



December 10th, 2019

Notice Of Meeting

You are invited to attend the Planning Committee Meeting to be held on **Wednesday, 11th December 2019** at **10:00 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.

- 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 will 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** will 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** will 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** will not take part in the discussion/decision on this application.
- Item 11 - LA07/20191130/0 - end of terrace dwelling adjacent to 33 Dunwellan Park, Newcastle - **Councillors Brown and Trainor** will not take part in the discussion/decision on this application.

4.0 Minutes of Planning Development Committee Meeting held on Wednesday 13 November 2019.

 [Planning Committee Minutes 13.11.2019.pdf](#)

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For Discussion/Decision

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

 [Addendum list - 11-12-2019.pdf](#)

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Development Management - Planning Applications for determination

6.0 LA07/2017/0542/F - retail park with ancillary coffee shop/restaurant units (supporting statement April 2019) - former HM Revenue Customs Custom House and Clearance Station, Carnbane Way, Carnbane Industrial Estate, Newry.

(Case Officer report attached).

Rec: REFUSAL

- A request for speaking rights has been received from Andy Stephens, Matrix Planning; Glyn Roberts, CE of Retail NI and Eamonn Connolly, Newry BIDS in objection to this application. **(Submission attached).**
- A request for speaking rights has been received from Laurence Breen; Martin Kelly; Stephen Shaw QC and Mike Prentice in support of the application. **(Submission attached).**

📄 <i>Carnbane PDF Report LA07-2017-0542-F.pdf</i>	<i>Page 13</i>
📄 <i>Addendum to CO Report Carnbane Retail f.pdf</i>	<i>Page 94</i>
📄 <i>2nd Addendum to CO Report Carnbane Retail.pdf</i>	<i>Page 100</i>
📄 <i>Item 6 - LA07-2017-0542-F objection (retail park).pdf</i>	<i>Page 107</i>
📄 <i>Item 6 - LA07.2017.0542.F (support retail park).pdf</i>	<i>Page 109</i>

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

7.0 LA07/2016/1074/RM - development of a Community Treatment and Care Centre - lands at Abbey Way/Courtney Hill, Newry. (Case Officer report attached).

Rec: APPROVAL

- A request for speaking rights has been received from Eamon O'Hare, Karen McShane, Jim Kerr and David Mountstephen in support of the application. **(Submission attached).**

📄 <i>CTCC PDF Report LA07-2016-1074-RM.pdf</i>	<i>Page 123</i>
📄 <i>CTCC Addendum to Case Officer Report.pdf</i>	<i>Page 150</i>
📄 <i>Item 7 - LA07-2016-1074-RM (community treatment centre).pdf</i>	<i>Page 158</i>

Development Management - Planning Applications for determination

8.0 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

- This application has been withdrawn from the agenda to be re-presented at the January 2020 Committee Meeting.

[LA07-2018-0001-F Lidl Newcastle_revised.pdf](#)

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

9.0 LA07/2018/1614/0 - dwelling on a farm - 50m south of No. 24 Island Road, Atticall, Kilkeel. (Case Officer report attached).

Rec: REFUSAL

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

[LA07. 2018. 1614.O Island Road.pdf](#)

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[Item 9 - LA07-2018-1614-0 \(Island Road\).pdf](#)

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10.0 LA07/2019/0512/0 - proposed infill dwelling and detached garage - between 151 and 149 Dunmore Road, Ballynahinch. (Case Officer report attached).

Rec: REFUSAL

- A request for speaking rights has been received from Aodhan and Louise Murray in support of the application. **(Submission attached).**

[LA07-2019-0512-O Dunmore Road infill.pdf](#)

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[Item 10 - LA07-2019-0512-0 \(Dunmore Road\).pdf](#)

Page 199

11.0 LA07/2019/1130/0 - new end of terrace dwelling with associated site works - site adjacent to 33 Dunwellan Park, Newcastle. (Case Officer report attached).

Rec: REFUSAL

- A request for speaking rights has been received from Nicholas O'Neill, agent, in support of the application. **(Submission attached).**

[LA07201911300 Site Adjacent to 33 Dunwellan Park .pdf](#)

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Development Management - Planning Applications for determination

12.0 LA07/2019/0645/F - 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 - Delamont Outdoor Education Centre, 88 Downpatrick Road, Killyleagh. (Case Officer report attached).

Rec: APPROVAL

- A full presentation has been requested on this application at the December Planning Committee Meeting.

[LA07-2019-0645-F REPORT Slip at Delmont OEC.pdf](#)

Page 207

13.0 LA07/2019/0773/0 - dwelling - to rear of 71 Church Street, Downpatrick. (Case Officer report attached).

Rec: REFUSAL

- Addendum list

[LA07-2019-0773-O Church Street, Dowpatrick.pdf](#)

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

Rec: REFUSAL

- A request for speaking rights has been received from Gary McCandless, applicant, and a representative from CK Architects in support of the application. **(Submission attached).**
- Councillor Burgess has also advised of his support for the application.

[LA07-2019-1142-O Station Road \(Infill\).pdf](#)

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[Item 14 - AL07-2019-1142-0 \(Station Road\).pdf](#)

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15.0 LA07/2019/1231/0 - dwelling and garage on a farm under Policy CTY10 of PPS21 - 80m south of 22 Drumgooland Road, Downpatrick. (Case Officer report attached).

Rec: REFUSAL

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

📄 *LA0720191231O 22 Drumgooland Road.pdf* *Page 230*

📄 *Item 15 - LA07-2019-1231-0 (Drumgooland Road).pdf* *Page 234*

16.0 LA07/2019/1234/0 - dwelling and garage on an infill site under Policy CTY8 of PPS21 - adjacent and south of 22 Rocks Chapel Road, Crossgar. (Case Officer report attached).

Rec: REFUSAL

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

📄 *LA0720191234O 22 Rocks Chapel Road.pdf* *Page 237*

📄 *Item 16 - LA07-2019-1234-0 (Rocks Chapel Road).pdf* *Page 241*

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

Rec: REFUSAL

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

📄 *LA0720191257F 87 Seaview Killough.pdf* *Page 244*

📄 *Item 17 - LA07-2019-1257-F (Seaview Killough).pdf* *Page 248*

18.0 LA07/2019/0622/A - 1 no. wall fixed illuminated sign (retention) - Riverside RP Church Basin Walk, Newry BT35 6HU. (Case Officer report attached).

Rec: APPROVAL

- Addendum list

📄 *LA07-2019-0622-A Riverside R.P. Church.pdf* *Page 250*

Development Management - Planning Applications for determination (in closed session)

19.0 LA07/2019/1027/F - single storey rear extension to dwelling -

external lift with complementary steps to front of dwelling - 4 Riverside Road, Ballynahinch. (Case Officer report attached).

Rec: REFUSAL

- Addendum list

[LA0720191027F 4 Riverside Road.pdf](#)

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Local Development Plan Items

20.0 Minutes of Local Development Plan Steering Group Meeting held on 20 November 2019. (Draft attached).

[Draft Minutes LDP SG meeting 20.11.19.pdf](#)

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21.0 Local Development Plan Steering Group Terms of Reference: Amendment. (Attached).

[Planning Committee Report re ToR Rev 2 - Nov'19 - Copy.pdf](#)

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[LDP Steering Group TOR Rev 2 - Oct'19.pdf](#)

Page 262

22.0 Response to Lisburn and Castlereagh City Council Local Development Plan 2032 Draft Plan Strategy. (Attached).

[PC Report re LCCC LDP dPS.pdf](#)

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[Representation Response to LCCC LDP dPS.pdf](#)

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For Noting

23.0 Historic Action Sheet. (Attached).

[Planning HISTORIC TRACKING SHEET - UPDATED 27-11-2019.pdf](#)

Page 269

24.0 November 2019 Planning Committee Performance Report. (Attached).

[NOVEMBER 2019 Planning Committee Performance Report.pdf](#)

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25.0 Record of Meetings between Planning Officers and public representatives. (Attached).

[Record of meetings report.pdf](#)

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26.0 November Appeals and Decisions. (Attached).

 *Current Appeals and Decisions November 2019.pdf*

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NEWRY, MOURNE & DOWN DISTRICT COUNCIL

Minutes of the Planning Committee Meeting of Newry, Mourne and Down District Council held on Wednesday 13 November 2019 at 10.00am in the Boardroom, District Council Offices, Monaghan Row, Newry

Chairperson: Councillor M Larkin

Deputy Chairperson: Councillor H Reilly

In attendance: **(Committee Members)**

Councillor P Brown
 Councillor W Clarke
 Councillor L Devlin
 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 A Davidson	Senior Planning Officer
Mr M Keane	Senior Planning Officer
Mr F O Connor	Legal Advisor
Ms N Largey	Legal Advisor
Ms C McAteer	Democratic Services Officer
Ms P McKeever	Democratic Services Officer

**P/111/2019: PLANNING APPLICATION – LA07/2017/0542/F –
 RETAIL PARK AT CARNBANE INDUSTRIAL ESTATE,
NEWRY**

Prior to the Meeting formally commencing, Ms Largey advised that Planning Application LA07/2017/0542/F had been withdrawn from the Agenda as DfI had advised they were making a direction in relation to this application and had placed a 'pause' on the application in order to consider all documentation pertaining to it.

P/112/2019: APOLOGIES AND CHAIRPERSON'S REMARKS

Apologies were received from Councillor Trainor.

P/113/2019: DECLARATIONS OF INTEREST

Councillor Hanna declared an interest in Planning Application LA07/2015/0244/F – lands adjacent to No. 62 Newry Road, Warrenpoint stating he sat on the board of the Warrenpoint Harbour Authority.

P/114/2019: 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:-

No declarations were made.

MINUTES FOR CONFIRMATION**P/115/2019: MINUTES OF PLANNING COMMITTEE MEETING HELD ON WEDNESDAY 16 OCTOBER 2019**

Read: Minutes of Planning Committee Meeting held on Wednesday 16 October 2019. **(Copy circulated)**

AGREED: **On the proposal of Councillor Hanna, seconded by Councillor McAteer, it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 16 October 2019 as a true and accurate record.**

FOR DISCUSSION/DECISION**P/116/2019: ADDENDUM LIST**

Read: Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 16 October 2019. **(Copy circulated).**

AGREED: **On the proposal of Councillor Clarke seconded by Councillor Devlin it was agreed to remove the following Planning Application from the addendum list, for full presentation at the next Committee Meeting, as requested by Councillor Brown:-**

- **LA07/2019/0645/F** – Delamont outdoor education centre 88 Downpatrick Road Killyleagh – 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 **APPROVAL**

AGREED: **On the proposal of Councillor Clarke seconded by Councillor Devlin it was agreed to approve the Officer recommendation in respect of the following applications listed on the addendum list for Wednesday 13 November 2019: -**

- **LA07/2019/0445/0** – site for 1 dwelling and garage – 69m SW of 71 Dunmore Road, Spa, Ballynahinch. **APPROVAL**
- **LA07/2015/0244/F** - Lands adjacent to No 62 Newry Road Warrenpoint and the Gilbert Ash Complex Newry Road Warrenpoint incorporating the Narrowwater Business Park This application is for the change of use from the current zoning as 'Employment Land' to 'Port Operational Land' to bring it in line with the rest of the Harbour Estate. All activity on the site will be for the carrying out the statutory function of the port under the Warrenpoint Harbour Authority Order 2002 (Amended plans received). **APPROVAL**
- **LA07/2019/0574/F** – Environmental Improvement Scheme – from Killard Road south of Benderg Park site is bordered on the south side by section of Rocks Road and to the east by Ballyhornan Beach, Ballyhornan Environmental Improvement Scheme. **APPROVAL**

DEVELOPMENT MANAGEMENT - PLANNING APPLICATIONS FOR DETERMINATION

P/117/2019: PLANNING APPLICATIONS FOR DETERMINATION

The following applications were determined by the Committee:-

- (1) **LA07/2019/0399/O**
(Audio recorded - YES)

Location:

Between No. 86 Crabtree Road and 4 Cumber Road, Drumaness

Proposal:

Proposed dwelling on infill site

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:

- Planning Officials considered the vacant stable block located to the rear of No. 86 Crabtree Road to represent accompanying development to the rear and therefore the application contravened Policy CTY8.
- The agent said the disused stable block served no purpose, it had been vandalised and it was the intention of the applicant to remove it.
- The agent advised that DfI Roads had indicated the current access with existing splays were acceptable.
- Planning Officials considered the proposed dwelling did not respect the existing pattern of development in respect of plot size.
- The agent said he considered the proposed site to be a gap site within a continuous built up frontage and complied with Policy CTY8.
- There was no preservation order on the mature trees that were located adjacent to the entrance.

Agreed:

On the proposal of Councillor Hanna seconded by Councillor McKee it was unanimously agreed to issue an approval in respect of Planning Application LA07/2019/0399/O contrary to Officer recommendation on the basis that it was a gap site opportunity with continuous built up frontage and complied with policy.

It was also agreed Officers be delegated authority to impose any relevant conditions which should include the retention of the mature trees, house size and splays and the removal of the derelict buildings to the rear of the property.

**(2) LA07/2019/0456/O
(Audio recorded - Yes)**

Location:

Land 10m west of 8A Tyrella Road, Clough, Downpatrick

Proposal:

Infill dwelling, garage and associated site works.

Conclusion and Recommendation from Planning Official:

Approval

Proposal:

Erection of replacement dwelling and retention of existing structure as loose box.

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

Gary Thompson, 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 Anette 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:

- Planning Officials accepted there was a restrictive curtilage and were content to allow for an offsite replacement, however the proposed site was not acceptable due to its proximity to a protected windmill stump.
- Ms McAlarney had been to the site and considered there to be alternative sites, however as these were not within the existing red line outlined on the map presented to the Committee, a new application would have to be submitted.
- The agent considered the proposed siting to be unsuitable in terms of health and safety and not conducive to good practice. He also said the windmill stump would be better protected if it was taken into the curtilage of the proposed dwelling.

Ms Largey asked that it be put on record the Committee benefitted from legal advice on every application that was brought before it and in reference to a comment made during discussions, she said it was untrue to suggest any Member would be vicariously liable for any accident or incidents that might occur as a result of the negligence or actions by any third party.

Councillor McAteer proposed to accept the Officer's recommendation and issue a refusal, Councillor Clarke seconded the proposal.

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

FOR:	8
AGAINST:	3
ABSTENTIONS:	0

The proposal was declared carried.

AGREED:

On the proposal of Councillor McAteer, seconded by Councillor Clarke it was agreed to issue a refusal in respect of Planning Application LA07/2019/0978/F as per the information and recommendation

contained in the Case Officer report presented to Committee.

(Break 11.35 – 11.50),

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

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.

Issues Raised:

- One letter of objection had been received, objecting on behalf of 14 different addresses.
- The proposal was for a new end of terrace dwelling connected to, and not an extension of, No. 33 Dunwellan Gardens.

Councillor Clarke proposed to defer Planning Application LA07/2019/1130/O to allow for a site visit to take place. Councillor Hanna seconded the proposal.

AGREED:

On the proposal of Councillor Clarke, seconded by Councillor Hanna it was defer Planning Application LA07/2019/1130/O to allow for a site visit to take place, so that Members could assess the site in more detail.

**(5) LA07/2018/1801/O
(Audio recorded – YES)**

Location:

Site directly adjacent to and directly south of No. 67 Sturgan Brae Road, Camlough Newry.

Proposal:

Replacement dwelling and garage.

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

Brian Fearon, agent; Annette Elmore and Lorna Cunningham, applicants presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

Power-point presentation:

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

Issues Raised:

- Planning Officials considered the proposed application did not represent a replacement dwelling opportunity as the former building once in situ had been demolished more than twenty years ago and it could not be established how or why the building had been destroyed.
- The applicant advised the original building had been her grandparents home and had been in existence for over ninety years.
- The building had been vested from the owners by NIE for a hydro power route project and at some stage during this time had been destroyed.
- The applicant confirmed willingness to accept any conditions imposed in terms of scale, siting and design, should planning permission be granted.

AGREED:

On the proposal of Councillor Larkin seconded by Councillor Reilly it was unanimously agreed to issue an approval in respect of Planning Application LA07/2018/1801/O contrary to Officer recommendation on the basis that there was irrefutable evidence that a house existed on the site and there was a replacement opportunity and the applicants had been disadvantaged as a result of actions taken by the government.

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

- (6) **LA07/2018/1453/F**
(Audio recorded – YES)

Location:

25 Lower Knockbarragh Road, Rostrevor

Proposal:

Proposed replacement dwelling

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.

Issues raised:

- The site history including conditions of a previous Outline permission were outlined, including house type and underbuild (0.45m) restriction.
- The agent considered it would not be possible to achieve a depth of 0.45m without relocating the proposed dwelling.
- The siting indicated is an issue whereby the replacement dwelling needs relocated closer to the existing building.
- Mr Keane acknowledged that although it was a sloping site, the retaining walls to the rear of the development would be 5m high, which Planning considered, was unacceptable.
- The extent of engineering operations with retaining structures around the entire building was concerning and indicative that the current scheme was not appropriate.
- The agent advised it would not be possible to reduce the depth of the underbuilding at the back without installing retaining walls to the front of the dwelling.

Councillor Hanna proposed to accept the Officer's recommendation to issue a refusal, Councillor Reilly seconded the proposal.

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

FOR:	6
AGAINST:	4
ABSTENTIONS:	1

The proposal was declared carried.

AGREED:

On the proposal of Councillor Hanna seconded by Councillor Reilly it was agreed to issue a refusal in respect of Planning Application LA07/2018/1453/F as per the information and recommendation contained in the Case Officer report presented to Committee.

FOR DISCUSSION/DECISION**P/118/2019: PLANNING ENFORCEMENT STRATEGY**

Read: Report dated 13 November 2019 from Fearghal O'Connor, Legal Advisor recommending adoption of the draft Planning Enforcement Strategy. (Copy circulated).

AGREED: On the proposal of Councillor Ruane, seconded by Councillor McKee, it was agreed to adopt the Planning Enforcement Strategy.

FOR NOTING**P/119/2019: LOCAL DEVELOPMENT PLAN STEERING GROUP PROGRAMME**

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

P/120/2019: HISTORIC ACTION SHEET

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

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

P/121/2019: PLANNING COMMITTEE MEETING PERFORMANCE REPORT – OCTOBER 2019

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

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

P/122/2019: 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/123/2019: **APPEALS & DECISIONS**

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

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

The Meeting concluded at 12.45pm

For confirmation at the Planning Committee Meeting to be held on Wednesday 11 December 2019.

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 11 December 2019**

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:-

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

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



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2017/0542/F

Date Received: March 22nd 2017.

Proposal: Retail park with ancillary coffee shop/restaurant units

Location: Former H M Revenue & Customs Custom house and clearance station, Carnbane way, Carnbane Industrial Estate

1.0. SITE AREA AND CHARACTERISTICS:

- 1.1.** The application site, an area of 7 hectares, is the former customs clearance station and office complex and associated lands. The former offices, now demolished, were located close to the northern boundary of the site. The remainder of the site consisted of a large paved area forming part of the vehicle parking area for the former customs station.
- 1.2.** A considerable amount of development has recently been carried out on the site to include the demolition of buildings, site clearance and levelling and the erection of a boundary fence.
- 1.3.** The site is immediately adjacent to Carnbane Way on its northern boundary, which forms part of the Newry By-Pass road network, linking to the Belfast-Dublin strategic road network to the west. The site is located between the

Newry Canal, a scheduled monument on its eastern side and the Clanrye River on its western boundary.

- 1.4. The site is located just south of the Carnbane roundabout on the A28. To the north of the roundabout is Carnbane Industrial Estate.
- 1.5. The land on either side rises up significantly along the A28. To the south west of the site, across the canal is Damolly Retail Park and beyond this is the Fiveways Retail Service Station, a designated Local Centre. To the east of the site are located a number of residential properties. A pedestrian bridge provides a link between the site and these dwellings.

2.0. SITE HISTORY:

P/2009/0163/F Lands to the south and east of Carnbane Way/Shepherds Way Roundabout, incorporating Customs Clearance Clearance Station and lands to the rear of 7-14 Damolly Meadows, Newry. Comprehensive mixed use development to include: 1 No foodstore, 70 No light industrial/business units, 1 No gatehouse, 1 No coffee shop, residential use, (14 units), car parking, general landscaping and general site works.

Full Approval 19 August 2014.

The food store was restricted to 8,000 sq m with a net retail floorspace of 5200 sq m and a net convenience floorspace of 3120 sq m and 2080 sq m non-convenience floorspace. The permission requires a block of industrial units to be completed and available for occupation prior to the opening of the store. The industrial units are proposed on the current application site (See Appendix 2)

3.0. STATUTORY CONSULTATIONS:

- 3.1. Details are provided in Appendix 6 and summarised as follows:

Newry, Mourne & Down Environmental Health. No objections subject to planning conditions.

DfC. Historic Environments Division Archaeology and Built Heritage (HED: HM). No objections subject to planning conditions.

DAERA Planning Response Team. Water Management Unit (WMU), Land Soil and Air, Natural Heritage and Conservation Areas. No objections subject to conditions/mitigation.

DAERA Shared Environmental Services. No Objection. Subject to conditions.

DfI Rivers Agency. No objections.

Loughs Agency. No objections subject to informatives.

DfI Transport NI. No objections

NI Water. No Objections.

4.0. OBJECTIONS & REPRESENTATIONS

4.1. Details of the initial application and additional information received were advertised in the local press on 28 April 2017, 15 May 2019 and 30 August 2019. Nearest neighbours were notified on 2 May 2017 and 7 May 2019. One objection and one representation of support have been received.

4.2. Issues raised by the objector include:

- Proposal contrary to BNMAP 2015 as the site is zoned for proposed and existing economic development. PED 7 of PPS 4 applies.
- Cumulative impact in conjunction with P/2009/0163/F. Prematurity would be engaged as per Para 5.73 of the SPPS.
- Impact on the business incubator units previously approved under P/2009/0163/F.
- Application is speculative and amount of investment cannot be quantified.
- Irrational to place weight on the amount of economic benefits given speculative nature of proposal and lack of adequate consideration of job displacement
- Prejudice outcome of the plan process

- Does not comply with BNMAP 2015, SPPS or PPS 4 and no unique considerations to justify an approval

The issues raised were considered by the Planning Department as part of its assessment of this application.

- 4.3.** The representation, in support of the application, states that the proposal will create a high-quality shopping environment, preferable to other centres within Newry, as the infrastructure is better and there will not be the same issues of congestion and lack of car parking.

5.0. PLANNING POLICY CONTEXT.

- 5.1.** The planning policy context for this application is provided by:

- The Planning Act (Northern Ireland) 2011
- Regional Development Strategy 2023
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- The Banbridge, Newry & Mourne Area Plan 2015
- Planning Policy Statement 2 (PPS2): Natural Heritage
- Planning Policy Statement 3 (PPS 3): Access Movement and Parking
- Planning Policy Statement 4 PPS4): Planning and Economic Development
- Planning Policy Statement 6, (PPS 6): Planning Archaeology and the Built Heritage
- Planning Policy 15, (PPS 15) Planning and Flood Risk
- DCAN15 – Vehicular Access Standards
- Parking Standards

Regional Development Strategy 2035 (RDS).

- 5.2.** The RDS is material to individual planning applications but does not contain operational planning policy. These are issued through Planning Policy Statements and other documents. The published document confirms that the RDS has a statutory basis. It is prepared under the Strategic Planning

(Northern Ireland) Order 1999. Under that Order Departments must “have regard to the regional development strategy” in exercising any functions in relation to development. The RDS is material to decisions on individual planning applications and appeals. The policies and proposals within the existing statutory plan for the area, Banbridge, Newry & Mourne Area Plan (BNAMAP), are in general conformity with the provisions of the RDS.

- 5.3. The Strategy designates Newry as one of the main hubs across Northern Ireland and as the South Eastern Gateway City due to its proximity with the Border and its proximity to the major port of Warrenpoint. It is noted that it has the potential to cluster with Dundalk given that both are strategically located on the Belfast-Dublin Corridor.
- 5.4. Strategic Framework Guidance 11 aims to promote economic development opportunities at Hubs. It states that in Hubs and Clusters of Hubs such as Newry/Warrenpoint, the Hub and the highest performing city/town in the cluster should be considered first in the decision process. As Newry is both the largest and the highest performing Hub in its cluster it is the location which should be considered first.

Strategic Planning Policy Statement (SPPS).

- 5.5. The Strategy provides a framework for the development of new Local Development Plans by the Councils. Paragraph 1.16 states that Planning Policy Statement 5, ('Retailing and Town Centres') has been cancelled by the introduction of the SPPS. The SPPS now provides the statutory policy on retailing until a new development plan is adopted by the Council.
- 5.6. The SPPS adopts a Town (or City) Centre first policy in relation to new retail proposals. Paragraph 6.267 states that town centres are important hubs for a range of land uses and activities and can have a positive impact on those who live, work and visit them. Paragraph 6.268 states that the RDS recognises the importance of accessible, vibrant city and town centres which offer people more choice for, amongst other things, shopping. Paragraph 6.269 states that it is important that planning supports the role of town centres, (which includes city

centres) and contributes to their success. Paragraph 6.270 states that the aim of the SPSS is to support and sustain vibrant town centres across Northern Ireland through the promotion of established town centres as the appropriate first choice location of retailing and other complementary functions.

5.7. Paragraph 6.271 sets out 6 regional strategic objectives for policy on Town Centres and Retailing:

- secure a town centres first approach for the location of future retailing and other main town centre uses;
- adopt a sequential approach to the identification of retail and main town centre uses in Local Development Plans (LDPs) and when decision-taking;
- ensure LDPs and decisions are informed by robust and up to date evidence in relation to need and capacity;
- protect and enhance diversity in the range of town centre uses appropriate to their role and function, such as leisure, cultural and community facilities, housing and business;
- promote high quality design to ensure that town centres provide sustainable, attractive, accessible and safe environments; and
- maintain and improve accessibility to and within the town centre.

5.8. Paragraph 6.273 requires planning authorities to adopt a town centre first approach for retail and main town centre uses.

5.9. Paragraphs 6.280 and 6.281 establish a sequential test for applications for retail and main town centre uses. A sequential test should be applied to planning applications for main town centre uses that are not in an existing Centre and are not in accordance with an up-to-date LDP. Where it is established that an alternatively sequentially preferable site or sites exist within a proposal's whole catchment, an application which proposes development on a less sequentially preferred site should be refused. Applications for main town centre uses must be considered in the following order of preference (and consider all of the proposal's catchment):

- Primary Retail Core

- Town Centre
- Edge of Centre
- Out of centre locations, only where sites are accessible by a choice of good public transport modes.

5.10. Paragraph 6.283 states that all applications for retail or town centre type developments above a threshold of 1000 square metres gross external area not proposed in a town centre location and are not in accordance with the Local Development Plan should be required to undertake a full assessment of retail impact as well as need.

Banbridge, Newry and Mourne Area Plan 2015. (BNMAP)

5.11. Section 45 of the Planning Act (NI) 2011 requires the Council to have regard to the local development plan so far as is material to the application, and to any other material considerations. Section 6 of the Planning Act (NI) 2011, which deals with local development plans, states, where, in making any determination under this Act, regard is to be had to the local development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

5.12. The statutory function of an Area Plan is to provide a framework for the development of the Plan Area over the statutory lifetime of the plan. The Plan remains a material consideration beyond its end date and until it is replaced with an up-to-date plan document. It was only adopted, as the statutory plan for the area, following the completion of the statutory plan process, including a public inquiry and is intended to provide certainty for those who live, work and visit the Council area.

5.13. The Plan contains a number of objectives, which are material to this proposal, including:

- to facilitate sustainable patterns of growth and development throughout the Plan area;
- to promote Banbridge and Newry as main hubs within Northern Ireland and to enhance the inter-regional gateway role of Newry;

- 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 facilitate integration between land use and transportation in order to reduce congestion and the need for car journeys and to encourage a shift to more sustainable modes of transport, particularly walking, cycling and public transport; and
- to promote town centre vitality and viability

5.14. The Plan, (BNAMAP) has designated a settlement limit for Newry City and a town centre boundary for Newry City Centre. The Plan also designates a Primary Retail Core for Newry City Centre.

- The site is located within the settlement limit of Newry and outside the City Centre and Primary Retail Core boundary.
- The northern portion of the site, the location of the former customs clearance station and office complex, is zoned as an existing area of economic development and the southern portion is on 2.86 hectares zoned for economic development under Zoning NY 68. Key Site Requirements of NY 68 include access shall be via the existing access onto the Carnbane Estate roundabout and a 3-5 metre planning boundary on all site boundaries.
- The site is located between the Newry Canal and Newry River corridors, both of which are designated as an LLPA under Designation NY 114. These are designated for their nature conservation interest and associated vegetation and trees. Policy CNV 3 'Local Landscape Policy Areas' in Volume 1 of the Area Plan states that planning permission will not be granted to development proposals that would be liable to adversely affect their intrinsic environmental value and character. Where riverbanks are included within LLPA's, public access may be required to the river corridor as part of the development proposal. Where proposals are within or adjoining a designated LLPA, a landscape buffer may be required to protect the environmental quality of the LLPA.
- The Plan Strategy (pg 33) notes that there is a need for a cautious approach to retailing in Newry City and that retail growth in the City has already been allowed for sites at Newry Road and Tesco on Downshire Road and that

any residual capacity is anticipated to be small. As shown below, the retail need for additional floorspace in the catchment is consistent with this view, with only about £10million of growth in comparison retail expenditure between 2018 and 2021.

6.0. PLANNING ASSESSMENT & CONSIDERATION

- 6.1.** In summary the application seeks full planning permission for a retail park with ancillary coffee shop/restaurant units. The proposal does not seek any form of restriction that might mitigate its impact on town or city centres or that might distinguish it from typical town centre retailing. A supporting document submitted with the application states that the application is based on "unrestricted comparison goods retail units" (MBA Retail Impact Assessment, para 1.2). The submitted P1 form states that the total gross floorspace dedicated to sales is 16,836 square metres. The supporting Economic Impact Assessment details the floor space break down as; 15,133 square metres retail with 1,225 square metres for cafe/restaurant.
- 6.2.** The submitted layout plan shows 11 unrestricted retail units arranged in an L shape along the western and southern side of the site. Servicing will be provided to the rear of these units, which will range in size from 991sq metres to 2,830 sq metres. The proposal includes three restaurant units, each of 325 square metres, along the northern boundary of the site, as well as a cafe unit of 250 square metres in the north eastern corner of the site.
- 6.3.** Access to the site is to be provided within the existing junction at Carnbane Way Roundabout which will be upgraded to accommodate the higher traffic volumes. A roundabout is proposed adjacent to the eastern boundary at which a vehicular bridge will be provided across the Newry River to access the site of the food-store, already approved under P/2009/0163/F. A total of 875 car parking spaces, largely in the centre of the development, will be provided. The cafe unit will have 26 spaces provided immediately adjacent to it.
- 6.4.** A number of planning reports were submitted with the application, including: a Retail Impact and Supporting Planning Statement; Need Assessment;

Economic Impact Assessment; Environmental Statement; Transportation Statement; Loss of Employment Lands; Ecological Impact Assessment, and Landscape, Management and Maintenance Plan.

- 6.5. The Planning Department has carefully assessed the proposal, and all supporting material, in the context of the prevailing planning policy above, including the statutory development plan for the area. It appointed a specialised retail consultant, Inaltus Limited, to carry out a detailed appraisal of the relevant documents submitted in support of the application to inform its assessment of this proposal. Details of that appraisal are provided in reports, included in Appendix 4.

Assessment of Need for the Proposal.

- 6.6. In the context of the planning policy requirements outlined above the applicant is required to prepare an assessment of need for the proposed retail use to support the application. This should take account of the assessed needs of the local town (or city) and any committed development proposals and allocated sites.
- 6.7. The statutory plan identified an extended city centre boundary and zoned lands within the town centre to accommodate need over the Plan period. It is considered that the applicant has failed to demonstrate sufficiently robust evidence that there is a demand and need from retailers for the type of retailing and the size of units proposed. The applicant has also failed to robustly demonstrate a need in quantitative or qualitative grounds. Inaltus has set out at Appendix 4 that the turnover of the proposal is almost 6 times the quantum of spending growth in the catchment. Indeed, it would take almost 18 years of retail spending growth to support this proposal. There is no case for the proposal based on increased population levels, increased spending or any evidence that Newry needs an additional development of this scale.

The proposal does not provide a new type of retailing for the catchment. Instead it will duplicate and directly compete with the multi-national retailers

that are already in Newry City Centre and key to the vitality and viability of Newry City Centre.

The Sequential Test.

- 6.8.** The SPPS places the onus on the applicant to carry out a sequential test to demonstrate that there are no alternative sites available within the Town Centre Boundary of Newry City and to demonstrate that the proposal justifies being treated as an exception to this policy and that it is accessible by a good choice of public transport modes.
- 6.9.** The proposal is for uncontrolled and unrestricted comparison retail use outside the City Centre and Primary Retail Core. The proposal does not seek any form of restriction that might distinguish it from existing town centre uses. It is therefore sequentially un-preferred in the context of the SPPS, as referred to at Para 5.6-5.9 above.
- 6.10.** BNMAP zones 13 Development Opportunity sites in Newry City. These sites are available for a variety of single or multiple uses which might include retail. However, if this proposal were allowed it would undermine the potential of these sites coming forward as there would be no increased spare retail growth expenditure available to support them as it will have been soaked up by this proposal.
- 6.11.** The application was accompanied by an Environmental Statement (ES). The applicant included an analysis of existing retail sites within the Town Centre Boundary in the ES. Prevailing policy requires that an applicant provides a thorough and robust analysis of alternative sites, particularly, in this case, where the proposal is for unrestricted open class retailing out of centre in Newry. Whilst the applicant has considered the list of alternative sites within its ES and claims these are not capable of supporting the development, based on size, it must be remembered that the Plan's development opportunity sites were allocated based on an assessment of retail need as assessed by the Department. The applicant has not identified any need for this massive retail development, and hence it is not surprising the Plan contains few sites large enough to accommodate a development for which there is in-fact no clear

need. The applicant's approach to alternative sites is unsatisfactory as it is a self-serving and self-fulfilling exercise. Essentially, the application proposes a development so large that no town or City Centre could accommodate it and therefore argues that it must be allowed outside the town centre. This approach pays no attention to whether the development is in fact needed or not.

It is also considered that there has been insufficient analysis of the opportunity sites identified in the Plan, in particular a site at Warrenpoint Road (Zoning NY 90). This site has been granted planning permission for a retail led, mixed use regeneration scheme incorporating retail. Only the most limited evidence has been presented as to the suitability or availability of these lands. In order to demonstrate that this site is unavailable the applicant has twice been asked to provide more robust evidence why the proposal cannot be accommodated on this site. Moreover, it is also considered that the proposal, based as it is on unrestricted retailing, will make the delivery of this site more difficult.

- 6.12.** Reference is made, within the Environmental Impact Assessment, to existing bus stops on Tandragee Road and Downshire Road and in existing housing areas. These are a considerable distance from the site. While the site is designed and located to be accessible by car and the applicant states that the proposal has integrated bus and pedestrian linkages, (with a planned bus shelter at the entrance to the site), there is no current public transport serving the site. While the applicant indicated during the processing of the application that discussions had taken place with Translink, the proposal does not include any details of future planned or agreed public transport arrangements dedicated to the site. In this respect the site is not accessible by a good choice of public transport modes. Any future approval would require to be accompanied by committed public transport arrangements agreed with Translink, the public transport provider, to include dedicated bus links and agreed bus stops within the overall scheme.

