be considered.

14. The Council proffered two draft conditions, the first of which restricted the use of the buildings to purposes incidental to the enjoyment of the dwelling house. The second prevented the sale, separation or leasing off of the buildings from No. 64. The appeal seeks the retention of the buildings for purposes incidental to the enjoyment of the dwelling house, with this decision to grant permission predicated solely on that basis. I am not persuaded of the need for a condition reiterating that use. I do however agree that a condition preventing the separation of the appeal buildings from No. 64 would be necessary given the interrelationship between the appeal development and host dwelling. The Appellant indicated he was amenable to such a condition in the event of permission being granted.

### Condition

- (1) The development hereby approved shall not be separated, sold off or leased from No. 64 Drummanmore Road, Maghery, Kilkeel.

This decision relates to the following drawings submitted with the application:

DRAWING NUMBER	TITLE	SCALE	DATE
01	Location Map	1:2500	Sept. 2018
02	Site Plan, Outbuildings Plans & Elevations	1:200 & 1:100	Aug. 2018

**COMMISSIONER MARK WATSON**





### **List of Appearances**

Planning Authority:- Mr G Murtagh (Newry, Mourne & Down District Council)

Appellant:- Mr W Shannon (Architect)  
Mr G Hancock (Appellant)

### **List of Documents**

Planning Authority:- 'A' Statement of Case & Appendix (N, M & D DC)  
'B' Rebuttal Statement (N, M & D DC)

Appellant:- 'C' Statement of Case & Appendix (Donaldson Planning)  
'D' Rebuttal Statement (Donaldson Planning)  
'E' Post-Site Visit Comments re Curtilage (Donaldson Planning)



# Appeal Decision

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<b>Appeal Reference:</b>	2019/A0061
<b>Appeal by:</b>	Mr & Mrs Shields
<b>Appeal against:</b>	The refusal of full planning permission
<b>Proposed Development:</b>	Dwelling and garage
<b>Location:</b>	Approx. 60m east of No.25 Drumgavlin Road, Ballynahinch
<b>Planning Authority:</b>	Newry, Mourne & Down District Council
<b>Application Reference:</b>	LA07/2018/1772/F
<b>Procedure:</b>	Written representations and accompanied site visit on 24 October 2019
<b>Decision by:</b>	Commissioner Brigid McGlinchey, dated 16 December 2019

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## Decision

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

## Preliminary Matters

2. Section 59(1) of the Planning Act (NI) 2011 states that a party to the proceedings is not to raise any matter which was not before the Council at the time the decision appealed against was made unless that party can demonstrate (a) that the matter could not have been raised before that time or (b) that its not being raised before that time was a consequence of exceptional circumstances.
3. The appellant with his statement of case attached an amended drawing (Drawing 18-12-03 Rev A) which included a revised site location plan that indicated the position of the proposed garage and the position of a septic tank and soakaways within the outline of the appeal site. As the garage was specifically referred to in the original proposal description and advertisement and a floor plan and elevations drawing of the garage (Drawing 18-12-GD) was included with the drawings considered by the Council, this element of the amended drawing does not represent a new matter.
4. In the P1 form that accompanied the application it was clearly indicated that foul sewerage would be disposed by a septic tank. Notwithstanding that the position of the septic tank was not indicated on the site location plan considered by the Council and that clarification was sought on this issue during the processing of the planning application, I do not consider that this element of the amended drawing constitutes a new matter under Section 59(1) of the Planning Act. The amended drawing indicates that the proposed septic tank would be positioned within the appeal site 35m back from the public road with the soakaways following the natural gradient of the site traveling in a direction approximately parallel with the

road towards the proposed driveway to the dwelling. I am satisfied that any third party unaware of the positioning of the garage or the sewerage arrangement within the site as shown in the amended drawing would not be prejudiced. I will therefore consider the amended drawing.

5. The planning officer at the site visit indicated that if the amended drawing was to form part of the consideration, the third reason for refusal relating to the failure to provide additional information requested under Article 3(6) of the Planning (General Development Procedure) Order (NI) 2015 would be unnecessary and should be withdrawn.

## Reasons

6. The remaining issues in this appeal are whether the proposed dwelling can visually integrate into the surrounding landscape and its impact on rural character of the area.
7. The principle of a dwelling on the appeal site has already been established with the granting of outline approval for an infill site on 31 January 2018 under LA07/2017/1422/O. A number of conditions were attached to that approval including one regarding compliance with a notional site layout drawing showing the positioning of the dwelling on the site and an indicative access arrangement. Two other conditions restricted the dwelling to one storey with a ridge height of 6m above finished floor level (FFL) and underbuild to 0.3m equating to an overall height of 6.3m above existing ground level. A Reserved Matters application has not subsequently been submitted. The appeal proposal is seeking full planning permission for a two storey dwelling that departs from the overall height of the envisaged dwelling as conditioned under the former outline permission but reflects the indicative access arrangement.
8. Policy CTY13 of Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and is of an appropriate design. The amplification of the policy states that the form and proportions of a new building are key elements in the design and strongly influence its visual impact on the landscape. It also states that the determination of whether a new building integrates into the landscape is not a test of invisibility; rather it requires an assessment of the extent to which the development of the proposed site including necessary site works will blend unobtrusively with the immediate and wider surroundings. Policy CTY14 of PPS21 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of the area. The height of the dwelling and the indicative access arrangement deemed acceptable under the outline approval are material in determining the impact of the appeal proposal on the surrounding landscape. Supplementary planning guidance document to PPS21 'Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside' (BOT) provides key principles of quality design and best practice advice for infill sites notably design in scale and form with other buildings and is also material.
9. The appeal site rises above the level of the road. At the time of the site visit, extensive levelling works had been undertaken with much of the site covered in



stone chippings and a large mound of topsoil evident along part of the western boundary of the site. Based on the depth of a revealed soil escarpment, the ground level to the rear of the site has been reduced by up to 3m. The appellant stated that the resulting ground levels across much of the rest of the site are approximate to the original ground levels which are detailed on the submitted amended plan (and also on the original site location plan considered by the Council). These levels show a drop of 3m from the indicated highest point on the site to the level of Drumgavlin Road. By reference to a marking on a tree in the western site boundary hedgerow on the day of the site visit, the appellant stated that the present level of the site where the dwelling is to be located (approximately mid-way) was comparable with the indicated original existing ground level of 102.645. This was not disputed by the Council representative. I judged that the existing ground level within this part of the site appeared commensurate with the gradient and topography of the land either side of the appeal site. The appellant indicated that the site would be slightly lowered to accommodate the dwelling and that the ground levels across the rest of the site would not be altered apart from that necessary for the provision of the access arrangement and the driveway and removal of the topsoil mound.

10. I note that the positioning of the proposed dwelling set back 20m from the Drumgavlin Road is comparable to the indicative location shown on the notional site layout plan that formed the basis for the outline approval. To achieve the indicated FFL of the dwelling of 102.650 (that is comparable to the indicated existing ground level of the site), it is evident that the present ground level needs to be reduced by approximate 0.3m to accommodate the underbuild shown on the elevation drawings. The appellant stated that the works to reduce the level of site to accommodate the FFL of the dwelling as shown on the drawing would be undertaken and could be secured by condition. In these circumstances, the 6.9m high ridge of the proposed two-storey dwelling would be 9.25m above the level of Drumgavlin Road. This is the basis for my assessment.
11. The roadside boundary of the appeal site is presently defined by a mature hedge on top of a bank. The appeal proposal entails a 34m wide punctuation in this boundary hedge to accommodate the access arrangement mirroring that deemed acceptable under the outline approval. Given the gradient of the site and its elevation above the road, the provision of the approved access arrangement and driveway to the dwelling would necessitate significant cut and fill. Nonetheless, based on the indicated retention of the rest of the roadside vegetation either side of the access and retention of the mature hedgerow along the western boundary of the appeal site, I consider that the available views of the proposed dwelling and the necessary onsite works travelling in either direction along Drumgavlin Road would be limited and fleeting due to the vertical and horizontal alignment of the road. The view travelling east could be reduced by the closing up of the existing entrance gate into the field with some of the displaced hedgerow from the access works as suggested by the appellant. From the other identified longer range identified viewpoint travelling north along Magherahamlet road, the appeal site is obliquely discernible from a distance of approximately 180m and through intervening vegetation. Though the dwelling would be two-storey and its ridge height would be 0.6m higher than that deemed acceptable in the outline approval, I am not persuaded that this additional height would mean that the appeal proposal would be unduly prominent when viewed from the identified close and longer perspectives given the visual containment of the site.