Retail Impact of the Proposal

- 6.13.** A full assessment of retail impact of the application is required to include:
- impact of proposal on trade and turnover for both convenience and comparison goods retailers and the impact on town centre turnover overall for all centres within the catchment of the proposal;
 - impact of proposal on existing committed and planned public and private sector investment and investor confidence in the town centre(s);
 - impact on the delivery of planned/allocated sites and the LDP strategy;
 - impact on the vitality and viability of existing centres including consideration of local context. This should take account of existing retail mix and the diversity of other facilities and activities;
 - cumulative impact taking account of committed and planned development including plan commitments within the town centre and wider area; and
 - a review of local economic impacts.
- 6.14.** The SPPS states that proposal should be refused where impact on one or more of these centres is considered significantly adverse or where in balancing the overall impacts of each of the criteria the proposed development is judged to be harmful.
- 6.15.** The applicant submitted a Retail Impact Assessment (RIA) of the proposal. This was partially superseded by an additional Supporting Planning Statement by Gravis Planning that includes a Retail Impact Assessment as part of the application. A detail appraisal of the information provided in both documents was carried out by Inaltus, the specialist retail consultant appointed by the Council to assist it with the assessment of the application. It has been concluded that the information provided by the applicant does not allow the Council to make a fully informed and up-to date assessment of the proposal, which is a policy requirement. The Gravis Planning RIA is fundamentally flawed and is internally inconsistent. Figures in the Gravis Planning report are in conflict and a legally robust decision is not capable of being made based on the applicant's own figures. Details of the concerns are set out in detail in the

Inaltus Report. Below provides a sample of concerns, albeit it should be noted that this is not an exhaustive:

- the estimated extent of the catchment of the proposal has not been justified, in particular the inclusion of an area north of Banbridge given the proximity of Sprucefield and Craigavon;
- the estimated catchment population has not been robustly justified. The Council considers the catchment population will be about 27,400 people fewer than the Gravis Planning estimates;
- the background survey material used to justify some of the findings in the RIA, is out-dated. In particular, the Gravis Planning report relies on survey data from Louth County Retail Strategy dated 2007, Gravis Planning bases its population on the 2011 Republic of Ireland Census rather than 2016 Census figures, and details in the consumer survey by Lucid Talk provides population, spend and turnover figures that directly conflict with the Gravis Planning retail impact figures;
- the Gravis Planning report provides two competing methodologies (of which there is a lack of correlation between the two), to estimate the available spend per head and the total comparison turnover of centres in the catchment;
- Gravis Planning fail to make any assessment of the lack of correlation between available spend and turnover of centres in the catchment. The level of difference between available consumer spending in the catchment (£283 million) and turnover of centres in the catchment (£415 million) is markedly different and Gravis Planning provides no robust rational explanation for the difference between the two;
- a more detailed analysis of existing retail provision and the health of existing centres is required;
- the estimated turnover of the proposal has not been set out by reference to its likely tenants;
- the methodology provided to estimate the amount of trade diverted from city centre and outlying centres is not robustly justified; and
- Gravis Planning fails to undertake an analysis of cumulative impact of the proposal, in particular the possible impact of the extant approved store on the site and the extant Bridgewater Park approval at Banbridge.

6.16. In this context the Planning Department has considered the information and supporting statements against the factors to be addressed in a retail impact assessment, as identified in Para 6.290 of the SPPS.

- **impact of proposal on trade and turnover for both convenience and comparison goods retailers and the impact on town centre turnover overall for all centres within the catchment of the proposal;**

It is considered that the impact of the proposal cannot be fully assessed. The applicant should review the Retail Impact Assessment with a view to substantiating the retail impact case to address the conflicting figures and data presented to support his findings.

A sensitivity assessment of the proposal based on current information is likely to find the proposal unacceptable. The proposal involves 12,106 sq m of unrestricted net retail floorspace which amounts to 31% of the total City existing floorspace of 39,300 sq m. It is clear that the approval of this level of unrestricted floorspace would have a significantly adverse effect on the existing city centre in terms of trade and turnover and other existing centres. At Appendix 4 Inaltus provide a variety of scenarios of retail impact and cumulative retail impact. The levels of retail impact on Newry City Centre range from best case scenario of 17% to a more likely and very significant impact of 24%-28%. These levels would be unacceptable in the opinion of the Planning Department.

- **impact of proposal on existing committed and planned public and private sector investment and investor confidence in the town centre(s);**

There has been one objection to the proposal, from Retail NI and one letter of support from a resident in Bangor, Co Down.

Investors to Newry will be unlikely to continue to invest in the city centre when there is a directly competing centre that is unrestricted

and has free car parking and easily accessible from Carnbane Way. This proposal will directly compete with the City Centre for existing trade as well as future retailers. The applicant as failed to identify any tenant for this development and in such circumstances the Planning Department expects future retailers to this development would be retailers already located in the City Centre (who may leave) or would otherwise be seeking to locate in the City Centre. This proposal has clear potential to undermine investor confidence in the City Centre.

- **impact on the delivery of planned/allocated sites and the LDP strategy;**

It is considered that there has been insufficient analysis of alternative Development Sites identified in the Plan, in particular a site at Warrenpoint Road (Zoning NY 90). The proposal, based as it is on unrestricted retailing, will make the delivery of this site more difficult. This large out of town retail park could absorb all available retail growth in the coming years.

- **impact on the vitality and viability of existing centres including consideration of local context. This should take account of existing retail mix and the diversity of other facilities and activities;**

The proposal is unlikely to harm the diversity of Newry as it seeks to introduce more multi-national traders.

- **cumulative impact taking account of committed and planned development including plan commitments within the town centre and wider area;**

It is considered that the cumulative impact of the proposal has not been properly assessed with existing or planned development. These include the Bridgewater Park development and the adjacent extant approval for the mixed-use development that includes a 8000 sq metre gross floor space food store. It is important that cumulative impact is properly assessed as these are likely to reduce the catchment, reduce

potential available retail growth for the proposal and will increase impacts.

The applicant states that the food store will not be built unless the requirement to build the business units, which forms part of that planning permission, is removed (see Para 2.0 above). This is not certain and has not been formally established. This application is on the lands approved for the business units and any future approval and implementation of this application would mean that the business units, which are a necessary pre-requisite to the development of the food-store, could not be built. The applicant could then submit a planning condition seeking to remove the relevant planning condition attached to the food-store approval. It would not be reasonable to withhold approval for such an application and the development of the food-store could be finalised in the absence of the industrial units. In these circumstances it is necessary to consider the cumulative impact of the food-store, which could have a turnover of over £12 million, as part of this application and not at some time in the future.

The permission at Bridgewater Park remains a live permission that can be built out at any time. It would be appropriate to model it. However as shown above the proposal both alone and taking account of the food store comparison floorspace would show the proposal to be unacceptable.

- **a review of local economic impacts.**

An Economic Impact Statement was submitted with the application and the reference to economic benefits, in terms of increase in job years during construction and operational years have been noted.

The estimated benefits are based on certain assumptions on related issues, for example, levels of leakage, displacement and levels of occupancy. It is estimated that the proposal has the potential to contribute 840 job years during construction 737 job years and £28.6m

annually to the local economy and contribute 15,579 job years and 619.13m over the entire project lifetime.

The development can be expected to provide economic benefits, both in the construction industry and to the local population. The issue to be considered, however, is how many of these jobs would be additional employment or opportunities displaced from elsewhere, including the City Centre or outlying centres. This is a major issue for this application in view of the open retail nature of the proposal and the future impact on existing centres. This issue has not been properly assessed or quantified by the applicant, so it is difficult to comment on the economic benefits highlighted in the Economic Statement.

It is considered that the information provided in the EIA does not provide sufficient grounds to set aside the valid planning issues highlighted elsewhere in this report.

GENERAL PLANNING POLICY CONTEXT

- 6.17.** In addition to an assessment of need and impact on existing centres, all applications for this type of retail proposal must be assessed in accordance with normal planning criteria, including transportation and access arrangements, design and environmental and amenity impacts.

Planning Policy Statement 2 (PPS 2) Natural Heritage

- 6.18.** The Department of Agricultural, Environment and Rural Affairs, (DAERA), Natural Environment Division (NED) has confirmed no objections in relation to potential impacts on designated sites and other natural heritage interests, subject to the implementation of measures to prevent excess surface water runoff and other pollution affecting the Carlingford Lough Ramsar site. No reference was made to any protected species on the site, with the exception of bats adjacent to the river corridor. Any negative impact could be mitigated through the sensitive siting and use of appropriate bat sensitive lighting (see Para 6.31 below). Shared Environmental Services carried out a Habitats Regulation Assessment on behalf of the Council and concluded, in view of the

nature, scale, timing, duration of the project that, providing specified mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on the site integrity of any European site. These issues can be dealt with through the use of appropriate planning conditions, as suggested.

Planning Policy Statement 3 (PPS3) Access, Movement and Parking

- 6.19.** The site links on to the A27 Carnbane Way, a single carriageway protected route located inside the settlement limit. The proposal will use an existing junction, via a roundabout, to access the protected route. Policy AMP 3 which deals with access onto Protected Traffic Routes, states that planning permission will only be granted for a development proposal involving direct access or intensification of the use of an existing access in exceptional circumstances or where the proposal is of regional significance. In this case the proposal; follows a recent previous approval for a significant mixed-use proposal on the site, using the same access arrangements, to include: a food store, 70 No light industrial/business units, a gatehouse, a coffee shop. The principle of the intensified use of the existing access has already been established and is therefore acceptable. It is also noted that the existing access is identified, in the Area Plan, as the future means of access to serve an existing and proposed area of economic development. Transport NI has confirmed no objections to the proposes access arrangements.

It is considered that sufficient car parking, (875 spaces) has been provided to meet the existing published car parking standards.

Planning Policy Statement 4 PPS 4'Planning and Economic Development'

- 6.20.** The northern portion of the site is zoned as an existing area of economic development and the southern portion is zoned for economic development under Zoning NY 68 in the statutory Plan. The site was also the subject of a recent extant approval for 70 light industrial units as part of a larger mixed-use development, including a food store, under P/2009/0163/F. Under the terms of this approval, a block of these units, (Phase 1) must be constructed and available for occupation before the food-store becomes operational. The

remainder must be commenced no later than 18 months after the disposal of the Phase 1 units. The development of these lands for a retail park would mean that these light industrial units could not be constructed.

- 6.21.** Policy PED 7 of PPS 4 states that development that would result in the loss of land or buildings zoned for economic use in a development plan (either existing or new allocations) to other uses will not be permitted, unless the zoned land has been substantially developed for alternative uses. The policy also states that an exception will be permitted for the development of a sui generis employment use where it can be demonstrated that the proposal is compatible with the predominant industrial use; is of a scale, nature and form appropriate to the location; and provided approval will not lead to a significant diminution of the industrial/employment land resource in the locality and the plan area generally. It states that retailing or commercial development will not be permitted except where justified as acceptable ancillary development.
- 6.22.** The applicant is seeking to overcome the terms of this policy by stating that the economic and other benefits of the proposal are significant and outweigh the impact of the loss of economic development land. The economic benefits are dealt with elsewhere in this report, at Paras 6.16.
- 6.23.** In a supporting document, the applicant also puts forward two additional material considerations which it is considered outweigh the zoning. It is claimed that the zoning is "*a relatively small employment site,*" and that the applicant is bringing forward a 2.2 hectare site, the subject of a concurrent application LA07/2017/0464/F, as an alternative site for employment use, which was not allocated in the BNMAP process. It is claimed that if this site is developed in parallel with the retail proposal then the net loss of economic development land will be 2.4 hectares.
- 6.24.** The total size of the site according to the P1 form is 7 hectares. This includes both the 2.86 hectares zoned as proposed economic development under Zoning NY68 and the remainder identified as an Existing Area of Economic Development. The concurrent development of both the application site for a

retail park and the nearby site as alternative employment lands would result in a net loss of 4.8 hectares of economic development land, as opposed to 2.86 hectares, as stated by the applicant.

- 6.25.** The applicant also states that there is a surplus of undeveloped economic development land in Newry and, under the current rate of take up, there is still a remaining supply for over 67 years. If the 2.86 hectare employment zoning on the application site is discounted then there is still a remaining supply for over 65 years, and therefore according to the EIS there will not be a significant diminution of employment land either in the locality or in the plan area generally.
- 6.26.** There is a significant amount of remaining undeveloped employment lands in Newry (see Appendix 5). In this context it is accepted that this proposal, if approved in conjunction with the associated application for 2.2 hectares of additional employment lands, would not lead to a significant diminution of the employment resource.
- 6.27.** This policy contains a clear presumption against land zoned for economic development being utilised for other purposes. The listed exemption refers to *sui generis* uses as defined in the Use Classes Order, and this would exclude retailing. The listed exemptions also include a development of a scale, nature and form appropriate to the location. The Planning Department considers, having completed its assessment of the application and all supporting material, that the proposed level of unrestricted retailing would have a significant adverse impact on existing centres and is not acceptable at this location, in planning policy terms.
- 6.28.** In the light of the above, the proposal is therefore contrary to PED 7 of PPS 4 on the basis that it would result in the loss of both land zoned for existing and

proposed economic development use, including lands recently approved on such zoned lands for light industrial business units.

Planning Policy Statement 6 (PPS 6) Planning Archaeology and the Built Heritage.

- 6.29.** The proposal adjoins the Newry Canal and Newry River corridors, both designated as a Local Landscape Area (LLPA). A portion of the development encroaches into the LLAP on the north eastern point adjacent to the Carnbane Roundabout and to the south eastern point adjacent to the Newry River.
- 6.30.** A LLPA designation does not preclude development provided it does not adversely affect its intrinsic environmental value and character, as specified in the Area Plan, in this case the 'nature conservation interest and associated vegetation and trees' associated with the canal and river.
- 6.31.** The proposal includes a Landscape Management and Maintenance Plan and a Landscape Masterplan. The proposed site plan and the Landscape Masterplan Plan includes provision for 10 metre buffer to the Newry Canal, adjacent with an internal pathway, and the retention of indigenous species and additional planting to peripheral areas beside the canal and river.
- 6.32.** Natural Environment Division has advised, in its consultation response, that additional planting (to reflect an earlier approval P/2009/0163/F0 should be provided around the watercourse. It also recommends no lighting is directed towards the watercourse and the use of low sodium bat sensitive lighting.
- 6.33.** Overall it is considered that the proposal will not be detrimental to the character of the designated LLPA's. A buffer zone with public access is being provided, as required.
- 6.34.** The Newry Canal is also a scheduled monument. Historic Environment Division has stated that it is satisfied with the proposal subject to the implementation of measures to protect the Canal and that a written

programme of archaeological works is submitted before the commencement of development, and that an archaeologist is afforded access to the site at all times during its development to identify any archaeological remains that may be uncovered. These can be addressed through appropriate planning conditions.

Planning Policy Statement 15

- 6.35.** DfI Rivers Agency is content with the contents of the Drainage Assessment in relation to policies FLD1, 2, 3 and 4 of PPS15. The site is within the catchment of a reservoir, Camlough Lake, in relation to Policy FLD5. Rivers Agency is satisfied that the applicant has applied the correct methodologies in its assessment.

7.0. Objections and Representations.

- 7.1.** The majority of the issues raised have been considered as part of the assessment of the application, as outlined above. It has also been stated that any approval would be premature in the context of the SPPS Para 5.73. It is acknowledged that a new Local Development Plan is under preparation for the Council District and that this is a substantial proposal with a significant individual and cumulative impact that must be considered. The LDP process still in its early stages, (the Plan Strategy is due to be published) and it is considered, on balance, it would not be appropriate to, refuse this application on the grounds of prematurity, in view of the plan timetable.

The Planning Department is also satisfied that the previous applications were properly assessed in the context of prevailing policy.

8.0. CONCLUSION AND RECOMMENDATION.

- 8.1.** It is concluded that insufficient information has been submitted to enable the Planning Department to properly assess the proposal against the relevant policies, (fuller details on this are provided in the Inaltus Reports in Appendix 4). In particular it is considered that the supporting information needs to be updated and that:

- The applicant must provide clarity as to the case being made. The retail data presented is internally conflicted. The Retail Impact Assessment is not robust;
- the Catchment should be justified properly using survey information. This has not been clearly set out;
- the Need case needs to be made explicit. The conflicting retail impact methodologies makes the need case unclear;
- the Sequential Assessment should reflect the proposal that is needed and rigorously assess the key alternatives in the City;
- the Retail Impact should present a clear transparent methodology that can be tested and demonstrate a correlation between the demand and supply of retail floorspace or a credible explanation and evidence for lack of correlation; and
- other aspects of the Retail Impact Assessment highlighted in this report should be addressed, in particular more robust assumptions on trade diversions and cumulative impact.

8.2. In assessing any application for this level of unrestricted retailing of comparison goods of a major scale on an out of centre location the Council must be fully informed on the level of need for such a development and if this is the most suitable sequentially preferable site. The Council is also required to ensure that it has sufficient evidence to be satisfied that applicant has sought to apply the town centre first approach. It must also be clear on the potential harm it may cause to the City Centre and if that impact can be mitigated. It is considered that the Council is not in a position to make that judgement and to make a fully informed and up -to -date assessment of these issues. It is considered that the evidence at present does not provide a robust analysis on which to reach a recommendation.

8.3. The applicant was made aware of the Planning Department's view during its assessment of the application and was invited to address the issues raised in the retail consultant's reports. The applicant declined and requested that the Planning Department conclude its assessment of the application.

9.0. RECOMMENDATION:

9.1. On this basis the Planning Department considers that the application is contrary to prevailing planning policy, as outlined below and is recommended as a refusal for the following reasons.

- The proposal is contrary to Paragraph 3.8 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) in that the proposal conflicts with an up to date development plan.
- The application is contrary to the Banbridge, Newry and Mourne Area Plan 2015 Plan objectives in that the proposal lies outside the City Centre Boundary as identified by Designation NY 75 and Primary Retail Core of Newry as identified by Designation NY 76.
- The application is contrary to Paragraph 6.270 and 6.271, (bullet point 1 and 2) of the Strategic Planning Policy Statement (SPPS) in that the proposal lies outside the City Centre Boundary and Primary Retail Core of Newry as designated in the Banbridge/Newry and Mourne Area Plan 2015.
- The proposal is contrary to The Strategic Planning Policy Statement (SPPS) 'Planning for Sustainable Development' Paragraph 6.273 in that it does not adopt a 'town centre first approach'.
- The proposal is contrary to The Strategic Planning Policy Statement (SPPS) 'Planning for Sustainable Development', Paragraph 6.291, in that it has not been demonstrated that the proposal will not have a significant adverse impact:
 - on trade and turnover for both convenience and comparison goods traders and on town centre turnover overall for all centres within the catchment of the proposal;
 - on existing committed and planned public and private sector investment and investor confidence in the town centres;
 - on the delivery of the planned/allocated sites and the Local Development Plan Strategy;
 - on the vitality and viability of existing centres; and
 - when taken cumulatively in conjunction with committed and planned development within the city centre and wider area.

- The proposal is contrary to Policy PED 7 of Planning Policy Statement 4 (PPS 4) 'Planning and Economic Development' in that it would result in the loss of land zoned for existing and proposed economic development use in the Banbridge, Newry & Mourne Area Plan 2015.
- The proposal is contrary to the Banbridge, Newry & Mourne Area Plan 2015, Zoning NY 68 and Allocation ECD 1 (Plan Strategy and Framework), in that it would lead to the loss of existing and proposed economic development lands.

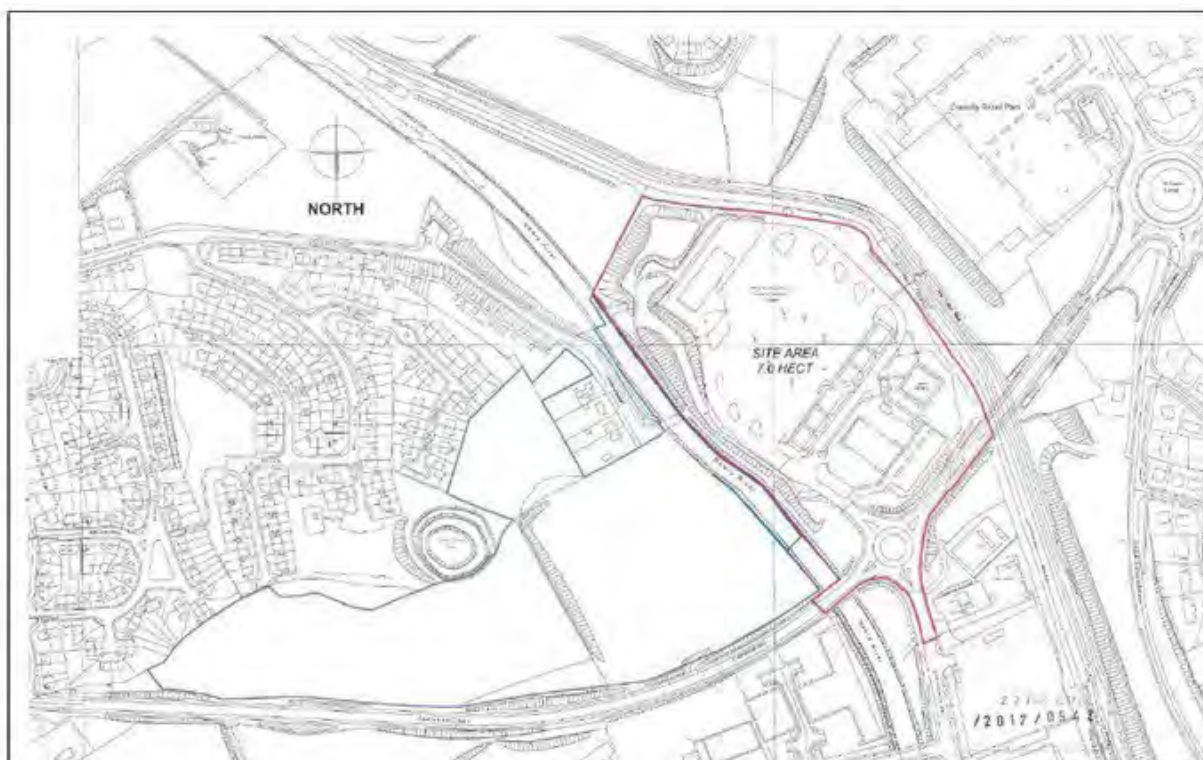
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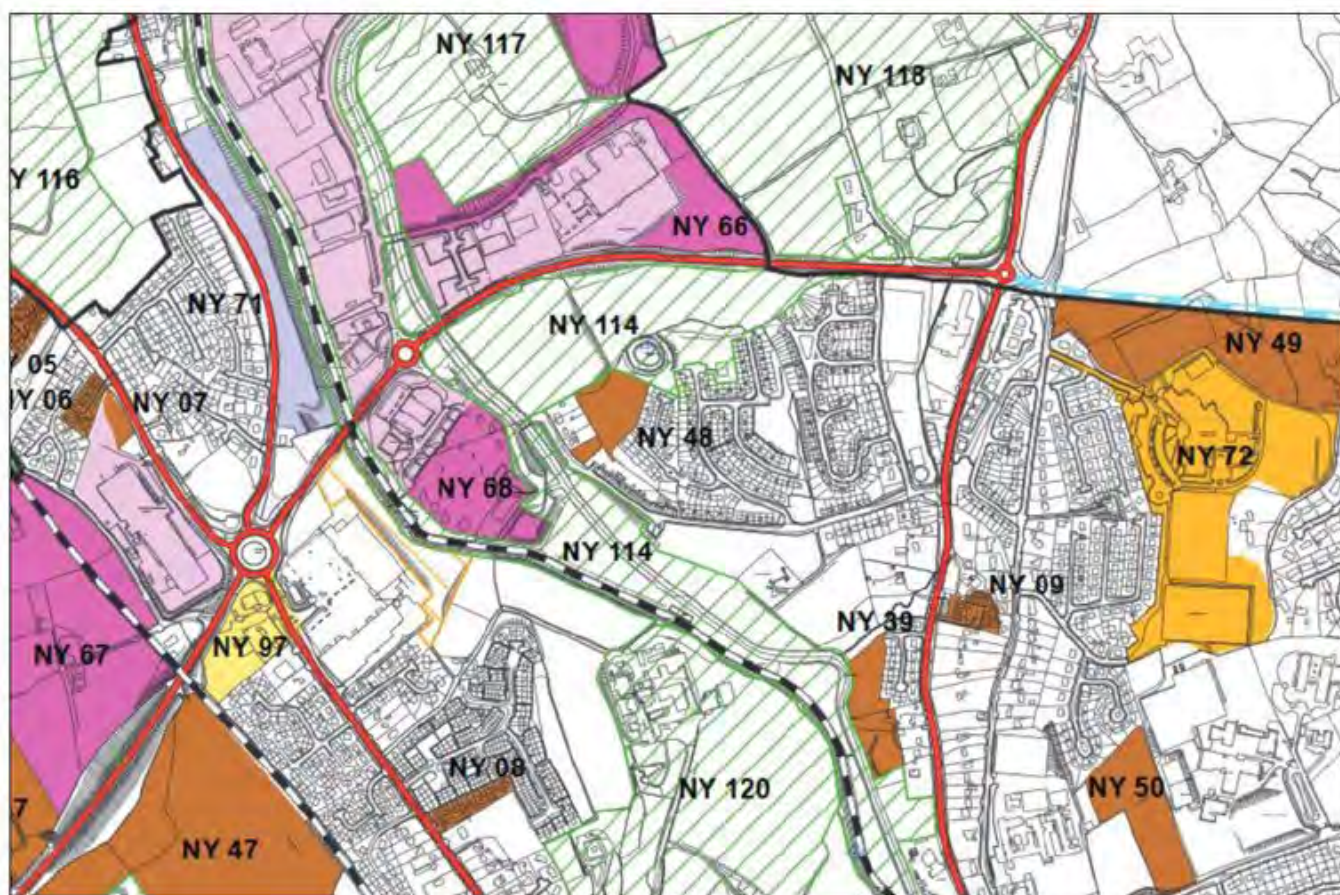
Authorised Officer

Date:

APPENDIX 1: Application Site.



APPENDIX 3: AREA PLAN CONTEXT



APPENDIX 4: INALTAS REPORTS

Retail Impact Technical Note

This technical note addresses the Gravis Planning Retail Impact Assessment.

It deals with the Gravis Planning figures. It does not respond to the Lucid Talk figures which do not follow a typical retail impact methodology.

Catchment

The Gravis Planning catchment estimate of the proposal is not agreed.

A reduced catchment area would exclude zones NE3 and NW3. While there is a case that SW3 zone could also be excluded it has been retained.

Catchment Population, Available Spend and Growth

The effect of this on population levels and the available spend in the catchment is set out below.

Population, Spend, Total Spend and Growth in Spend

Drivetime	2018	Spend per Head (£)	Total Spend (£Mill)	2021	Spend per Head (£)	Total Spend (£Mill)	Growth (£Mill)
0-5 Minutes	18741	1833	34.35	19041	1888	35.95	1.6
5-10 Minutes	26934	1833	49.37	27728	1888	52.35	3.0
10-15 Minutes	32973	1833	60.44	34014	1888	64.22	3.8
ROI	2417	1447	3.50	2461	1461	3.60	0.1
15-20 Minutes	15947	1833	29.23	16438	1888	31.03	1.8
ROI	4826	1447	6.98	4913	1461	7.18	0.2
Total	101838		183.87	104595		194.33	10.5

It can be seen that the catchment is 104,595 in 2021. This is 27,433 fewer people than the Gravis Planning catchment estimates.

The effect of this is that the growth in available spending over the study period is £10.5million. This is about £3million less than the Gravis Planning estimates.

Relationship between the Proposal, Spend and Growth

The relationship between Gravis Planning estimate of the proposal's turnover and available spend and growth is set out below.

It can be seen that the proposal's turnover equates to 32% of the entire available comparison spend in the catchment. The proposal will therefore be a dominant shopping location in the catchment.

It can be seen that the proposal's turnover is almost 6 times the amount of spending growth that will occur in the next 3 years.

Based on the spending estimates it will take almost 18 years of spending growth to support the proposal. This means that in order for the proposal to trade successfully, it must divert significant levels of trade from existing centres – the principal 'like for like' centre is Newry City Centre.

Relationship Between Spending, Growth and Turnover

Turnover (£Mill)	Available Spend (£Mill)	% of Spend	Growth (£Mill)	Percentage of Growth
62.61	194.33	32%	10.5	599%
Total Growth (£Mill)	Annual Growth (£Mill)	Turnover (£Mill)	No Years Growth to Support Proposal	
10.5	3.48	62.613	18.0	

Retail Impact

Gravis Planning estimate an impact on Newry City Centre of 12%.

We do not consider this to be a robust figure as it assumes only 30% of the proposal's trade will come from Newry City Centre. Given Newry City Centre is the only unrestricted comparison trading location in Newry and most of the principal catchment, it is unrealistic to expect 70% of the proposal's trade to come from 'restricted' retailing locations. This would be contrary to the principle of 'like competes with like'.

In order to test the potential level of impacts that Newry might face a range of scenarios have been set out below. For each scenario the impact on Newry City Centre is the key policy consideration.

There is a policy requirement to assess the cumulative impact of the proposal with other consents in the area. In this case, given there is a live permission for a foodstore with comparison retailing located beside this site, it has been considered prudent and robust to provide the cumulative impact should the two proposal's come forward together. Hence each scenario is classed as scenario a) being the solus impact of the proposal and scenario b) being the cumulative impact of the proposal and the comparison floorspace of the approved foodstore.

The scenarios are below.

Scenario 1a reflects the approach in the Inaltus Report, which weights 70% of the proposal's trade draw from Newry as a whole and 44% diversion from the City Centre. This creates an impact of 17% on the City Centre. This is a baseline impact diversion level.

Scenario 1b allows for the proposal and the committed foodstore comparison development and shows that the impacts could rise to 21% if both permissions were implemented.

Scenario 1a Weighted 70% Diversion from Catchment As Per Inaltus Report

Location	Turnover 2021 £	% Diversion	£ Diversion	% Impact
Newry City Centre	159.79	44%	27.65	17%
Damolly	52.97	15%	9.19	17%
Other Newry	44.71	11%	6.99	16%
	257.47	70%	43.83	

Scenario 1b Weighted 70% Diversion from Catchment Plus Foodstore Comparison Allowance

Location	Turnover 2021 £	% Diversion	£ Diversion	% Impact
Newry City Centre	159.79	44%	34.08	21%
Damolly	52.97	15%	11.32	21%
Other Newry	44.71	11%	8.62	19%
	257.47	70%	54.03	

*Comparison Floorspace of Foodstore Assumed to be £14,5million.

Scenario 2a shows the impact if the proposal draws 50% of its trade from Newry City Centre. This is a more likely scenario than 1a given the proposal and Newry City Centre will compete on a like for like basis. It shows Newry losing 20% of its trade to the proposal.

Scenario 2b again builds in the diversion of the proposal and the committed foodstore comparison development and shows that the impacts could raise to 24% if both permissions were implemented.

Scenario 2a 50% Diversion from Newry

Location	Turnover 2021 £	% Diversion	£ Diversion	% Impact
Newry City Centre	159.79	50%	31.31	20%
Damolly	52.97	15%	9.19	17%
Other Newry	44.71	11%	6.99	16%
	257.47	76%	47.49	

Scenario 2b 50% Diversion from Newry Plus Foodstore Comparison Allowance

Location	Turnover 2021 £	% Diversion	£ Diversion	% Impact
Newry City Centre	159.79	50%	38.59	24%
Damolly	52.97	15%	11.32	21%
Other Newry	44.71	11%	8.62	19%
	257.47	76%	58.54	

*Comparison Floorspace of Foodstore Assumed to be £14.5million.

Scenario 3a shows the impact if the proposal draws 60% of its trade from Newry City Centre. This is the most likely given the proposal and Newry City Centre will compete on a like for like basis. It shows Newry City Centre losing 24% of its trade to the proposal.

Scenario 3b again builds in the diversion of the proposal and the committed foodstore comparison development and shows that the impacts could rise to 29% if both permissions were implemented.

Scenario 3a 60% Diversion from Newry

Location	Turnover 2021 £	% Diversion	£ Diversion	% Impact
Newry City Centre	159.79	60%	37.57	24%
Damolly	52.97	15%	9.19	17%
Other Newry	44.71	11%	6.99	16%
	257.47	86%	53.75	

Scenario 3b 60% Diversion from Newry Plus Foodstore Comparison Allowance

Location	Turnover 2021 £	% Diversion	£ Diversion	% Impact
Newry City Centre	159.79	60%	46.31	29%
Damolly	52.97	15%	11.32	21%
Other Newry	44.71	11%	8.62	19%
	257.47	86%	66.25	

*Comparison Floorspace of Foodstore Assumed to be £14.5million.

It can also be noted that if the foodstore is built it would require the applicant to set out the cumulative impact of the entire foodstore plus the proposal on Newry City Centre. This has not been done and no data has been provided to allow an analysis of this nature to be carried out.

Conclusion

An impact of 17% would be a concern for the vitality and viability of Newry City Centre. Impacts of 24%-29% would be of a very significant concern and would reduce the turnover of Newry City Centre by a quarter.

Newry, Mourne and Down District Council

**SECOND DETAILED APPRAISAL OF RETAIL IMPACT
ASSESSMENT**

**PROPOSED RETAIL PARK WITH ANCILLARY COFFEE SHOP AND
RESTAURANT UNITS
FORMER HM REVENUE AND CUSTOMS HOUSE AND CLEARANCE STATION,
CARNBANE WAY, CARNBANE INDUSTRIAL ESTATE, NEWRY BT35 6QG
REF:LA07/2017/0542/F**

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1) Introduction to the Brief

- 1) Inaltus have been appointed by Newry, Mourne and Down District Council to carry out a detailed Appraisal of the Supporting Planning Statement submitted for a proposed Retail Park with ancillary Coffee Shop and Restaurant Units at the Former HM Revenue and Customers House and Clearance Station, Carnbane Way, Carnbane Industrial Estate, Newry BT35 6QG (Ref: LA07/2017/0542/F). The Appraisal will be used to support the Council's consideration of the planning application in line with prevailing planning policy as contained in the statutory plan for the area, the Banbridge/Newry and Mourne Area Plan 2015 and the Strategic Planning Policy Statement (SPPS).
- 2) This Appraisal considers the Supporting Planning Statement of Gravis Planning (GP) dated April 2019.
- 3) This is the second review prepared by Inaltus. The first Statement (our 2018 Report) reviewed the work of MBA Planning. In cross referencing to our 2018 Report, this will be identified as "IN2018".
- 4) GP are now the new agents for this application and have presented new information to support the proposal.
- 5) It can be noted that having regard to our IN2018 Report, the proposal, the policy context, the background information and planning history has not changed. We do not therefore repeat the comments made albeit they remain valid.

2) Sequential Test

- 6) Our original commentary (IN2018 paragraph 53-54) on the sequential test was that the presentation of one-off small shop units would clearly not satisfy the need for a large retail development, and that more detailed consideration should be given to two sites that had been identified by MBA as having potential.
- 7) Our concern remains that the applicant has not provided sufficient justification as to why this proposal could not be located on the alternative sites particularly site NY90.
- 8) GP paragraph 3.5 has again stated that this site is not available and provided an aerial map of a variety of buildings and suggests that the ABP Food Group own the entire site.
- 9) This site is a large zoning and it appears that there are areas of land that are not occupied by any buildings. No evidence has been presented as to the suitability or availability of these lands.
- 10) GPs assessment and dismissal of the various sites comprises a single paragraph on each. For an application that seeks to provide unrestricted open class retailing out of centre in Newry, it is important that the applicant provides a thorough and robust analysis of alternative sites. That has not been provided.

Accessibility of the Application Site

- 11) GP paragraph 3.8 note our concerns about the accessibility of the site to public transport and suggest that public transport can be improved to the site. When making our comments we were aware of the potential of a public transport provision under the previous planning consent.
- 12) SPPS policy states '*out of centre locations, where sites are accessible by a choice of good transport modes*'. The policy does not provide scope for improved transport modes. The location of the proposal is off an inner ring road and not in any close proximity to housing. The accessibility of the site has been assessed at paragraph 50 of our IN2018 Report. It is a matter for the Council as to whether the site is accessible by public transport, given the comments in the Transport Assessment.
- 13) The Council are required to ensure that it has sufficient evidence to be satisfied that applicants have sought to apply the town centre first approach. The evidence at present does not provide a robust analysis on which to reach a recommendation.

3) Quantitative Issues and Retail Impact

Catchment

- 14) We indicated in our IN2018 Report (paragraph 69-70) that a 15 minute catchment should be utilised and that a 20 minute catchment should be supported by a household survey to inform whether the outer parts of the 20 minute catchment are appropriate. Having reviewed the GP report we disagree with the inclusion of the area north of Banbridge in the catchment area given the proximity of Sprucefield and Craigavon.
- 15) GP relies on the Catchment Area and surveys of the Roger Tym Retail Technical Supplement of the Banbridge Newry and Mourne Area Plan 2015 as a justification for their catchment. The catchment considered in the Technical Supplement sought to understand the shopping patterns of Banbridge and Newry as district towns. This is not justification to support a catchment of a Newry only location. The surveys used in the Technical Report are dated 2005 and so pre-date a large amount of retail development at the Boulevard and the opening of the large Tesco store and Home Bargains at this site. The applicant has been asked to justify their estimated catchment based on up to date evidence and shopping patterns but the information included by GP does not do this.
- 16) GP present data from 2009 (10 years old) from the Louth County Retail Strategy, which includes shopper surveys from 2007. Such surveys were taken before the 2008 financial crash and before a number of economic changes that have occurred in the last decade. Reliance on a 2007 survey is not consistent with the SPPS requirements for up to date evidence. Notwithstanding, the tables reproduced by GP paragraph 4.9 shows that in the Dundalk catchment 7% of people identified Newry as a shopping destination for clothing and footwear goods and 5% of people identified Newry as a shopping destination for bulky goods. This data implies a "tertiary" retail attraction and is not at a level that would support a 20 minute catchment.
- 17) GP Appendix 12 appends a survey undertaken by Lucid Talk. This provides information on catchment spend. Page 20 of the survey shows that £36million (64%) of available spend in zone NE3 is spent "outside the complete catchment area". Similar proportions is being spent outside the catchment area in zone NW3 (60%), SE3 (60%) and SW 3 (63.4%). The survey does not support a case for a 20 minute catchment.
- 18) GP has not fully addressed our comments about the catchment. There could be a case that 20 minutes is appropriate towards Dundalk and Armagh, but that needs to be properly

supported. The 20 minute catchment to the north is not justified. The Catchment Area should be a matter capable of agreement, but the information does not yet allow this.