12. Whilst the front elevation of the dwelling would extend to 20m, its overall massing of the elevation is reduced by the subordinate side extension. Albeit that the projecting front porch is two storey, I do not consider that it is overbearing. Though there would be an extension to the rear, this would not be discernible from the public road and would only be visible from the private laneway running along the eastern boundary of the site. The local pattern of development is characterised by dwellings and farm complexes scattered within a rolling landscape. Whilst single storey dwellings predominate, there are also two storey dwellings in the immediate vicinity all of which display a variety of design and finishes. Though the proposal entails a mix of render and stone finishes that is not evident in the immediate area, I agree with the appellant that the overall design is not unlike many other rural dwellings in the wider countryside. I do not find that the identified features are of such significance to render its composite design inappropriate. Given the size and scale of the appeal building in its immediate context, I consider that its scale, massing and form are not inconsistent with the principles of rural design set out in BOT for infill dwellings.
13. I judge that the proposal dwelling could be satisfactorily integrated subject to the suggested reduction in the site level where the dwelling is to be positioned and retention of the existing vegetation. Planting of new vegetation behind the visibility splays and at the closed up gap into the field would further assist with integration. All these matters can be secured by conditions to ensure that the proposal blends unobtrusively in to the landscape and that it would not be detrimental to the visual amenity or rural character of the countryside. The Council has not sustained its objections under Policies CTY13 and CTY14 of PPS21 as set out in its first and second reasons for refusal.
14. Whilst the positioning of the proposed dwelling within the site is approximate to that indicated in the outline approval, the appeal proposal relates to the granting of full planning permission and its duration therefore cannot be tied to the former outline approval. The appropriate expiration date under Section 61 of the Planning Act (Northern Ireland) 2011 is therefore five years from the date of this approval. As the consent to discharge is covered by separate legislation, the suggested condition relating to this matter is not necessary.

## Conditions

- (1) Prior to commencement of any works or other development hereby permitted, the vehicular access, including visibility splays and any forward sightline shall be provided in accordance with the access arrangement shown and detailed on Drawing 18-12-03 Revision A. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.
- (2) The ground level of the site where the dwelling is to be located shall be reduced by 0.3 metres to achieve the finished floor level of 102.65 relative to the datum point on Drumgavlin Road as shown on Drawing 18-12-03 Revision A. The ground levels across the rest of the site shall be no higher than the existing levels detailed on Drawing 18-12-03 Revision A.

- (3) The existing natural screenings of the site along the west, north and eastern boundaries shall be retained at a height of not less than 2.5 metres unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing prior to their removal. Gaps in these hedgerows shall be augmented with native species planting and allowed to grow on to a height of not less than 2.5 metres.
- (4) Except for that removed to accommodate the provision of the access arrangement, the existing bank and hedgerow along the rest of the southern boundary of the site as shown on Drawing 18-12-03 Revision A shall be retained. The hedgerow shall be retained at a height of not less than 1.5m.
- (5) The scheme of new planting behind the visibility splays as shown and detailed on Drawing 18-12-03 Revision A shall be carried out and allowed to grow on to a height of not less than 1.5 metres
- (6) The existing gap from Drumgavlin Road positioned in the southeast corner of the site shall be closed up and planted with a native species hedgerow. This hedgerow shall be allowed to grow on and retained at a height of not less than 1.5 metres.
- (7) All new planting detailed in Conditions (3), (5) and (6) above shall be carried out during the first planting season after the commencement of the development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next available planting season with others of a similar size and species unless the Council gives written consent to any variation.
- (8) The development shall be begun before the expiration of five years from the date of this permission.

This decision is based on the following drawings:-

- Drawing 18-12-03 (Revision A) submitted with the appeal showing 1:2500 scale Site location plan, 1:500 scale Site layout plan and 1:100 scale Floor plans and elevations of the dwelling; and
- Drawing 18-12-GD – 1:100 scale Floor plans and elevations of the garage submitted with the planning application.

**COMMISSIONER BRIGID McGLINCHEY**

**List of Appearances**

Planning Authority:-	A McAlorney
Appellant:-	J Kilpatrick (Agent) D Shields

**List of Documents**

Planning Authority:-	C1	Statement of case + Appendices
	C2	Rebuttal + Appendices
Appellant:-	A1	Statement of case + Appendices
	A2	Rebuttal



## Appeal Decision

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**Appeal Reference:**

2019/A0090

**Appeal by:**

Mr & Mrs J McAleer

**Appeal against:**

The refusal of full planning permission

**Proposed Development:**

Dwelling and garage

**Location:**

21 Drumbooy Road, Dromara

**Planning Authority:**

Newry, Mourne & Down District Council

**Application Reference:**

LA07/2018/1946/F

**Procedure:**

Written representations and accompanied site visit on 21 November 2019

**Decision by:**

Commissioner Brigid McGillichey, dated 23 December 2019

**Decision**

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

**Reasons**

2. The main issues in this appeal are whether the proposal is acceptable in principle in the countryside and can integrate into the surrounding landscape.
3. Section 6(4) of the Planning Act (NI) 2011 requires that the determination of proposals must be in accordance with the local development plan unless material considerations indicate otherwise. In the Banbridge Newry & Mourne Area Plan 2015 the appeal site is located in the rural area. The Plan contains no specific policies or designations that are of assistance in the determination of this appeal. The Strategic Planning Policy Statement for NI (SPPS) is material to all decisions on individual planning applications and appeals. It identifies policy documents that are retained including Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) which provides the relevant policy context in this appeal.
4. Policy CTY1 of PPS21 lists a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. The policy indicates that planning permission will be granted for an individual dwelling house in six cases and these include a dwelling on a farm in accordance with Policy CTY10. Policy CTY10 is expressed permissively stating that planning permission will be granted where three criteria are met. Whilst the Council accepted that the proposal met criteria (a) and (b) of Policy CTY10, it argued that the proposed dwelling would not be visually linked or sited to cluster with an established group of buildings on a farm and therefore would be contrary to criterion (c). The planning authority also argued that the proposal would be contrary to Policy CTY13 of PPS21.



5. Paragraph 5.41 of the amplification of Policy CTY10 advises that a new dwelling should be positioned sensitively with an established group of buildings on the farm, either to form an integral part of that particular building group, or when viewed from vantage points, it reads as being visually interlinked with those buildings, with little appreciation of any physical separation that may exist between them.

6. The appeal site encompasses the single storey dwelling at No.21 Drumboy Road and agricultural buildings to the rear. The Council accepted these are the only buildings on the farm holding. The existing dwelling sits 50m back from and above the level of the road with the agricultural buildings forming an 'L' shape around one corner of a yard to the rear. Whilst the agricultural buildings are on a slightly higher level, they are comparable in height to that of the dwelling and nestle into the landscape. The proposed dwelling and garage are to be sited within the large garden to the front of the property. Views into the appeal site are restricted from along the site frontage due to a mature fir tree hedgerow that forms much of the roadside boundary. However, from a perspective available at the northeast corner of the site that includes an entrance to an adjoining laneway and from a short stretch of the public road, the appeal proposal would readily read together with both the existing dwelling and be indivisible with part of the agricultural buildings. This was evident on the day of the site visit. From the other identified longer range and elevated vantage points available on Glen Loanin, (a public right of way used by both farmers and walkers), the proposal would be clearly seen as clustering and forming an integral part of the existing grouping of buildings with little appreciation of the physical separation between them. In these circumstances, I am satisfied that the appeal proposal would satisfy criterion (c) of Policy CTY10.