Methodology

- 19) GP paragraph 4.29 is incorrect in implying that Inaltus recommends the market share approach to calculate existing retail turnovers rather than sales densities. The case presented by MBA original was based on an outflow case. In order to be helpful it was suggested (IN2018 paragraph 86) that to support the outflow argument surveys would be required to inform the RIA. Each applicant is entitled to apply a methodology appropriate to their case. GP applies the sales density approach.
- 20) Design and base years of 2018 and 2022 are acceptable. However GP paragraph 4.31 states *'we have projected this forward to 2021 and 2022, the latter being what we consider to be more appropriate and reasonable design year for the proposed development'*. All tables however apply 2021 as the design year. This is confused.

Catchment Population

- 21) The source of catchment population for Northern Ireland is accepted. We have carried out sample checks on the population sources for the NI wards using the 2017 Mid Year estimates and agree with the figures. The Republic of Ireland information states that it uses the 2011 Census. The most recent Census information is the 2016 Census and it would have been preferable that this was used.
- 22) The survey (Appendix 12 page 17 last column) indicates that there are 55,440 households in the catchment. Appendix 12 (Page 3 column 5) applies an average household size of 3. This suggests that the catchment population is 166,320 people. Alternatively, taking the total spend in the catchment in the survey (page 20 column 4) of £319,713,823 and dividing it by the survey spend per head of £2002.61 (page 1 Column 6) gives the catchment a population of 159,648 people. As a result the survey provides two different population estimates, both of which are about 30,000 greater than the published data and GP estimates. This is clearly contradictory. It leaves the Council in an invidious position of making an assessment and decision that is plainly open to challenge and we are obliged to caution against this.
- 23) The Table below reproduces the GP population estimates. It can be seen that the 15-20minute drive time has by far the greatest population and contributes 37% of the population to the applicant's catchment. It grows the population from a population of about 83,000 to 132,000 (+60%). This is a significant jump in catchment population which should be robustly justified.

GP Population Breakdown

Drive Time	2021 Population	% Population
0-5 minutes	19041	14%
5-10 minutes	27728	21%
10-15 minutes	36474	28%
15-20 minutes	48785	37%
Total	132028	100%

Zone Population

- 24) GP paragraph 4.33 again implies that Inaltus requested the applicants provide a zonal catchment. It is for the applicant's consultants to present the assessment. Inaltus have made comments on methodology. The Map produced at Appendix 7 is helpful, but again, the 20 minute catchment is not justified based on the evidence.

Available Spend

- 25) GP paragraph 4.37 advises that the spend per head has been updated with reference to published figure and also figures derived from the household survey. It is unclear how the published data and the household survey figures correlate. If anything the two data sources are inconsistent.
- 26) GP paragraph 4.41 states that the household survey found spend per head to be £2002.61 and states that '*it seems appropriate to use the spend per head from the household survey*'. No justification is provided.
- 27) GP paragraph 4.42 sets out estimates applied of spend per head. However GP fails to give consideration to SFT when concluding on a final spend per head figure to employ. The figures quoted seek to again draw comparisons with Inaltus figures, however again the figures are not applying the data consistently.
- 28) GP quotes spend per head for Inaltus in 2017 as £2030. This was based on a total spend per head of £2349 and SFT of 13.6% in 2014. If the current SFT allowance of 20% was applied to £2349, the spend per head would be £1879. This would be in close comparison with the GP

estimates of £1833 in 2018. The GP estimates from the survey of £2002.61 do not appear to be adjusted for SFT. Applying a 20% allowance for SFT would bring this estimate to £1601.

- 29) The more robust data is to use the LCFS data.
- 30) GP paragraph 4.39 does not appear to make any allowance for SFT spending in the ROI. This should be confirmed and/or addressed.
- 31) GP Appendix 8 Tables 4 and 5 set out competing available comparison spend scenarios. Table 4 applies the published available spend data and shows an available spend of £246 million in 2021 and a growth of £13.6 million in the 20 minute catchment. Again it can be noted that £90million (a third) of available spend relied upon by the applicant is from the 15-20 minute catchment area.
- 32) Table 4 also shows that £5.2 million (38%) of growth occurs in the 15-20 minute catchment. This is important because the large towns of Banbridge, Armagh and Dundalk will have a strong claim on this available spend and available growth.
- 33) Growth in the 0-15 minute catchment area equates to £8.4 million.
- 34) Table 5's estimates of available spend and growth are reliant on the household survey. However as indicate above, there is no way to verify the spend per head figures and it is unclear how these figures deal with SFT.
- 35) The same pattern of available spend is shown in Table 5 as in Table 4. About 103 million (35%) of the catchment spend is in the 15-20 minute catchment and £11million (36%) of spending growth is in the 15-20 minute catchment.

Turnover of Existing Comparison Retail Sector

- 36) GP paragraph 4.44 refers to Table 6 and states that the total comparison turnover in the catchment is currently estimated at around £391million rising to an estimated £415m by the design year.
- 37) There is no correlation between the estimated available spend and the turnover of shops. This is shown below where regardless of which spend per head is used, the estimated available spend in the 20 minute catchment is still £130-£169million less than that being spent in the catchment. No explanation is given for this substantial difference between the available spend and the estimated turnover of the centres in the catchment.

Comparison between Spend and Turnover Estimates

Year	Available Spend £	GP Turnover of shops in Catchment £ (Table 6)	Difference	% Difference
2021 (as per table 4)	£ 246,060,957	£ 415,380,452	£ 169,319,495	69%
2021 As per Table 5)	£ 283,142,526	£ 415,380,452	£ 132,237,926	47%

38) Centres will experience a degree of inflow, and often this is allowed for at 10%, but again this would be a 10% inflow from outside the 15 minute catchment. GPs analysis suggests there is an inflow of between 47% and 69% from beyond 20 minutes drive time. In other words for every £100 spent in the Catchment Area, about £40 comes from people living more than 20 minutes drive away. That is simply not realistic.

Turnover of the Proposal

39) GP paragraph 4.45 has not reflected on our original comments. The application is for a major open class retail development, and it is the applicant's case that it will attract shoppers from a 20 minute catchment and many from well beyond. For a development to attract customers in this manner means shoppers will turn their backs on available shopping opportunities in Dundalk, Armagh, Banbridge and Sprucefield. To attract people to this development, the proposal will need to offer shops that are above average. Sports shops such as DW Sports, household shops such as Harry Corry, toy shops such as Smyths Toys etc will not attract new people into this catchment because they are already located in Newry and already located in competing centres.

40) Moreover, the proposal is not for a mixture of bulky and non bulky retailers. The application seeks to provide wholly unrestricted retail floorspace and as such the applicant should apply sales density figures of premium retailers such as Next, M&S, The Perfume Shop, River Island, H Samuel to this proposal. An indicative tenant line up was requested (IN2018 paragraph 84), which has not been provided.

41) The letter from Mike Prentice Consulting Ltd (GP Appendix 13) provides no information of the tenants that would take up the space, other than to state that some of the retailers are not represented in Newry City Centre and some would be new to Northern Ireland.

Household Survey

- 42) GP (paragraph 4.49) relies upon the household survey to 'inform the assessment of retail impact'. The survey provides information that conflicts with the GP data in terms of retail impact. The survey (page 20) provides patterns of spending. It shows the following, which compares to GP estimates.

Turnover Estimates in the Catchment Comparison between GP and Survey

Location	Survey (page 20)	GP Table 9	Difference
Newry City Centre	£ 82,415,722	£ 159,792,267	£ 77,376,545
Other Catchment Area	£ 62,714,134	£ 255,588,185	£ 192,874,051
Outside Catchment Area	£ 174,583,967	£ -	£ (174,583,967)
Total	£ 319,713,823	£ 415,380,452	£ 95,666,629

- 43) This shows that despite the survey identifying a higher spend per head (excluding SFT) it has lower centre turnovers in the catchment than GP. Significantly the estimates of the turnover of Newry City Centre are about half that estimated by GP. Given the significant inconsistency between the figures the applicant should be required to clarify which evidence is to be relied upon. GP prefer to adopt the survey for its higher spend per head figures, but do not use it for the lower centre turnover figures.

Trade Diversion Assumptions

- 44) GP paragraph 4.49 states that the results of the survey have been used to inform the analysis of spending power in the catchment and to assess likely trade diversions by the proposal, but given the difference shown above it is not clear exactly how the survey informed the trade diversions.
- 45) GP Table C (page 19) sets out figures it says supports an understanding of shopping patterns of people living in Newry City. It is unclear where in the survey this data is derived from. GP relies on Table C to determine the patterns for trade diversion however, in order to test this the background information should be clearly set out.
- 46) The methodology employed by GP differs from the MBA report. The MBA report sought to justify the proposal based on claw back of outflow. GPs retail impact methodology applies a sale density approach and seeks to divert trade from existing shops in the centre, principally in Newry City Centre and elsewhere in Newry. The GP approach is similar to the Departments

approach in determining the comparison floorspace associated with the foodstore application at Carnbane Way (Ref: P/2009/0163/F).

47) The Department assumed the following trade diversion:

Newry City Centre	48%
Damolly Retail Park	11%
Newry City Other	28%
Other in 15 Minute Catchment	0.3%
Outside 15 Minutes	12.7%
Total	100%

48) GP diversions (Appendix 8 Table 9) are summarised below:

Newry City Centre	30%
Damolly Retail Park	20%
Newry City Other	20%
Other in 15 Minute Catchment	12%
Outside 15 Minutes	18%
Total	100%

49) GP trade diversions do not follow any realistic trading patterns. In turnover and floorspace terms it can be noted that Newry City Centre has considerably more floorspace and turnover when compared to the other shopping locations in Newry.

50) Even applying only the diversion level of 70% of the proposal's turnover from Newry (which we would not accept but which is what GP suggest) on a pro rata basis this would indicate that over 44% of trade should be diverted from Newry City Centre. This is shown below. It would mean that £27.55 million should be diverted from the City Centre and would result in an impact of over 17%. This would be more in-line with the Department's trade diversions for the comparison floorspace of the foodstore application.

Analysis of Floorspace and Turnover of Newry Locations

Location	Floorspace	% Floorspace	Turnover 2021 £	% Turnover	Average % between Floorspace and Turnover	Weighted % of 70%
Newry City Centre	39300	64%	159792267	62%	63%	44.16%
Damolly	13093	21%	52965672	21%	21%	14.67%
Other Newry	8922	15%	44707192	17%	16%	11.17%
	61315	100%	257465131	100%	100%	70.00%

- 51) There is a requirement to consider whether there would be alternatives to the pro-rata diversion set out above. However, as the proposal is for unrestricted open class retailing, and there is only restricted retailing found outside the City Centre, there would be grounds to weight the diversion more heavily on the City Centre, increasing potential impact. This would be consistent with the principle of "like competes with like".
- 52) GP paragraph 4.55 states rightly that the City Centre is the nearby competitor of the proposal, but the estimated diversions have been "*tempered*" by the findings of the household survey. Again it is unclear what link there is between the household survey to the decision to temper potential diversions. The same paragraph notes that the City Centre is found to be congested in the survey. This would increase the potential diversion of trade to an unrestricted retail park with good access to Carnbane Way and free car parking. As such the potential diversion levels should be more, not less than what GP suggest.
- 53) It can also be noted that the shops in Damolly are restricted retail shops and as such there would be less chance of like for like trade diversions and impacts. The other Newry locations is clearly dominated by Tesco. This appears to have a very high comparison turnover of £24 million, when it is more likely to be around £10million. The MBA Retail Impact Assessment submitted with the Tesco application estimated that the comparison turnover of this store would be £9.86 million in 2012. As such the comparison turnover for Tesco seems to be an over estimate.
- 54) We acknowledge GP has reduced diversion from the Boulevard to 12%, which seems appropriate.
- 55) In terms of loss of trade from Dundalk, Sprucefield, Armagh Craigavon and Boucher, GP draw trade from these Centres of 13%, which whilst above a normal 10% allowance for inflow, would be inconsequential overall.

Cumulative Impacts

- 56) We are unclear as to GP's case regarding the approved foodstore on this site. GP paragraph 4.63 states that the foodstore will not be built unless the requirement to build business units is removed. However this application is located on the business unit lands and approval of this application would mean the business units could not be built and the applicant could seek to remove the condition requiring the business units on grounds that the condition is no

longer reasonable. This permission P/2009/0163/F is valid until August 2019 and thus unless the Council are satisfied the permission has lapsed at the time of making a decision, it would be necessary to have regard to the potential impact of the comparison element of the foodstore. The comparison floorspace of this store could have a turnover of over £12million and it would be appropriate to model it.

- 57) The permission at Bridgewater Park remains a live permission that can be built out at any time. We note the comments made by GP paragraph 4.64, but this is a consent that has already been highlighted and there is scope for some aspects of the permission to divert trade from Newry. It would be appropriate to model it.

Summary on Quantitative Issues and Retail Impact

- 58) As it stands there are a number of concerns regarding the retail impact assessment. The methodology has changed and while our IN2018 Report made some comments, the fact that the applicant has appointed new consultants that have employed a different methodology to that which was previously discussed, means this is the first opportunity we have had to comment on the approach.
- 59) The approach in this case is confused and presents within it two competing sets of figures for the population, spend per head, total available spend and the turnover of existing centres. GP cherry-pick the spend per head figures from the survey, but ignore the other figures provided in the survey.
- 60) There is no correlation between the available spend and the turnover of centres in the catchment. The difference in the figures are very wide and there is no acknowledgement or explanation for this.
- 61) It is unclear the basis for the trade diversion assumptions, which despite GP implying they are based on survey data, it is not set out where in the survey data the assumptions are sourced.
- 62) Applying the historical Department levels of trade diversion the impacts of the proposal would be circa 17%. If like-for-like diversion were applied impacts could be higher. The applicant's criticism of Newry City Centre as a trading location could also encourage even greater than 44% trade diversion from the City Centre and higher impacts as a result.

4) Need

- 63) GP paragraph 5.2 indicates that there will be a growth of £30mill between 2018 and 2021, however, this is based on the survey spend per head figures and not the LCFS. Applying the LCFS the growth is £13million. Allowing for the potential for the comparison turnover of the foodstore alone at Carnbane Way would soak up all of this growth.
- 64) GP paragraph 5.3 illustrates the inconsistencies in the approach. It recognises that the household survey is indicating a reduced level of turnover in the Catchment Area to the GP sales density approach, with the survey showing an outflow of expenditure of £174.5 million and the sales density approach showing an inflow of expenditure of £132.2million. While there will be some inflow and outflow in any catchment, the levels of figures in this case are simply not credible in either case.
- 65) GP paragraph 5.3 implies that even though their figures show a massive inflow of £132 million, the proposal should be allowed because £174 million is being spend by people that live in the catchment outside the catchment area. In percentage terms:-
- The GP analysis shows an inflow of 47%; and
 - The Survey analysis shows an outflow of 54.5%.
- 66) Given the trading levels of Newry and the distances to competing centres, neither of these figures can be right. These figures do not imply a need for the proposal, instead they highlight that there is no correlation between the demand and supply in the GP report or in the survey.
- 67) GP paragraph 5.4 sets out the employment generated by this proposal. It is a matter for the Council as to the weight to be given the jobs created by this proposal.
- 68) The LucidTalk qualitative survey presents the replies of 504 people surveyed, however, despite the survey stating that the results are provided by each individual segment in the 20 minute catchment the results are only presented for the whole 20minute catchment. As such it is not possible to determine if people responding to these questions live in Newry or perhaps 20minutes away in Banbridge.
- 69) GP paragraph 5.5 presents the findings of the survey without specific reference to page or question number, which is unhelpful. There is no way of knowing where those that are dissatisfied in the survey live.

- 70) As such the arguments presented by GP in paragraph 5.6 are not directly supported by the survey or their own analysis. For example, given GP find a massive 47% inflow of spending to the catchment it is inconsistent to argue that the proposal will retain shoppers in Newry and help make Newry a stronger retailing destination. There is nothing in the applicant's statement to suggest that Newry City Centre will be a stronger destination if this out of centre development is allowed.
- 71) GP paragraph 5.7 suggests that the proposal will balance the city retail offer, as a large part of the City Centre's comparison retail offer is located in the two shopping centres. This argument is inconsistent with the town centre first approach and the sequential test. There is no case being made that there will be any linkage or connection between the application site and the City Centre. The fact the application site is about 1.2 miles from the City Centre and will provide directly competing goods of a major scale from unrestricted shops indicates there is little to entice customers to make linked trips between the two locations.
- 72) Whilst there may be a benefit from a reduction in congestion, it is a matter for the Council as to the weight that is applied to this factor, bearing in mind the scale, nature and location of the proposal. It is notable that proposals are progressing for the Newry Southern Relief Road which is currently out to consultation.
- 73) GP paragraph 5.10 makes the case for cross border trade. There is a clear and obvious case that shoppers cross the border, however the scale of this is unclear other than the suggestion that it equates to 25% of zones SW2 and SW3.
- 74) GP paragraph 5.11 states that the Mike Prentice letter is '*evidence of a strong need for the proposed retail space*'. The letter provides no evidence, no names of specific retailers and no market research showing a demand from additional retail units of the scale proposed seeking to locate in Newry and which cannot be accommodated in the City Centre.

Assessment Against SPPS Para 6.290

- 75) Turning to the key test of the RIA, which is whether the proposal satisfies the criterion of SPPS para 6.290 the following can be noted:
- **the impact of the proposal on trade and turnover for both convenience and comparison goods traders, and the impact on town centre turnover overall for all centres within the catchment of the proposal;**

76) The impact of the proposal cannot be fully assessed. A sensitivity assessment of the proposal based on current information is likely to find the proposal unacceptable. The Council should invite the applicant to review the GP RIA with a view to substantiating the retail impact case to address the conflicting figures and data presented.

- **the impact of the proposal on existing committed and planned public and private sector investment and investor confidence in the town centre/s;**

77) There has been one objection to the proposal – from Retail NI and one letter of support from a resident in Bangor, County Down.

- **the impact of the proposals on the delivery of the planned/allocated sites and the LDP strategy;**

78) The proposal will make delivery of the NY90 site more difficult. The large out of town retail park could soak up all available retail growth over the coming years.

- **the impact on the vitality and viability of existing centres including consideration of the local context. This should take into account existing retail mix and the diversity of other facilities and activities.**

79) The proposal is unlikely to harm the diversity of Newry as it seeks to introduce more multi-national retailers.

- **Cumulative impact taking account of committed and planned development, including plan commitments within the town centre and wider area;**

80) The cumulative impact of the proposal has not been assessed with the Bridgewater Park development or the comparison element of the approved foodstore. It should be as these are likely to squeeze the catchment, reduce potential available retail growth for the proposal and will potentially increase impacts.

- **a review of local economic impacts.**

81) The local economic impacts have been noted.

5) Conclusion

82) To put the Council in a position to assess this application in detail it would require the applicant to update the supporting information. It is a matter for the applicant, but it would be our view that:

- a. The applicant must provide clarity as to the case being made. The retail data presented is internally conflicted. The RIA is not robust;
- b. The Catchment should be justified properly using survey information. This has not been clearly set out;
- c. The Need case needs to be made explicit. The conflicting retail impact methodologies makes the need case unclear;
- d. The Sequential Assessment should reflect the proposal that is needed and rigorously assess the key alternatives in the City;
- e. The Retail Impact should present a clear transparent methodology that can be tested and demonstrate a correlation between the demand and supply of retail floorspace or a credible explanation and evidence for lack of correlation.
- f. Other aspects of the Retail Impact Assessment highlighted in this report should be addressed, in particular more robust assumptions on trade diversions and cumulative impact.

Newry, Mourne and Down District Council

DETAILED APPRAISAL OF RETAIL IMPACT ASSESSMENT

**PROPOSED RETAIL PARK WITH ANCILLARY COFFEE SHOP AND
RESTAURANT UNITS**

**FORMER HM REVENUE AND CUSTOMS HOUSE AND CLEARANCE
STATION, CARNBANE WAY, CARNBANE INDUSTRIAL ESTATE,
NEWRY BT35 6QG REF:LA07/2017/0542/F**

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6) Introduction to the Brief

- 1) Inaltus have been appointed by Newry, Mourne and Down District Council to carry out a detailed Appraisal of the Retail Impact Assessment submitted for a proposed Retail Park with ancillary Coffee Shop and Restaurant Units at the Former HM Revenue and Customers House and Clearance Station, Carnbane Way, Carnbane Industrial Estate, Newry BT35 6QG (Ref: LA07/2017/0542/F). The Appraisal will be used to support the Council's consideration of the planning application in line with prevailing planning policy as contained in the statutory plan for the area, the Banbridge/Newry and Mourne Area Plan 2015 and the Strategic Planning Policy Statement (SPPS).
- 2) This Appraisal considers the following:
 - The Proposal;
 - Policy Context;
 - Background Information and Planning History; and
 - Assessment of the Proposal.
- 3) The Retail Impact Assessment has been prepared and submitted by MBA Planning dated April 2017 (MBA RIA). The application raises matters of policy compliance in terms of a variety of issues such as loss of industrial land, flooding and traffic impact. An Environmental Statement has been submitted with the application. This Appraisal does not comment on these planning issues as they are beyond the scope of the appointment.
- 4) In addition, the applicant has submitted an Economic Impact Assessment. Detailed appraisal of this is beyond the scope of the appointment, however, some comments are provided in respect of this Assessment during the appraisal of the RIA. We would recommend the Council obtain independent advice on the Economic Impact Assessment submitted.

7) The Proposal

- 5) The proposal is for an **unrestricted open comparison retail** development providing 11 shop units (MB RIA para 1.2) as follows:
 - Unit 1 provides 2830 sq m (30,462 sq ft);
 - Unit 2 provides 1880 sq m (20,236 sq ft)
 - Unit 3 provides 1885 sq m (20,290 sq ft)
 - Units 4-9 each provide 911 sq m (10,667 sq ft)
 - Unit 10 provides 993 sq m (10,688 sq ft);
 - Unit 11 provides 1599 sq m (17,211 sq ft);
 - Restaurant Units 1-3 each provide 325 sq m (3,498 sq ft); and
 - Café Unit provides 250 sq m (2691 sq ft).
- 6) The P1 form confirms the gross floorspace is 16,836 sq m (181,223 sq ft). Total gross retail floorspace is about 14,653 sq m (157,725 sq ft) and net retail floorspace is about 12,106 sq m (130,309 sq ft). It is a major application and indeed one of the largest retail proposals being promoted in Northern Ireland.
- 7) Access to the site is provided from Carnbane Way via a new roundabout, and 875 surface level parking spaces are to be provided. The site will have high visibility and easy access from the Carnbane Way and relatively quick access from the A1 dual carriageway.
- 8) The use of the development is unusual in that it seeks to provide uncontrolled and unrestricted comparison retail use in an out of town centre location. Planning policy has typically distinguished between large scale retail units that are too large for town centres to be located on edge and out of centre locations, where the case has been presented that the type of retailing is for the sale of bulky goods comparison retailing or superstore retailing. The proposal does not seek any form of restriction that might mitigate its impact on town centres or that might distinguish it from typical town centre retailing.
- 9) The proposal suggests it will be a substantially different format and composition to any existing retail location currently available in Newry City (MBA RIA para 1.3). That is technically correct (as there is no out of town open class retail parks in Newry), but the reason for that is because policy has long directed open class retail development to the town centres and would oppose development of unrestricted retail development in out of centre locations.

10) The application implies the proposal will be comparable to Boucher Road in Belfast, Sprucefield in Lisburn, the Outlet Banbridge and Rushmere in Craigavon (MBA RIA para 1.3). However, it is important to note that:

- The Outlet (now branded as the Boulevard) is restricted to retailing of discounted fashion goods. It is a factory outlet village where end of season goods are sold. It is controlled retail use.
- Sprucefield is designated under policy as a regional out of town shopping centre (Regional Development Strategy para 3.41). Its uses are controlled by condition, and it does not have unrestricted retail use.
- Rushmere Retail Park is a town centre location.

11) The only out of centre retail park that is unrestricted is Boucher Shopping Park. This is confined to the area within the Shopping Park and would exclude much of the Boucher area such as Shane Retail Park and Lesley Retail Park which are controlled and restricted to retail warehouse style development.

12) The application is predicated on a case that it will attract car-borne trade that is currently bypassing Newry and leaving the Newry area to travel to other competing locations (MBA RIA para 1.3). This is an outflow or clawback case. We comment on the rational of this argument later.

Summary

13) This is a unique proposal, not because it will provide something that is novel and new, but simply because planning policy has long controlled and restricted retail development such as this when located in out of centre locations. Policy has directed unrestricted retail shops to town centres. It now directs all retail regardless of type to town centres first.

8) Policy Context

- 14) The MBA RIA does not provide any comments of the policy approach other than brief references to the SPPS. It is agreed that the key test for the proposal is its compliance with the SPPS, however, it is also important to have regard to the Local Development Plan.
- 15) The Planning Act (Northern Ireland) 2011 sets out the approach to assessing this application. Section 6 (4) states that *"Where, making any determination under this Act, regard is to be had to the local development plan, the determination must be in accordance with the plan, unless material considerations indicate otherwise"* and Section 45 (1) states that *"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"*.

The Banbridge/Newry and Mourne Area Plan 2015

- 16) The Banbridge/Newry and Mourne Area Plan 2015 (the Plan) is the Local Development Plan for assessment of this application. Volume 1 Strategic Plan Framework (pages 32-35) deal with Retailing. The Plan refers to the Roger Tym Partners (2006 Study updated in 2009) and the findings that Newry City could accommodate between 17,000 and 28,000 sq m (net) of additional comparison floorspace of which up to 20% (i.e. 5,600 sq m) could be accommodated through the redevelopment, extension and more efficient use of existing retail units. It states *"Since the study was prepared there have been a number of changes in circumstances which indicate that these estimates have been over optimistic including the impact on consumer spending of the economic climate post 2008. More importantly population growth has been substantially lower than anticipated by the 2006 projections used in the report, as demonstrated by the 2008 projections and 2011 census results. It is therefore prudent to adopt a more cautious approach for Newry City. Retail growth can be accommodated in the city centre by the existing commitment at Newry Road for mixed use, comprising 8,946 sq m (net) of comparison and 4,764 sq m (net) of convenience shopping. This is also complemented by a commitment for a superstore comprising 4831 sq m (net) of mixed retailing of which up to 1,960 sq m may be devoted to comparison goods. Thus, any residual capacity is anticipated to be small."*
- 17) The Plan (page 34) states *"Other locations – Retail parks, retail warehousing and other forms of shopping are part of the retail landscape and are often found outside of town centres. Any*

new or further expansion of these facilities may be considered within the context of prevailing regional policy... most retail growth within Newry City can be accommodated by existing commitments and more efficient/expansion of existing retail units, the priority must be on regeneration and increasing the attractiveness and convenience of town centres for shoppers".

- 18) The Plan (page 35) notes that *"Within the designated city and town centres, development opportunity sites are identified to encourage redevelopment and to accommodate town centre uses"*.
- 19) Volume 3 of the Plan deals with Newry. Pages 21-29 deals with the City Centre. Page 22 designation NY75 designates the City Centre boundary. The Plan notes that *"The boundary has been extended in recognition of the growth that has occurred over the previous plan period and to make ample provision for the future growth to 2015. It is extended to include the largely office area of Downshire Road, the Quays shopping complex, the West campus of Newry Institute and neighbouring businesses and the largely commercial/industrial area north of Upper Edward Street and Cecil Street. It also encompasses major brownfield Development Opportunity Sites including existing and former industrial/commercial land at Warrenpoint Road, Albert Basin, former residential flats at North Street and land to be vacated by the proposed relocation of Abbey Primary and Grammar schools"*.
- 20) The Plan identifies 13 Development Opportunity Sites. MBA RIA does not deal with these sites. It does provide comment on them in the Environmental Statement Section 5 dealing with Alternatives. We comment further on this below.
- 21) Given the foregoing, it is clear there is likely to be some retail need in Newry, however the quantum of it is not defined.

Strategic Planning Policy Statement

- 22) The Strategic Planning Policy Statement (SPPS) is the prevailing regional policy for considering new retail development. Its retail policies are set out at pages 101-105.
- 23) The SPPS makes the following points:
- 24) Para 6.269 *"It is important that planning supports the role of town centres and contributes to their success. The SPPS seeks to encourage development at an appropriate scale in order to enhance the attractiveness of town centres, helping to reduce travel demand"*.
- 25) Para 6.270 *"The aim of the SPPS is to support and sustain vibrant town centres across Northern Ireland through the promotion of established town centres as the appropriate first choice location of retailing and other complementary functions, consistent with the RDS."*

- 26) Para 6.271 sets out the regional strategic objectives for town centres and retailing which includes securing a town centres first approach for the location of future retailing; adopting a sequential approach when decision taking; and ensuring decisions are informed by robust and up to date evidence in relation to need and capacity.
- 27) Para 6.273 restates that *"Planning authorities must adopt a town centre first approach for retail and main town centre uses"*.
- 28) Para 6.280 states *"A sequential test should be applied to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date LDP. Where it is established that an alternative sequentially preferable site or sites exist within a proposal's whole catchment, an application which proposes development on a less sequentially preferred site should be refused"*.
- 29) Para 6.281 states *"Planning authorities will require applications for main town centre uses to be considered in the following order of preference (and consider all of the proposal's catchment):*
- *primary retail core;*
 - *town centres;*
 - *edge of centre; and*
 - *out of centre locations, only where sites are accessible by a choice of good transport modes"*. (Emphasis added)
- 30) Para 6.282 states *"In the absence of a current up to date LDP, councils should require applicants to prepare an assessment of need which is proportionate to support their application. This may incorporate a quantitative and qualitative assessment of need taking into account of the sustainably and objectively assessed needs of the local town and take account of committed development proposals and allocated sites"*. (Emphasis Added) The need for this proposal is discussed below. However, it is notable that need case for the proposal as presented by MBA is limited to 3 paragraphs in Section 7 of the MBA RIA. Some reliance may be placed upon the RSM Economic Impact Statement, but the need case presented is not proportionate to the scale and significance of this development. It is not objective, it is limited and fails to take account of committed development and allocated sites.
- 31) Para 6.283 sets out the requirement to provide a retail impact assessment.

- 32) Para 6.289 requires flexibility in seeking to accommodate developments in sites that have a constrained footprint. It confirms that applicants will be expected to identify and fully demonstrate why alternative sites are not suitable, available and viable.
- 33) Para 6.290 sets out the 6 factors to be addressed in the RIA and assessment of Need. Para 6.291 notes that *"where an impact on one or more of these criteria is considered significantly adverse or where in balancing the overall impacts of each of the criteria the proposed development is judged to be harmful, then it should be refused"*.

Summary

- 34) There are clear criteria to be applied when considering the acceptability of a proposal including, whether it is needed, whether alternative sites are available or whether impacts will be acceptable.
- 35) However, there is a fundamental question that the Council must consider which is, given the clear town centre first approach to retail development, is the Council willing to accept unrestricted retailing of comparison goods of a major scale on an out of centre location?
- 36) If it is, the questions that must follow are:-
- What level of need is there, and can that be objectively demonstrated?
 - If there is an agreed objectively defined need which is the most sequentially preferable site that it can be accommodated on?
 - If that site is out of centre will the proposal cause harm to the City Centre and if so can that harm be mitigated?
- 37) In answering these questions, the Council should reach a balanced and robust decision. However, as shown later, the information currently provided by the applicant does not allow a fully informed and up to date assessment to be made or for these questions to be answered.

9) Background Information and Planning History

- 38) The planning history of this area includes the following relevant considerations;
- 39) **Application Permission P/2009/0163/F** was approved in August 2014 and remains an extant permission. This permitted a mixed-use development to include a foodstore, 70 light industrial/business units, 1 gatehouse, 1 coffee shop, 14 residential units, car parking and landscaping and site works.
- 40) The store approved in this case was restricted to 8,000 sq m, with a net retail floorspace of 5,200 sq m and a net convenience floorspace of 3120 sq m and 2080 sq m non-convenience floorspace.
- 41) The permission requires a block of industrial units to be constructed and available for occupation prior to the opening of the store.
- 42) Under the current application, MBA RIA para 5.2 notes that *"the proposal and the superstore therefore cannot co-exist and a separate planning application for a reduced format superstore is intended to be submitted by the applicant on that site in the future"*.
- 43) We are unaware that any other applications have been submitted. We would also observe that there is no requirement to reduce the foodstore size, and instead the applicant could seek to vary the permission to reduce the amount of industrial floorspace use and remove the negative condition. That would allow the full superstore to be developed on the site.
- 44) In terms of background information, it is instructive to note the following documents:
- 45) **Braniff Associates RIA** (page 38) for the superstore undertook a shopper survey and found high proportions of shoppers that visit Newry City Centre for comparison goods. For example, 72% of shoppers normally visit Newry City Centre to buy clothes and footwear. The survey was undertaken in the traditional way using a household telephone survey based on zones defined within the catchment.
- 46) **DoE Development Management Report** for the application found the following:
- Page 16 spend per head in comparison goods after SFT was £2188 in 2017;
 - Page 16 the comparison turnover of the superstore would be £10.78 million in 2017;
 - Page 18 sets out the Department approach on comparison trade diversion and retail impact. It found a diversion of 87.10% from the 0-5 minute isochrone, comprising

48% from Newry City Centre and 39.1% from the remainder of the town. Only 12.7% trade will be drawn from outside the 15 minute catchment.

- Page 19 the Department identified committed developments of Tesco at Bridgewater Park (Q/2010/0119/F) and P/2009/1490/F at Greenbank Industrial Estate as commitments. It assessed the Bridgewater Park, but did not assess the Greenbank permission as it is now located inside the town centre boundary.
- Page 20 the Department considered that 14% impact (convenience goods) would be beyond the margins of what would normally be considered acceptable.
- Page 21 in terms of alternative sites, the Department considered Development Opportunity Sites NY89 and NY90. The Department in relation to NY90 found that *"it is clear from the extant planning permission on the site that the potential exists for the development of the site. I consider this to be a potentially viable alternative"*.
- Page 21 the Department were provided with a detailed Economic Impact Assessment.
- Pages 31-32 the Department accepted that the limited potential for retail impact on Newry City Centre, the potential viable alternative sites (among other points of objection), where outweighed by the economic benefits of the development.

Other Background Information Submitted

- 47) The applicant has submitted in support of their case a copy of the Inaltus Retail Study Research that considered population and expenditure for the Newry P/2009/0163/F proposal. This sets out the extend of the 15 minute catchment, population estimates and available spend per head within the catchment of the superstore. It is helpful as it is the same location as the proposal. However, as is shown below, MBA RIA appears to diverge from the findings without any explanation.
- 48) The applicant has also submitted the TSA Retail Floorspace Study and the Louth Retail Strategy March 2009. Again, no comments are made by the applicant on these Reports. It is assumed that the applicant has used these reports for baseline data that has been updated. However, the MBA RIA does not explain where and why it adopts the data and where and why it diverges from the data. If that information was provided it would facilitate agreement on aspects of the MBA RIA.