7. Policy CTY10 indicates that the proposed site for a dwelling house on a farm must also meet the requirements of Policy CTY13. This latter policy permits buildings in the countryside that can be integrated into the surrounding landscape and are of an appropriate design. The proposed dwelling is modest in scale with a ridge height of 6.1m and is to be sited at a ground level approximately 2m below that of the existing dwelling. The proposed access is to be paired with the access to the existing dwelling. From the single close range critical view, such a dwelling would not appear prominent in the landscape having the benefit of the back drop of the existing buildings and landform with adequate enclosure provided by existing roadside vegetation which should be retained (except for that required to be removed for the new access to be paired with the existing access to No.21). Additional planting behind the visibility splays and along the other new boundaries of the site especially along the northeastern boundary would further add to the sense of enclosure. Subject to appropriate conditions to secure these landscaping matters, I judge that the proposed dwelling and its subordinate garage to the rear would visually integrate satisfactorily into the surrounding landscape and would visually link and cluster with the established group of buildings on the farm. I therefore find that the proposal would satisfy the requirements of Policy CTY13. The Council has not sustained its third reason for refusal.

8. The proposal therefore satisfies the requirement of Policy CTY10 and thus represents one of the types of development that is acceptable in principle in the countryside under Policy CTY1 of PPS21. The Council has accordingly not sustained its first and second reasons for refusal. As the reasons for refusal have not been sustained, the appeal must succeed.

**Conditions**

- (1) Prior to commencement of any works or other development hereby permitted, the vehicular access onto Drumboy Road, including visibility splays and any forward sightline shall be provided in accordance with the access arrangement shown and detailed on Drawing 02 (Rev A). The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.
- (2) The access gradient to the dwelling hereby permitted shall not exceed 8% (1 in 12.5) over the first 5m outside the road boundary.
- (3) Except for that removed to accommodate the provision of the access arrangement, the existing hedgerow along the rest of the roadside boundary of the site shall be retained. The hedgerow shall be retained at a height of not less than 1.5m. The scheme of new planting behind the visibility splays detailed on Drawing 02 (Rev A) shall be carried out and allowed to grow on to a height of not less than 1.5 metres
- (4) No development shall take place until there has been submitted to and approved by the Council a landscaping scheme showing new planting of native species hedgerow on the north eastern boundary marked A-B as indicated on the attached plan (PAC1). All new planting shall be allowed to grow on to a minimum height of 1.5m and thereafter permanently retained.
- (5) All new planting detailed in Conditions (3) and (4) above shall be carried out during the first planting season after the commencement of the development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next available planting season with others of a similar size and species unless the Council gives written consent to any variation.
- (6) The development shall be begun before the expiration of five years from the date of this permission.

This decision approves the following drawings:-

- 01 – 1:2500 scale Location map & 1:1,000 scale Existing site plan;
- 02(Rev A) – 1:500 scale Proposed site plan & 1:200 scale Part entrance arrangement (marked PAC1);
- 03 – 1:100 scale Floor plans of dwelling;
- 04 – 1:100 scale Elevations of dwelling;
- 05 – 1:50 scale Floor plan of garage & 1:100 scale Elevations of garage.

**COMMISSIONER BRIGID MCGLINCHY**

**List of Appearances**

Planning Authority:-

C Moane

Appellant:-

S Hawthorne (Agent)  
C & R McAteer

**List of Documents**

Planning Authority:-

C1 Statement of case + Appendix

Appellant:-

A1 Statement of case + Appendices  
A2 Rebuttal



LEGEND

202.20	Directs proposed level
200.242	Directs existing level
Directs 1.2 m 2 Row D rail fence stick fence	
Directs existing ecology / Habitat	
Directs 4m 2m	
Directs storm water level	

**ENTRANCE DETAILS**  
 Visibility Sights of 2.0m x 60m in both directions as required. Access layout as shown on plan.  
 The site between visibility sight and road edge to be provided to between 150m and 225m above level of adjoining carriageway, 1.0m below, and the same with grass and kept two born at status and trees.  
 The road at the access to be 5m for existing each side to road edge.  
 Key new gate posts to be set back minimum 5m from road edge.  
 The gradient for 75m of access road to be 1:12.5  
 All existing trees and shrubs etc. across selected visibility sight to be retained to allow visibility to be maintained. Existing trees, grass and proposed from access to be retained to allow visibility to be maintained. Existing trees, grass and proposed from access to be retained to allow visibility to be maintained.

**SEWERAGE TANK DETAILS**  
 The 1.2m x 60m tank to be set back from the road edge to be 150m above level of adjoining carriageway, 1.0m below, and the same with grass and kept two born at status and trees.  
 The road at the access to be 5m for existing each side to road edge.  
 Key new gate posts to be set back minimum 5m from road edge.  
 The gradient for 75m of access road to be 1:12.5  
 All existing trees and shrubs etc. across selected visibility sight to be retained to allow visibility to be maintained. Existing trees, grass and proposed from access to be retained to allow visibility to be maintained.

AMENDED DRAWING

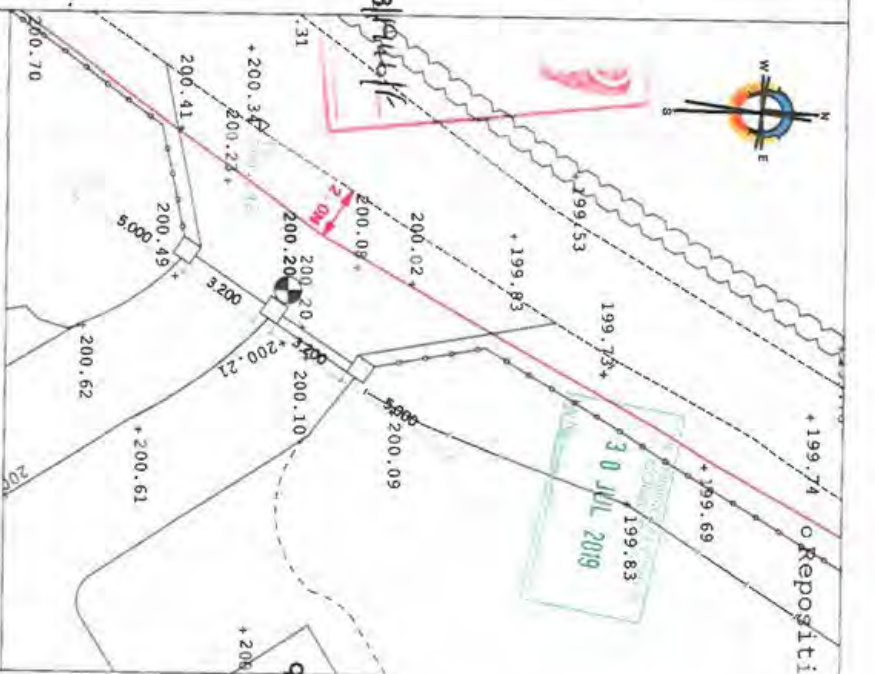
Proposed site plan  
(1:500)



PAC 1

Decision taken by Council  
 Date 01-05-2019  
 Planning Committee  
 13/05/2019

part entrance arrangement  
(1:200)







# Appeal Decision

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<b>Appeal Reference:</b>	2019/A0093
<b>Appeal by:</b>	Mr N Dodds
<b>Appeal against:</b>	The refusal of outline planning permission
<b>Proposed Development:</b>	2 Infill dwellings
<b>Location:</b>	West of No 133 Tullybrannigan Road Newcastle
<b>Planning Authority:</b>	Newry Mourne and Down District Council
<b>Application Reference:</b>	LA07/2018/1995/O
<b>Procedure:</b>	Written representations and accompanied site visit on 20 <sup>th</sup> December 2019
<b>Decision by:</b>	Commissioner Helen Fitzsimons 30th December 2019

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## Decision

1. The appeal is allowed subject to conditions.

## Reasons

2. The main issues in this appeal are whether the proposed development is acceptable in principle in the countryside and whether it would have an adverse impact on rural character.
3. The appeal site lies outwith any settlement or designation as defined by the Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) the Local Development Plan which operates in the area where the appeal site lies. There are no plans or policies in the plan pertinent to the appeal proposal within BNMAP. The Strategic Planning Policy Statement for Northern Ireland (SPPS) retains the policies of Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) and consequently PPS 21 provides the relevant policy context for the appeal proposal. The appeal site also lies within the Mourne Area of Outstanding Natural Beauty (AONB).
4. Policy CTY 1 of PPS 21 states that there are a range of types of developments which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. One of these is a dwelling in accordance with Policy CTY 8 'Ribbon Development'. Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. However, it also includes the exception that development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage will be permitted. For the purposes of this policy the definition of a substantial and continuously built

up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear. It is under this aspect of Policy CTY 8 that the Council has raised objections.

5. Paragraph 5.33 of Policy CTY 8 of PPS 21 says that for the purposes of this policy a road frontage includes a footpath or private lane. The appeal site has frontage to a private lane which serves two dwellings and a farm complex. It is located between a dwelling and garage at No 131 Tullybrannigan Road and a dwelling at No 133 Tullybrannigan Road all of which have frontage to the lane. I note nothing in policy that distinguishes between in curtilage buildings, such as the garage associated with No 133 Tullybrannigan Road, and individual road frontage buildings on separate plots. Consequently the garage is a building with a frontage to the lane for the purposes of this policy. As there is a substantial and continuously built up frontage comprising a line of 3 buildings the proposed development meets the requirements of Policy CTY 8 of PPS 21. The Council has not sustained its first and second reasons for refusal based on the SPPS and Policies CTY 1 and CTY 8 of PPS 21.
6. Policy CTY 14 of PPS 21 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. It continues that a new building will be unacceptable in five stated cases one of which is (d) it creates or adds to a ribbon of development (see Policy CTY 8). As I have concluded that the proposed development is an infill opportunity under of Policy CTY 8 of PPS 21 it would also meet Policy CTY 14 of PPS 21 and it would not cause a detriment to rural character. The Council has not sustained its third reason for refusal based on Policy CTY 14 of PPS 21.
7. I note from the Design and Access Statement which accompanied the application for planning permission that the appellant proposes dwellings with restricted ridge heights and I consider a condition necessary to secure this in order to ensure that the new dwellings are not prominent features in the landscape. Given their AONB location which the appellant has acknowledged in his Design and Access Statement and his commitment to delivering dwellings of rural designs and finishes I consider that it is necessary and appropriate to require that the dwellings should be designed in accordance with the guidance set out in the Department's document 'Building on Tradition – A sustainable Design Guide for the Northern Ireland Countryside to reflect and respect their AONB location. Landscaping would allow the new dwellings to better integrate into the surrounding landscape and this would assist with protecting the visual amenities of the countryside.

### Conditions

1. Except as expressly provided for by Condition 2 and 3 the following reserved matter shall be as approved by the planning authority – the siting of the buildings and the means of access thereto
2. The ridge height of the dwellings shall not exceed 6.45m from the lowest ground level within their footprints.
3. The design and materials of the dwellings shall be in accordance with Building on Tradition – A Sustainable Design Guide for the Northern Ireland Countryside

4. No development shall take place until there has been submitted to and approved by the planning authority a landscaping scheme showing the retention of and augmentation with new native species planting between the points A-B and B-C except for the access onto the lane and new native species planting between points C-D and D-E all as marked on attached annotated drawing PAC 1. The scheme of planting as finally approved shall be carried out during the first planting season after the commencement of the development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the planning authority gives written consent to any variation.
5. Application for approval of the reserved matters shall be made to the planning authority before the expiration of three years from the date of this decision.
6. The development shall be begun before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

This decision is based on the 1:2500 scale site location plan and the 1:500 scale drawing entitled Proposed Access.

**COMMISSIONER HELEN FITZSIMONS**

2019/A0093

List of Documents

Planning Authority: - PA1 Written Statement and Appendices

Appellant: - A 1 Written Statement and Appendices  
A2 Comments

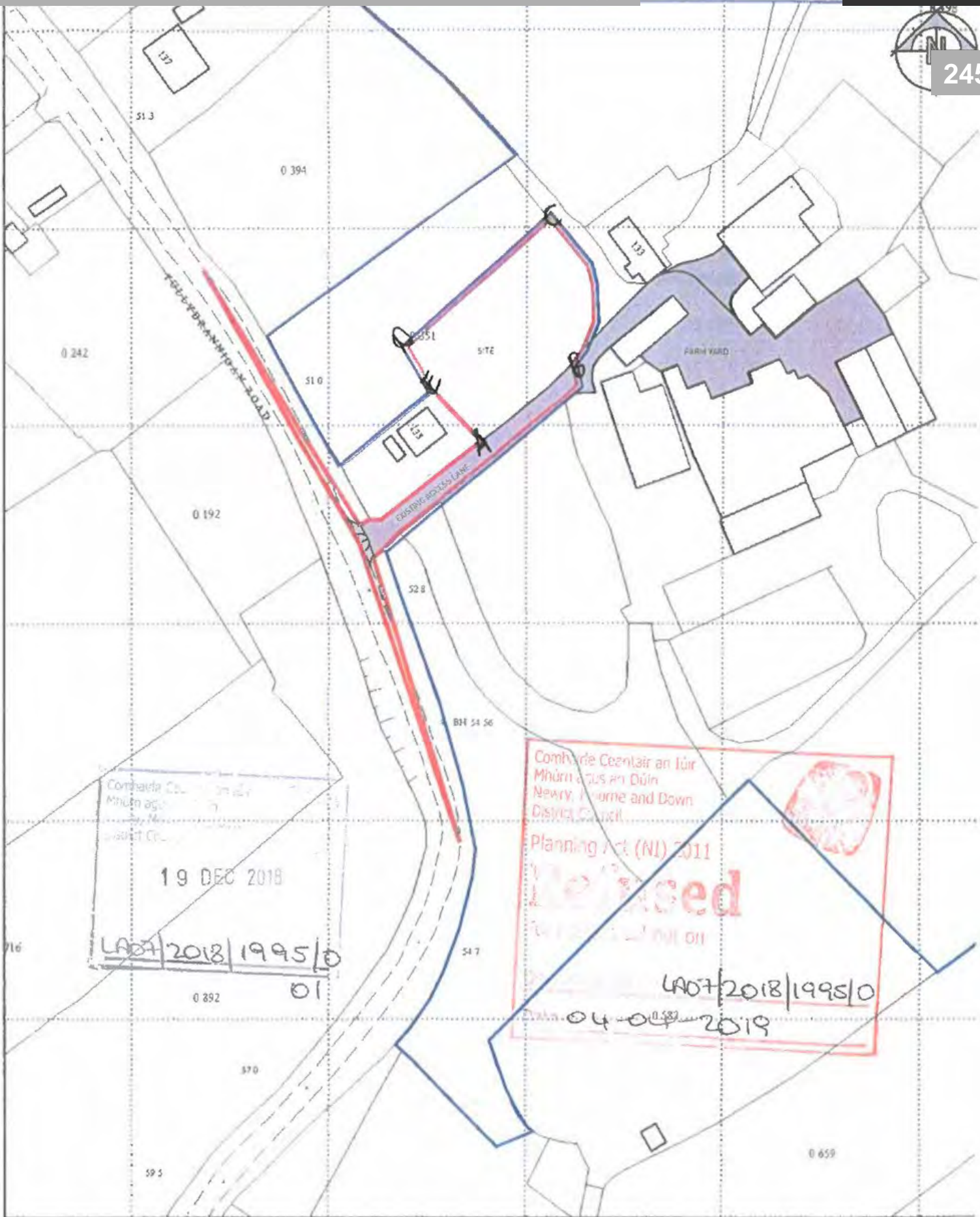
Attendances

Planning Authority: - Ms C Moane

Appellant: - Mr B Hillen (Hillen Architects)