10) Assessment of the Proposal

Alternative Sites

- 49) The town centre first approach places a clear emphasis on the need for a robust and detailed assessment of alternative sites. MBA RIA provides no comment on alternative sites, and leaves this to be detailed in the consideration of alternatives in the Environmental Statement. The requirement to consider alternatives in an Environmental Statement are different to the requirement to consider alternatives in retail policy terms.
- 50) The Alternatives assessment (ES Section 5 para 5.6) suggests that the proposal's location is the fourth preference location because the site will be served by an integrated bus service and a dedicated bus stop is provided. The Traffic Assessment acknowledges (EIA Appendix 4 Section 2.3) that the site is served by existing public transport with stops on the A27 Tandragee Road and Armagh Road and Downshire Road, but these regional services are beyond normal walking distances. Newry City Service 338 can be accessed by via pedestrian routes to bus stops in Shandon Park. It is a matter for the Council as to whether the stops for Service 338a and the provision of a new bus stop would support the suggestion that the site is accessible in policy terms. The TA section 3.3 indicates that the provision of the bus shelter will 'if demand dictates' allow the potential re-routing of an existing service to the site. The discussions on this are to be undertaken should the scheme receive planning permission. That does not suggest the site is accessible by a choice of good public transport modes.
- 51) MBA correctly identifies the case law and the approach to be used to assess alternative sites. The Tesco Dundee case referred to the EIA Chapter 5 para 5.8 is the principal judgement. It is important that the assessment of alternatives matches the general requirements of the proposal. However, it cannot be the case that a developer simply finds a large out of town site, fills it with retail and as a consequence demonstrates that it is so large that it cannot fit into any location except an out of town location.
- 52) The need for such a large development must be a key balancing point, otherwise Council's would be obliged to approve all large retail developments.
- 53) The list of alternative single locations supplied by MBA EIA Appendix 3 are clearly not capable of supporting the development. It is impractical to require the development, if there is a demonstrable need for it and no harmful impact, to consider relocating to any of the small sites and single shop units. Most are too small to accommodate any of the units proposed.
- 54) However, the two sites that are worthy of detailed consideration, but lack any more detail than the others are the development opportunity sites of NY89 and NY90. The Department previously considered NY90 a possibility and again the applicant should explore each further

to demonstrate why they cannot be used in this case. In addition, there are opportunities for retail uses in the Buttercrane where M&S has vacated and a number of units at the Quays Shopping Centre beside the new M&S store.

Summary

- 55) We have our doubts that the site is accessible by a choice of good public transport. The site is designed and located to be car orientated. There is no current public transport serving the site. Existing bus routes are too far away or are in the middle of housing developments that future shoppers would most likely be completely unaware of.
- 56) The two key alternative sites that should be assessed have not be addressed in any detail and the applicant should consider it further. The other large anchor at Buttercrane and new units at the Quays should be considered also.
- 57) Moreover, the scope of the development and the scale of floorspace would need to be justified (in quantitative or qualitative terms) to demonstrate that the size of development purported is in fact needed and only on that basis should the alternative sites be identified and then discounted as being too small or not viable.

Need

- 58) Policy requires a need assessment to be carried out that is proportionate to the scale of development being proposed and *"may incorporate a quantitative and qualitative assessment of need taking into account of the sustainably and objectively assessed needs of the local town and take account of committed development proposals and allocated sites"*.
- 59) It is clear from the Plan that the Department's position at the time the Plan was adopted was that there were adequate lands zoned within the town centre to accommodate any demand. MBA RIAs (para 7.1-7.3) case on need is based on the fact 'need' is not defined in the SPPS, it can mean anything, the threshold can be very low, and that the proposal is needed to curtail outflow of trade, reuse a vacant brownfield site and to redress the low employment levels in Newry.
- 60) This is a missed opportunity on behalf of the applicant and the Council should require more compelling evidence on need that gives comfort that there is a demand and need from retailers for the type of retailing and the size of units proposed.
- 61) It requires evidence that the critical mass of 11 units is the appropriate number and fewer units are not more appropriate. In order to obtain planning permission for a unrestricted out of town retail park, of the scale proposed, the applicant would be expected to provide

significant evidence that supports the case, rather than suggesting the need can be supported because the developer desires it. That is not a proportionate response – in policy terms – to support such a proposal.

- 62) The applicant's case on need in quantitative terms is undermined by the fact that the growth in the catchment as shown below is £19.4 million. That contrasts to the envisaged turnover of the proposal of £53 million. The quantitative need in floorspace terms on this basis would be £19.4 million divided by 4539 sq m = 4274 sq m. So, on the applicant's case there is a need for a development about one third the size. It would also imply a site requirement of 2ha. That may bring alternative sites or parts of sites into play.
- 63) In terms of the qualitative case for the proposal, it does not provide a new type of retailing. Open class comparison retailing is available in Newry City Centre at the Quays and Buttercrane. The locations MBA RIA suggest it will compete with are either designated town and out of town regional centre and a factory outlet centre. The only close comparable is the Boucher Shopping Park. However, it is unlikely that people shopping in Next, Matalan, TK Maxx, Cotswolds, Boots or any of the retail shops at Boucher Shopping Park are visiting it normally instead of Newry. The qualitative case is not sufficiently robust to support the proposal.
- 64) Furthermore, the case that people are leaving the catchment to visit these alternative locations is not properly supported by the MBA RIA or the LucidTalk survey. This is discussed further below.

Summary

- 65) The need for the proposal must be made out in more robust terms. The current case for need is not convincing. There is scope to make a stronger case, but it is likely that the need will be for a significantly smaller development, which may be better located closer to the City Centre.

Retail Impact

- 66) MBA RIA deals with retail impact in Section 4. It follows a step by step sales density approach. This is unusual for an application that is based fundamentally on an argument of outflow and claw back. A market share approach is the normal methodology used to support an outflow case
- 67) Taking the individual steps, the following can be noted.

- 68) The base and design years of 2017 and 2019 (MBA para 4.3-4.4) were perhaps appropriate at the time of writing, however given the passage of time the design year would need to be rolled forward to 2020.

Catchment

- 69) MBA RIA (para 4.2) applies a 20 minute drive time catchment. As a starting point 15 minutes might have been utilised. Certainly a 20 minute catchment implies a significant draw for the development. It would be unusual for a shopper that is resident in Dromore to choose Newry ahead of Lisburn or Banbridge. There is a need for a more refined approach to the catchment. A proper household survey would inform whether the outer edges of the 20 minute catchment are appropriate to be in the catchment or not. The case for the 20 minute catchment may be appropriate towards Dundalk and Armagh, but it is questionably towards the north.
- 70) The location of competing facilities and intervening facilities curtails a catchment. More information would be needed to justify the full 20 minute catchment. This is a matter that should be capable of agreement between the parties.

Population

- 71) The population in MBA RIA Appendix 3.2 Table 1 sets out a catchment of about 120,000. There is an error in the table as it excludes the ROI population in the 10-15 minute drive time around Omeath.
- 72) The information used in the ROI is taken from the 2011 Census, however the 2016 Census data may be more appropriate to use. The baseline population figures for NI wards seems appropriate. The growth rates for the population are not clear and it would be appropriate to state these rather than simply include a website address as the actual data from the websites references are not immediately apparent. The growth rates do appear reasonable but need to be clearer.
- 73) The actual population that is derived from the exercise appears to be higher than we would have expected particularly in the 10-15 minute catchment. Even allowing for growth rates and year difference between the Inaltus Report and the MBA RIA the estimates seem high. Further adding in the ROI figures pushes this isochrone population higher again. This should be reconsidered. Again, this is a matter that should eventually be capable of agreement between the parties.

Spend per Head

74) MBA RIA Appendix 3.3 Table 2 utilises the Pitney Bowes UK average spend per head data. It has long been recognised that Northern Ireland has a lower spend per head, and historically the Department utilised the results of the Living Costs and Food Survey. In contrast to the information supplied by MBA the following can be noted:

- Department Estimates 2017 in P/2009/016/F £2188
- Inaltus Estimates 2017 £2030
- MBA RIA 2017 £3041

(figures are after SFT has been deducted)

75) Despite different assumptions in respect of base year, growth rates and SFT deductions, there is a clearly significant difference in spend per head. That difference can inflate the available spend in the catchment and the available quantitative need. The fact that MBA RIA and the Economic Impact Assessment make the case that the Newry and Mourne area has high unemployment must point towards a lower spend per head.

76) SFT assumptions and growth rates for spend per head taken from Pitney Bowes is reasonable. However, there is an error in MBA RIA Appendix 3.3 Table 3 where 2019 is stated, when it should be 2018. 2019 SFT assumption is a deduction of between 22.4% and 15.4%, a mean average of 18.9% to be deducted. The 2019 post SFT spend per head on the MBA RIA figures would be £3141 and not £3158. The consequence is that MBA RIA Appendix 3.3 Table 5 would show available spend in 2019 as £383.55 million and not £385.5 million.

77) It is also surprising that no information is provided for the available spend in the ROI. We would have expected the NI/ROI spend to be distinguished in the MBA RIA.

Growth by Drive Time Band

78) MBA RIA para 4.10 indicates that the growth in the catchment equates to £21.5 million.

79) This is not correct because of the error in MBA Appendix 3.3 Table 3 and Table 4. The growth is £19.4 million as shown below.

Drive Time	2017	Spend Per Head (£)	Total Spend (£mill)	2019	Spend Per Head (£)	Total Spend (£mill)	Growth (£mill)
0-5	18568	3041	56.46	18851	3141	59.22	£ 2.76
5-10	26771		81.41	27181		85.39	£ 3.98
10-15	31202		94.88	31734		99.69	£ 4.81
15-20	43210		131.40	44327		139.25	£ 7.85
Total	121768		364.15	124112		383.55	£ 19.40

80) The growth is greater in the more peripheral drive time areas. This is shown in the above table which re-works the MBA RIA Appendix 3.3 Table 5. It can be seen that the growth in the

0-5 minute drive time is £2.76million, 5-10 minutes drive time is £3.98 million, the 10-15 minute drive time is £4.81 million and the 15-20 minute drive time is £7.85million. It should be noted that these figures adopt the MBA RIA spend per head figures, and if adjusted to the NI based figures the growth would be less.

Existing Retail Provision

- 81) MBA RIA provide limited information on the health of centres in the catchment. Some detail is provided for Newry (MBA RIA para 4.13-4.20), but this could be augmented with detailed information on vacancy rates and investment information. Banbridge is the other main town in the catchment but is assessed in two paragraphs (MBA RIA para 4.21-4.22). More detail is provided for towns that will not be affected such as Newtownhamilton. No information is provided about the nature of retailing at the Outlet/the Boulevard, presumably because it is unprotected, however, it clearly is a location that warrants discussion in terms of its health and occupancy rate, to ground the scale of turnover at the location in later sections of the MBA RIA.
- 82) In terms of the turnovers of the centres set out in MBA RIA Appendix 3.4 Table 6, MBA applies average sales density figures to the Outlet/the Boulevard, giving it a turnover of over £70 million. This is a factory outlet village where goods are sold at discounted prices. It would be appropriate to apply a lower turnover for this Centre.

Turnover of Proposal

- 83) The proposal applies average sales density to what is suggested to be a unique retail offer that will claw back trade from as far away as Belfast. Applying average sales density implies that the development will perform at an average level. The scale of investment and the suggestion of its attraction would point to above average turnovers. The applicant should reconsider the case about whether the proposal is going to perform at average rates or whether it will perform above average.
- 84) In order to support the contention that the proposal will attract trade from Belfast and Sprucefield, it would be helpful to have an indicative tenant line up and some letters of interest from prospective retailers that have a demand for such a presence in Newry. There is a potential that allowing this application will invite similar proposals elsewhere and the Council would be prudent to test thoroughly the demands of the market that will use the proposal.

Outflow and the Lucidtalk Survey

- 85) The MBA RIA Appendix 3.4 Table 6 shows that the 2019 turnover of the catchment is £397.68 million, and that available spend is £385 million. The Table indicates that there is a £12million inflow to the catchment. That implies that the catchment does not leak any trade.
- 86) As mentioned above, it is surprising that the suggestion that the proposal will draw trade from outflow is not supported by any empirical survey data that informs a market share approach.
- 87) The Lucidtalk Survey dated 12 April 2018 does not support the case that there is an outflow of comparison spending. It simply asks a preliminary question about whether people undertake non food shopping outside Newry. It categorises people within a 20mile distance of Newry City Centre. It clearly has not based the survey on the MBA RIA catchment which is based on a 20 minute drive time.
- 88) The survey question significantly missed the word 'normally'. There will always be times when people will shop outside a catchment, Christmas for example. The question should have been framed to understand the normal shopping patterns for people, and sub divided into categories of goods. The survey does not support the outflow argument to ground this application. There is no link between the MBA RIA and the survey. There is no understanding which areas of the catchment are leaking trade, to where and for what type of shopping. Given the different shopping offers at Banbridge and Belfast City Centre, a more fine-grained analysis would be required to support this application.
- 89) The question on whether people would use the proposal only achieved a positive response from 56% of people. These people understand the proposal to have 'good public transport'. As discussed there is no public transport at the proposal and the commitment is only to have discussions about diverting a bus to the site. There is no suggestion that buses will be brought to the site from Banbridge, Dromore or Dundalk.
- 90) The survey responses should have been analysed by drive time. Those 56% of people in support might be Newry residents, and the 13% that said no and 31% that said not sure, may be people that live in the periphery of the catchment and may not change their shopping patterns. If that was the case, the likely impacts of the proposal would be greater than predicted.

Summary

- 91) The case that there is an outflow of trade is not supported by the MBA RIA figures and the survey is of very limited help in assessing this proposal.

Trade Diversion & Retail Impact

- 92) Given the absence of any evidence of loss of trade or outflow, it is not credible to suggest that, as MBA RIA Appendix 3.6 Table 8 suggests 27% of trade will be drawn from outside the 20 minute drivetime catchment. Similarly, to suggest that 21% of the proposal's trade will be drawn to an unrestricted retail park from a factory outlet centre where discount end of line and end of season items are sold is not comparing like with like.
- 93) Unless the outflow case can more credibly be made, the likelihood is that greater trade diversion will occur from the Newry City Centre, because it is the closest like with like competitor. The Department diverted over 80% of the superstores comparison trade from the 5 minute drive time, 48% from the City Centre. If a similar level was diverted in this case (e.g. £28million from £152.98 million = 18.3%) it would push the impacts into the region of unacceptable harm.
- 94) However, there is significant work needed to justify any amount of retail impact. The alterations needed to the population and available spend, the changes needed to turnover of the Outlet/the Boulevard and the changes needed to the turnover of the proposal will all have an effect on the impact exercise.
- 95) The Council would be prudent to seek an updated RIA that addresses these concerns which could be agreed with the applicant before engaging in Retail Impact exercise.

Cumulative Impact

- 96) The applicant has failed to identify that the comparison element of the superstore could be built out without the industrial units if an application was allowed, and also the extant permission for the Bridgewater Park (Ref: Q/2006/1074/F) has been implemented and can be built out at any time. The cumulative impact of this development would need to be built into the retail impact exercise.

Economic Impacts

- 97) The economic benefits of the proposal will be an important consideration. However, more detailed analysis is required to be satisfied that the economic impacts are positive. The RSM Report (para 5.2 page 19) relies upon the MBA RIA findings and assumed a low displacement. Economic Impacts of the proposal are unreliable if the MBA RIA is found to need updating.

Assessment Against SPPS Para 6.290

- 98) Turning to the key test of the RIA, which is whether the proposal satisfies the criterion of SPPS para 6.290 the following can be noted:

- **the impact of the proposal on trade and turnover for both convenience and comparison goods traders, and the impact on town centre turnover overall for all centres within the catchment of the proposal;**

99) The impact of the proposal cannot be fully assessed. A sensitivity assessment of the proposal based on current information is likely to find the proposal unacceptable. The Council should invite the applicant to review the MBA RIA with a view to substantiating the outflow case.

- **the impact of the proposal on existing committed and planned public and private sector investment and investor confidence in the town centre/s;**

100) There has been one objection to the proposal – from Retail NI and one letter of support from a resident in Bangor, County Down.

- **the impact of the proposals on the delivery of the planned/allocated sites and the LDP strategy;**

101) The proposal will make delivery of either the NY89 and NY90 sites more difficult. The large out of town retail park could soak up all available retail growth over the coming years and for perhaps the next 5 years.

- **the impact on the vitality and viability of existing centres including consideration of the local context. This should take into account existing retail mix and the diversity of other facilities and activities.**

102) The proposal is unlikely to harm the diversity of Newry as it seeks to introduce more multi-national retailers.

- **Cumulative impact taking account of committed and planned development, including plan commitments within the town centre and wider area;**

103) The cumulative impact of the proposal has not been assessed with the Bridgewater Park development. It should be as it is likely to squeeze the catchment, reduce potential available retail growth for the proposal and will potentially increase impacts.

- **a review of local economic impacts.**

104) The local impacts have been noted but need to be reviewed in light of the changes to the MBA RIA.

11) Conclusion

105) To put the Council in a position to assess this application in detail it would require the applicant to update the supporting information. It is a matter for the applicant, but it would be our view that:

1. If the outflow case is to be promoted, there is a need for a detailed household survey to inform the RIA. That must be linked to the catchment and must be transparent in its methodology and results;
2. The catchment should be justified properly using survey information;
3. The Need case needs to be updated to be proportionate to the proposal and should address the requirements of policy;
4. The Sequential Assessment should reflect the proposal that is needed and rigorously assess the key alternatives in the City;
5. The Retail Impact should:-
 - a. be up dated in design year;
 - b. the spend per head should be tailored towards the catchment affluence;
 - c. spend per head and available spend distinguished between NI and ROI spend;
 - d. available spend should be provided based on zones and isochrones;
 - e. turnover of proposal should be reviewed in light of above;
 - f. turnover of the Outlet/Boulevard should be reviewed;
 - g. centres where impact occurs should be health checked and predicted impacts reviewed based on likelihood given distance and travel routes;
 - h. cumulative impact should be addressed.

APPENDIX 5. Employment Lands Newry City

Settlement	Location (Zoning Ref)	Area zoned for industry (Ha)	Area developed for industry (Ha)	Area lost/developed for non-industry (Ha)	Area Vacant (Ha)	Area remaining undeveloped (Ha)
Newry City	Carnbane North (NY62)	2.28	0	0		2.28
	Carnbane/Cloughanramer Road (NY63)	52.38	0.67	0		51.71
	Carnbane Road/Tandragee Road (NY64)	2.89	0	0		2.89
	Carnbane Business Park (NY65)	21.65	19.02	0.34		2.29
	Carnbane South (NY66)	3.95	2.98	0		0.97
	Craigmore Road (NY67)	11.3	0.63	0.36		10.31
	Damolly (NY68)	2.86	0	0		2.86
	Chancellors Road (NY69)	19.46	0.61	0.47		18.38
	Loughway (NY70)	7.28	4.04	0.12		3.12
Total						94.81

APPENDIX 6. Statutory Consultee Responses.

- **Newry, Mourne & Down Environmental Health.** No objections subject to planning conditions.
the following conditions;
 1. Deliveries and collection by commercial vehicles shall only be made to and from the site between the hours of 0700 hours and 2300 hours.
 2. No development shall take place until a Construction Management Plan for Noise Impact and Dust from Earthworks has been submitted and agreed with the Department. The Construction Management Plan should include methods to minimise the risk of noise and dust nuisance during the construction phase.
 3. No construction activities shall be undertaken within the development hereby permitted, until a Generic Quantitative Risk Assessment (GQRA) and if necessary a Detailed Quantitative Risk Assessment (DQRA) have been undertaken to ascertain the potential risks to future site users. The development hereby permitted shall not be occupied until the mitigation measures as presented within a detailed remediation strategy and implementation plan have been fully implemented and verified to the satisfaction of Newry Mourne and Down District Council.

- **DfC. Historic Environments Division Archaeology and Built Heritage (HED: HM).** HED HM is satisfied with the contents of the Cultural Heritage Section of the ES and has no objections in terms of the impact on Newry Canal, a protected monument subject to the following conditions being implemented.

1. No site works of any nature or development shall take place until a programme of archaeological work has been implemented, in accordance with a written scheme and programme prepared by a qualified archaeologist, submitted by the applicant and approved by the Department. The programme should provide for the identification and evaluation of archaeological remains within the site, for mitigation of the impacts of development, through excavation recording or by preservation of remains, and for preparation of an archaeological report.

Reason: to ensure that archaeological remains within the application site are properly identified, and protected or appropriately recorded.

2. Access shall be afforded to the site at all reasonable times to any archaeologist nominated by the Department to observe the operations and to monitor the implementation of archaeological requirements.

Reason: to monitor programmed works in order to ensure that identification, evaluation and appropriate recording of any archaeological remains, or any other specific work required by condition, or agreement is satisfactorily completed.

3. A fence is erected on a line to be agreed with HED: HM, at least 5m from the edge of the scheduled area of the Newry Canal. No ground works, dumping or storage is to be carried out within the fenced areas.

Reason: to ensure the protection of the scheduled area

- **DAERA Planning Response Team. Water Management Unit (WMU), Land Soil and Air, Natural Heritage and Conservation Areas**

Water Management Unit has no objections subject to mitigation.

Land, Soil & Air has no objections subject to the following conditions being imposed;

1. No development shall commence until the applicant has submitted a detailed waste management plan for the development. The

management of on-site materials, temporary on-site storage arrangements, waste classification, reuse criteria (where appropriate) and off-site disposal should be included in the waste management plan.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

2. All fuel storage tanks and boilers (and associated infra-structure) must be fully decommissioned and removed in line with current Pollution Prevention Guidance (PPG2, PPG27) and the quality of surrounding soils and groundwater has been verified. Should contamination be identified during this process, Conditions 3 and 4 will apply.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

3. If during the development works, new contamination or risks are encountered which have not previously been identified, works should cease and the Planning Authority 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 Planning Authority in writing, and subsequently implemented and verified to its satisfaction.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

4. After completing the remediation works under Conditions 3 and 4; and prior to occupation of the development, a verification report needs to be submitted in writing and agreed with Planning Authority. 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.

5. No development or piling work should commence on this site until a piling risk assessment has been submitted in writing and agreed with the Planning Authority. Piling risk assessments should be undertaken in accordance with the methodology contained within the Environment Agency document on "Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention". available at <http://publications.environment-agency.gov.uk/PDF/SCHO0501BITT-E-E.pdf>.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

Natural Heritage has no objections subject to the following conditions

1. A final Construction Environmental Management Plan and finalised layout design should be submitted for agreement to the Planning Authority prior to works commencing. This should include a finalised storm water and drainage plan and reflect all the mitigation, and avoidance measures to be employed as outlined in the Environmental Impact Assessment; Chapters 7 (Flooding and Drainage), Chapter 8 (Contamination) Chapter 9 (Ecology), Appendix A (Flood Risk and Drainage Assessment), Appendix 6 (Preliminary Risk Assessment), Addendum 1; Appendix 1 (Shadow HRA), 2 (GQRA), 3 (Construction Management Plan), 4 (Stormwater Management Plan) and all additional submitted information.
Reason: To prevent any adverse impacts on the site features and conservation objectives of Carlingford Lough SPA/Ramsar.
2. A suitable buffer of at least 10m must be maintained between the location of machinery refuelling, storage of oil/fuel, concrete mixing and washing

areas, storage of machinery/material/spoil etc. and the Newry River to the east and the Newry Canal to the west of the proposed application site.

Reason: To prevent any adverse impacts on the site features and conservation objectives of Carlingford Lough SPA/Ramsar.

No development shall commence until the applicant has submitted a detailed Waste Management Plan for the development. The management of on-site materials, temporary onsite storage arrangements, waste classification, reuse criteria (where appropriate) and off-site disposal should be included in the waste management plan.

Reason: To prevent any adverse impacts on the site features and conservation objectives of Carlingford Lough SPA/Ramsar.

4. If during the development works, new contamination or risks are encountered which have not previously been identified, works should cease and the Planning Authority 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 Planning Authority in writing, and subsequently implemented and verified to its satisfaction.

Reason: To prevent any adverse impacts on the site features and conservation objectives of Carlingford Lough SPA/Ramsar.

5. After completing the remediation works and prior to occupation of the development, a verification report needs to be submitted in writing and agreed with Planning Authority. 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: To prevent any adverse impacts on the site features and conservation objectives of Carlingford Lough SPA/Ramsar.

- 6 No development or piling work should commence on this site until a piling risk assessment has been submitted in writing and agreed with the Planning Authority. Piling risk assessments should be undertaken in accordance with the methodology contained within the Environment Agency document on "Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention

Reason: To prevent any adverse impacts on the site features and conservation objectives of Carlingford Lough SPA/Ramsar.

- **DAERA Shared Environmental Services.** No Objection. Subject to conditions. The proposal will not have an adverse effect on the integrity of any European site.
- **DfI Rivers Agency.** No objections. It is content with the contents of the Drainage Assessment in relation to policies FLD1, 2, 3 and 4 of PPS15. The site is within the catchment of a reservoir, Camlough Lake, in relation to Policy FLD5. Rivers Agency is satisfied that the applicant has applied the correct methodologies in its assessment.
- **Loughs Agency.** No objections subject to informatives on the implementation of measures to protect the aquatic environment.
- **DfI Transport NI.** No objections
- **NI Water.** No Objections.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference:	LA07/2017/0542/F
Date Received:	March 22 nd 2017.
Proposal:	Retail park with ancillary coffee shop/restaurant units
Location:	Former H M Revenue & Customs Custom house and clearance station, Carnbane way, Carnbane Industrial Estate

Addendum to Case Officer Report

1.0. This application was brought to the Planning Committee on Wednesday 16 October 2019 with an opinion to refuse on the following grounds:

- The proposal is contrary to Paragraph 3.8 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) in that the proposal conflicts with an up to date development plan.
- The application is contrary to the Banbridge, Newry and Mourne Area Plan 2015 Plan objectives in that the proposal lies outside the City Centre Boundary as identified by Designation NY 75 and Primary Retail Core of Newry as identified by Designation NY 76.
- The application is contrary to Paragraph 6.270 and 6.271, (bullet point 1 and 2) of the Strategic Planning Policy Statement (SPPS) in that the proposal lies outside the City Centre Boundary and Primary Retail Core of Newry as designated in the Banbridge/Newry and Mourne Area Plan 2015.
- The proposal is contrary to The Strategic Planning Policy Statement (SPPS) 'Planning for Sustainable Development' Paragraph 6.273 in that it does not adopt a 'town centre first approach'.

- The proposal is contrary to The Strategic Planning Policy Statement (SPPS) 'Planning for Sustainable Development', Paragraph 6.291, in that it has not been demonstrated that the proposal will not have a significant adverse impact:
 - on trade and turnover for both convenience and comparison goods traders and on town centre turnover overall for all centres within the catchment of the proposal;
 - on existing committed and planned public and private sector investment and investor confidence in the town centres;
 - on the delivery of the planned/allocated sites and the Local Development Plan Strategy;
 - on the vitality and viability of existing centres; and
 - when taken cumulatively in conjunction with committed and planned development within the city centre and wider area.
- The proposal is contrary to Policy PED 7 of Planning Policy Statement 4 (PPS 4) 'Planning and Economic Development' in that it would result in the loss of land zoned for existing and proposed economic development use in the Banbridge, Newry & Mourne Area Plan 2015.
- The proposal is contrary to the Banbridge, Newry & Mourne Area Plan 2015, Zoning NY 68 and Allocation ECD 1 (Plan Strategy and Framework), in that it would lead to the loss of existing and proposed economic development lands.

2.0. The application was deferred at the request of the Council to enable consideration of late objections dated 10 October 2019 (on the foot of a holding objection dated 30 September 2019) and 11 October 2019 (on the foot of a holding objection dated 9 October 2019). The Planning Department had not been in a position to consider the issues raised ahead of the previous Planning Committee meeting. These objections have now been considered.

2.1. Objection No 1: Clyde Shanks Planning Development, 10 October 2019.

The issues raised in the holding objection were considered in the case officers report as acknowledged by the objector at Para 3.

P/2009/0163/F. The Planning Department notes the reference to the previous planning permission on the site and the subsequent applications to vary or discharge associated planning conditions.

P1 Form. The description of development: As referred to in the case officer's report, the P1 description of development reflects the general nature of the proposal as proposed by the applicant and considered by the Planning Department as part of its assessment of the application. It is clear from the description that the applicant does not seek any limitation on the type of retailing proposed, as acknowledged at Para 6.1 and 6.9 of the case officer's report. In this context it is considered that the proposal description is accurate and reflects the broad based nature of the application. The description of development on the P1 form would have been sufficient to alert any interested parties to the nature of the proposal and its implications. It would not lead to prejudice on any party.

Certificate A. Form P2: It is stated that the application site includes land under control of DfI Roads and therefore Certificate A is therefore not correct and notice should have been served on DFI Roads. This is a reference to the fact that the red line includes a portion of the Carnbane Way and the roundabout.

The Planning Department has considered this issue in consultation with DfI Roads. DfI Roads has confirmed that it was aware of the details of the application and the implications for the surrounding road network. This formed part of its assessment of the application and its formal response to the Council. As a statutory consultee it is by default informed by the provision of a red line plan which included its land and legally it would not have been prejudiced in the consideration of the application as it would have been aware of the land aspect.

Section 26 (&S29)/LDP Departures/Failure to Comply with Policy: The Planning Department notes the comments made, including those at a), b), c) and d). These issues have been addressed in the case officer's report. The Planning Department considered the issue of the Department of Infrastructure

(DfI) jurisdiction in relation to 'Development's of Regional Significance' and whether this application should be referred to DfI.

It is considered that no formal notification is required in this instance under the prevailing regulations.

Replacement of Economic Land: The Planning Department is currently considering a planning application for light industry, business and storage and distribution units on adjacent lands. The basis for this application is that it is linked to this retail application under consideration and is submitted on the basis that any approval for industrial units will compensate for any future loss of zoned economic lands within this application site. The applicant has expressed a willingness to accept a negative planning condition requiring the construction of the economic units prior to the commencement of the retail units. It is normal practice to link related applications in this way, if both are judged acceptable in planning terms.

Consultee Responses. The Planning Department is satisfied that all consultation responses received and on file remain valid. DAERA Strategic Environmental Services has confirmed that it has carried out a full Stage 2 Appropriate Assessment under the relevant regulations. DfI Rivers Agency has confirmed no objection.

2.2. Objection No 2: TLT NI, 11 October 2019.

The issues raised in the holding objection were considered in the case officers report as acknowledged by the objector at Page 2, Para 1.

Lack of Habitats Regulation Assessment.

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) in consultation with Shared Environmental Services on behalf of Newry, Mourne and Down District Council. SES has confirmed, having considered the letters of objection, that it carried out a full HRA Stage 2 Appropriate Assessment for the proposal on 2

October 2017, The Planning Department considered the content and is in agreement with the outcome.

SES has also subsequently confirmed to the Planning Department that, in terms of the Sweetman ruling and others mentioned in the letter, that it has reviewed their HRA template and processes, in 2018, to reflect the conclusions of the ruling. It stated that this proposal has not been through this updated SES template and process and members of the Planning Committee may wish SES to update the 2017 HRA through SES's current processes. Members should be aware that, in the absence of any new environmental information it is clear SES would still take the case to HRA Stage 2 Appropriate Assessment and append the conditions recommended in the 02/10/2017 document. SES is content if requested by Planning to carry out an updated review on the HRA.

Decision-making by the Planning Committee.

The comments here are noted.

3.0. Recommendation

- 3.1.** The application site remains unacceptable and should be refused for the stated reasons above.

Case Officer Signature:
Date: 29 October 2019
Appointed Officer Signature:
Date: 29 October 2019



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference:	LA07/2017/0542/F
Date Received:	March 22 nd 2017.
Proposal:	Retail park with ancillary coffee shop/restaurant units
Location:	Former H M Revenue & Customs Custom house and clearance station, Carnbane way, Carnbane Industrial Estate

2nd Addendum to Case Officer Report

1.0. This application was brought to the Planning Committee on Wednesday 16 October 2019 with an opinion to refuse on the following grounds:

- The proposal is contrary to Paragraph 3.8 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) in that the proposal conflicts with an up to date development plan.
- The application is contrary to the Banbridge, Newry and Mourne Area Plan 2015 Plan objectives in that the proposal lies outside the City Centre Boundary as identified by Designation NY 75 and Primary Retail Core of Newry as identified by Designation NY 76.
- The application is contrary to Paragraph 6.270 and 6.271, (bullet point 1 and 2) of the Strategic Planning Policy Statement (SPPS) in that the proposal lies outside the City Centre Boundary and Primary Retail Core of Newry as designated in the Banbridge/Newry and Mourne Area Plan 2015.
- The proposal is contrary to The Strategic Planning Policy Statement (SPPS) 'Planning for Sustainable Development' Paragraph 6.273 in that it does not adopt a 'town centre first approach'.

- The proposal is contrary to The Strategic Planning Policy Statement (SPPS) 'Planning for Sustainable Development', Paragraph 6.291, in that it has not been demonstrated that the proposal will not have a significant adverse impact:
 - on trade and turnover for both convenience and comparison goods traders and on town centre turnover overall for all centres within the catchment of the proposal;
 - on existing committed and planned public and private sector investment and investor confidence in the town centres;
 - on the delivery of the planned/allocated sites and the Local Development Plan Strategy;
 - on the vitality and viability of existing centres; and
 - when taken cumulatively in conjunction with committed and planned development within the city centre and wider area.
 - The proposal is contrary to Policy PED 7 of Planning Policy Statement 4 (PPS 4) 'Planning and Economic Development' in that it would result in the loss of land zoned for existing and proposed economic development use in the Banbridge, Newry & Mourne Area Plan 2015.
 - The proposal is contrary to the Banbridge, Newry & Mourne Area Plan 2015, Zoning NY 68 and Allocation ECD 1 (Plan Strategy and Framework), in that it would lead to the loss of existing and proposed economic development lands.
- 2.0.** The application was deferred at the request of the Council to enable consideration of late objections dated 10 October 2019, referred to as Additional Objection No 1, (on the foot of a holding objection dated 30 September 2019) and 11 October 2019, referred to as Additional Objection No 2, (on the foot of a holding objection dated 9 October 2019). The Planning Department had not been in a position to consider the issues raised ahead of the previous Planning Committee meeting. These objections have now been considered.
- 2.1. Additional Objection No 1: Clyde Shanks Planning Development, 10 October 2019.**

The issues raised in the holding objection were considered in the case officers report as acknowledged by the objector at Para 3.

P/2009/0163/F. The Planning Department notes the reference to the previous planning permission on the site and the subsequent applications to vary or discharge associated planning conditions.

P1 Form. The description of development: As referred to in the case officer's report, the P1 description of development reflects the general nature of the proposal as proposed by the applicant and considered by the Planning Department as part of its assessment of the application. It is clear from the description that the applicant does not seek any limitation on the type of retailing proposed, as acknowledged at Para 6.1 and 6.9 of the case officer's report. In this context it is considered that the proposal description is accurate and reflects the broad based nature of the application. The description of development on the P1 form would have been sufficient to alert any interested parties to the nature of the proposal and its implications. It would not lead to prejudice on any party.

Certificate A. Form P2: It is stated that the application site includes land under control of DfI Roads and therefore Certificate A is therefore not correct and notice should have been served on DFI Roads. This is a reference to the fact that the red line includes a portion of the Carnbane Way and the roundabout.

The Planning Department has considered this issue in consultation with DfI Roads. DfI Roads has confirmed that it was aware of the details of the application and the implications for the surrounding road network. This formed part of its assessment of the application and its formal response to the Council. As a statutory consultee it is by default informed by the provision of a red line plan which included its land and legally it would not have been prejudiced in the consideration of the application as it would have been aware of the land aspect.

Section 26 (&S29)/LDP Departures/Failure to Comply with Policy: The Planning Department notes the comments made, including those at a), b), c)

and d). These issues have been addressed in the case officer's report. The Planning Department considered the issue of the Department of Infrastructure (DfI) jurisdiction in relation to 'Development's of Regional Significance' and whether this application should be referred to DfI.

It is considered that no formal notification is required in this instance under the prevailing regulations.

Replacement of Economic Land: The Planning Department is currently considering a planning application for light industry, business and storage and distribution units on adjacent lands. The basis for this application is that it is linked to this retail application under consideration and is submitted on the basis that any approval for industrial units will compensate for any future loss of zoned economic lands within this application site. The applicant has expressed a willingness to accept a negative planning condition requiring the construction of the economic units prior to the commencement of the retail units. It is normal practice to link related applications in this way, if both are judged acceptable in planning terms.

Consultee Responses. The Planning Department is satisfied that all consultation responses received and on file remain valid. DAERA Strategic Environmental Services has confirmed that it has carried out a full Stage 2 Appropriate Assessment under the relevant regulations. DfI Rivers Agency has confirmed no objection.

2.2. Additional Objection No 2: TLT NI, 11 October 2019.

The issues raised in the holding objection were considered in the case officers report as acknowledged by the objector at Page 2, Para 1.

Lack of Habitats Regulation Assessment.

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) in consultation with Shared Environmental Services on behalf of Newry, Mourne and Down District Council. SES has confirmed, having considered the letters of objection, that it

carried out a full HRA Stage 2 Appropriate Assessment for the proposal on 2 October 2017. The Planning Department considered the content and is in agreement with the outcome.

SES has also subsequently confirmed to the Planning Department that, in terms of the Sweetman ruling and others mentioned in the letter, that it has reviewed their HRA template and processes, in 2018, to reflect the conclusions of the ruling. It stated that this proposal has not been through this updated SES template and process and members of the Planning Committee may wish SES to update the 2017 HRA through SES's current processes. Members should be aware that, in the absence of any new environmental information it is clear SES would still take the case to HRA Stage 2 Appropriate Assessment and append the conditions recommended in the 02/10/2017 document. SES is content if requested by Planning to carry out an updated review on the HRA.

Decision-making by the Planning Committee.

The comments here are noted.

- 3.0.** The application was then scheduled for consideration at the Planning Committee Meeting on Wednesday 13 November 2019. The application was recommended for refusal for the reasons stated above.
- 3.1.** Prior to the Committee Meeting a letter, dated 11 November 2019 and addressed to the Chief Planning Officer, was received from the Department for Infrastructure (DfI). It was accompanied by 'a Notification Direction' issued by DfI under Articles 18 and 18 of the Planning (General Development Procedure) Order (Northern Ireland) 2015. The letter stated that the 'Direction' has been made to afford the Department the opportunity to assess and consider if the application should be referred to it for determination. It stated that Newry, Mourne and Down District Council is required to notify the Department if, and when, a recommendation is made to the Planning Committee, and before a final decision is taken on the application. It also stated that 'the 'Direction' is given without prejudice to any decision by DfI to call in the application at any stage of the process'.

- 3.2. Acting on legal advice, the planning application was withdrawn from the Planning Committee agenda.
- 3.3. The Planning Department then received 2 further formal letters of objection, dated 11 November 2019 from Newry Bid Company Limited (referred to as Additional Objection No 3) and dated 12 November 2019 from Lambert Smith Hampton, on behalf of Buttercrane Centre Ltd (referred to as Additional Objection No 4). These objections have now been considered.

Additional Objection No 3: Newry Bid Company Limited

Issues raised in the letter include: scale and form of the development, the unrestricted nature of the retail proposal and the impact on Newry City Centre and other centres; contrary to current planning policy, flawed supporting RIA; and retail impact and the threat to existing centres, Newry City Centre through diversion of existing and future traders and jobs. These issues are considered in the case officers report, as referred to by the objector, in the conclusion.

Additional Objection No 4: Lambert Smith Hampton.

Issues raised in the letter include: scale and form of the development, the unrestricted nature of the retail proposal and the impact on existing centres, including Newry City Centre and Banbridge due to the potential to attract traditional high street/discount retailers, the accessible site location at Carnbane, diversion of existing city centre retailers, competition with existing retailers and job displacement; and contrary to current planning policy and flawed supporting RIA. These issues are considered in the case officers report, as referred to by the objector, in the conclusion.

The issues raised were considered in the case officers report and the comments here are noted.

4.0. Recommendation

- 4.1. The application site remains unacceptable and should be refused for the stated reasons above.

Case Officer Signature:
Date: 27 November 2019
Appointed Officer Signature:
Date: 27 November 2019

Speaking note against the creation of a new out of town city

It is a well know planning principle that matters raised by 3rd party objectors are material to the determination of any application and must be considered even though they may not have been raised by the Local Planning Authority or Department.

Contrary to Banbridge, Newry & Mourne Area Plan (BNMAP) 2915

The first document for any consideration is BNMAP 2015, as we are now in a plan led system.

The proposal does not comply with Section 6 (4) of the Planning Act (Northern Ireland) 2011, which states that determination under this Act must be made in accordance with the local development plan (LDP), unless material considerations dictate otherwise.

The proposal does not comply with Economic Zoning NY68, Retail Zonings NY75 and NY76 and DOS Zoning NY90. The applicant has not presented any material considerations to outweigh the non-compliance with the plan or potential for widespread precedent this decision would set by running contrary to numerous zonings in the absence of any robust evidence. It was would also be contrary to PED 7 of PPS4 as it is zoned industrial land.

Prematurity engaged in respect of the new LDP

Irrespective of the timetabling the new LDP is under preparation and as such prematurity is required to be considered, as per the direction of paragraph 5.73 of the SPPS, which states;

*"Where a new LDP is under preparation or review it may be justifiable, in some circumstances, to refuse planning permission on the grounds of prematurity. This may be appropriate in respect of development proposals which are **individually so substantial, or whose cumulative effect would be so significant**, that to grant planning permission would prejudice the outcome of the plan process by predetermining decisions about the scale, location or phasing of new development which ought to be taken in the LDP context. A proposal for development that has an impact on only a small area would rarely come into this category, but refusal might be justifiable where a proposal would have a significant impact on an important settlement, or a substantial area, with an identifiable character. Where there is a phasing policy in the LDP, it may be necessary to refuse planning permission on grounds of prematurity if the policy is to have effect".*

This proposal will have significant implications for Newry City Centre, Newry, Mourne & Down District and the Region. **It will render the emerging LDP, as obsolete for future retail development before it has been produced.**

Retail Capacity & Impacts – Highest in any retail scheme in Northern Ireland

Inaltus Planning are recognised retail planning experts in Northern Ireland have been instructed by the Council to analyse the retail capacity and impacts.

They had previously been instructed by the DOE on P/2009/01613/F, so are taken to be very familiar with the site and specific circumstances.

In the "Appraisal of Retail Impact Assessment" they note the following;

- The proposal seeks 16,836sqm (181,1123sqft) gross floorspace;

- Of which 14,653sqm (157,725sqft) is gross retail floorspace with 12,106sqm (130,309sqft) net;
- Total existing floorspace in Newry City Centre is 39,300sqm
- The Carnbane proposal is one of the largest retail proposals in Northern Ireland;
- Unrestricted comparison retailing at an out of town location no differentiation between town centre retailing;
- No evidence of any retailer interest;
- Unique proposal as it is completely contrary to retail planning policy;
- Turnover is 6 times the spending growth in the catchment and that it would take 18 years of retail spending growth to support this proposal (up to 2037)
- The cumulative comparison diversions with the foodstore on Newry City Centre would result in a 29% retail impact. This is the largest retail impact ever presented
- There is no qualitative or quantitative need for the proposal
- The applicants have not provided any evidence of active enquires in respect of the alternative site NY90

Highly Speculative

Planning is an evidence-based process and it falls to the applicant to demonstrate their case.

To date there is no evidence of heads of terms or draft leases being provided to support the proposal and no retailer requirements have been presented.

There is one brief letter on file from Mike Prentice, no company letterhead or expert witness statement. I note it states;

"A smaller scheme would not be of interest to the retailers YOU are trying to attract". Such a statement reinforces the lack of interest and speculative nature.

I also note it highlights the sites proximity to the A1, which will provide a significant advantage over Newry City Centre's established shopping centres, which are more vulnerable to better located retail developments.

Overstated Employment Benefits

Much is claimed by the developer about the economic benefits of the proposal. However, there is no consideration of the displacement of jobs from Newry City Centre given 44% of the income will be diverted from Newry City Centre to support the scheme.

This employment would also be realised if the proposal was constructed within a sequentially preferable alternative site, such as NY90, which is a sustainable location.

The site and developer have delivered absolutely zero benefits or jobs to Newry since the food superstore was granted in 2014.

SPEAKING NOTE in favour of Application LA07/2017/0542/F

LAURENCE BREEN:

- Thank you for the opportunity to present to the Committee.
- My name is Laurence Breen. I'm a local developer, active in Newry and the wider area for several years now and we've delivered a number of successful projects during that time.
- I'm joined by some members of the project team for the proposal. Martin Kelly from Gravis Planning, our expert planning consultant; Stephen Shaw QC, Senior Counsel; and Mike Prentice, our property consultant.
- The proposal represents a private investment of £100 million;
- Generation in the region of £1.5 million a year in rates for this Council, and;
- The creation of up to 700 construction jobs and up to 1000 operational jobs.
- Newry's strategic location is attractive, but only if the right facilities are in place.

MARTIN KELLY:

I'd like to quickly take the Committee through a few of the key planning considerations on this application – I'll try to be brief while covering all the main points.

In short, we believe that the reasons for refusal brought forward by the planning officer are unsustainable and have all been addressed in our planning submission.

The officer states that the proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland saying it is contrary to the Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) as it is outside the Primary Retail Core and the City Centre boundaries. However, on this point, the Development Plan states that "*Retail parks, retail warehousing and other forms of shopping are part of the retail landscape and are often found outside of town centres. Any new facilities maybe be considered in the context of prevailing regional policy*". BNMAP does not prohibit retail development outside Primary Retail Cores or City Centre boundaries. Such development can be approved if it meets the relevant policy tests in regional policy. We submit that the proposal meets the relevant policy tests.

The planning officer claims that we haven't adopted a "*town centre first approach*" as required by the SPPS. I would draw members' attention to the extensive supporting information submitted with the application, which shows that a total of 60 (six zero) town centre sites were considered throughout the proposal's entire catchment area. None of these sites are available as suitable and viable sites for this proposal. Therefore, it is clear we have adopted a thorough town centre first approach in accordance with all relevant policy.

The officer's report states that we haven't demonstrated that the proposal will not have a significant adverse impact on a number of issues, including; retail traders and town centres within the catchment, on existing committed and planned investment and investor confidence in town centres, on planned or allocated sites and the Local Development Plan strategy and the vitality and viability of existing centres including when taken cumulatively with committed and planned development within the city centre and wider area.

All these matters have been addressed in our submissions. The retail impact of the proposal has been assessed on all town centres in the catchment area and the impacts are considered to be within acceptable levels. We recognize that there will be some diversion from Newry City Centre – that is an inevitable consequence of providing for the needs of the population through investment in a high-quality retail environment.

There is no evidence to suggest that the proposal will have any adverse impact on existing and planned public and private sector investment, nor that it will impact investor confidence in the town centres.

The officer states that the proposal is contrary to planning policy due to the loss of land zoned for existing and proposed economic development use and lands in the development plan. When considering this application, I would remind members that planning procedure clearly allows flexibility when considering a firm proposal for an alternative use on economic development land that outweighs the option of retaining economic development land. In this case, you have a firm proposal for an alternative use which will bring substantial economic benefits on lands which will otherwise remain undeveloped. Therefore, the Committee is well within its rights to support this application, in line with planning policy.

Finally, the officer's report clearly states that there is a significant amount of remaining undeveloped employment lands in Newry. The report accepts that this proposal, if approved in conjunction with the associated planning application for employment use, would not lead to an unacceptable reduction in employment lands. Even without the separate planning application for employment use, it is clear the development of the Newry City Retail Park will not result in a significant reduction in employment lands. This is a firm proposal bringing substantial economic benefits and resulting in no significant diminution of the economic land resource, which should outweigh the retention of the land solely for economic development use. This proposal in itself is a major employment generator and therefore is a major economic use for the site, making sensible use of land that is aimed at generating employment – precisely what this proposal will do.

We have also assessed the letters of objection that have been submitted in relation to the proposal. We consider that that issues raised are without foundation and are not therefore matters for concern.

I will now pass you on to Stephen, our Senior Counsel.

STEPHEN SHAW QC

Will address the following:

- I. It is trite to observe that the development plan policies are to be understood and applied *as a whole*. When read that way, this application emerges not in breach of the development plan but as a scheme that enjoys its support.
- II. The points rehearsed at paragraph 6.15 of the officer's report are truly differences of professional planning judgement rather than matters of legality. Consequently, it is open (and lawful) for the Council to accept the contentions of the experts retained by the planning applicant. Indeed, there is good reason to do so.
- III. It is not possible within the time constraints to plumb the detail of the competing trade diversion figures. The proper approach to such matters is well trodden in the jurisprudence. The Council as decision maker is required to properly consider the retail impact in the balance in making its decision. Even where the diversion would not normally be considered acceptable it is still open to the Council to consider a number of additional factors and, *as a matter of planning judgement*, arrive at the conclusion that the development would not have an adverse impact on the on the vitality and viability of the city centre or undermine its shopping function. Here some diversion is acknowledged on all sides. But the critical issue is whether one sees an *unacceptable* diversion in all the circumstances. The expert planning analysis submitted on behalf of the planning applicant demonstrates the acceptable level anticipated here.
- IV. PPS4- Regarding the concerns related to the loss of existing and proposed economic development land, the short answer is that the Council is entitled to bear in mind the modest scale of the land lost to such use (c. 5% of undeveloped economic development land) in the overall context and merits of the application that includes very substantial economic benefits.

LAURENCE BREEN:

- In summary, significant level of investment, job creation, and rates returns associated with the scheme - £100 million investment, up to 700 construction jobs & up to 1000 operational jobs and the region of £1.5 million annual rates return.
- Economic benefits of this proposal far outweigh any of the concerns raised by the officer, and I would respectfully request that the Committee approves the planning application on that basis.
- This development will provide a huge economic boost to Newry and the surrounding area – especially at a time of significant uncertainty with Brexit and the absence of the Executive.
- A vote of confidence in the city that shows it's open for business.
- Happy to answer any questions from the Committee or provide any clarity required.

Appendix 1 – Draft 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. No development shall take place until a Construction Management Plan for Noise Impact and Dust from Earthworks has been submitted and agreed with the Department. The Construction Management Plan should include methods to minimise the risk of noise and dust nuisance during the construction phase.

Reason: In order to protect nearby amenity.

3. No construction activities shall be undertaken within the development hereby permitted, until a Generic Quantitative Risk Assessment (GQRA) and if necessary a Detailed Quantitative Risk Assessment (DQRA) have been undertaken to ascertain the potential risks to future site users. The development hereby permitted shall not be occupied until the mitigation measures as presented within a detailed remediation strategy and implementation plan have been fully implemented and verified to the satisfaction of Newry Mourne and Down District Council.

Reason: In order to protect nearby amenity.

4. No site works of any nature or development shall take place until a programme of archaeological work has been implemented, in accordance with a written scheme and programme prepared by a qualified archaeologist, submitted by the applicant and approved by the Department. The programme should provide for the identification and evaluation of archaeological remains within the site, for mitigation of the impacts of development, through excavation recording or by preservation of remains, and for preparation of an archaeological report.

Reason: to ensure that archaeological remains within the application site are properly identified and protected or appropriately recorded.

5. No development shall commence until the applicant has submitted a detailed waste management plan for the development. The management of on-site materials, temporary on-site storage arrangements, waste classification, reuse criteria (where appropriate) and off-site disposal should be included in the waste management plan.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

Reason: To prevent any adverse impacts on the site features and conservation objectives of Carlingford Lough SPA/Ramsar.

6. No development or piling work should commence on this site until a piling risk assessment has been submitted in writing and agreed with the Planning Authority. Piling risk assessments should be undertaken in accordance with the methodology contained within the Environment Agency document on "Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention" available at <http://publications.environment-agency.gov.uk/PDF/SCHO0501BITT-E-E.pdf>.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

Reason: To prevent any adverse impacts on the site features and conservation objectives of Carlingford Lough SPA/Ramsar.

7. A final Construction Environmental Management Plan and finalised layout design should be submitted for agreement to the Planning Authority prior to works commencing. This should include a finalised storm water and drainage plan and reflect all the mitigation, and avoidance measures to be employed as outlined in the Environmental Impact Assessment; Chapters 7 (Flooding and Drainage), Chapter 8 (Contamination) Chapter 9 (Ecology), Appendix A (Flood Risk and Drainage Assessment), Appendix 6 (Preliminary Risk Assessment), Addendum 1; Appendix 1 (Shadow HRA), 2 (GQRA), 3 (Construction Management Plan), 4 (Stormwater Management Plan) and all additional submitted information.

Reason: To prevent any adverse impacts on the site features and conservation objectives of Carlingford Lough SPA/Ramsar.

8. Development shall not be occupied until the onsite works have been completed in accordance with the drainage details submitted to and approved by the relevant authority.

Reason: In the interest of public health.

9. Development shall not be occupied until surface water drainage works on-site and off-site have been submitted, approved and constructed by developer and the relevant authority.

Reason: To safeguard the site and adjacent land against flooding and standing water.

10. After completing the remediation works under Conditions 3 and 4; and prior to occupation of the development, a verification report needs to be submitted in writing and agreed with Planning Authority. 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.

11. Deliveries and collection by commercial vehicles shall only be made to and from the site between the hours of 0700 hours and 2300 hours.

Reason: In order to protect nearby amenity.

12. A fence is erected on a line to be agreed with HED: HM, at least 5m from the edge of the scheduled area of the Newry Canal. No ground works, dumping or storage is to be carried out within the fenced areas.

Reason: to ensure the protection of the scheduled area.

13. Access shall be afforded to the site at all reasonable times to any archaeologist nominated by the Department to observe the operations and to monitor the implementation of archaeological requirements.

Reason: to monitor programmed works in order to ensure that identification, evaluation and appropriate recording of any archaeological remains, or any other specific work required by condition, or agreement is satisfactorily completed.

14. If during the development works, new contamination or risks are encountered which have not previously been identified, works should cease and the Planning Authority 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 Planning Authority in writing, and subsequently implemented and verified to its satisfaction.

Land, Soil & Air Reason: Protection of environmental receptors to ensure the site is suitable for use.

Environmental Health Reason: To prevent any adverse impacts on the site features and conservation objectives of Carlingford Lough SPA/Ramsar.

15. All fuel storage tanks and boilers (and associated infra-structure) must be fully decommissioned and removed in line with current Pollution Prevention Guidance (PPG2, PPG27) and the quality of surrounding soils and groundwater has been verified. Should contamination be identified during this process, Conditions 3 and 4 will apply.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

16. A suitable buffer of at least 10m must be maintained between the location of machinery refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc. and the Newry River to the east and the Newry Canal to the west of the proposed application site.

Reason: To prevent any adverse impacts on the site features and conservation objectives of Carlingford Lough SPA/Ramsar.

17. All services within the development should be laid underground.

Reason: In the interests of visual amenity.

18. The development shall be constructed in accordance with the stamped approved drawings.

Reason: To ensure a satisfactory form of development.

19. The floorspace comprised in the retail units shall only be for the sale of comparison goods and for no other purpose in Class A1: Shops of the Schedule to the Planning (Use Classes) Order Northern Ireland 2015.

Reason: To control the nature, range and scale of commercial activities to be carried out at this location.

Appendix 2 – Rebuttals to Objectors

OBJECTION BY MATRIX, 16 APRIL 2018

- Loss of economic development land
Other uses can be approved on economic development lands taking account of material considerations, in this case, economic benefits and that there is no significant diminution of economic development lands as a result of our proposal.
- Prematurity
New LDP only a POP stage.
Council does not refer to prematurity as a reason for refusal.
- Investment speculative
Applicant to confirm that it is not speculative.
- Consistency with refusals LA07/2016/0952/F and LA07/2016/0978/F:-

LA07/2016/0952/F :-

- Sub-division of part of existing bulky goods retail warehouse (No 115) to provide 3 No. ground floor class A1 retail units with new shopfronts (the 3 No. units to operate without compliance with the bulky goods condition on approval P/1993/0605); and western extension of site area to facilitate additional parking and improved servicing provision for all units on this site. Access arrangements to be as already approved under application P/2011/0556/F (Additional Information submitted), at 113-117 Dublin Road Newry.
 - Within the city but outside the city centre.
 - Part zoned housing. Marginal flooding.
 - Involves 296 sqm retail floorspace.
 - Reasons for refusal:
 - Loss of housing land (no link or access between the proposed site and zoned housing land the the proposed retailing does not complement the zoned housing.
 - Fails sequential test.
 - Conflicts with development plan.

LA07/2016/0978/F

- Proposed food retail and off-sales building including associated site works
- Within the city but outside the city centre, within area of archaeological potential and access onto a Protected Route.
- 392 sqm
- Reasons for refusal
 - Lack of information (impact on listed building, bats, land, soil, air, environmental health).
 - Design.
 - Loss of existing industrial land (case not demonstrated)
 - Residential amenity.
 - Outside town centre.
 - Town centres first not adequately addressed.

Applicant Response

The above two applications are distinguishable from the retail park proposal in terms of scale, nature and scope of reasons for refusal.

In terms of retail and loss of economic development land, the above applications failed to make the case regarding the sequential test and loss of economic development land. We say our proposal does make the case on these grounds.

OBJECTION BY CLYDE SHANKS DATED 10 OCTOBER 2019.

Ambiguous Description of Development

We consider that all parties were adequately informed and made aware of the details of the proposed development.

Details of the application were advertised on 15 May 2019 and neighbour notification was carried out on 19 September 2019.

Pre-Application Community Consultation also took place towards the end of 2016 and into 2017 involving extensive engagement allowing for interested parties to be fully informed on the details of the application.

Query Regarding Ownership.

It is claimed that DFI Roads should have been notified of the application as only Certificate A was completed on the application.

However, DFI Roads have been consulted on this application and would have been fully aware of the proposed development.

Substantial departure from the Development Plan due to loss of Zoned industrial land

Planning procedure allows alternative uses on employment lands by taking into account other material considerations (see **Annex 1** to this submission, *"Planning Advice Note: Implementation of Planning Policy for the retention of Zoned Land for Economic Development Uses"*, November 2015). In this case, there are important material considerations; the Council has actually stated in its report that the proposal will **not** lead to a significant diminution of the employment resource. Also, the proposal will bring a substantial number of jobs and investment so overall, the loss of a small amount of economic development land will clearly not be harmful in this case.

Demise of the City Centre and local neighbourhood facilities.

There is no evidence presented whatsoever in relation to the potential demise of the city centre or local neighbourhood facilities.

SPPS prevents permitting retail development in an out of town location.

The proposal is not out of town, it's within the Settlement Development Limit for the City of Newry.

The SPPS does permit retail development outside town centres subject to policy tests. These involve a sequential assessment and an assessment of need and retail impact which have all been addressed in the application.

Regional Significance

The objector considers that the application is of regional significance and should be Considered by the Department for Infrastructure.

However, there are no thresholds for retail development in terms of regional significance as provided by the Schedule to the Planning (Development management) Regulations (Northern Ireland) 2015.

Significantly contrary to development plan

The objector considers that the proposal is significantly contrary to development plan and should therefore be referred to the Department under Section 29 of the Planning Act (Northern Ireland) 2011.

The proposal is not considered to be contrary to the development plan, significant or otherwise since the operational policies relevant to this proposal are contained in regional policy.

Replacement of Economic Development Land.

In response, we do not rely on the industry/business application LA07/2017/0464/F as a means of mitigating the loss of economic development land. Even without this application, the retail park only results in a 5% loss of economic development land with almost 90 hectares (or 67 years) of economic development land remaining.

Schedule 6 permission

The objector considers that there is a lack of proof that a Schedule 6 permission has been granted for the proposed development. However, approval for this has been confirmed by DFI Rivers in its response on the application dated 11 September 2017 (see **Annex 2**).

Flood Risk Assessment

The objector considers that there is a lack of assessment in the Flood Risk Assessment however DAERA (Water Management Unit), Rivers Agency and Shared Environmental Services all responded on the application with no objections.

OBJECTION BY TLT DATED 11 OCTOBER 2019.

Lack of Habitats Regulation Assessment

The applicant submitted an Environmental Impact Assessment Addendum (Addendum 1) in June 2017. Appendix 1 of that Addendum included a shadow Habitats Regulation Assessment (sHRA).

The sHRA was prepared by Corvus Consulting and is dated May 2017.

As part of the sHRA Stage 1 Screening (ToLS) demonstrated that the project was associated with broad mechanisms for which significant adverse impacts on the integrity of the identified Natura 2000 could not be excluded and that an examination of potential cumulative impact and proposed mitigation measures was required. These matters were then referred for formal assessment within Stage 2 (Appropriate Assessment).

The AA has demonstrated that measures to avoid, mitigate and otherwise reduce the significance of adverse impacts on the integrity of the Natura 2000 sites were technically practical and feasible; likely to succeed (i.e. could be implemented with a high degree of confidence in likely success).

No significant cumulative ecological impacts were expected to arise as a result of the proposed development either individually or in-combination.

The sHRA has demonstrated that, provided construction, development and operation are implemented and controlled as is detailed within the ES and sHRA the development proposed at Carnbane Way (Retail Park), Newry will not interfere with any key relationships or elements within the environment which define and control the structure and function of any Natura 2000 sites and will not result in significant adverse impacts on the integrity of the Natura 2000 network or any underpinning designations (ASSI, NHA).

The Council and Shared Environmental Services (SES) received the sHRA. Both parties were fully entitled to have regard to the sHRA and need not necessarily have had to prepare their own HRA. Rather, the Council and SES were both entitled to consider the content of the sHRA and all other relevant information submitted with the planning application in order to consider the proposal against the assessment requirements laid down in regulation 43 of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995.

It is clear that the sHRA submitted in June 2017 followed the approach later advocated by the European Court (People Over Wind, Peter Sweetman v Coillte Teoranta(C-323/17)) in that it did not take mitigation intended to avoid adverse impacts on European protected sites into account at the screening stage, but instead rightly advanced to Appropriate Assessment stage before doing so.

OBJECTION BY RETAIL NI – 31 OCTOBER 2019

Application LA07/2018/1627/F - Proposal to vary conditions 24 and 25 of permission P/2009/0163 in order to allow a commencement of development of P/2009/0163.

The objector notes that it does not appear that LA07/2018/1627/F was advertised.

In response, the NI Planning Portal states that the application was advertised on 1st July 2019.

Approved Foodstore and Retail Park

The objector claims that together, these comprise 22,653 sqm unrestricted gross retail floorspace in an out of town location.

In response, these approvals do not result in unrestricted retailing; the foodstore is limited to convenience and non-convenience goods and the proposed retail park is limited to comparison goods.

The proposed retail park is not out-of-town, the proposal is within Newry City.

No evidence of retailer interest

The objector states there is no evidence of retailer interest.

In response, the applicant and his commercial advisor can refer to retailer interest.

Call In

The objector considers that the application should be called in by DFI for determination.

In response, we understand that it is the intention of the Council to advise DFI of its recommendation on the application following which DFI will assess if it is necessary for it to determine the application or return it to Council for determination.

Reasons for Call In:

Local Development Plan

The objector considers the proposal is contrary to the LDP.

In response, the development plan defers to regional policy in assessment developments on economic development land. In addition, planning procedure allows flexibility when considering a firm proposal for an alternative use on economic development land that outweighs the option of retaining economic development land.

Emerging Development Plan

The objector believes the application is premature given that a new LDP is under preparation.

In response, prematurity is a judgement call and "may" be justifiable in some circumstances. The Council has not found the application to be unacceptable on prematurity grounds.

Retail Capacity and Impacts

The objector points to significant implications for Newry City Centre, adjoining Councils and for ROI.

In response, the objector statements are of a generalised nature providing no evidence of demonstrable harm.

Need

The objector considers there is no quantitative or qualitative need for the proposal or the foodstore.

In response:

Need is not cited as a reason for refusal.

Method of establishing need is not defined in policy – SPPS says it may be based on quantitative and qualitative need. Applicant addressed need as follows;

- Need to improve comparison retail offer in Newry (almost half of respondents don't shop for non-bulky comparison goods in Newry and almost three quarters not using it for bulky goods.

- Need to improve shopper experience in Newry due to traffic congestion, parking availability and accessibility
- Need to provide a more balanced retail offer in Newry City. At present, most of the comparison retail offer is located at the southern end, the proposal will help rebalance this and reduce congestion in the city centre
- Need for employment in Newry – it has the 5th highest unemployment count in NI (GP 5.4).
- Need for well configured large retail units in the area and there are no alternative city centre or edge of centre sites.

The SPPS

The objector believes there is a complete lack of compliance with the SPPS.

In response, we have addressed the relevant policy tests; sequential test, assessment of retail impact and need and we submit we satisfy those tests.

NEWRY BID, 11 NOVEMBER 2019**BUTTERCRANE SHOPPING CENTRE, 12 NOVEMBER 2019****Speculative Development**

The objector considers that the proposal is speculative and that there is no demand for the development in Newry and would be two cities.

In response, the applicant can confirm that the proposal is not speculative, it is a firm proposal.

The household survey shows that there is a need to improve the comparison retail offer in the city, a need to improve shopper experience, a more balanced retail offer. There is also a need for employment and a need for well configured, large retail units in the area.

The proposal would not be effectively "two cities", the proposal is for a retail park.

High Street / Discount Retailers

The objector considers that the proposal will attract traditional High Street/Discount retailer's way from Newry City and other centres.

In response, the intention of the developer is to attract new retailers to Newry rather than attract existing retailers away from existing centres.

Retail Impact Assessment.

The objector considers that the RIA is fundamentally flawed.

In response, the objector provides no analysis whatsoever of the RIA and therefore this is merely a sweeping statement without any supporting evidence.

Threat to Newry City Centre / Harm Investment

The objector considers that the proposal poses a significant threat to Newry City Centre and harm future investments proposals in the city.

In response, again these are broad, sweeping statement with no evidence of demonstrable impact or harm.

There are a number of recent and planned investments in Newry City Centre including:

- Buttercrane Investment - £3m investment.
- The Quays Shopping Centre – recent £20m investment.
- Theatre and Conference Space - £28m investment (along with Civic Hub)
- Plans for a new multi-storey car park for up to 1000 spaces
- Plans for a brand new £40 million heath hub project at the playing fields of the old Abbey School
- Southern Relief Road, which is currently advancing to design and development stage by the Department for Infrastructure, an investment representing in excess of £120 million.
- Major local employer, First Derivatives, has recently announced the further expansion of their business, with the opening of a second major office hub in the city centre
- Plans were also submitted to the Council for a development of apartments on Edward Street, Newry.

Job Displacement.

The objector considers that the proposal has provided no consideration of the negative impact of job displacement.

In response, the applicants' Economic Impact Assessment did factor in job displacement when considering job creation. It is considered that the proposal will provide up to 700 local jobs during construction and up to 1000 jobs during operation.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Ref: LA07/2016/1074/RM

Proposal: Development of Community Treatment and Care Centre, associated parking including an area of decked parking, accesses from Abbey Way and Courtney Hill and other associated operational development.

Location: Lands at Abbey Way/Courtney Hill (including part of former grammar school lands and lands to the rear of Abbey Yard)
Ballymacraig Newry BT34 2EA

1.0. Site Characteristics & Area Characteristics:

1.1. The site to which this application relates comprises a large area which extends to include the playing fields of the former Abbey Grammar School and also Abbey Primary School site. The site can be accessed from Castle Street / Abbey Way via the existing access which served the St Colman's Abbey Primary School site. This school is now closed however the access and buildings remain. This access is located between no.71 Castle Street and the adjacent Listed Building. The driveway of No.71 Castle St is also accessed via this entrance, whereby the ground levels of this entrance road slope down to the former school buildings.

1.2. The second and main access is from Courtney Hill.

- 1.3. The bulk of the application site consists of the entrance, parking area and tarmacked playground of the school along with the playing fields to the north. The main school buildings and curtilage are outside the site boundary and are separated from the playing fields by green palisade fencing with hedging and trees to the northern side of the fence. The eastern boundary of the playing field is defined by mature vegetation; the northern boundary is open to the rear of St Clare's Convent and does not have a formal boundary, while the western boundary is defined by fencing and hedgerows.
- 1.4. The playing field is at a lower level to the existing school building, and to the buildings to the west along Abbey Way.
- 1.5. The site is located within the urban area, there is a mix of commercial, residential and community uses in the immediate vicinity.

2.0. Site History:

P/2014/0335/O Lands at Abbey Way/Courtney Hill (including part of former grammar school lands part of primary school lands and lands to rear of Abbey Yard) Ballymacraig Newry BT34 2ED,

Development of Community Treatment and Care Centre, associated parking including an area of decked parking, accesses from Abbey Way and Courtney Hill, the demolition of existing buildings (used as school meals kitchen and kindergarten) to the rear of 10 Abbey Yard and other associated operational development. Approved 15.05.2015.

There are also previous associated Demolition Consent applications on this site (P/2014/0337/DCA and 0366/DCA).

3.0. Planning Policies & Material Considerations:

- The Planning Act (Northern Ireland) 2011
- Regional Development Strategy 2023
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- The Banbridge, Newry & Mourne Area Plan 2015
- Planning Policy Statement 2 (PPS2): Natural Heritage

- Planning Policy Statement 3 (PPS 3): Access Movement and Parking
- Planning Policy Statement 4 (PPS4): Planning and Economic Development
- Planning Policy Statement 6, (PPS 6): Planning Archaeology and the Built Heritage
- Planning Policy 15, (PPS 15) Planning and Flood Risk
- DCAN15 – Vehicular Access Standards
- Parking Standards

4.0. Consultations:

4.1. Details are provided in Appendix 6 and summarised as follows:

Newry, Mourne & Down Environmental Health. No objections subject to planning condition.

DfC. Historic Environments Division Archaeology and Built Heritage (HED: HM). No objections subject to planning conditions.

DAERA Planning Response Team. Water Management Unit (WMU), Natural Heritage and Conservation Areas. No objections subject to conditions.

DfI Rivers Agency. No objections.

DfI Roads: In its final response, dated 19 September 2019, DfI Roads raised a number of concerns about the proposal and recommended refusal for a number of reasons. The issues raised are discussed below.

NI Water. No Objections.

5.0. Objections & Representations

5.1. Details of the initial application and additional information received were advertised in the local press on 28 & 28 April 2017 and 13 & 15 May 2019. Nearest neighbours were notified on 2 May 2017 and 7 May 2019. 14 objection letters were received from 5 different addresses. These objections list the following concerns:

- The information submitted shows an increase of traffic approximately 300% above that envisaged at outline stage.

- New drawings show proposed 6m radius to Abbey Way, different to DfI Roads request for 10m at Outline stage.
- Drawings do not show how privacy and access to 71 Castle Street are maintained or improved, especially given the proposed access will be used by buses and HGV.
- Concerns in relation to the impact this proposal will have on the progression of traffic especially given the congestion experienced as a result of the new school at Courtenay Hill. Concerns are raised in respect of how this will impact on the existing residents and on emergency services ability to access residents at peak times of the day.
- Concerns relating to overlooking from the proposed CCTC to the St Clare's Abbey Primary school site.
- The principle of St Clare's Abbey Primary School has written to express concern about the traffic congestion that has resulted with the school having recently moved. She suggests that a Travel Plan should be required for the proposal and that the Planning Department should contact the PSNI to request a report on the existing problems which have been experienced. The Planning Authority will consult DfI Roads in relation to traffic congestion.
- Another objection has been received from 2 Hennessy Park in relation to the fact that the proposed Psychiatry use within the proposed CCTC building and the perceived danger that may occur from it to nearby residents, citing an incident which occurred within the local trust area in recent years. The site will be well served by CCTV as shown on the proposed plans, and the building is only to be used through the working day hours from 8am to 6pm. Given these restrictions and measures it is not envisaged that the danger which may arise at a 24 hour accident and emergency site would occur at this site.
- The Newry Hospice, while highlighting that it is not objecting to the scheme have raised concerns in relation to traffic congestion and the availability of Blue Light Services being able to access their property in emergencies. DfI Roads have been asked to comment on concerns

relating to Traffic Congestion and this will be assessed within the Access Paragraph below.

- The majority of objections raised have been in relation to roads related matters and will be addressed throughout the remainder of the report. The Planning Department requested that DfI Roads consider the objections in relation to traffic, congestion issues and the issues relating to the proposed radii and access arrangements to the Abbey Way entrance. Its response is provided below.

6.0. Consideration and Assessment:

- 6.1.** The principle of development has already been established, under a previous outline approval granted under file reference P/2014/0335/O (Granted 2015), with the Reserved Matters application being submitted in 2016 (i.e within 3 years). This application must now be assessed against the terms of that outline approval and prevailing planning policy requirements.
- 6.2.** Section 45 of The Planning (Northern Ireland) Act 2011, requires the council to have regard to the Local Development Plan as far as material to the application and to any other material considerations. Section 6 (4) of the Planning Act (Northern Ireland) 2011 requires that the determination of proposals must be in accordance with the development plan unless material considerations indicate otherwise.
- 6.3.** In September 2015, a new Strategic Planning Policy Statement was produced which applies to the whole of Northern Ireland. It must be taken into account in the preparation of Local Development Plans (LDP) and is material to all decisions on individual planning applications and appeals. However a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. Para 1.12 of SPPS states that any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in favour of the provisions of the SPPS i.e. where there is a change in policy direction, clarification or conflict with the existing policies then the SPPS should be afforded greater weight. However, where the SPPS is silent or less prescriptive on a particular planning policy

matter then retained policies this should not be judged to lessen the weight to be afforded to the retained policy.

- 6.4.** This site is located within the settlement limit of Newry as defined by the Banbridge, Newry and Mourne Area Plan 2015 (BN&MAP 2015). The site is on land zoned under NY 88 as a Development Opportunity Site. It's partially within NY 75 zoning for Newry City Centre, NY 128 Local Landscape Policy Area and the Newry Conservation Area. Zoning NY 88 in BN&MAP 2015 is subject to a number of key site requirements including the provision of a minimum of 14 social housing dwellings. The agent has submitted additional documentation through this proposal to demonstrate how the key site requirements of NY 88 can still be achieved within remaining land, not forming part of this application but within the remainder of the zoning. The applicant also owns this part of the zoning. Therefore this proposal does not represent a departure from the area plan as the applicant has given an indication that he could convert a building which he owns to meet the key site requirements in the future.
- 6.5.** The following are the matters left reserved in the previous outline approval and now to be considered as part of this application assessment:

Siting; the location of buildings within the site.