2017/A0132





<p>CLIENT AMY SCOTT</p> <p>PROJECT INFILL DWELLINGS SOUTH WEST OF 133 TULLYBRAHNDIGAN ROAD NEWCASTLE</p> <p>DRAWING NAME LOCATION MAP</p>	<p>SCALE 1:1250</p> <p>PROJ. DATE 2018 10/27</p> <p>CAD 21/11/2018</p>	<p>DESIGNED BY B.H.</p> <p>DRAWN BY AC - 01</p> <p>STATUS PLANNING</p>	<p>LOGO</p> <p>ARB</p> <p>RSUA</p>	<p><b>HILLEN</b> ARCHITECTS</p>
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ARCHITECTURE : DESIGN : PLANNING

30 CLINTON PROMenade NEWCASTLE CO DOWN BT53 6HH E 04 2018 1272 5515 I.D. INFO@HILLENARCHITECTS.COM W.W. WWW.HILLENARCHITECTS.COM

PAC1





# Appeal Decision

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247

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<b>Appeal Reference:</b>	2019/A0051
<b>Appeal by:</b>	Mr Cavan Johnston.
<b>Appeal against:</b>	The refusal of full planning permission.
<b>Proposed Development:</b>	Retrospective agricultural building on footprint of existing agricultural building utilising existing rear wall.
<b>Location:</b>	Land approximately 220m north east of 51 Shore Road Strangford.
<b>Planning Authority:</b>	Comhairle Ceantair an Iúir, Mhúrn agus an Dúin. Newry, Mourne and Down District Council.
<b>Application Reference:</b>	LA07/2019/0018/F.
<b>Procedure:</b>	Informal Hearing on 2 <sup>nd</sup> October 2019.
<b>Decision by:</b>	Commissioner Damien Hannon, dated 17 <sup>th</sup> December 2019.

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## Decision

1. The appeal is dismissed.

## Reasons

2. The main issue in this appeal is whether the proposed development is acceptable in principle in the countryside.
3. The appeal site is located in the countryside as designated 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 the appeal proposal. Furthermore, no conflict arises between the provisions of the Strategic Planning Policy Statement for Northern Ireland - Planning for Sustainable Development - September 2015 (SPPS) and any retained policies regarding issues raised. Consequently, the relevant policy context is provided by the retained 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 agricultural development in accordance with Policy CTY 12 of PPS 21. While the proposed development is described as retrospective, the appellant confirmed that construction had been halted and that the building, as illustrated in the submitted drawings, had not been fully completed. Notwithstanding the description, I shall consider the proposed building as depicted in the submitted drawings. The evidence establishes that the footprint of the appeal building is either



all or partly consistent with that of a pre-existing agricultural building and that part of a wall of this structure has been incorporated into the construction of the appeal building. However, regardless of whether it is intended as a replacement of the former structure, I nonetheless consider what is proposed to constitute a new building for the purposes of Policy CTY 12.

5. There was agreement that the appeal site formed part of an active and established agricultural holding and Policy CTY 12 states that planning permission will be granted for development on such a holding where it is demonstrated that a number of stated environmental and planning requirements are met. The Council argued that one of these criteria would be offended because it had not been demonstrated that the proposal was necessary for the efficient use of the agricultural holding. The Council further argued that additional policy tests relating to new buildings would not be met as sufficient information had not been provided to confirm that there were no suitable existing buildings on the holding that could be used or that the proposal was sited beside existing farm buildings.
6. However, in the case of the latter tests, exceptionally policy allows consideration to be given to an alternative site away from existing farm buildings, provided there are no other sites available at another group of buildings on the holding, and where it is essential for the efficient functioning of the business. The appellant argued that there were operational business requirements that made it essential that the building was located as proposed, away from existing farm buildings and other groups of buildings on the holding.
7. The main structure of the single storey, stone clad appeal building is a rectangular cattle shed with a pitched, black, corrugated metal sheet roof measuring approximately 11m in length by 7m in width. A single storey annexe with a lean to roof, to be used as a medicine room, is attached to the eastern elevation of the main structure. Because of its high spec construction, window design and door openings incorporating raised steps, the structure does not present as a typical agricultural building. Nonetheless, the Council raised no objection regarding the acceptability of the building for agricultural purposes and its design would be appropriate to the area in terms of character and scale.
8. The appellant explained that he had rented the original shed, in conjunction with adjoining fields, and used it to shelter cattle until 2007 when the roof collapsed in a storm. While the damaged shed continued to afford rudimentary shelter, he rented a shed on adjacent land to provide the required standard of protection. When this shed was removed in 2017, the appellant bought the appeal site and adjacent land, removed the existing shed and began construction of the appeal building.
9. The farm unit is in excess of 160ha in size and accommodates some 480 cattle rising to 550 in peak season. Facilities for these cattle are available at the main farm group but are stretched due to expansion of the herd. During summer months (February to November) animals are generally left in the fields. During winter months most animals are housed in shelter although approximately 20 beasts are overwintered in the fields adjacent to the appeal site. It is intended that the appeal building be used throughout the year to provide shelter in inclement weather, as well as medical provision and isolation for sick animals, if required. During the winter months, it is proposed to use the appeal building to feed and shelter overwintered animals.



10. The appeal building is located some 0.62 miles (10 fields) away from the main farm group as the crow flies. However, as some of the intervening fields can be used for arable farming, it is not always possible to walk stock between the appeal site and the main farm group. Transporting animals from the fields adjacent to the appeal site to the main farm group involves a road journey of some 3 miles. The appellant argued that it was not appropriate, on welfare grounds, to subject sick animals to the stress of such a road journey.
11. I accept that facilities to meet the housing, isolation and medical requirements of the herd, at the main farm group may operate at full capacity. However, I was given no explanation as to why such facilities could not be expanded. I also accept that there may be occasions when it is not desirable for sick animals to endure a three mile road trip. However, I am not persuaded by the submitted evidence that such a situation is uncommon in respect of farms and out farms throughout the country. Furthermore, I am not persuaded that 20 out wintered cattle would generate a sizeable number of occasions of illness whereby the animal would be unable on welfare grounds, to endure a three mile road trip. Taking these circumstances in the round I conclude that, while the proposed facility may be desirable, especially in respect of 20 out wintered cattle, it cannot be considered necessary for the efficient use of the agricultural holding. I further conclude that the proposal does not constitute acceptable agricultural development in compliance with Policy CTY 12 of PPS 21.
12. Policy CTY 1 states that other types of development in the countryside will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement. The appellant however advanced no such argument and the Council's objection to the proposal in principle is well founded and its four reasons for refusal based on Policies CTY 1 and CTY12 are sustained and determining in this case.

This decision is based on the following drawings received by the Council on 7<sup>th</sup> December 2018:-

1:2500 scale Site Location Map numbered 01

1:150 scale Existing Site Layout Plan numbered 02

1:100 scale Proposed Plans and Elevations numbered 03.

**COMMISSIONER DAMIEN HANNON**

**2019/A0051**

**List of Appearances**

Planning Authority:-

Ms Catherine Moane

Appellant:-

Mr & Mrs Cavan and Alwena Johnston.  
Ms Sarah McDole (Resolve Planning)  
Mr Gary Patterson (Architect)

**List of Documents**

Planning Authority:-

COU1 Statement of Case

Appellant:-

APP1 Statement of Case



# Appeal Decision

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**Appeal Reference:** 2019/A0050  
**Appeal by:** Mr and Mrs N Crean  
**Appeal against:** The refusal of full planning permission  
**Proposed Development:** Replacement dwelling with retention of old dwelling as agricultural storage.  
**Location:** 38 Lighthouse Road, Ballyward  
**Planning Authority:** Newry Mourne and Down District Council  
**Application Reference:** LA07/2019/0164/F  
**Procedure:** Written representations and accompanied site visit on 01 October 2019.  
**Decision by:** Commissioner Pauline Boomer, dated 11 December 2019.

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## Decision

1. The appeal is dismissed

## Preliminary Issue

### Admissibility of additional information.

2. Section 59 (1) of the Planning Act (NI) 2011 states that a party to the proceedings is not to raise any matter which was not before the Council at the time the decision appealed against was made unless that party can demonstrate (a) that the matter could not have been raised before that time or (b) that it not being raised before that time was a consequence of exceptional circumstances. Section 59(2) states that nothing in subsection (1) affects any requirement or entitlement to have regard to (a) the provisions of the local development plan, or (b) any other material consideration.
3. The Planning application was submitted to the Local Planning Authority on 25th January 2019. The appellant was not made aware that the application was recommended for refusal until it was placed on a delegated list on 15 April 2019, following which Councillor Sean Doran submitted a Planning Committee Call in request form. At that time, the appellants submitted the following information to the Council:
  - A home survey report to identify the poor condition of the existing property; and
  - Details of the personal circumstances of their son Aaron whom they hoped would live there independently.

It is unclear of the precise nature of the evidence presented to the Council at that time as no stamped received documents were forwarded to the Commission but I am satisfied that these matters were before the Council prior to them issuing the decision notice. The issue of the decision notice on 1<sup>st</sup> May 2019, one day after

the call in request was refused, did not offer the appellant the opportunity to submit any further details at that time.

4. Whilst the appellants have submitted additional information as Appendices attached to their Statement of Case, these offer further details about their son's personal circumstances and the condition of the existing dwelling. In so doing, they offer further clarity on issues already presented to the Council in that "call in" application. I am therefore satisfied that these details are not new matters and should be considered as part of the appeal process.

## Reasons

5. The main issues in this appeal are whether an offsite replacement dwelling is acceptable in principle, whether a satisfactory level of integration would be achieved and whether it would be detrimental to rural character.
6. 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 & Mourne Area Plan (BNMAP) operates as a LDP. The appeal site is located outside any designated settlement development limit. The relevant policy context is provided by Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21) which is identified by the Strategic Planning Policy Statement for NI (SPPS) as a retained policy document.
7. Policy CTY 1 of PPS 21 lists a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. A number of instances when planning permission will be granted for an individual dwelling house are outlined. The appellant argues that the appeal building represents a replacement opportunity in accordance with Policy CTY 3. It automatically follows that if the proposal complies Policy CTY 3, it will comply with Policy CTY 1.
8. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in favour of the provisions of the SPPS. The SPPS is more prescriptive than the retained policy in PPS 21 in relation to replacement dwellings and so it carries greater weight in the assessment of this appeal. Accordingly, the test as set out in Paragraph 6.73 is that any replacement dwelling must be located within the existing curtilage where practicable and must not have a visual impact significantly greater than the existing building (my emphasis). In these circumstances, greater weight must be attached to the tests set out in Paragraph 6.73 of the SPPS.
9. In addition to the above, Policy CTY3 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum, all external walls are substantially intact. Other criteria require that any alternative position outside the existing curtilage would result in demonstrable landscape, heritage, access or amenity benefits and that the overall size of the new dwelling should allow it to integrate into the surrounding landscape.



10. The appeal building is a modest single storey cottage dating back to 1856 which is located close to the western side of Lighthouse Road. It forms part of a 2 acre smallholding acquired by the appellants in June 2018 to allow their autistic son Aaron to live independently in proximity to the family home. A small outbuilding used for as a livestock shelter lies immediately north of the existing dwelling with a small holding pen beyond. To the south of the existing dwelling there is a small chicken shed with an orchard/garden beyond, enclosed by mature trees. Aaron has been living in the existing cottage for several months, keeping hens and ducks and selling their eggs. Attempts have been made to refurbish the existing dwelling but an internal inspection identified that there is a problem with rising damp which was confirmed in the Survey and Valuation report submitted by the appellant. There is no dispute that this building meets the replacement criteria outlined above.
11. Whilst there is no objection in principle to the replacement of the existing cottage, the main issue in this appeal relates to the alternative siting of the new dwelling in the field immediately north of the existing farm group. Policy CTY 3 states that the proposed replacement dwelling should be sited within the established curtilage of the existing building, unless either (a) the curtilage is too restricted that it could not reasonably accommodate a modest sized dwelling, or (b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits. The main argument presented by the appellants is that the existing curtilage is too restricted to accommodate a new dwelling and they now seek to erect a much larger dwelling in the adjacent field, whilst retaining the existing cottage for agricultural storage.
12. At present the existing single storey dwelling has a footprint of 119m<sup>2</sup>, positioned within 4-5m off the road edge. There is no dispute that the depth of plot is restricted, ranging from 17m at the northern side of the dwelling to 19m at the southern side. At present there is a rear concrete yard extending from 0.4m to 1.3m in depth, enclosed by a 1.2m high retaining wall with shrubbery beyond and the appellants argue this does not represent useable space, nor does the area to the front of the dwelling currently used for off road parking parallel to the public road. There is a sizeable plot which extends southwards of the existing dwelling identified by the appellants as a garden/ orchard area and although excluded from the appeal site boundaries, lies within their control.
13. The critical issue in this appeal is whether or not a replacement dwelling can be provided within the existing curtilage and the adjoining garden orchard area or if the off-site replacement as now proposed represents the only feasible option within the existing holding as suggested by the appellant. The LPA recognise that both plots are restricted in depth but this is more than adequately compensated by the overall width of frontage which extends to 140m. The combined area of the existing dwelling and orchard/garden is 882m<sup>2</sup> which exceeds the 837m<sup>2</sup> shown on the adjacent field.
14. The appellant acknowledges that the side garden represents an alternative siting but discounts it, due to its narrow depth and its proximity to the farm group to the rear. The garden/orchard area is marginally deeper than the existing curtilage, extending up to 21m in depth. I note that the existing visibility is poor when exiting the curtilage of the existing dwelling, obscured in part by the mature trees which enclose the orchard. However I agree with the LPA that these visibility splays

could be improved as the land is within the appellant's control. Whilst this would require the removal of several trees abutting the road, it would still allow for a satisfactory level of integration without detriment to rural character. The appellant also argued that any new dwelling could not be moved into the orchard because of the existing septic tank being located here, the ground being too wet and because of the proximity to the livestock sheds at No. 34. No details of the septic tank or ground conditions were supplied. I note that the existing dwelling and the proposed dwelling both lie within 75m of the agricultural sheds referred to. I agree with the appellants that moving significantly closer to the adjacent farm group may create difficulties with noise, smells etc but note that Environmental Health do not appear to have been consulted on either issue. Given the combined size of the existing curtilage including orchard /garden area, I am satisfied that a suitably designed dwelling could be accommodated here with some minor adjustment without detriment to residential amenities of the occupants.