- 6.6.** The proposed building will be located to the northern portion of the site, located directly behind the existing commercial premises located along Abbey Way and behind the St Coleman's Abbey Primary School. This land is located at a significantly lower level than the roadside when viewed from Abbey Way and from Courtney Hill. The building is also located at the furthest point on the site away from the existing listed buildings. This helps overcome policy concerns when assessing it against BH11 for development affecting the setting of the listed buildings located on adjacent sites.

Design; the two dimensional internal arrangement of buildings and uses and the floor space devoted to such uses, the three dimensional form of

the buildings and the relationship with their surroundings including height, massing, number of storeys, general external appearance and suitability for the display of advertisements.

- 6.7. The proposed design of the building is in keeping with most health care facilities. It will be a 5-storey building which is 17.8m in height from proposed ground level. The building will have a flat roof with glass atriums and will visually be in keeping with a typical designed health facility design. The bulk of the main building will be approximately 3m higher than that of the existing commercial building fronting onto Abbey Way when viewed from Abbey Way and it will be approximately 1.5m higher than the existing St Coleman's Primary School when viewed from Courtney Hill. When viewed from Abbey Way it will be viewed against the backdrop of rising land within the existing topography including remaining vegetation and trees which are protected on land to the rear of the site towards the new St Clare's Primary School. The design submitted shows appropriate fenestration with a predominantly vertical emphasis, HED has been consulted in relation to the proposal to ensure that the height massing and design of the proposal will not have an adverse impact on the existing listed structures along Abbey Way (Abbey Yard) and the St Coleman's Primary School. In its response it confirmed that the proposal satisfies the policy requirements of BH 11 of PPS 6 subject to conditions in relation to the materials to be discussed below. The Proposal has also been considered by the Planning Authority in relation to the Newry Conservation Area, and in particular policy BH 12 of PPS 6. The Planning Authority has assessed the height massing and scale of the proposal and find the proposal acceptable when assessed against the conservation area policy and guidance. The height and low elevation design ensures that the proposed building reflects the character of the surround buildings, while utilising the lower ground level to accommodate a compact footprint to achieve the required uses within the development. While there may be the opportunity for advertisements to be displayed these will have to be sensitively designed and with appropriate materials and will be subject to separate applications. These will not be assessed through this application. Given the height differences between this building and the ground level of St Clare's Primary there will not

be any overlooking to the existing primary school grounds and the query received in relation to this issue has been assessed and is not a concern.

External appearance; the colour, texture and type of facing materials to be used for external walls, roofs and fittings.

- 6.8. The proposed materials will be polyester powder coated double glazed aluminium windows, polyester powder coated steel doors, polyester powder coated aluminium louvre's, polyester powder coated aluminium coping, polyester powder coated double glazed aluminium doors, timber gates and screen, proprietary render (Colour to be agreed prior to development commencing), polyester powder coated aluminium Brise Soleil, polyester powder coated aluminium cladding to columns and an aluminium clad canopy. HED was consulted on the proposed materials and is satisfied with these and have recommended conditions to state that the materials must be as specified on the drawings. It has also stated that the colour of the render be agreed with HED prior to works starting. A condition will be attached that this will be required to be submitted through the Planning Authority for agreement prior to works commencing on site. HED is satisfied that the proposal is in compliance with BH 11 of PPS 6. The Planning Authority has considered the proposed external appearance and materials in relation to the Conservation Area Guidance for Newry and the Policy BH 12 of PPS 6. The materials proposed are in keeping with those set out within the guidance booklet and the external appearance is acceptable given its proposed use, location and the surrounding buildings and the topography of the site.

Access; the location and two-dimensional design of vehicular and pedestrian access to the site from the surroundings and also the circulation, car parking, facilities for the loading and unloading of vehicles and access to individual buildings within the site.

Access and Circulation Details

- 6.9. There are two proposed accesses to this site, one from Courtney Hill and a secondary access from Abbey Way. A new access road will be constructed from Courtney Hill to the CCTC building, and through to the Abbey Way entrance. This will utilise the existing access but with improvements and

modifications to provide an increased width of road, footway links and increased sight lines.

The entire new road will be flanked by footway links, as will the car parking arrangements to ensure that pedestrians and vehicle users have safe access from the CCTC facility. There is the provision of dropped kerbs with tactile blister paving to indicate when a pedestrian is approaching a road. The proposed building will be developed approximately on the same level as that of the proposed road infrastructure entering from Abbey Way, ensuring that the public can enter it without undue effort if they are less able bodied or requiring assistance. This ensures that the internal arrangement of the road and parking layout meets the requirements of AMP 1 of PPS 3.

- 6.10.** As part of the consideration of the Outline Application the Planning Committee Members attached a condition that the existing pedestrian subway links be upgraded and maintained through a scheme to be submitted within the Reserve Matters applications. The applicant has submitted a scheme documenting the current condition the subways, together with a proposal to upgrade the lighting to LED lights and to provide a one-off cleaning of the graffiti and an anti-graffiti protective coating to the subway, together with a de-weeding exercise. This will ensure that a safe pedestrian link is maintained from the main town centre and increase accessibility as per AMP 1.
- 6.11.** In relation to the access from the public road DfI Roads requested as part of the outline approval, that the accesses to the site shall be in accordance with RS 1 form submitted with their consultation reply. This was conditioned on the outline permission. The RS 1 form stated that access should be in accordance with diagram four of the RS 1 form which shows a central access with equal splays either side. The diagram also shows that appropriate radii should also be provided. The RS 1 form also states that the visibility splays, width of access, minimum radii shall all be to the satisfaction of DfI. It states that the gradient shall not exceed 1:25 over the first 20m outside the road boundary from the edge of the carriageway and that the access positions on Abbey Way and Courtney Hill shall be to the satisfaction of DfI Roads.

- 6.12.** The proposed access positions on Abbey Way are to be located at the existing access which served the school. This access is proposed to be widened, with the pillars and railings to the right side of the access to be removed. The pillar forming part of the boundary wall of No 71, will be partially demolished and rebuilt and reformed. There will be a provision of a footpath on either side of the access with a dropped tactile curb just inside the entrance for pedestrian safety. The proposed width of the access is 6.4m. The splays to this entrance are to be improved with the removal of the railings and wall to the south of the entrance and the re-shaping of the pillar to No 71 Castle Street.
- 6.13.** The radii to the proposed entrance at Abbey Way are proposed to be 6m. This is a restricted radii to this access and requires approval for a formal agreement for a relaxation from DfI Roads. In order for this to be acceptable a Service Management Plan was submitted to state that the larger vehicles entering the site will only enter and exit via the Courtney Hill Access. The access at Courtney Hill will provide adequate splays, a 10m radii at the entrance, a road width of 6.5m at the entrance and footways at the immediate junction of the entrance.
- 6.14.** There were protracted discussions during the assessment of this application between the applicant and DfI Roads. DfI Roads raised a number of concerns about the nature of the proposed access arrangements and the applicant submitted a number of revisions and supporting information seeking to address these concerns. In its final response, on the submitted Travel Plan and Transport Assessment, DfI Roads highlighted a number of issues with the data and modelling results submitted and highlighted its overall remaining concerns with the proposed development, as summarised as follows:
- the extent of parking provision in relation to the extent of the development. Which does not reflect the information contained in the Travel Plan of May 2019. The overflow will inevitably spill on to the local network which has no on-street space capacity; Walking to the facility is not likely to be appropriate for many patients. It should also be noted that parking still needs to be provided for the existing on-site businesses currently using approximately 12 spaces off the proposed

entrance.

- proposed development should be readily accessed by non-motorised user including the mobility impaired and visually impaired.
- the proposed access on to Abbey Way. The access is close to the start of the left filter lane. Also, traffic exiting the site on to Abbey Way and wishing to travel north will have to turn left, cross 2 lanes of traffic over a short distance and turn right at the Abbey Way/William Street/Boat Street junction.
- As this access will undoubtedly have an impact on the main Abbey Way, a Road Safety Audit should be undertaken in accordance with DMRB GG 119 to fully consider the safety of all road users accessing and utilising the proposed development.
- The proximity of public transport bus stops are not in close vicinity of the site as would be required. The details of the location of any nearby bus stops providing set down and pick up from and to Newry Bus Station and City Centre should be clarified. Cycling is unlikely to be a viable mode of transport to the facility. Sustainable long term public transport access to the site should be a requirement and access standards provided appropriately.
- It is indicated in the Travel Plan that no goods vehicles will access the site from Abbey Way and that the Courtney Hill access is intended to facilitate all HGV movements. This disregards existing access arrangements to the private house at 71 Castle Street which currently enjoys unfettered access for servicing and deliveries from Abbey Way. The access arrangements to this property cannot be curtailed and delivery/servicing vehicles cannot be prevented from stopping along its frontage within the Abbey Way entrance. These would cause obstruction and queuing on to Abbey Way resulting in impairment of sightlines. No justification for any relaxation of standard from a required

10 m minimum radius stipulated in outline approval P/14/0335/O has been provided. For the above reasons 6 m is considered to result in an unacceptable restriction on the use of the access.

- No details have been submitted for revised arrangements for access and egress to the rear and side parking at existing businesses which will all now be compelled to use the archway off Abbey Way.

Based on the issues raised above DfI Roads stated that the application is contrary to Policy AMP 2 and Policy AMP7 of Planning Policy Statement 3, Access, Movement and Parking

Car Parking

- 6.15.** The proposal is for a 106 treatment room facility. The Parking Standards are guidance published by the Department to suggest an appropriate level of car parking for the different land uses set out. This facility would fall into the D1 Use Class of a Health Care Centre. Several types of facilities are listed within the first column. The appropriate use is a health centre and the second column indicates that there would be a requirement of 4 spaces per treatment room, 1 space per Doctor or Vet and one space per two other staff as well as a minimum of 1 ambulance space. This would suggest that there should be approximately 424 car parking spaces provided as well as a minimum of 1 ambulance space. AMP 7 within PPS 3 is the policy which assessed car parking provision. There is no area of parking restraint designated within the existing Area Plan.
- 6.16.** The Applicant has submitted a Travel Plan to demonstrate that a reduced level of car parking to the proposed development can be applied. The Travel Plan indicates that there is a sufficient level of car parking on neighbouring streets. Some of these streets are residential and several public car parks are also listed. The Planning Department reviewed these figures and concluded that the adjacent streets referred would not have sufficient parking availability to accommodate the extra parking which would occur as a result of this facility. In response amended plans were submitted, by the agent, increasing

the parking provision within the final scheme now under consideration. The Travel Plan also indicates that there will be approximately 20 per cent of staff either on leave, training or working off site (i.e. midwives, district nurses etc.). The final plans and Transport Assessment confirms 397 car parking spaces, including 3 service vehicle spaces and an ambulance space. There is sufficient space within the service yard for turning and deliveries also. The RDS promotes a sustainable development and promotes the use of public transport for city centre developments. In this proposal, the amount of car parking to be provided must be based on all relevant material considerations, including those referred to above. On balance it is considered that the proposal complies with AMP 7 and the Parking standards.

- 6.17.** Several of the objections received in relation to this proposal relates directly to traffic congestion already existing given the committed and approved developments in the surrounding area, together with a possible impediment of blue light services to residents and the Newry hospice nearby. DfI Roads, in a consultation response dated Oct 2018, requested a revised Traffic Impact Assessment for the proposed scheme. The agent returned a detailed document to demonstrate why this was not required. The Planning Department also requested that DfI roads consider the concerns of the Local Residents, the Hospice and the St Clare's Abbey Primary School on traffic congestion and traffic progression. These issues formed part of the broader DfI Roads assessment.

Landscaping; the use of the site not covered by building(s) and the treatment thereof including the planting of trees, hedges, shrubs, grass, the laying of hard surface areas, the formation of banks, terraces or other earthworks and associated retaining walls, screening by fencing, walls or other means, the laying out of gardens and the provisions of other amenity features.

- 6.11.** The proposal is sited on an area which has several trees protected by a Tree Preservation Order (TPO). The landscaping drawings submitted indicates that a large central swath of trees (running in a north/south direction) located

within Woodland W3 will be removed to facilitate the proposed access road. However the loss of trees in the area of W3 is offset by a proposed tree planting scheme with a good mix of 42 native species trees (species clearly indicated) ranging from 4-5m in height, planted in groups of three. The drawing indicates the removal of 9 trees from the remainder of the site. Eight of the trees are TPO protected trees. They are tree Nos. 13 (a Cherry), 14 (Cherry), 15 (Cherry), 109 (Sycamore), 111(Birch), 112 (Sycamore), 113 (Sycamore). Tree 114 is excluded from the Order. The level changes at this location, within and adjacent to the root protection areas of trees 109 and 110 show that retention of the trees is not viable with respect to the development proposals. The drawing indicates the retention of a group of 3 sycamore trees to the west of the site entrance, tree group 107-108 and tree No 115 (an Oak). The drawing indicates that these TPO trees will be protected by protective fencing to the standard required by British Standard BS 5387:2012. A further group of 8 new mixed species tree, ranging in height from 4-5m are shown planted to the east of the site entrance. Additional planting of 12 mixed species trees with a height of 4-5m are shown located just to the west of the TPO protection area. The Tree Protection Officer has indicated that he would wish to see a replacement tree for Tree No 109, however given the location of the tree on the site plan and the replacement trees already proposed I do not feel that the integrity of the Scheme would be adversely affected by not replacing this tree.

- 6.12.** There is a large portion of the proposed site covered by car parking, access roads and retaining structures to accommodate the proposed access roads. The proposed new access off Courtney Hill will cut through the site where there is an existing steep slope within the topography running east to west. The proposed new access will run north to south. In order to accommodate this there will be a large proportion of cut to the slope. In some areas up to 3.5m of ground will be cutaway, with the existing ground remaining being supported by retaining walls. Some of these retaining structures are substantial in height, especially to the west of the access road where these are 2.3m left visible after banking. Adjacent planting is intended to screen these structures. The planting proposed is of a mature nature and will aid the

integration of these structures and reduce any adverse impact on the setting of the listed structures or the Conservation Area, therefore meeting the requirements of BH 11 and BH 12 of PPS6. To the top of the slope there is a proposed reinforced earth retaining structure faced with climbing plants (akin to a living wall). This will achieve a vital engineering function while also ensuring that the amount of hard landscaping development will be kept to a minimum when viewed from public viewpoints within the scheme.

- 6.13.** The roads and car parking will be hard surfaced and finished with asphalt, while the foot paths will be finished in asphalt with white chips. The entrance area to the main building will be paved with silver coloured granite flagging, Tobermore Manhattan concrete paving blocks, Tobermore Mayfair concrete paving flags. There will also be a range of kerbing and blister paving to identify drop kerbs and pedestrian crossings. Street lighting, CCTV, and bins are all marked on the plans, together with several areas of grass, low elevation shrub planting and hand rails.

An objection has been received from an existing property at the proposed Abbey Way entrance to the site, which raised concerns about the impact on privacy. The Planning Department has considered this issue. In view of the proposed boundary treatments (including the retention of an existing wall and proposed shrub planting submitted plans) and the impact of the previous use on the adjacent former school site, it is considered that the proposal will not adversely impact on this existing property. The boundary treatment is clearly shown in section D-D of the Boundary Treatment Plan. Adjacent to this planting will be the proposed foot path and then the proposed road, which was present for the site's previous use. The increase in road widths does not cause concern in relation to the privacy of amenity for No 71. The developer proposed to retain many of the existing walls onsite and reinforce or repair these walls for reuse. This would ensure that the historic fabric of the site will be retained as much as possible and would be in keeping with conservation area policies.

- 6.14.** A detailed scheme to deal with the existing Japanese Knotweed on site has been submitted. Its implementation can also be conditioned as part of any formal decision. Overall both the hard and soft landscaping plans provide a significant level of detail which demonstrates that the proposed landscaping arrangements will be of a high quality and will result when development a mixture of essential parking and access arrangements while ensuring that these are softened by low and medium level planting so that the overall development will be an attractive amenity feature.
- 6.15.** A detailed landscaped Management Plan has been submitted as part of the Reserve Matters application. This Plan details the proposed implementation and maintenance of the landscaped areas and will be a condition to be implemented in perpetuity on any approval forthcoming.

Other Issues/Material Considerations.

Drainage Assessment

- 6.16.** The application has submitted a drainage assessment for the proposal considering it will involve significant hard surfacing on a site that is mostly grassland at present. The scale of the proposal would meet the requirements of FLD 3 and therefore a drainage assessment is required to demonstrate compliance with the policy. DfI Rivers have assessed the drainage assessment and are content with its contents. It is proposed to introduce mitigation measures to ensure that the risk from pluvial flooding is reduced from medium to low. It is also proposed that the storm drainage will be directed through the site to the lands beyond. This proposal is therefore compliant with FLD 3 of PPS 15.

Archaeological Submission

- 6.17.** An archaeological method statement has been submitted and DfC HED have been consulted with the documentation. They have returned their consultation response to state that the scheme can now proceed to licencing stage. The condition attached at outline stage should be reattached to any approval forthcoming to ensure the programme of archaeological works are

implemented prior to the commencement of development on site to ensure compliance with BH 1 and BH 3 of PPS 6.

Air Quality Management Report

- 6.18.** The site is located within the Newry Urban Centre Air Quality Management Area (AQMA). A condition on the outline requested the developer must submit documentation to demonstrate that the proposal will not have a negative impact on Air Quality within this designed area. The Applicant has submitted documentation as well as a travel plan to highlight mitigation measures which will be taken to ensure that the pollution within the AQMA will not be adversely increased as a result of this proposed development. Environmental Health have considered the information submitted and are content with the proposals subject to the Travel Plan submitted in September 2018 being conditioned to be implemented on any approval.

Badger Setts

- 6.19.** Information was submitted at the beginning of the Reserve Matters application to demonstrate that what was thought to be a badger sett at the outline stage was in fact not a badger sett. This information came in the form of an ecologist report. DEARA NED (Natural Heritage Division) was consulted with this report and agreed with the conclusion of the report that there were no badgers on site. This proposal now complies with NH 2 of PPS 2.

7.0. Conclusion.

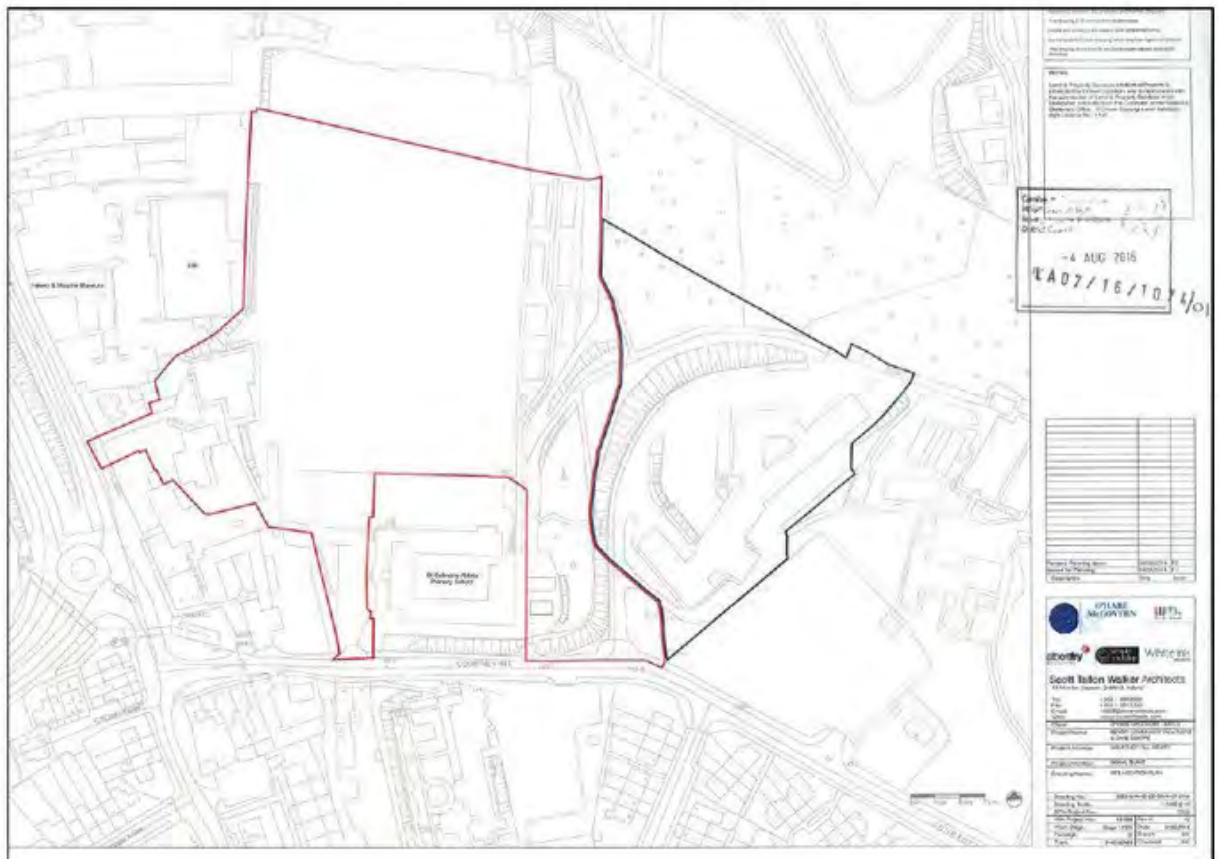
- 7.1.** The Planning Department has completed its assessment of the application in consultation with relevant statutory consultees. DfI Roads has confirmed that the access arrangements are not acceptable and are contrary to policy. The application is recommended for refusal for the reasons outlined below.

8.0. Recommendation.

- 8.1.** The application is recommended for refusal on the grounds that:

- 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 it could lead to vehicles parked on the access road at Abbey Way thus interfering with the free flow of traffic on the main road and the visibility of traffic leaving the access.
- 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 adequate junction radii of 10 metres are not provided at the junction of the access with Abbey Way leading to traffic conflict as a result of turning movements.
- The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 7, in that it would, if permitted, prejudice the safety and convenience of road users since adequate provision cannot be made clear of access for parking, turning and loading of vehicles serving or visiting the private house dwelling adjacent to the proposed access off Abbey Way.
- 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 an adequate footway cannot be provided into the site to facilitate movements from Abbey Way.
- The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 7, since it would prejudice the safety and convenience of road users on the adjacent public roads since adequate provision is not being made within the site for the parking of staff, visitors and users of existing businesses.

APPENDIX 1. Site Location Plan.



APPENDIX 2: Consultation Responses.

DFI Rivers Agency:

Thank you for your ePIC consultation dated the 14th November 2018.

Further to my previous response (03/11/2018), DfI Rivers have reviewed the Amended Drainage/Flood Risk Assessment (D/FRA) dated 12th November 2018 submitted by Albert Fry associates and comment as follows:

In section 4.2 paragraph 4 & 5 of the Amended D/FRA the applicant states:

The applicant has ensured that exceedence flows have been properly routed and will not increase flood risk to the development or elsewhere as a result of the proposed works. Therefore, DfI Rivers while not being responsible for this assessment accepts the applicant's logic and has no reason to disagree with its conclusions.

Consequently, DfI Rivers cannot sustain a reason to object to the proposed development from a drainage or flood risk perspective.

It should be brought to the attention of the applicant that the responsibility for the accuracy, acceptance and implementation of the proposed flood risk measures rests with the developer and their professional advisors. (refer to section 5.1 of PPS 15).

DFC Historic Environment Division Historic Buildings

Historic Environment Division, Historic Buildings (HED:HB) has considered the impacts of the proposal on the listed buildings and on the basis of the information provided, advises subject to conditions it satisfies the policy requirements of Paragraph 6.12 (setting) of Strategic Policy Planning Statement for Northern Ireland and policy BH 11 (Development affecting the Setting of a Listed Building) of the Department's Planning Policy Statement 6: Planning, Archaeology and the Built Heritage.

Historic Environment Division: Historic Monuments (HED: HM) has reviewed the amended plans and are content with the scheme provided the remaining archaeological investigation works are carried out as per the agreed updated programme of archaeological works for P/2014/0335/O & LA07/2016/1074/RM (October 2018). Please refer to our previous comments. HED: HM are content subject to conditions for the agreement and implementation of a developer-funded programme of archaeological works. This is to identify

and record any archaeological remains in advance of new construction, or to provide for their preservation in situ, as per Policy BH 4 of P

**DAERA Agriculture, Environment & Rural Affairs, (Planning Response Team),
Drainage and Water. Water Management Team**

Water Management Unit has considered the impacts of the proposal on the surface water environment and on the basis of the information provided is content with the proposal subject to conditions.

Natural Heritage and Conservation areas.

Natural Environment Division has considered the impacts of the proposal on the designated sites and other natural; heritage interests and , on the basis of the information provided, has no concerns.

N,M & DDC Environmental Health Department

This Department would wish to highlight that the proposed development is situated within the Newry Urban Centre Air Quality Management Area (AQMA) declared because of levels of nitrogen dioxide due to traffic emissions that exceed the National Air Quality Strategy objective limits. The Council together with its partners are committed to an Air Quality Action Plan which aims to improve air quality within the AQMA. As part of that action plan it is necessary to consider the potentially adverse effect of any new developments upon air quality and upon the achievement of the Action Plan.

The Department has reviewed the documentation relating to the travel plan

The Newry Community Treatment Care Centre Travel Plan estimates that the maximum number of site users at any one time will be approximately 785 including staff and patients. The travel plan outlines the existing transport accessibility of the area and aims to promote sustainable travel to/from and within the site, with a particular emphasis on reducing the need to travel by car and minimising the level of single occupancy car journeys. The department welcome this approach as encouraging a shift towards sustainable modes of transport will assist in mitigating against any adverse air quality impact of the proposed development

The department would request that the following condition should be placed on any approval;

The development shall operate in accordance with the Newry Community Treatment Care Centre Travel Plan September 2018. **REASON:** To encourage the use of alternative modes of transport to the private car.

DFI Roads

DFI Roads would make the following comments:

- 1.1 Dfl Roads is content with the peak hours identified within the Transport Assessment and the existing traffic flow diagrams resulting from 6 March 2019 survey.
- 1.2 It is accepted that there is an element of pass-by trips but the figure of 30% is considered to be a high estimation. A sensitivity test based on a properly justified percentage should be carried out.
- 1.3 The committed development trips associated with P/2014/0368/O, St Clare's Primary School, need amended to reflect figures from the Outline application of 317 arrivals and 64 departures am peak and 279 arrivals and 195 departures in pm peak. This school generates significant traffic in the vicinity of Courtney Hill and High Street at set down and pick up times and the present actual figures may exceed these.
- 1.4 There are concerns with the figures provided in Figures 5.3 and 5.4 as the 30% pass-by estimate has already been applied in 5.1 and 5.2. Justification of the figures in 5.3 and 5.4 is required.
- 1.5 Dfl Roads is content that National Road Transport Forecast (NRTF) central growth rates have been applied correctly.
- 1.6 In terms of Threshold Assessment the following comments apply:

- 1.6.1 The traffic flows for the committed development in Figure 2.1 are too low compared to the TA and TN 11 (Version 2) for St Clare's planning application P/2014/0368/O. This will have a knock on effect on base traffic and proposed traffic flow diagrams. As the actual committed development traffic is higher the modelling results will show even higher Ratio of Flow to Capacities (RFCs)/Degree of Saturation (DoS)/Mean Maximum Queues (MMQ's) than those presented in the current TA.
- 1.6.2 It is unclear what exactly Figures 5.3 and 5.4 are showing. The 30% pass-by has already been applied to the generated trips, (using trips based on Portadown CTCC), to calculate the generated traffic flows for the proposed CTCC in Figures 5.1 and 5.2. Further clarification is required as to what exactly is being shown in Figures 5.3 and 5.4 and how the flows have been determined.
- 1.6.3 The 2019 proposed traffic flows should be based on the existing traffic, (as surveyed in 2019), plus the committed development traffic, plus the trips generated by the proposed development, (less the agreed pass-by rate). The proposed traffic flow in Figures 6.1-6.4 will increase once the committed development traffic is amended. Further amendments may also be required depending on the clarification received for Figures 5.3 and 5.4.

Following corrections and updates any junctions above the threshold of 5% intensification should be assessed in detail. The modelling should be rerun to include the revised traffic flows.

- 1.7 The applicant's consultant has modelled the following 5 junctions

- Abbey Way Access;
 - Courtney Hill Access;
 - Courtney Hill/Boat Street;
 - Boat Street/Abbey Way; and
 - Kilmorey Street/William Street.
- 1.8 The modelling results will change once all corrections and updates are made to the traffic flows, including the committed development trips. As the actual committed development trips are higher than the flow shown in the TA, modelling results will show even higher RFC's/DoS's/MMQ's than those presented in the TA.
- 1.9 Following previous concerns raised about the Abbey Way/Boat Street junction, the consultant's response, dated 8 July 2019, includes an assessment of the Archway at the location of the 'University of the Third Age'. The consultant has used this assessment to provide comment on the average DoS for the Abbey Way/Boat Street junction. However the use of average DoS is not acceptable as it does not highlight the likely congestion issues on specific arms of the junction. Whilst there may be considerable spare capacity on the Archway arm of the junction the other 5 arms of the junction will still operate well over the recommended 90% DoS in AM peak in 2031. Three of the arms will also operate over the recommended 90% DoS in PM peak in 2031.
- 1.10 The traffic flow diagrams need to be corrected and the revised flows included in updated modelling. Junction modelling input files have still not been provided to check the parameters and geometry used for each of the junctions assessed.
- 1.11 DfI Roads continues to have concerns about the extent of parking provision in relation to the extent of the development. This does not reflect the information continued in the Travel Plan of May 2019. This indicates 96% of staff use a car to travel to work and 89% park at work. At any time 785 staff and patients will be on site and there are 397 parking spaces being provided. The maximum staff on site number 446 and 339 patients. It is stated that 88% of

staff will not willingly change their mode of transport thus requiring 350 spaces for staff alone. The overflow will inevitably spill on to the local network which has no on-street space capacity. Walking to the facility is not likely to be appropriate for many patients. It should also be noted that parking still needs to be provided for the existing on site businesses currently using approximately 12 spaces off the proposed entrance.

- 1.12 The proposed development should be readily accessed by non-motorised users including the mobility impaired and visually impaired. Pedestrian protection is required at the steps leading to the basement to the building adjacent to the Abbey Way entrance. Adequate width in accordance with DDA standard needs to be provided at accesses for mobility scooters with 2.0 m being the general requirement. The Travel Plan indicates the intention to comply with these requirements.
- 1.13 There remain concerns with the proposed access on to Abbey Way. The access is close to the start of the left filter lane. Also, traffic exiting the site on to Abbey Way and wishing to travel north will have to turn left, cross 2 lanes of traffic over a short distance and turn right at the Abbey Way/William Street/Boat Street junction.
- 1.14 As this access will undoubtedly have an impact on the main Abbey Way, a Road Safety Audit should be undertaken in accordance with DMRB GG 119 to fully consider the safety of all road users accessing and utilising the proposed development.
- 1.15 The proximity of public transport bus stops are not in close vicinity of the site as would be required. The details of the location of any nearby bus stops providing set down and pick up from and to Newry Bus Station and City Centre should be clarified. Cycling is unlikely to be a viable mode of transport to the facility. Sustainable long term public transport access to the site should be a requirement and access standards provided appropriately.

- 1.16 It is indicated in the Travel Plan that no goods vehicles will access the site from Abbey Way and that the Courtney Hill access is intended to facilitate all HGV movements. This disregards existing access arrangements to the private house at 71 Castle Street which currently enjoys unfettered access for servicing and deliveries from Abbey Way. The access arrangements to this property cannot be curtailed and delivery/servicing vehicles cannot be prevented from stopping along its frontage within the Abbey Way entrance. These would cause obstruction and queuing on to Abbey Way resulting in impairment of sightlines. No justification for any relaxation of standard from a required 10 m minimum radius stipulated in outline approval P/14/0335/O has been provided. For the above reasons 6 m is considered to result in an unacceptable restriction on the use of the access.
- 1.17 No details have been submitted for revised arrangements for access and egress to the rear and side parking at existing businesses which will all now be compelled to use the archway off Abbey Way
- 1.18 Based on the above DfI Roads would respond as follows:

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 it could lead to vehicles parked on the access road at Abbey Way thus interfering with the free flow of traffic on the main road and the visibility of traffic leaving the access.

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 adequate junction radii of 10 metres are not provided at the junction of the access with Abbey Way leading to traffic conflict as a result of turning movements.

The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 7, in that it would, if permitted, prejudice the safety and convenience of road users since adequate provision cannot be made clear

of access for parking, turning and loading of vehicles serving or visiting the private house dwelling adjacent to the proposed access off Abbey Way.

The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP2, in that it would, if permitted, prejudice the safety and convenience of road users since an adequate footway cannot be provided into the site to facilitate movements from Abbey Way.

The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 7, since it would prejudice the safety and convenience of road users on the adjacent public roads since adequate provision is not being made within the site for the parking of staff, visitors and users of existing businesses.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Ref: LA07/2016/1074/RM

Proposal: Development of Community Treatment and Care Centre, associated parking including an area of decked parking, accesses from Abbey Way and Courtney Hill and other associated operational development.

Location: Lands at Abbey Way/Courtney Hill (including part of former grammar school lands and lands to the rear of Abbey Yard) Ballymacraig Newry BT34 2EA

Addendum to Case Officer Report

1.0. This application was brought to the Planning Committee on Wednesday 16 October 2019 with an opinion to refuse on the following grounds:

- 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 it could lead to vehicles parked on the access road at Abbey Way thus interfering with the free flow of traffic on the main road and the visibility of traffic leaving the access.

- 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 adequate junction radii of 10 metres are not provided at the junction of the access with Abbey Way leading to traffic conflict as a result of turning movements.
 - The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 7, in that it would, if permitted, prejudice the safety and convenience of road users since adequate provision cannot be made clear of access for parking, turning and loading of vehicles serving or visiting the private house dwelling adjacent to the proposed access off Abbey Way.
 - 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 an adequate footway cannot be provided into the site to facilitate movements from Abbey Way.
 - The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 7, since it would prejudice the safety and convenience of road users on the adjacent public roads since adequate provision is not being made within the site for the parking of staff, visitors and users of existing businesses.
- 2.0.** The application was deferred at the request of the Council to allow for a site visit to take place to which DfI Roads Representatives would be invited and a meeting to be organised with an adjacent resident to address concerns regarding road safety and access.

- 2.1.** A site visit with members of the Planning Committee was held on Thursday 21 November 2019.
- 2.2.** The applicant has also submitted further layout plans showing changes to the access arrangements to the site at Abbey Way following the previous committee meeting.
- 2.3.** Details of the formal revised access arrangements have been neighbour notified and consulted on.
- 2.4.** DFI Roads Service has assessed the revised details. In its formal response, dated 4 December 2019, it has confirmed that its comments outlined in its previous consultaion response dated 19 September 2019 refers. It has accepted that the revised access arrangements, as indicated on the amended drawings, addresses its concerns regarding the junction onto Abbey Way. It also notes that part of these proposed amendments are outside the area outlined in red and for these amendments to be accepted by DFI Roads, Planning would need to consider this. DFI Roads has also stated that if the red line is extended to include the proposed amendments then 4 of its 5 stated reasons for refusal (Points 1-4 below) would no longer apply.
- 3.0. Planning Assessment.**
- 3.1.** The revised access arrangements, submitted for consideration, are based on an increased 10m radii to be provided at the Abbey Way access point. This would also enable access by public transport vehicles.
- 3.2.** The Planning Department has considered DFI Roads Service's response on this particular issue (outlined at para 2.4. above). Established planning practice allows for the extension of the red line of a planning application site to include additional land to provide for revised access details. In this context it is considered that the DFI Roads reasons for refusal, (Points 1-4), would no longer apply.
- 3.3.** The Planning Department notes the reference, by DFI Roads, in the first sentence of its response, to its previous consultation response dated 19

September 2019. In that previous response DFI raised a number of concerns including those around the submitted Transport Assessment and the need for a Road Safety Audit. These matters remain to be addressed.