15. Policy CTY 3 states that an offsite replacement will only be considered where the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling (my emphasis). The appeal proposal seeks to replace the modest single storey cottage with a footprint of approximately 120m<sup>2</sup> with a much larger 4-bedroom 1½-storey dwelling with a footprint of 147m<sup>2</sup> and total floor area of 268m<sup>2</sup>. Whilst I acknowledge that the much larger footprint could not be accommodated within the existing curtilage, especially one designed with a front porch and sizeable rear return, no explanation has been given as to why a two and a half times increase in floor area is now necessary to accommodate the appellant's son. Whilst there is no issue with the size, scale and design of the proposed dwelling per se, I concur with the LPA's assessment that this dwelling would have a significantly greater visual impact than the existing building.
16. The existing curtilage and garden is large enough to accommodate a modest sized 1½ dwelling designed specifically for this plot, retaining its linear form with the parking area and amenity space provided in the sizeable garden area to the south, all within the control of the appellant. I am not persuaded that any of the difficulties outlined by the appellant are insurmountable. As I agree with the LPA that the site is not unduly restrictive and that a dwelling could be designed to suit its particular layout, I conclude that the appeal proposal does not find support in Criterion (a).
17. The 2<sup>nd</sup> requirement for an offsite replacement is that the alternative siting would result in demonstrable landscape, access and amenity benefits. The appellant argues that the alternative siting allows for the provision of a suitably sized plot, offering a sizable front and rear garden, adequate onsite parking and provision of a safe access with the necessary sightlines of 2.0m x 60m. However I am satisfied that these could also be provided within the existing curtilage and orchard area. The introduction of a significantly larger dwelling on a more open plot would not be beneficial in visual amenity terms. As there is no clear demonstration of betterment in terms of landscape, access or amenity benefits, I am not persuaded that the alternative siting finds support in Criterion (b).
18. Policy CTY 3 identified a list of additional criteria which must be met for all replacement dwellings which includes the requirement that the overall size of the new dwelling allows it to integrate into the surrounding landscape, without creating a visual impact significantly greater than the existing dwelling. The issue of integration is also addressed in Policy CTY 13 which is referred to in the 3<sup>rd</sup>

Reason for Refusal, as the LPA considers that the removal of the roadside hedge to achieve the necessary sightlines would result in a lack of enclosure.

19. The appeal site is enclosed by a low wall and post and wire fence on two sides with little or no vegetation. The northern site boundary is currently undefined and a large section of the established roadside boundary would have to be removed to provide the necessary sightlines of 2.0m x 60m. I note that the land rises to the north and west with the dwelling to be sited in the lowest part of the host field which the LPA acknowledged would provide an adequate backdrop, aided further by the dwelling being excavated into the hillside. All parties agreed that the critical views would be restricted to across the site frontage where the removal of 24m of roadside hedgerow and trees would open up clear views into the site. From this aspect, the lack of established boundaries would be readily apparent and whilst the appellant has indicated that new planting would be introduced behind the sightlines and on all other boundaries, this would take time to establish and mature. The appeal plot would be reliant on new landscaping and I am not persuaded that a satisfactory level of integration would be achieved, which in turn would increase the overall visual impact of the new dwelling. Whilst the appellant has presented photographs of more prominent dwellings on elevated sites in the general vicinity, no details have been provided to allow me or the LPA to make direct comparisons. I conclude that as the proposed dwelling on the adjacent greenfield plot would not achieve a satisfactory level of integration, it offends Policy CTY 13 and the 3<sup>rd</sup> Reason for Refusal is sustained.
20. In concluding that the original curtilage and orchard area would be capable of accommodating a modest sized dwelling with adequate facilities, I find that the exceptional tests to justify an offsite replacement are not met. I acknowledge that the development of a greenfield site may be less problematic and represent an easier option but this does not justify setting aside policy objections. I do not accept the appellant's argument that the physical restrictions of the existing curtilage would cause considerable difficulties with the proposed off site replacement representing the only option available. For all of the reasons given, I conclude that the appeal proposal conflicts with the SPPS and Policy CTY 3 and the second reason for refusal is therefore sustained.
21. I have found no policy support for the appeal proposal in the SPPS and Policy CTY 3. I recognise that the appellants seek to provide a suitable dwelling for their son which allows him to live independently whilst providing some employment but this does not outweigh the policy objections. There is no evidence to suggest that the appeal proposal falls into any other types of development that are listed as acceptable in principle in the countryside under Policy CTY 1 or that there are overriding reasons why the development is essential and could not be located in a settlement. The LPA has also sustained its first reason for refusal based on Policy CTY 1 of PPS 21.
22. Both the 4<sup>th</sup> and 5<sup>th</sup> Reasons for Refusal refer to the appeal proposal resulting in the creation of a ribbon of development, contrary to the SPPS and Policies CTY 8 and CTY 14. The LPA considers that the introduction of the proposed offsite replacement would create a ribbon of development along this section of Lighthouse Road consisting of the existing chicken shed, the retained dwelling, the agricultural outbuilding and the new dwelling. The appeal proposal would extend development in a linear form along the western side of the road. Despite the



increased depth of plot, the proposed dwelling would be readily apparent given the open nature of the alternative plot now proposed. I have not been persuaded by the appellant's arguments that critical views would be so limited that the proposed dwelling would not impact adversely on rural character. There would be an awareness of a linear form of development extending into the open countryside, creating a suburban form of development which would be detrimental to the rural character of the area. I agree with the LPA that the proposed development conflicts with the SPPS and Policies CTY 8 and CTY 14 and find the 4<sup>th</sup> and 5<sup>th</sup> Reasons for Refusal sustained.

23. As I have found all 5 Reasons for Refusal sustained, the appeal must fail.

This decision is based on the following drawings, all received by Newry Mourne and Down District Council on 25 January 2019:-

- 1: 2500 site location plan;
- 1:500 existing/proposed site layout plan;
- 1:100 existing dwelling plans and elevations;
- 1:100 existing dwelling proposed plans and elevations;
- 1:100 proposed plans and elevations for new dwelling.

**COMMISSIONER PAULINE BOOMER**



**2019/A0050**

**List of Appearances**

Planning Authority:- Ms Claire Cooney for Newry, Mourne and Down District Council

Appellants:- Mr & Mrs Crean (appellants)  
Mr Aaron Crean  
Mr Ewart Davis (agent)

**List of Documents**

LPA 1 Statement of Case and appendices from Newry Mourne and Down District Council

APP1: Statement of Case and Appendices from Appellant.

APP 2 Rebuttal from Appellant.

## CONTACT FROM PUBLIC REPRESENTATIVES – 1 October – 31 December 2019

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DATE	CALLER	ISSUE	REFERRED TO	MODE	DATE CLEARED
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9/09/19	C McGrath MLA	A McKay	Direct e mail	24/10/19
1/10/19	Cllr L Devlin	D Watson	Call transferred	1/10/19
1/10/19	Cllr S Doran	M Keane	Email	2/10/19
3/10/19	Cllr W Walker	A McAlarney	Call transferred	3/10/19
" "	Cllr D Curran	A McAlarney	E mail sent	3/10/19
7/10/19	Cllr B O muri	M McIlhone	Call answered	7/10/19
" "	Cllr O Hanlon	A McAlarney	E mail sent	7/10/19
" "	Allister for D Weir MLA	D Watson	E mail sent	
" "	Cllr C Mason	A McAlarney-D Watson	Direct e mail	7/10/19
" "	M Larkin	C McAteer-A McAlarney	E mail sent	8/10/19
9/10/19	Justin McNulty MLA	P Rooney	Call transferred	9/10/19
" "	E Rogan MLA	A McAlarney	Direct e mail	9/10/19
" "	C McGrath MLA	A McAlarney	Direct e mail	10/10/19
10/10/19	C McGrath MLA	A McAlarney	Direct e mail	10/10/19
" "	C Hazzard MLA	A McKay	Direct e mail	25/10/19
14/10/19	Cllr O'Hare	M Keane	Email sent	14/10/19
" "	Cllr T Andrews	A McAlarney	Direct e mail	14/10/19
15/10/19	C McGrath MLA	A McAlarney	Direct e mail	15/10/19
" "	C Hazzard MP	A McKay/A McAlarney	Direct e mail	15/10/19
" "	Cllr G Hanna	P Rooney	Direct e mail	12/11/19
17/10/19	Cllr D Taylor	M Keane	Email sent	18/10/19
17/10/19	Cllr Doran	M Keane	Email sent	23/10/19
18/10/19	Cllr A McMurray	M Keane	Returned call	18/10/19
18/10/19	Cllr Devlin	M Keane	Email sent	23/10/19
21/10/19	Cllr Reilly	M Keane	Email sent	30/10/19

## CONTACT FROM PUBLIC REPRESENTATIVES – 1 October – 31 December 2019

DATE	CALLER	ISSUE	REFERRED TO	MODE	DATE CLEARED
22/10/19	Cllr A Lewis	Update request	K Cunningham & F Murray	E mail sent	22/10/19
23/10/19	Cllr S Doran	PAD requested	P Rooney	Direct e mail	24/10/19
24/10/19	C Hazzard MLA	Update requested	M McIlhone	Direct e mail	24/10/19
" "	E Rogan MLA	Update requested	A McAlarney	Direct e mail	28/10/19
25/10/19	Cllr D Burgess	Update requested	A McAlarney	Call transferred	25/10/19
" "	C Hazzard MLA	Update requested	A McKay/A McAlarney	Direct e mail	28/10/19
1/11/19	Cllr A Lewis	Update requested	K Cunningham	E mail sent	-----
5/11/19	Cllr Casey	Update request	M Keane	Email sent	5/11/19
" "	Cllr S Doran	Update requested	P Rooney	Direct e mail	8/11/19
" "	Cllr S Doran	Update requested	P Rooney	Direct e mail	8/11/19
07/11/19	Cllr S Doran	Meeting request	M Keane	Email sent	11/11/19
7/11/19	Cllr O Hanlon	Explanation requested	A McAlarney	Direct e mail	7/11/19
07/11/19	Cllr G Hanna	Update requested	M Keane	Email sent	11/11/19
12/11/19	Cllr P Brown	Queries	A Hay	Direct e mail	14/11/19
13/11/19	J McNulty MLA	Update requested	P Rooney	Direct e mail	15/11/19
14/11/19	Cllr J Trainor	Enforcement Enquiry	C Miskelly	E mail sent	15/11/19
" "	Cllr L Devlin	Query	D Watson	E mail sent	14/11/19
15/11/19	Cllr W Walker	Enquiry	A McAlarney	Call transferred	15/11/19
18/11/19	Cllr O Hanlon	Enquiry re registering an objection	M McIlhone	Call answered	18/11/19
18/11/19	Cllr Doran	Update request	M Keane	Spoke to Cllr	20/11/19
19/11/19	Cllr Doran	Query	M Keane	Email sent	20/11/19
20/11/19	Cllr C Enwright	Request for documents issued at Social Housing Conference	David Patterson & Alan Beggs	E mail sent - MMCI	20/11/19
" "	Rachel for C Hazzard MLA	Update requested	A McAlarney	E mail sent	20/11/19
" "	C McGrath MLA	Update requested	A McAlarney	Direct e mail	22/11/19



## CONTACT FROM PUBLIC REPRESENTATIVES – 1 October – 31 December 2019

DATE	CALLER	ISSUE	REFERRED TO	MODE	DATE CLEARED
21/11/19	Cllr H McKee	Update requested (Interest declared in this application)	M Keane	By telephone	21/11/19
22/11/19	Cllr P Brown	To discuss enforcement case	C Miskelly	E mail sent	22/11/19
" "	Cllr C Enwright	Rearrange meeting with D Watson Tuesday 26/11/19 at 10.30am	M McIlhone	Call answered	22/11/19
" "	C McGrath MLA	Update requested	A McAlarney	Direct e mail	22/11/19
25/11/19	Cllr D McAteer	Carrickgallogly Road, Belleek	A Davidson	E mail sent	22/11/19
26/11/19	Cllr C Mason	Update requested	A McAlarney	Direct e mail	27/11/19
" "	E Rogan MLA	Update requested	A McAlarney	Direct e mail	27/11/19
27/11/19	Cllr C Mason	Explanation requested	A McAlarney	Direct e mail	27/11/19
" "	Rachel for C Hazzard MLA	Update requested	A McAlarney	Call transferred	27/11/19
28/11/19	Cllr S Doran	Update requested	M Keane	E mail sent	4/12/19
28/11/19	Dominic for C McGrath MLA	Meeting requested before next Planning Committee on 11/12/19	A McKay	E mail sent	5/12/19
29/11/19	Cllr T Andrews	Meeting request	A McAlarney	Direct e mail	4/12/19
" "	Cllr T Andrews	Updates requested	A McAlarney	Direct e mail	4/12/19
3/12/19	Cllr O Hanlon	Update requested	A McAlarney	Call transferred	3/12/19
" "	Rachel for C Hazzard MLA	Update requested	A McAlarney	E mail sent	3/12/19
" "	Cllr T Andrews	Update requested	A McAlarney	Direct e mail	4/12/19
" "	Cllr T Andrews	Meeting request	A McAlarney	Direct e mail	4/12/19
" "	C McGrath MLA	Update requested	A McAlarney	Direct e mail	4/12/19
5/12/19	Cllr L Devlin	Urgent update requested	A McAlarney/A McKay	E mail sent	5/12/19
" "	C McGrath MLA	Update requested	A McAlarney	Direct e mail	5/12/19
" "	C McGrath MLA	Update requested	A McAlarney	Direct e mail	5/12/19



## CONTACT FROM PUBLIC REPRESENTATIVES – 1 October – 31 December 2019

DATE	CALLER	ISSUE	REFERRED TO	MODE	DATE CLEARED
" "	Cllr J Trainor	Follow up	A McAlarney	E mail sent	9/12/19
6/12/19	Cllr O Hanlon	Update requested	A McAlarney	Call transferred	6/12/19
6/12/19	Cllr D Taylor	Update requested	M Keane	Email sent	9/12/19
9/12/19	Cllr J Trainor	Follow up	A McAlarney	Call transferred	9/12/19
10/12/19	Cllr C Enwright	Meeting re Strangford this PM cancelled. Revised date to be emailed for w/c 13/1/20	D Watson	Advised - M McIlhone	10/12/19
" "	Cllr O Hanlon	Update on consultations	J McMullan	E mail sent	10/12/19
10/12/19	Cllr S Doran	Update requested	M Keane	Email sent	10/12/19
" "	Cllr W Clarke	Update requested	M Keane – A McAlarney	Direct e mails	12/12/19
13/12/19	Cllr H Reilly	Update requested	M Keane	Email sent	13/12/19
" "	Cllr W Clarke	Update requested	A McAlarney	Direct e mail	13/12/19
16/12/19	Cllr P Brown	Clarification re enforcement action	A McAlarney	Direct e mail	-----
" "	C McGrath MLA	Update requested	A McAlarney	Direct e mail	16/12/19
17/12/19	C McGrath MLA	Update requested	A McAlarney	Direct e mail	17/12/19
17/12/19	Cllr S Doran	Update requested	M Keane	Email issued	19/12/19
18/12/19	Cllr O Hanlon	Discuss case	D Watson	Call transferred	18/12/19
" "	Dominic for C McGrath MLA	Enforcement query re: 12 Marshallstown	D Watson	E mail sent	18/12/19
19/12/19	Dominic for C McGrath MLA	Query re date of next Delegated List	M McIlhone	Call answered	19/12/19
23/12/19	Cllr T Andrews	Update requested	A McAlarney	Direct e mail	23/12/19
23/12/19	Cllr H Reilly	Dates for Call in Panel meetings 2020	A McAlarney	Direct e mail	23/12/19
" "	Cllr M Larkin	Dates for Call in Panel meetings 2020	A McAlarney	Direct e mail	23/12/19

**CONTACT FROM PUBLIC REPRESENTATIVES – 1 October – 31 December 2019**

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DATE	CALLER	ISSUE	REFERRED TO	MODE	DATE CLEARED
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" "	Cllr D McAteer	Dates for Call in Panel meetings 2020	A McAlarney	Direct e mail	23/12/19
" "	Cllr L Kimmons	Update requested	P Rooney	Direct e mail	23/12/19
" "	Cllr T Andrews	Update requested	A McAlarney	Direct e mail	23/12/19