- 3.4.** DFI Roads has also confirmed that the remaining reason for refusal has not been addressed. It remains of the opinion that the proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 7, since it would prejudice the safety and convenience of road users on the adjacent public roads since adequate provision is not being made within the site for the parking of staff, visitors and users of existing businesses.
- 3.5.** The appropriate level of car parking to be provided by a development proposal is a matter for the planning authority to consider as part of its assessment of a planning application taking into account all material considerations. The appropriate level of car parking will vary depending on the circumstances of each application, including site location and the availability of other modes of transport, including public transport.
- 3.6.** The case officer's report includes a section on public transport provision. It is stated that on balance, in view of general material considerations, including the details of the travel plan and the drive to promote the use of public transport within the city centre that the proposal complied with Policy AMP 1 of PPS and the published car parking standards. The case officer report also referenced the comments from DfI in relation to the proposed access arrangements and the level of car parking provision. These were reflected in the recommended reasons for refusal.
- 3.7.** The proposed access arrangement at the Abbey Way junction has now changed, since the previous Committee meeting. This would enable public transport to access the application site. The need for a public transport facility to service the site was raised by the previous Planning Committee meeting. The agent has also indicated that negotiations are underway with Translink, to deliver this. In the light of this it is considered, on balance, that a recommendation to approve can be made. This is on the basis of a dedicated public transport arrangement being in place to service the site prior to the

facility becoming operational. This will offset the deficiency in car parking provision. While no formal arrangement is yet in place, if the Committee is so minded, then it is felt that this could be delivered through an appropriate planning condition or planning agreement. The recommendation to approve is also based on the need to address the other outstanding issues highlighted by DFI Roads Service in its earlier consultation response dated 19 September 2019.

4.0. Recommendation.

4.1. On the basis of the above, the application is recommended for approval based on a number of planning conditions including, but not restricted to, the following:

- A revised Transport Assessment shall be submitted, for agreement by the Planning Department in consultation with DFI Roads Service, prior to the commencement of the development. This shall include accurate details of traffic flows and committed development trips and a Road Safety Audit. It should also include details of the outworkings of that Assessment, together with an agreed timeframe for its implementation, for agreement by the Planning Department.

Reason: In the interests of traffic safety and to ensure all related issues are properly addressed, including those raised by DFI Roads in its response to the Planning Department dated 19 September 2019.

- A revised Travel Plan shall be submitted, for agreement by the Planning Department in consultation with DFI Roads Service, prior to the commencement of the development. The Travel Plan shall include details of the package of measures to be implemented by the applicant, together with the associated timescales, for the delivery of more sustainable travel patterns for those travelling to and from the development, including any parking constraint measures intended to reduce reliance on the private car. The applicant will be responsible for the monitoring, review and enforcement of the Travel Plan objectives

and measures. It will submit annual reports to the Planning Department for a period of 5 years after the date of approval or until the Travel Plan is agreed, by the Planning Department, as being fully implemented, whatever is the earlier date.

Reason: In the interests of ensuring sustainable travel patterns to the site and traffic safety and to ensure all related issues are properly addressed, including those raised by DFI Roads in its response to the Planning Department dated 19 September 2019.

- A detailed programme of enhanced public transport arrangements to serve the proposed use, formally agreed in writing with the competent authority Translink NI, shall be submitted to the Planning Authority for agreement in writing prior to the approved use becoming operational. This must include details of a dedicated bus service route from the existing Newry Bus Centre to the site together with an agreed operating timetable to confirm the time and frequency of services together with details of the associated public transport infrastructure.

Reason: To ensure the provision of appropriate public transport arrangements to serve the application site.

Case Officer Signature:
Date: 05 December 2019
Appointed Officer Signature:
Date: 05 December 2019

DFI Roads Response.

04 December 2019

DFI Roads comments outlined in the previous consultation response dated 19 September 2019 refers.

DFI Roads would now, however, accept that the proposed amendments as indicated on the above referenced drawing addresses our concerns regarding the junction onto Abbey way.

However, it is noted that part of these proposed amendments are outside the area outlined in red and for these amendments to be accepted by DFI Roads Planning would need to consider this.

Based on the above DFI Roads would respond as below:

- 1 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 it could lead to vehicles parked on the access road at Abbey Way thus interfering with the free flow of traffic on the main road and the visibility of traffic leaving the access. **See Note 1 below**
- 2 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 adequate junction radii of 10 metres are not provided at the junction of the access with Abbey Way leading to traffic conflict as a result of turning movements. **See Note 1 below**
- 3 The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 7, in that it would, if permitted, prejudice the safety and convenience of road users since adequate provision cannot be made clear of access for parking, turning and loading of vehicles serving or

visiting the private house dwelling adjacent to the proposed access off Abbey Way. ***See Note 1 below***

4 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 an adequate footway cannot be provided into the site to facilitate movements from Abbey Way. ***See Note 1 below***

5 The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 7, since it would prejudice the safety and convenience of road users on the adjacent public roads since adequate provision is not being made within the site for the parking of staff, visitors and users of existing businesses.

Note 1: Points 1 to 4 would be removed if the red line is extended to include the latest proposed amendments.

Reynold Nicholson Principal Engineer

04 December 2019

Newry Community Treatment and Care Centre

Submission to Newry, Mourne and Down Planning Committee, 11th December 2019

- 1.0 This submission is made to Newry, Mourne and Down District Council in support of Planning Application Ref. LA07/2016/1074/RM, the reserved matters application for the Newry Community Treatment and Care Centre (CTCC). It is made on behalf of GPG O'Hare. Consortium member O'Hare and McGovern have been building in the Newry area for 45 years and are committed to the delivery of a successful development for the city.
- 2.0 The 'Transforming Your Care' (TYC) review of Health and Social Care in Northern Ireland identified a need to completely change the way in which services are delivered to the population. A critical recommendation was that professionals providing health and social care services should work together in a more integrated way to plan and deliver consistently high-quality care for patients and deliver more care closer to home and less in secondary care settings. To achieve this, significant investment in primary care infrastructure is required.
- 3.0 The Newry CTCC is a £30M investment which supports the TYC programme. The Newry CTCC will improve the overall health and wellbeing of the community and the delivery of integrated care services. It will help to address identified pressures associated with a growing and ageing population and poorer health and growth in chronic conditions.
- 4.0 The Newry CTCC will, as part of this programme, place the individual at the centre, promoting a better outcome for the service user, carer and their family. It will relieve pressures, reduce patient waiting lists and result in greater access to bed spaces at hospitals. It will provide a range of vital health services including GP practices, dental services, physiotherapy and hydrotherapy services, children and adult mental health services, integrated care teams and other allied health professional services. It is a critical piece of healthcare infrastructure of significant public interest.
- 5.0 In addition to significant healthcare benefits, the Newry CTCC will deliver a range of other social and economic benefits. It will deliver the development of an identified Development Opportunity Site in Newry City Centre. It has the potential to be a catalyst for further investment in Newry City Centre including in the Conservation Area and in the re-use of Listed Buildings.
- 6.0 The outline planning application for a 14,500 sqm Community Treatment and Care Centre accessed via Abbey Way and Courtney Hill was submitted in 2014. This application was subject to a robust assessment including built heritage, drainage, flood risk, ecology, archaeology, air quality and transport assessment. The Council granted planning permission in 2015 for the Community Treatment and Care Centre with accesses at Courtney Hill and at Abbey Way.
- 7.0 The 2016 reserved matters submission is for a smaller CTCC and seeks approval for five reserved matters, namely, siting, design, external appearance, landscaping and access. The application has been the subject of assessment for over three years and is recommended for approval. We support the conclusion of the Council's professional planning officers to recommend approval.

- 8.0 The application was presented to the October 2019 Planning Committee with five reasons for refusal provided by DfI Roads. The application was deferred by the Planning Committee.
- 9.0 The CTCC is served by two accesses at the locations previously approved. Both accesses are designed in accordance with Development Control Advice Note (DCAN) 15. The site benefits from an accessible city centre location. It is accessible by sustainable transport options and provides 397 parking spaces.
- 10.0 The applicant has entered into an agreement to acquire the residential property adjacent to the Abbey Way access which enables the provision of enhanced access radii (of 10m) and footway width (the footway to the north of the access is 2.0m reducing to 1.8m over a short distance and the footway to the south of the access is 2.0m reducing to 1.4m over a short distance). DfI Roads confirmed in correspondence (February 2019) that minimum 1.2m footways over a short length would be accepted.
- 11.0 In addition, the access to the residential dwelling is improved, parking can be improved within the curtilage of dwelling and a lay-by space is provided adjacent to it.
- 12.0 An access, in accordance with DCAN 15, is provided at Abbey Way which will ensure that vehicles will be able to enter and exit the site safely.
- 13.0 In relation to parking provision, the Council's October 2019 Planning Report confirmed in paragraph 6.16 that the proposal complies with Policy AMP 7 and the Parking Standards. The proposal provides 397 parking spaces which is a significant increase on the outline planning application / the submission of the reserved matters application (228 spaces). It is similar to other comparable developments, for example, the similar CTCC development in Lisburn which was approved, at an out of centre location, with 400 spaces. It is also significantly in excess of what would be provided for the same development in other town centres where 270 spaces approx. would be provided. Furthermore, there are public car parks available in the vicinity of the site and staff and visitors to existing healthcare facilities use public car parks and on street parking.
- 14.0 The site benefits from an accessible city centre location and is accessible by sustainable transport options. Bus stops and Newry Bus Station are within acceptable walking distances of the site. The applicant has met with and been out round the site with Translink. Town Services 338a and 338b serve the area around the site with stops at High Street and Boat Street. Translink do not propose to change their town service routes but the CTCC access arrangements can accommodate town centre services.
- 15.0 The proposed development is a significant investment of some £30M in vital healthcare infrastructure and services in Newry. In the context of the importance of the proposed development, the significant public benefits which will result and the matters noted above, including the acquisition of the adjoining residential property, the application is commended to the Committee for approval.
- 16.0 Approval of the application will allow construction to commence in 2020 and the Newry Community Treatment and Care Centre to open in 2022.



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, however they advise the developer to clarify position of existing culvert and note that an undesignated watercourse exists to the western boundary of the site of which they have no records.

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 Tullybranngan Road
- Nos 19, 21, 21a, 23, 25, 27, 29, 32, 34, 36, 38, 39 Bryansford Road
- No 50Shimna 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
PSRNI DES 2 Townscape

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 that 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 to be 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

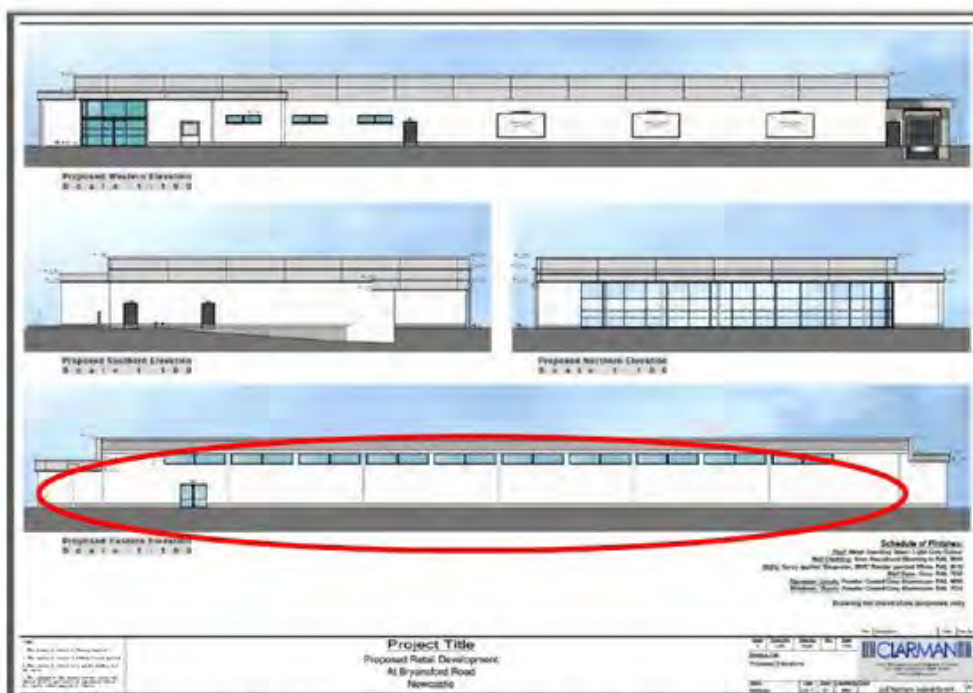


Fig 7 Elevation to Common boundary with Roslyn Place

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 1st 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 3rd 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. Further investigation is required to establish the alignment of the culvert on site, however, 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.

Consideration of Representations

Objections have been received from 9 different parties, a summary of the issues raised are listed below.

7 Slievecoole Park raises the following issues –

- The proposal is not in keeping with the residential nature of the area.
- It contravenes para 6.270 of the SPPS
- There is no need for the application as there is sufficient space at the existing Lidl site to develop
- Closure of the existing store will have a detrimental impact on the town centre
- The proposal may result in the closure of Tullybrannigan Stores
- Multiple Traffic Issues – increased traffic, increased accidents
- Car parking has potential to increase flooding

Tollymore United Football Club 7 Slievecoole Park

- Impact the proposal will have on flooding at adjoining properties
- Impact proposal will have on drainage of football pitch
- Potential for theft of footballs
- Potential Insurance issues of Lidl customers being affected by adjacent football pitch (Ball damage)
- Concerns regarding vermin
- Concern regarding the impact of the sale of alcohol particularly to young people
- Concern regarding the increased traffic and the implications of the that for the area

32 Bryansford Road

- Loss of privacy and impact on private amenity space given the new access will run adjacent to her garden area and views may be possible into her dwelling from people entering and leaving the site
- Noise and Vehicular Disturbance given the access is directly adjacent her dwelling
- Light Pollution into her property and garden from the adjacent light column and signage of which details have not been provided
- Concern regarding the mitigation measures for the Japanese Knotwood present on site

Further comments reiterate concern regarding Japanese Knotwood, along with further comments relating to signage, footways and additional lanes for exiting traffic.

9 Shanslieve Drive

- Traffic issues particularly in summer season
- Site will change from a green field to a car park and the Lidl signage will greet tourists visiting area

Further Comments received 16.11.18 raise issues regarding

- Ownership of the site
- Transport Assessment was carried out at the quietest time of year
- Access at Shan Slieve is unsuitable for several reasons

Further comments received 12.12.18 reiterate the above issues and advise that despite the revised road layout the objection remains.

7 Speilga Avenue

- 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 is contrary to the ADAP 2015 and the SPPS in that it would, if approved, erode the character of the area and affect the amenity of nearby residents
- The hours of operation, including delivery time, noise, light trespass and general disturbance would have an unacceptable impact on the amenity of the neighbours of the site
- Proposal is contrary to PPS 3 as the accesses will prejudice the safety and significantly inconvenience the flow of traffic
- The proposal is contrary to Policy AMP 7 of PPS 3 in that inadequate provision has been made for car parking associated with the development.
- Potential signage would negatively impact on the residential amenity of adjacent properties and detract from the surrounding and character of the area.
- Traffic survey takes no account of the visitor traffic in the tourist season between March – August.

Additional comments received 22.01.19 state that a new traffic survey should be carried out between March and October to give a more realistic picture of the traffic in Newcastle.

11 Shan Slieve Drive

- Proposal is out of character with the surrounding residential area
- Area is zoned for housing
- Shan Slieve Drive cannot accommodate proposed traffic
- The proposed entrance on the Bryansford Rd is dangerous
- Proposal will result in increased traffic
- Increased potential for flooding
- Proposal will lead to closure of corner shop
- It will damage the town centre of Newcastle
- Proposal will affect house prices in the area

33 Shan Slieve Drive

- Proposal will substantially increase traffic and thereby destroy residential amenity and significantly inconvenience the flow of traffic in the Shan Slieve area
- The Transport Assessment has taken a wholly inadequate consideration of the road network, the one-way system and the impact this omission will have on Shan Slieve and the residents therein.

Cllr Laura Devlin

- Proposal fails PPS 5 in that the existing could accommodate an extension
- The proposal will impact on the residential amenity of those residents of Shan Slieve
- Traffic survey was carried out in October and does not accurately reflect the traffic problems in Newcastle.
- Proposed pedestrian crossing could cause issues for pedestrians and drivers
- Public transport does not cater for all potential customers of the store and many people would have to walk to the bus station
- The sale of alcohol in the store may increase the anti-social behaviour that currently exists in the area
- Proposal may increase flooding in the area

- The site contains Japanese Knotwood

39 Shan Slieve Drive

- Ownership
- Site is located within a long established residential area
- Use of Shan Slieve Drive access point unacceptable
- Traffic Survey is inaccurate as it does not consider summer traffic
- Proposal will result in a change of character for the area

Don Holdings Ltd

- Inaccurate land ownership
- Inaccurate traffic surveys
- Road safety
- Impact on residential amenity
- Failure of Lidl to recognise the extant apartment development adjacent and full extent of vehicular rights of way

Consideration of the objections

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 will not have an adverse impact on the existing road infrastructure and the proposed access is acceptable in terms of road safety.

Proposal not in keeping with the character of the area

The site is located within the settlement limit of Newcastle, where there is a presumption in favour of development provided, it does not cause demonstrable harm to interest of acknowledged importance.

Contrary to SPPS in terms of the sequential test, need for new food store in Newcastle

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.

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.

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 and advised that there are 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 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.

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

Whilst the Council are not in a position, in the absence of the submission of a CLUED, to verify the status of the above approval, consideration has been had to the relationship of the proposed foodstore to the approved apartment block. This 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 of which a summary is provided below

Graeme Stanbridge 63 Henryville Manor Ballyclare – supports the proposal as it is providing a new base for the Mourne Mountain Rescue Team

Alex Smith Maritime Operations Controller HM Coastguard - supports the proposal as it is providing a new base for the Mourne Mountain Rescue Team

George Acheson Mourne Rambling Group Ballymena Road Doagh - supports the proposal as it is providing a new base for the Mourne Mountain Rescue Team

Mr John News Sports Council for NI - support for MMRT

Mr Trevor Fisher – keen hillwalker supports the MMRT

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.

18. 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.

- 19. 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.

SignedDate

SignedDate



Comhairle Ceantair
**an Iúir, Mhúrn
 agus an Dúin**

**Newry, Mourne
 and Down**
 District Council

Application Reference: LA07/2018/1614/O

Date Received: 19 October 2018

Proposal: Dwelling on a farm

Location: The application site is located 50 metres South of No. 24 Island Road, Attical.

Site Characteristics & Area Characteristics:

The application site is located just outside the settlement limit of Attical within the countryside area. The site comprises a roadside agricultural field located 30m south of the main farm dwelling and buildings at 24 Island Road, Attical. The site is separated from the main farm buildings by an agricultural field (see below). The site is a roadside field enclosed by a mourne dry stone wall. A mourne dry stone wall separates the application site with the adjoining field to the north. The rear and southern boundaries are undefined as the site is cut out of larger agricultural field.



Image 1

Site History: No planning history on application site.

History on farm maps

Field 19:

- X/2003/0568/F Retirement Dwelling & detached garage & loose box block.

130m west of Kilcarn Road, Comber. Permission refused 12 June 2004

- X/2004/1763/F Retirement dwelling with detached garage/stables. Permission granted
- X/2006/1093/F Change of house type from existing design to provide accommodation to rear 1 1/2 storey return. New design to match existing footprint and location 130M West of Kilcarn Road, Drumreagh, Comber. Permission granted 19 December 2006.

The above applications are not relevant to the current application as they are pre 25 November 2008 (i.e. Introduction of draft PPS 21)

Planning Policies & Material Considerations:

This planning application has been assessed against the following policies:

- The Banbridge, Newry and Mourne Area Plan 2010,
- Strategic Planning Policy Statement (SPPS) for Northern Ireland,
- PPS21 Sustainable Development in the Open Countryside,
- PPS 2 Natural Heritage,
- PPS3 Access, Movement and Parking,
- DCAN 15 Vehicular Access Standards, and
- The Building on Tradition Sustainable Design Guide.

Consultations:

DFI Roads – No objection subject to conditions

NI Water – Generic response received

DAERA – Business ID established for more than 6 years and claims made from 2005 – 2018.

Objections & Representations

One neighbour notification was issued on 7 November 2018. The application was advertised in the local press on 7 November 2018. No representations were received.

Consideration and Assessment:

The Banbridge, Newry and Mourne Area Plan 2010

Section 45 of the Planning Act (NI) 2011 requires the Council to have regard to the Local Development Plan (LDP), so far as material to the application and to any other material considerations. The relevant LDP is the Banbridge, Newry and Mourne Area Plan 2015 as the Council has not yet adopted a LDP. The site is located outside the development limits of a designated settlement and it is located within the Mourne Area of Outstanding Natural Beauty. There are no specific policies in the Plan relevant to the determination of the application which directs the decision maker to the operational policies of the SPPS, and the retained policies of PPS 2, PPS 3 and PPS21.

Strategic Planning Policy Statement (SPPS)

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

PPS21 – Sustainable Development in the Countryside

Policy CTY 1 states a range of types of development which in principle are considered to be acceptable in the countryside. This includes farm dwellings if they meet the criteria set out in CTY10.

CTY10 – Dwellings on Farms

Criteria A) DAERA has confirmed in their consultation response that there has been an active farm business for over 6 years and payments have been made to the farm business for Single Farm Payment (SFP), Less Favoured Area Compensatory Allowances (LFACA) or Agri Environment schemes in the last 6 years. Sufficient evidence is submitted to satisfy criteria A.

Criteria B) requires that no dwellings or development opportunities have been sold off the farm holding since the introduction of draft PPS21 in November 2008. Having carried out a site history search on the farm holding I am content that no dwellings or development opportunities have been sold off the farm holding, therefore criteria (b) is met.

Criteria C) requires the new building to be visually linked or sited to cluster with an established group of buildings on the farm. I consider that the siting of the proposed dwelling fails to cluster or visually link with the established farm buildings located 30m to the north of the application site and separated via an agricultural field. In a letter dated 18 April 2019 it was outlined that two alternative sites adjacent to the farm building group would meet criteria C (See images 1 and 2).



The agent has provided further information in relation to the application site, this information has been considered. In rebuttal to the further information submitted I consider that whilst CTY 10 states consideration may be given to an alternative site elsewhere on the farm in exceptional circumstances where there are no other sites available at another group of buildings on the farm, or where there are either demonstrable health and safety reasons, or verifiable plans to expand the farm business at the existing building group. I do not consider that sufficient justification has been provided to demonstrate why the two sites closer to the farm buildings cannot be developed. There is ample separation distance from the main farm dwelling to avoid potential residential amenity impacts in regard to both sites. The site with the overhead cables could position the proposed dwelling further back in the site to avoid this being an issue. I consider both alternative sites would meet criteria C of CTY 10 whilst the application site does not. Criteria C is not met. The agent has not provided demonstrable health and safety reasons or expansion plans as reasons for the development of the application site.

CTY10 also states "the proposed site must also meet the requirements of CTY13 (a-f), CTY14 and CTY16.

I consider that a proposed dwelling on the application site would result in a prominent feature in the landscape as the site is open and there is no screening along the site boundaries with two of the boundaries would relying on new landscaping for integration. The application site is separated by the main farm grouping by an agricultural field, thus resulting in 30m separation distance from the farm grouping. I consider the proposed site does not visually link with the farm grouping and there is not a suitable degree of enclosure for the new dwelling to integrate into the landscape. As a result of the lack of visual linkage and sensitive integration with the farm grouping the application site fails to respect the traditional pattern of settlement exhibited in the area. The proposed dwelling would also create a ribbon of development and would contribute to a localised sense of build up in the area.

Recommendation: Refusal

Refusal Reasons:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along Island Road.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm and access to the dwelling is not obtained from an existing lane.
4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:
 - A) the proposed site is prominent feature in the landscape,
 - B) the proposed site lacks long established natural boundaries,
 - G) the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore, would not visually integrate into the surrounding landscape.
5. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:
 - A) the new dwelling would be unduly prominent in the landscape,
 - C) the new dwelling does not respect the traditional pattern of settlement exhibited in the area,
 - D) the dwelling would, if permitted add to a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.
6. The proposal is contrary to Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy NH6 of Planning Policy Statement 2 in that the dwelling by reason of its siting is not sympathetic to the special character of the AONB.

Case Officer Signature:
Date: 14 August 2019
Authorised Officer Signature:
Date:

Proposed dwelling on a farm 50m South of No. 24 Island Road Attical. LA07/2018/1614/O

This application is being made on behalf of Mr M.Rice for a dwelling on an established farm which is permitted under policy CTY1 of PPS 21 in accordance with CTY 10. The dwelling is to be located on the Island road Attical, South of the family farm dwelling and farm buildings. The proposed dwelling will be for the applicant's son, who wishes to work on the farm and expand the family farm business

Further to the councillors site visit to Island Road Attical, I would like to re emphasize points raised at the previous planning committee meeting

The proposal will not cause ribbon development. The second site proposed by the case officer is the only location that would create ribbon development. However, this site will not be developed due to large electric pylons being situated within the site. High voltage cables run across the site and would cause a serious health and safety issue during construction if the application was granted in this position. The direction of the overhead cables in the preferred site is ideal as these cause no health and safety issues at this location.

The proposed site is located 30m away from the existing farm dwelling and farm buildings. The proposal is clearly visually linked with the existing farm buildings. CTY10 of PPS 21 does not set out a minimum distance a proposed dwelling on a farm should be from farm buildings. It states the proposal *'when viewed from surrounding vantage points, it reads as being visually interlinked with those buildings, with little appreciation of any physical separation that may exist between them.'* See image 1 in the information pack taken from the proposed site which demonstrates that the proposed site is clearly visually linked with the existing farm buildings.

The policy goes further to state that *'planning permission can be granted for a new dwelling even though the degree of visual linkage between the two is either very limited, or virtually non-existent due to the amount of screening vegetation.'*

The Building on Tradition documentation provides a map to indicate circumstances in which a dwelling on a farm will be accepted at a location away from farm buildings but visually linked. See image 2 in information pack. Option 6 on the map is clearly located a considerable distance away from farm buildings while this proposal is only 30m away and is clearly visually linked. Image 3 in the information pack shows the entire site with farm dwelling clearly visually linked.

Our proposal is located 30m away from main farm buildings and visually linked to farm buildings. In regards to access to the proposal, the two sites recommended by the case officer would require new accesses to the public road as would the site that the applicant wishes to building on. The policy states accesses *'should be'* not must be accessed from an existing lane. There were no objections from road service to the proposed site.

In regard to the alternative sites suggested by the case officer. Alternative site one, image 4 in the information pack, is located directly in front the applicants existing farm shed. The applicant has indicated that he intends to extend his farm business in the near future which will include the extension of existing shed and the development of a new shed which will be located in this site. From a practical point of view the site proposed by case officer would not be a suitable, there is active farming directly behind the site which will increase with the expansion of the farm business and over shadowing would be caused by any proposed shed for the expansion of the farm which the clients son intends to carry out in the near future.

The second site proposed by the case officers has a high voltage electric pylons supply located within the site, which any occupant of the house will look directly at. See image 5 in information pack. There would be serious health and safety issues during construction if approval was granted on this site. To build on this site will also create dominance and overshadowing on existing farm dwelling. Landscaping has been left out of a section the boundary of the existing dwelling to allow natural light in and views from the dwelling as can be seen from image 1. The applicants also use this field on a regular basis, which is an ideal size and shape, as part of the farm business to train sheep dogs for use on the farm.

The proposed dwelling would not be prominent and it would respect traditional pattern of settlement - The case officer raise concerns in regards to CTY 13 of PPS 21in that the proposal will be *'prominent feature in landscape'*, *'two of the boundaries would rely on new landscape for integration'* and *'not visually linked'*. See image 6, 7, 8 and 9 in information pack of existing dwellings on Island Road which are on raised sites and have

no vegetation of any kind providing integration. All boundaries and integration are provided by mounre stone walls at these dwellings.

In planning approval P/2009/1403/F where there is a *'lack of vegetation'* the case officer states, *'I am satisfied that this dwelling integrates within the landscape equally as well as other dwellings in this locality'*. The proposal will have the same integration if not better than dwellings in the locality as it is not on a raised site. As previously mentioned, the proposed site is clearly visually linked with the existing farm buildings.

In conclusion:

The proposed dwelling will be less prominent in the landscape than surrounding dwellings. The proposal will not be visible from critical points of view from the Attical Road due to existing landscape and topography of the surrounding land.

Our proposal is located 30m away from existing farm dwelling and buildings and when viewed travelling North and South on the Island Road will be viewed as integrated with the existing farm buildings.

The proposal will have no effect of the special character of the ANOB. The proposal will integrate into landscape with existing farm buildings, the proposal will not be visible from critical points of view and the proposal will respect the current building form of the area.

The two sites suggested by the case officer are not suitable, due to applicants intention to expand and develop the existing farm business and the location of high voltage electric pylons in the site would cause serious health and safety issues during construction and to position dwelling further back would cause over shadowing and dominance on the existing farm dwelling.

Image 1



Proposed site

Image 2



Image 3



Image 4



Image 5



Image 6



Image 7



Image 8



Image 9





Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2019/0512/O

Date Received: 4th April 2019

Proposal: Proposed infill dwelling and detached garage.

Location: Between 151 & 149 Dunmore Road, Ballynahinch



Site Characteristics & Area Characteristics:

The site is located off Dunmore Road, on a private lane which provides access to a number of dwellings and outbuildings. The site is comprised of a 0.5-hectare green field site, which is defined along the lane by a post and wire fence, with mature trees

along the south-eastern boundary and mature hedging to the rear boundary to the southwest. The site is relatively flat.

The site is not located within any settlement development limits 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/1999/0821/O - Land adjacent to 147 Dunmore Road, Guinness, Ballynahinch – Dwelling - PERMISSION GRANTED - 27.11.1999

R/2001/0632/O - Approx 90m N.N.E of 149 Dunmore Road, Ballynahinch - Retirement type dwelling & garage. - APPLICATION WITHDRAWN - 10.05.2002

R/2001/1503/F - Approx 120m north of 149 Dunmore Road, Ballynahinch – Dwelling - PERMISSION GRANTED - 18.04.2002

R/2002/0685/F - Approx 120m North of 149 Dunmore Road, Ballynahinch - Amendment to R/2001/1503 - addition of garage and velux windows (amended proposal) - PERMISSION GRANTED 06.09.2002

R/2002/1153 - Approx. 50 metres north north west of agricultural shed to rear of 149 Dunmore Road, Ballynahinch. - Proposed dwelling and garage. - APPLICATION WITHDRAWN - 13.09.2002

R/2003/0045/A41 - 151 Dunmore Road, Ballynahinch - Conservatory extension together with conversion of roof space and erection of shed for storage of plant and machinery. - PERMITTED DEVELOPMENT –

R/2003/0482/O - 70m South of 151 Dunmore Road, Ballynahinch. - Proposed dwelling and garage. - APPEAL DISMISSED

R/2004/1755/F - 151 Dunmore Road, Ballynahinch - Extension of storage shed - APPLICATION WITHDRAWN - 09.09.2005

R/2005/0117/F - 151 Dunmore Road, Dunmore, Ballynahinch, - Retrospective application for retention of existing shed for storage of plant and machinery - APPLICATION WITHDRAWN - 26.09.2005

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 was consulted in relation to the proposal and has responded with no objections.

NI Water was also consulted in relation to the proposal and has also responded with no objections.

Objections & Representations

The application was advertised in the local press on 24th April 2019 which expired on 8th May 2019. All relevant neighbour notifications issued on 15th April 2019 which expired on 29th April 2019.

One representation was received from the owner / occupier of 149 Dunmore Road, who stated while they have no objections other than invasion of privacy, they wished to raise concerns about the current condition of the laneway and its capacity to deal

with additional traffic and highlight their concerns about the freshwater stream and spring being contaminated by sewage soakaways.

Consideration and Assessment:

The Ards and Down Area Plan 2015 has identified the appeal 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 noted that the applicant considers the substantial and continuous built up frontage to comprise her dwelling at No. 151 Dunmore Road, the shed to the southwest, a further shed to south and adjacent to No 149 and the dwelling at No 149 Dunmore.

It is however, the Councils assessment that the sheds do not share a frontage with the site. The curtilage of each shed is notably set back from the lane and do not therefore share a frontage with the site. While the 'driveways' to these sheds connect with the lane on which the site is located, such accesses are not considered to constitute a building along the frontage.

For this reason, it is considered that the site is not located within a substantial and continuously built up frontage and would if permitted create a ribbon of development. The proposal therefore fails to comply with the requirements of CTY 8 and CTY 1 of PPS 21.

CTY 13 – Integration

Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. A new building will be unacceptable were scenarios A – F apply.

In this case the site is noted to be located along a private lane of Dunmore Road and is positioned approximately 120m from the public road. The site is screened on approach from the south-east along the private lane by the mature trees noted above at the SE boundary of the site. It is considered therefore that a suitably designed

dwelling would integrate within the surrounding landscape and the proposal is therefore compliant with CTY 13 of PPS 21.

CTY 14 – Rural Character

Planning permission will be granted for a building in the countryside where it does not cause detrimental change to. Or further erode the rural character of the area. A new building will be unacceptable where (A) – (E) occurs.

In assessment of this policy it is considered that while the buildings along this section of Dunmore Road do not share a common frontage, there would however be a sequential awareness of development when travelling along the lane. The site would be visually linked with dwellings Nos 149 and 151 and the shed to the south-east of No 151, along with an awareness of a building NW of No 149 via its gated access.

It is considered therefore that if a dwelling at this site were permitted, it would result in the creation of ribbon development along this section of Dunmore Road, and is therefore contrary to criteria (D) of CTY 14.

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 Council's consultees, it is determined that the proposal is unacceptable in planning terms and refusal is recommended for the following reasons

Recommendation:

Refusal

Refusal Reasons/ Conditions:

- The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policies CTY1 and 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the site is not located within a

substantial and continuously built up frontage which includes a line of 3 more of more buildings along a road frontage.

- The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted create or add to a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.

Signed

Date

Signed

Date

Item 10 – LA07-2019-0512-0 proposed infill dwelling and detached garage – between 151 and 149 Dunmore Road, Ballynahinch

The application site is located well back from public road, along a private lane and flanked on both sides by two dwellings. A multipurpose shed runs alongside the North West boundary of the site, also positioned back of the lane. To the immediate south of the shed is a dwelling and garage at no. 149. The existing development gives rise to the appearance of a line of road frontage, ribbon development.

Whilst the local planning authority acknowledge that number 149 and 151 have frontage they consider the sheds to be set back and therefore not having frontage. frontage was recently described as a building having direct frontage to the road/lane with no features in between. If we include the detached garages from the dwellings at 149 and 151 as well as the multipurpose sheds there is more than three buildings with direct frontage on to the lane.

The LPA other reason for refusal was the impact of the development on the rural character. Giving the surrounding area we feel a dwelling with a garage would respect the house pattern in the area.

Aodhan Murray and Louise Murray



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2019/1130/O

Date Received: 23rd July 2019

Proposal: New end of terrace dwelling with associated site works

Location: Site adjacent to 33 Dunwellan Park, Newcastle

Site Characteristics and Area Characteristics:

The application site currently comprises a residential garden belonging to no.33 Dunwellan Garden in Newcastle. This garden is set to the north of no.33 and is flanked to the north by a footpath which separates this residential space from the front gardens of no.29 and no.30 Dunwellan Gardens. The southern end of the site connects on to no.33 Dunwellan Gardens.

The site is located within the settlement limits of Newcastle and also lies within the AONB. The surrounding area is residential in character and made up of terraced dwellings of a similar design along with apartment blocks to the south.

Site History

No relevant planning history found.

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:

PPS3: Access, Movement and Parking,

PPS7: Quality Residential Environments,

Addendum to PPS 7: Safeguarding the Character of Established Residential Areas, PPS12: Housing in Settlements, DCAN 8: Housing in Existing Urban Areas and SPPS.

Consultations:

No consultations were considered necessary in order to determine this application.

Objections & Representations:

The application was advertised in the local press on 7th August 2019 which expired on 21st August 2019 and neighbour notification issued on 30th July 2019 and expired on 13th August 2019. To date there has been one petition received, objecting on behalf of 14 different addresses.

The petition raises objection on the following grounds:

- The proposed new development is contrary to Policy QD1 of PPS7.
- It will overshadow my front garden and front living room for most of the day
- This overshadowing will prevent me from enjoying my property
- This is garden grabbing to the extreme – the small garden is not suitable for development and will dominate the front of my property
- In Dunwellan Park, parking provision has surpassed capacity, there is a problem with parking every day as there is not enough parking already. Two additional spaces cannot be obtained by the applicant
- The development will look out of place and does not fit in with the existing character of the area

Consideration and Assessment:

The proposal is for the erection of a two-storey end of terrace dwelling upon the northern elevation of no.33 Dunwellan Park. The dwelling would have a maximum depth of 9.8m and a maximum width of 5.5m. The proposed two storey end of terrace would have a hipped roof with a ridge height of 7m and an eaves of 4.1m. There would be small front and rear garden with a mix of lawn and patio.

PPS 3: Access, Movement and Parking

The proposed development would not have specific assigned parking. In the Design and Access statement, the agent identified shared parking to the rear of the site.

Officers note that Dunwellan Park is served by shared parking areas to the north west and east of the site, however comment has been raised as part of an objection stating

that parking is a problem in the area and that the applicant could not obtain two spaces given the current parking shortfall. The creation of another dwelling would add further pressure on the parking arrangements. Further clarification on parking provision for this proposed dwelling has been sought from the agent on 30th August 2019 and 18th September 2019. As yet, no further information has been received.

PPS7: Quality Residential Environments

Policy QD1 of PPS7 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 residential environment.

The proposed development must respect the surrounding context and should be appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance. Officers consider that the proposed addition of a further end of terrace dwelling on this row of dwellings would be inappropriate in terms of the layout, massing and appearance. The use of a lower pitched roof upon this proposed dwelling would appear out of keeping with the surrounding area and would jar with the prevailing pitched roof design of the area. Officers consider that the proposed dwelling would appear at odds with the immediately surrounding dwellings. The proposed new dwelling would appear cramped into the plot as demonstrated by the fact that the existing boundary hedge would have to be removed in order to facilitate the dwelling. The removal of this hedge would harm the visual amenity of the area and add a further sense of enclosure along the path which runs to the north of the site.

The erection of the dwelling would bring built form to within 6m of the front of no's 28 and 29 Dunwellan Park. This is considered to be too close to a front elevation and would result in an unacceptable adverse impact on the residents of no.28 and 29 by way of loss of outlook and dominating impact which is contrary to Policy QD1 (h) of PPS7. The front windows of no. 28 and no. 29 already have views dominated by the existing dwelling at no.33 and the erection of one further dwelling with an elevation only 6m away from the dwellings would be considered to result in an unacceptable dominating impact. In order to facilitate the addition of a further dwelling, the current hedge separating no.33 with the footpath to the north would need to be removed. This would further create a sense of dominating impact to the adjacent dwellings at no.28 and no.29 to the north as their view would be dominated by mostly brick, whereas before a sizeable hedge provided a visual buffer from the bricks.

The application is accompanied by a Shadow Analysis which demonstrates that the erection of the proposed dwelling would lead to increased overshadowing over the front garden of no's 28 and 29. This overshadowing would span the front garden up to the front elevation of the dwelling. Officers consider that this overshadowing would result in harm to the residential amenity of these residents.

There would furthermore be increased overshadowing to the front amenity space and front windows of these dwellings as a result of the proposed dwelling which is contrary to Policy QD1 (h).

Criterion (f) of QD1 further states that adequate and appropriate provision should be made for parking. As stated above, parking has not been specifically provided for this additional dwelling. While there are shared parking areas in Dunwellan Park, no further information has been provided by the agent to clarify whether these shared parking areas are able to accommodate an additional dwelling.

PPS12: Housing in Settlements

Planning Control Principle 2: Good Design requires all new housing developments to demonstrate a high quality of design, layout and landscaping. As discussed above, officers do not consider that the proposed design, scale and layout is appropriate to the area.

DCAN 8: Housing in Existing Urban Areas

DCAN 8 paragraph 3.22 states that distance separation, screening, window size and style, orientation and location of rooms and circulation space are some of the factors to consider in relation to ensuring adequate privacy and daylight. It further states in paragraph 3.23 that the protection of neighbouring properties from unreasonable loss of light is a well-established planning consideration, and it is also important that layouts and dwellings are planned to provide acceptable levels of daylight into interiors.

Officers consider that the proposal would fail to comply with the guidance set out in the above paragraphs in that the separation distance between the proposed dwelling and the front windows of the adjacent no.28 and 29 would be insufficient and result in insufficient daylight to the front portions of these houses.

Officers consider that the proposed extension would result in a cramped development which would be to the detriment of the area. The form of the proposed dwelling would be out of keeping with the surrounding area as it would have a pitched roof and be set down from the existing roof ridge. The built form proposed would not integrate sympathetically with the surrounding development. The proposed dwelling would result in harm to the residential amenities of no.28 and no.29 Dunwellan Park by way of overbearing impact and loss of light owing to the reduced separation distance between the proposed dwelling and their front elevations. Insufficient information has been provided to demonstrate that there would be adequate parking provision in the existing shared parking areas.

Recommendation:

Refusal is recommended

Reasons for Refusal:

1. The proposed development fails to comply with Policy QD1 (a) of PPS7 as it would not respect the surrounding context given its proposed lowered roof ridge and hipped style. The resultant development would be at odds with the character of the immediate area and appear out of place.
2. The proposed development would result in a harmful impact upon the residential amenities of no.28 and no.29 Dunwellan Park to the north, by way of overshadowing, loss of outlook and overbearing impact. This would be contrary to Policy QD1 (h) of PPS 7.
3. The proposed development would fail to comply with Policy QD1 (f) in that it has not been demonstrated that there is adequate and appropriate parking for the proposed new dwelling.

Informatives:

The drawing numbers to which this decision relates are: LA07/2019/1130/O 01 – LA07/2019/1130/O 04.

Case officer:

Authorised by:

Date:

WRITTEN SUBMISSION

Planning Committee Meeting Wed. 11th Dec. 2019.

Planning Application Details:

Application Reference: LA07/2019/1130/O
Date Received: 23rd July 2019
Proposal: New end of terrace dwelling with associated site works.
Location: Site adjacent to 33 Dunwellan Park, Newcastle.
Applicant: Mr. James Rogan
Recommendation: Refusal

We are grateful to the Planning Committee for the opportunity to present this written submission for their consideration.

The recommendation for refusal on the delegated list, week commencing 30th September 2019, is rebutted as follows:

Refusal Reasons:

1. The proposed development fails to comply with Policy QD1 (a) of PPS7 as it would not respect the surrounding context given its proposed lowered roof ridge and hipped style. The resultant development would be at odds with the character of the immediate area and appear out of place.
2. The proposed development would result in a harmful impact upon the residential amenities of no.28 and no.29 Dunwellan Park to the north, by way of overshadowing, loss of outlook and overbearing impact. This would be contrary to Policy QD1 (h) of PPS 7.
3. The proposed development would fail to comply with Policy QD1 (f) in that it has not been demonstrated that there is adequate and appropriate parking for the proposed new dwelling.

Refusal Reason 1

The proposed dwelling is not an exact replica of the adjoining or surrounding dwellings, but this does not mean that it does not respect the existing context or character of the area.

The proposed dwelling has a lower roof ridge and eaves height than the adjoining dwelling to lessen its physical mass and has a hipped end to again reduce the physical mass and minimise any loss of light to the adjacent dwellings. However, these differences in themselves would not be sufficient to consider the proposal at odds with the surrounding area. The building still presents with a pitched roof at the same pitch as the adjacent dwelling with the same roof covering and the external walls will also be of the same brickwork as the adjacent dwelling.

Given the extremely broad diversity of new buildings and extensions to existing dwellings in developed areas which have been granted planning approval and which have different ridge heights and roof profiles would suggest that having such differences alone are not grounds for refusal and fall short of non-compliance with Policy QD1 (a) of PPS7.

Refusal Reason 2

The proposed dwelling has been designed so as to minimise its effect on neighbouring properties, especially Nos. 28 and 29 opposite the gable end of the proposal. For this reason, the ridge and eaves height have been reduced (in comparison to the adjacent dwellings) and the gable end roof hipped back away from the properties opposite thus minimising any overbearing.

We also prepared a 3D model of the area so that the effects of overshadowing and loss of light could be analysed. Contrary to the statement in the planning report the shadow analysis indicates that there will be no significant alteration to the level of overshadowing when the proposed overshadowing is compared to the existing overshadowing situation.

The planning report mentions the area of brickwork visible by way of views from Nos 28 and 29 opposite and suggest that the proposal would provide for a worse situation from what already exists on the ground presenting as dominating and overbearing.

In fact the area of brickwork visible from Nos 28 and 29 opposite has been reduced by providing for a hipped roof and lowered eaves i.e. the proposed building breaks the large expanse and height of the existing brick gable by presenting a lowered gable of brickwork and a roof falling away from Nos 28 and 29 and covering the top half of the existing brick gable. Granted the proposed gable is closer to Nos 28 & 29 than the existing gable but it is much smaller in height and width than the existing.

The planning report also comments on the removal of the existing hedge along the boundary which previously broke the visual impact of the existing brick gable. We note that we have provided for a portion of planting along this boundary in front of the new gable wall, however we would be open to moving the gable wall further away from Nos. 28 & 29 and reinstating additional planting if this proved necessary.

In all we have designed the proposed dwelling in a way that does not significantly impact the properties of Nos 28 and 29 when compared to the existing situation.

Refusal Reason 3

The entire area of Dunwellan is served by communal parking and garages as was stated in our submitted Design & Access Statement. During the determination process Transport NI through the Planning Office made a request; "Please ask the applicant to submit details of car parking for this application." We responded to this request confirming that the proposal was to be served by the existing communal parking provided and that no additional parking was being proposed.

The planning report seems to give significant weight to an objection from a local resident that there is a shortage of parking in the vicinity. However, this is contrary to the applicants and my own experience (having been to the site on numerous occasions and at various times; morning, afternoon and evening) and have never experienced any problems parking in the communal area to the rear of the site.

Transport NI never gave a response to the proposed use of the communal parking being acceptable, unacceptable or requiring additional information (e.g. parking analysis) to make a recommendation. There is no record of Transport NI refusing the proposal.

Outline Planning Application

We would like to draw the Committees attention to the fact that this is an Outline rather than a Full planning application, and that the proposal drawings were submitted for information purposes only.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

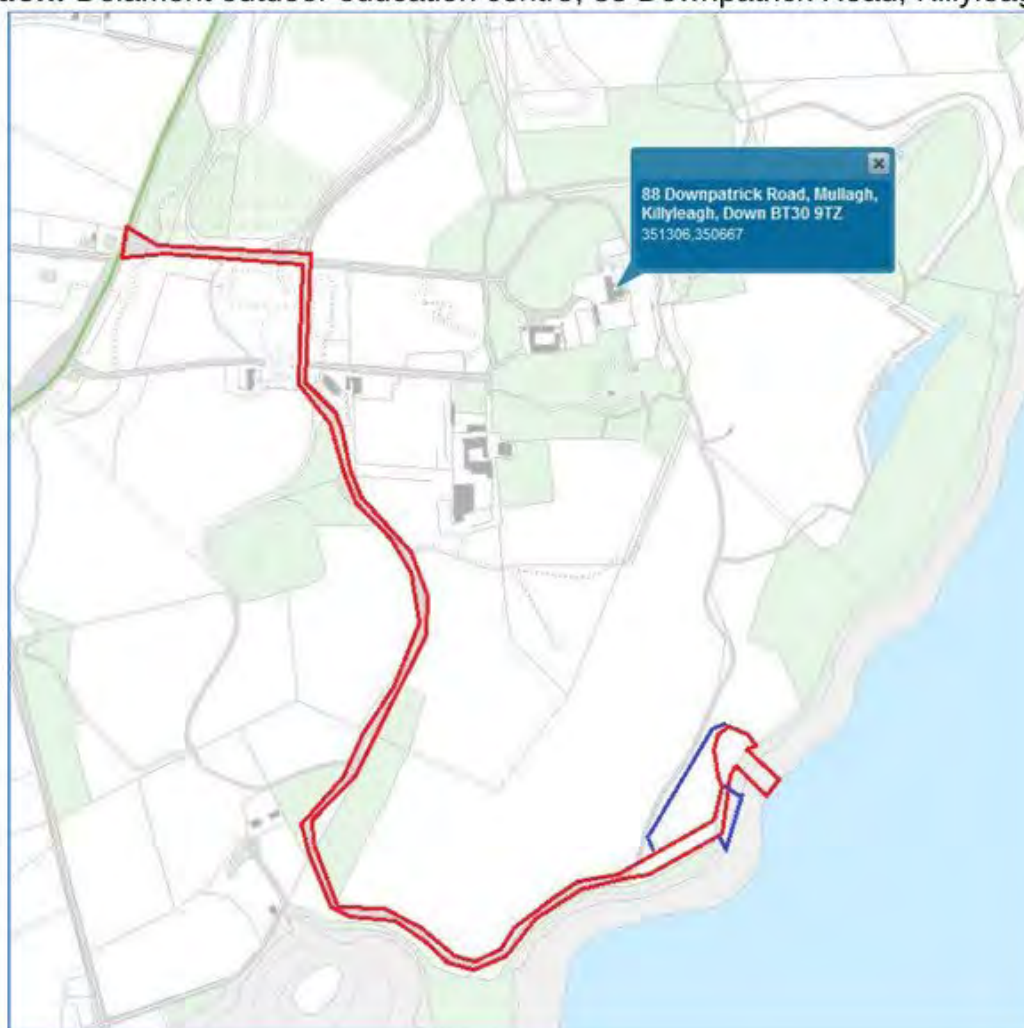
**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2019/0645/F

Date Application Valid: 30.04.2019

Proposal: Reconstruction of existing vehicle turning circle + replacement section of 1200high Stock proof fencing + construction of new boat slipway for the exclusive use of the education authority

Location: Delamont outdoor education centre, 88 Downpatrick Road, Killyleagh



Site Characteristics & Area Characteristics

The site is accessed through an existing access and lane that travels approx. 1.3km within the larger grounds of the Delmont Park, to the shore. The site is located adjacent to and includes the shore.

Site History:

R/1980/0436 Permission Granted

Leisure park - DELAMONT HOUSE, DOWNPATRICK ROAD, KILLYLEAGH, DOWNPATRICK

R/1981/0777 Permission REFUSED

CONVERT EXISTING OUTBUILDINGS INTO 35 NO FLATS - DELAMONT HOUSE, DOWNPATRICK ROAD, KILLYLEAGH

R/1985/0489 Permission Granted

CHANGE OF USE TO OUTDOOR PURSUITS CENTRE - DELAMONT HOUSE, KILLYLEAGH

R/1990/1028 Permission Granted

Continuation of bitmac road, new dust road, paths, fences and terraced area - DELAMONT ESTATE KULLAGH KILLYLEAGH CO-DOWN

R/1995/6128 - Mourne granite monolith Delamont Country Park Killyleagh

R/1998/0897 Permission Granted

Proposed construction of a miniature railway around the perimeter of one of the meadows - DELAMONT COUNTRY PARK KILLYLEAGH

Planning Policies & Material Considerations:

The proposal will be assessed in relation to the Regional Development Strategy, the Ards and Down Area Plan 2015, the Strategic Planning Policy Statement for Northern Ireland (SPPS), Planning Policy Statement 8 Open Space, Sport and Outdoor Recreation (PPS8), PPS2 Natural Heritage and PPS15 Planning and Flood Risk. Planning Policy Statement 6 Planning, Archaeology and Built Heritage will form part of the assessment. Published guidance will also be considered and referenced within the report.

Consultations:

The Planning Authority consulted with DAERA, DfI and DAERA Rivers. Advice and Guidance has also been sought from Shared Environmental Services. The Environmental Information Report was uploaded to facilitate consultation and this document included the Habitat Regulations Assessment (HRA).

DfC Historic Environment Division (HED) – consulted as the site constraints refer to archaeological site MRD 206:164/049 and MRD:205:020 as Slipway and includes Intertidal Wall references MRD 206:139/151/140, Jetty MRD 205:009 and Ford MRD 205:010/018. The site is also within the Historic Park/Garden/Demesne of Delmont. HED are content with the details of the application and it is satisfactory to the SPPS and PPS6 Planning Archaeology and the Built Environment. HED noted the site has previously been subject to archaeological testing.

DAERA Natural Environment Division (NED) – Provided advice to the Planning Authority which highlights that the site is within Strangford Lough Ramsar/SAC/SPA, Strangford Lough Part 2 ASSI which are of international importance and are protected by Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) and The Environment (Northern Ireland) Order 2002. NED considered the information currently available and has no concerns subject to informatives. In relation to designated sites NED note the proposal is not connected with or necessary for the conservation management of the designated sites and are content that there will be no significant impacts on the site features provided mitigation measures within the HRA will be adhered to. NED Recommend a suitable buffer of 10m to be maintained between the location of all construction works eg refuelling etc, a suitable barrier erected around the works prior to commencement if construction and the barrier to be de-watered prior to use of wet concrete and all water contained and collected for treatment prior to disposal. NED also considered other natural heritage interests and concluded there is unlikely to be a significant impact on the protected and priority species and habitats with informatives provided.

DAERA Costal Development – Considered the details of the application, is content with the proposal and offers informative for applicant's benefit. They advise that a ***Marine: Licence has been granted for the development.*** The informatives can be attached to the decision if permission is granted.

DAERA Drainage and Water (Water Management Unit) – Considered the impacts the proposal would have on the surface water environment and is content with the details provided subject to condition of applicant referring and adhering to Standing Advice which require a final Construction Method Statement to be submitted at least 8 weeks prior to commencement and any relevant statutory permissions being obtained.

Rivers Agency – consulted as a result of comments from SES. The site is partially (the slipway) within the 1 in 200Year Coastal Floodplain. The proposal is an exception to PPS15 Policy FLD1 under (e) and would not cause flooding. The proposal would not require a Drainage Assessment and in order to prevent contaminants entering Strangford Lough during construction a recommendation is included within their comments to position the construction materials with potential contaminants 600mm above the coastal floodplain which is at 3.42OD. Rivers Agency also referred to standard information which can be detailed as informative within the decision in the event of planning approval.

SES – Originally advised the applicant required a Habitats Regulation Assessment. As this had been supplied within the Environmental Information Report submitted with the application SES were advised. SES then referred to the sites location within the T200 Coastal Floodplain and required consultation after the Planning Authority sought comments from Rivers Agency.

SES considered the details of the proposal as well as the consultation response from Rivers Agency and advised the following:

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 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 advised that DAERA Marine Licencing Unit and NIEA are experts in this subject area and are part of the Statutory Nature Conservation Body therefore SES recommends the Council adopt the Habitats Regulation Assessment (HRA) completed for the project and requested mitigation through planning conditions which are included within recommended planning conditions of the planning report.

Objections & Representations

The site was advertised in Mourne Observer and Down Recorder on the 15.05.2019. 4 Neighbouring properties were notified within the neighbour notification process on the 09.05.2019.

Statutory Expiry for comments passed 29.05.2019. Several representations were received after this date expired and the Planning Authority must consider all representations received during the consideration of the proposal.

8 Objections have been received in relation to the proposal. Representations have been received from Cllr C Enright, Sketrick Coastal Rowing Club, Portaferry Coastal Rowing Club, Down Coastal Rowing Association which references Irish Coastal Rowing Federation it is affiliated with, Loch Cuain Canoe Club (Strangford and Lecale Coast) and members of the public Ms Dodds, Ms Armstrong and Mr Marr.

The concerns and consideration of representations are outlined below. The full details of representations are available on the planning portal and planning file:

- The proposal description refers to the exclusive use of the Education Authority.

This relates to comments received from elected representative Cllr C Enright which refers to the proposal damaging the potential for Council to support water sports on the site and identifies a similar facility the Education Authority has adjacent to Killyleagh Yacht Club.

- The proposal has potential to damage designated sites within Strangford Lough

The proposal has been submitted with an Environmental Information Report which includes a Habitats Regulation Assessment. The Planning Authority will consider the comments returned from statutory consultees when assessing the possible impact the proposal would have on designated sites. The proposal will also be subject to assessment in relation to PPS2 Natural Heritage which details policy relating to development that may affect designated sites.

- The isolated nature of the site would result in a risk of vandalism.

The security of the site would be matter for the applicant. The proposal includes fencing and the location of the site corresponds with the existing vehicle turning area that is also subject to an upgrade within this application.

- The need for a second pontoon or provision of an additional slipway to accommodate public access, local rowing clubs and Council sponsored events such as Skiff World Championships.

The need for an additional slipway or pontoon to facilitate public access to Strangford Lough is not the subject of this planning application. The proposal is the consideration of the planning application submitted by the applicant. Public access to Strangford Lough by way of a pontoon or slipway would be a matter for the Council and interested parties such as rowing clubs to pursue.

- Access has been identified though a redundant gateway and this would adversely affect traffic flows on the A22

The proposal does not include a new access. This is confirmed within the P1 Planning Application form submitted with the proposal. Question 12 of the P1 form identifies access arrangements for the development are through use of an existing unaltered access to the public road. The access is also identified within the red line of the submitted site location map. The proposal did not seek a new access or include alterations to the existing access and consultation with Transport NI was not considered necessary by the Case Officer to facilitate an informed opinion of the proposal. The proposal does not seek to intensify use of the existing the vehicular access which is demonstrated within the Questions 24 and 25 of the completed P1 form.

- Objection to access to the water being removed at Delamont.
- Lack of Consultation with local Rowing Clubs

The proposal was advertised in local press and the neighbour notification has been carried out as required by legislation.

This is not the subject of the planning application. The proposal includes a new slipway to provide the applicant access to Strangford Lough.

Objections received refer to the proposed exclusive use of the facility by the applicant, the Education Authority, as this is included within the proposal description of the planning application. The Planning Authority would state that the grant of planning permission for a proposal does not confer title and therefore use of the site is a matter for the applicant as the land owner. If a third party wishes to use the facility, they would require permission from the landowner.

The reference within the representations received highlight the Education Authority's property within Killyleagh adjacent to Killyleagh Yacht Club, its use and their relationship with the Council and clubs within the area and includes reference to the Education Authority's duty of care to community planning. This is not a planning matter and does not form part of the planning assessment.

Consideration and Assessment:

The proposal is a full application for reconstruction of existing vehicle turning circle and replacement section of 1200 high stock proof fencing and construction of new boat slipway for exclusive use of the education authority.

The application was accompanied with an Environmental Information Report for the proposal, a copy of the applicants Marine Licence (DAERA) application, the applicants Business Case for the proposed slipway, plans labelled LA07/2019/0645/01-04 bearing date stamp 12APR2019.

DAERA NED have confirmed within their consultation response that a Marine Licence has been granted for the proposal.

The site is within an area of several significant designations RAMSAR, Special Area of Conservation (SAC), Area of Special Scientific Interest (ASSI), Marine Nature Reserve, AONB and Ancient Woodland. The site is within the Historic Park/Garden/Demesne referred to within proposal COU7/11 of the Draft Ards and Down Area Plan 2015. The Planning Authority has carried out consultation with relevant statutory bodies to ensure an informed opinion of the proposal can be made.



The proposal will include reconstruction of the existing vehicle turning circle and replacement of 1200high stock proof fence. This will facilitate a suitable and safe area for vehicles of the users accessing the slipway and ensure they have the infrastructure in place at the site to accommodate the use. This is not a new facilitate as it will replace the existing vehicle turning area. The stock proof fence will replace the existing fencing and would not have an adverse impact on the character of the area in terms of visual amenity.

PPS8 Open Space, Sport and Recreation Policy OS3 Outdoor Recreation in the Countryside

The Department will permit the development of facilities ancillary to water sports adjacent to inland lakes, reservoirs and waterways where all the following criteria are met:

- (i) it is compatible with any existing use of the water, including non-recreational uses;

The proposal includes a new slip to facilitate safe access for recreational boat launches. This is compatible with the existing use associated with the Education Centre.

- (ii) there is no adverse impact on features of importance to nature conservation, archaeology or built heritage;

The Planning Authority has consulted with DAERA Natural Environment Division, DAERA Coastal Development, DAERA Drainage and Water, Shared Environmental Services (SES) and Rivers Agency in relation to the proposal. The site is also within a Historic Park/Garden/Demesne and Historic Environment Division also considered the proposal. No objections to the proposal have been received from the statutory consultees and planning conditions have been recommended. It is therefore reasonable to conclude that the proposal is unlikely to have any detrimental impacts on the priority habitats and protected species.

- (iii) there is no adverse impact on visual amenity or the character of the local landscape;

The site is located within designated Area of Outstanding Natural Beauty. Views of the site will only be achieved from land within the immediate vicinity of the site or within Strangford Lough itself when adjacent to the slipway. Planning Policy Statement 2 Natural Heritage (PPS2) Policy NH6 states that planning permission for new development within an AONB will only be granted where it is of an appropriate design, size and scale for the locality and refers to criteria that must be met. The proposal would not have an adverse impact on the visual amenity or character of this local landscape.

- (iv) it will not result in water pollution or an unacceptable level of noise or disturbance;

The proposal includes mitigation measures within its Environmental Information Report and statutory consultees with the details of the proposal. Water Pollution has been considered and mitigation measures can be conditioned as recommended by NED and SES. The applicant will also be required to submit a Construction Method to Planning prior to commencing works on the site as a negative planning condition which will be forwarded to consultees for consideration.

The proposal will not result in unacceptable noise or disturbance in the area as the site is currently used by the Education Authority for non-motorised craft.

- (v) buildings or structures are designed to a high standard, are of a scale appropriate to the local area or townscape and are sympathetic to the surrounding environment in terms of their siting, layout and landscape treatment;

The works on site will largely be to the ground and shore. The fencing would be the most visible and is to replace an existing stock proof fence and therefore it would not introduce a new feature to the landscape. The details of the slipway and the replacement vehicle turning circle are included within the submitted plans. The proposal would satisfy policy.

(vi) the proposed facility takes into account the needs of people with disabilities; The Applicants Business case submitted with the application identified the health and safety concerns the shore presents when carrying a boat to and from the Lough. The shore has many dangers associated with it such as uneven surfaces, loose rock, seaweed which makes carrying the boat to and from its launch at the shore more difficult. The slipway would ensure that access can be provided for more users as the path can be more easily managed.

(vii) there is no conflict with the provisions of any local management plan The proposal would not conflict with the Ards and Down Area Plan 2015.

Paragraph 5.27 of Policy OS3 within PPS8 refers to locations designated for their landscape, nature conservation or heritage importance whereby special care is needed in assessing proposals as it may be possible to meet demand for outdoor recreation use so far as it is consistent with the conservation or enhancement of the interest for which the site or area is designated.

Planning Policy Statement 2 Natural Heritage Policies have been considered:

NH1 European and Ramsar Sites – International

NH2 Species Protected by Law

NH3 Sites of Nature Conservation Importance - National (eg ASSI)

NH4 Sites of Nature Conservation Importance – Local

NH5 Habitats, Species or Features of Natural Heritage Importance; and

NH6 Areas of Outstanding Natural Beauty

The applicant submitted a Habitats Regulation Assessment within their Environmental Information Report submitted with the planning application and the Planning Authority consulted with Department of Agriculture, Environment and Rural Affairs DAERA as well as Shared Environmental Services (SES) to ensure the details of the application were fully considered by the statutory agencies. The proposal includes mitigation measures referenced within their Environmental Information Report.

Natural Environment Division and SES are content with the proposed mitigation measures and have recommended planning conditions. The Drainage and Water division (WMU) within DAERA recommended a planning condition requiring a Construction Method Statement to be submitted for agreement prior to commencement of development. This could be attached as a negative planning condition. Impacts on the protected Habitats and Species such as Seals and the designated sites of the Strangford Lough have been considered in full. The proposal would not offend PPS2 Policies as the proposal is unlikely to result in unacceptable adverse impact on designated sites of acknowledged importance, priority habitats and priority species and the new development is appropriate in terms of siting, scale, materials and design for the locality.

SES required the Planning Authority to consult with Rivers Agency prior to their advice and guidance. The site is located within the T200year Coastal Flood Plain. Rivers consultation response advised the proposal would not increase flood risk and there would be little risk of flood. Further clarification with Rivers was sought and it has been confirmed that the applicant would not require a Drainage Assessment for the proposal. The proposal is an exception to PPS15 Planning and Flood Risk Policy FLD1 Development in Fluvial and Coastal Flood Plains exception (e) as water compatible development such as boat mooring, navigation and water based recreational use, which for operational reasons has to be located within the floodplain.

Objections have been submitted in relation to the proposed use as exclusive to the Education Authority. The use of the site by an individual would not be subject to a planning condition and would be subject to the landowner's discretion. Therefore, should any third parties wish to make use of the proposal this would be a civil matter between the landowner and those seeking to access the lough through the proposed slipway.

Recommendation:

Approval The proposal meets the planning policy and consultation with relevant statutory agencies has returned no objection subject to recommended planning conditions which will be considered.

Recommended Conditions:

Conditions recommended by planning officer and consultees, can be subject to edit prior to the issuing of the decision:

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.

NED recommended planning conditions:

- A. A suitable buffer of at least 10m must be maintained between the location of all construction works including refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc and the Strangford Lough Ramsar/SAC/SAC/Part 2 ASSI.
- B. A suitable barrier shall be erected around the works site prior to commencement of construction. The barrier shall be adequate to prevent egress of water from the construction site into the Strangford Lough Ramsar/SAC/SAC/Part 2 ASSI and shall be removed upon completion of all construction activities.
- C. The barrier shall be de-watered prior to use of wet concrete onsite and all water contained thereafter shall be collected for treatment prior to disposal. At no point shall water be discharged from the site into the Strangford Lough Ramsar/SAC/SAC/Part 2 ASSI during construction.

REASON: To protect the integrity of the designated sites Strangford Lough Ramsar/SAC/SACPart 2 ASSI.

SES recommended planning conditions:

- A. The applicant must adhere to all mitigation measures as detailed within the Habitats Regulations Assessment and Environmental Risk Assessment within Appendix C and D of the Environmental Information Report, date stamped 12/04/2019.
- B. Prior to any construction activities, a suitable barrier, such as a coffer dam, shall be erected around the activity within the marine environment. The barrier must prevent egress of water from construction site and shall be removed upon completion of all construction activities. All water contained within the barrier area shall be appropriately treated (e.g. through silt sock/silt fencing etc.) prior to disposal.
- C. A suitable and clearly defined buffer of at least 10 metres must be maintained between the location of construction activities including refuelling of vehicles, storage of fuel/oil/chemicals etc., stockpiles of materials/waste, washing areas, concrete mixing and the marine environment.

REASON: To protect the integrity of the designated sites Strangford Lough Ramsar/SAC/SAC Part 2 ASSI.

WMU recommended planning condition:

- A. Once a contractor has been appointed, a detailed, final Construction Method Statement, for works in, near or liable to affect any waterway as defined by the Water (Northern Ireland) Order 1999, must be submitted to Water Management Unit at least 8 weeks prior to the commencement of the works or phase of works.

REASON: To ensure effective avoidance and mitigation measures have been planned for the protection of the water environment.

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



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

Application Reference: LA07/2019/0773/O

Date Received: 15th May 2019

Proposal: Proposed new single dwelling unit

Location: To rear of 71 Church Street Downpatrick

Site Characteristics & Area Characteristics:



The site is comprised of a 0.03-hectare portion of land, which is comprised of the rear garden associated with No 71 Church Street Crossgar.

The site accesses directly onto Pillar Well Lane which accesses onto Church Street.

The area immediately surrounding the site is residential in character with the character typically comprising two-storey terraced dwellings. There are noted to be several businesses located within the immediate vicinity i.e Castle Veterinary Practice, Insurance firm and a number of public houses.

The site is located within the settlement limits of Downpatrick.

Site History:

R/2015/0057/O - 71 Church Street, Dowpatrick - Two storey extension to existing end terrace. Two town houses to rear of garden/property - PERMISSION REFUSED - 04.03.2016

Planning Policies & Material Considerations:

In assessment of this proposal regard shall be given to the Strategic Planning Policy Statement (SPPS), Ards and Down Area Plan 2015, PPS3, 7 and 12, Creating Places (Guidance Document), Development Control Advice Note (DCAN) 8, in addition, to the history and any other material consideration.

The application was advertised in the local press on 29.05.2019

Consultations:

In assessment of the proposal consultations were carried out with Transport NI and HED.

All relevant neighbours were notified of the proposal on 29.05.19

Objections & Representations

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

Consideration and Assessment:

The proposal seeks outline planning permission for the erection of a dwelling. The application has been accompanied by existing and proposed site layout, a drawing showing an indicative house type and a map showing car parking within the area.

Principle of development

The application site is located within the Settlement Limit of Dowpatrick as designated in the Ards and Down Area Plan (ADAP) 2015. The ADAP policy for development within settlement limits is contained in Policy SETT 1.

Policy SETT 1 of ADAP states that favourable consideration will be given to development proposals within settlement limits including zones sites provided that the proposal is sensitive to the size and character of the settlement in terms of scale, form, design and use of materials. This policy therefore provides broad support for the principle of the proposal which seeks full planning permission for the erection of a dwelling.

PP3Roads Interest

In consideration of the proposal from a road safety perspective, Transport NI has been consulted. No objections have been presented, this is on the basis that the Planning Authority considered that there is no intensification of the existing access.

PPS 7

In assessment of the proposal Policy QD1 of PPS 7 provides the policy context. All proposals for residential development will be expected to conform to criteria (A) – (I):

- (A) The development is considered to respect the surrounding context given its residential nature, however, the proposal is considered to represent overdevelopment of the site in terms of its layout, scale and massing.
- (B) The site is adjacent a number of archaeological sites and within an area of archaeological potential. Historic Environment Division, have been consulted regarding the proposal and have advised the Planning Authority that the proposal is satisfactory to SPPS and PPS 6.
- (C) In terms of private amenity space, at present No 71 Church Street has 156sqm of private amenity space to the rear. This proposal would result in a large portion of this private space being removed from No 71 and leaving approximately 20 sqm of private rear amenity space remaining for No 71 and only approximately 25sqm for the proposed dwelling. Such a provision is considered to be unacceptable and below even the minimum standards as advised in Creating Places.
- (D) There is no requirement for the developer to provide necessary local neighbourhood facilities
- (E) The site is located within the settlement limit of Downpatrick and is therefore within walking distance of all the facilities within the settlement and convenient to public transport etc.
- (F) It is noted from the proposed site layout plan that one in-curtilage space is proposed for the existing dwelling and one for the proposed dwelling such provision is considered to be below the recommended standard. However, it is noted that there is on-street parking within the immediately vicinity, this would be suitable for the existing dwelling at No 71 given that a car could park outside the front door.

However, such a provision would be less convenient for the proposed dwelling. There is a hard-standing area noted to the immediate east of the site, which is being used as an unofficial car park. If the proposed occupants were to use this hardstanding for parking their vehicles it would be located at a minimum 15m away and 35m at a maximum distance from their dwelling. It is considered that such an arrangement is not satisfactory and would not provide convenient parking or enable surveillance of their vehicles from their property and further demonstrates the overdevelopment of the site.

On this basis it is considered that the proposal fails to satisfactorily meet this criterion.

- (G) Given the outline nature of the proposal, the design of the dwelling was not initially before the Planning Authority. However, this information was subsequently requested and the agent has provided an indicative house type. A large two-storey dwelling is proposed. It is noted that the proposed dwelling will have limited

windows to the side and rear elevations (bathroom and hallway windows), with the main windows allowing light into the property located on the front elevation. While this elevation faces south, the proposed dwelling has the potential to be quite dark internally. The dwelling has been designed in this way to ensure that no habitable rooms overlook the adjacent properties. While the adjacent properties would not be overlooked, the design of the dwelling suffers and only serves to highlight the contrived nature of the proposal. It is considered therefore that the proposed dwelling does not draw upon the best tradition of form and detailing and is therefore contrary to criteria G however, given the outline nature of the proposal, this will not be put forward as a reason for refusal.

- (H) In assessment of whether the dwelling will create conflict with adjacent land uses it is considered that while the proposal will not overlook the neighbouring properties to the side and rear, it has the potential to impact on the adjacent properties through dominance, given the massing of a two-storey dwelling on a relatively small plot.

The presence of such a dwelling on this small plot and in close proximity to the adjacent dwellings at No 71 and 73 has the potential to create an unattractive outlook for the occupants and potentially a sense of being 'hemmed in' for those in No 71 particularly when in their rear amenity space.

The proposal therefore fails to satisfactorily meet this criterion.

- (I) In assessment of whether the dwelling is designed to deter crime and promote safety, it is considered that the proposal has the potential to achieve to this.

In summary therefore of the above, it is considered therefore that the proposal does not comply satisfactorily with Policy QD1 of PPS 7 and is contrary to criterion A, C, F, and H.

Addendum to Planning Policy 7: Safeguarding the Character of Residential Areas

Policy LC 1 Protecting Local Character, Environmental Quality and Residential Amenity is also applicable in this case which states that 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 above in Policy QD1 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;

For the purposes of this site the established residential area is considered to be that from 105 Church Street to No 69 Church including those dwellings along Pillar Well Lane.

It is not considered given the immediate context that the proposed density of the site is higher than that found the established residential area

- (B) The pattern of development is in keeping with the overall character and environmental quality of the established residential area;

While the site will be overdeveloped, it would be difficult to appreciate this in terms of the character of the area, given the limited critical views along Pillar Well Lane. While consideration has been given to this policy, in this case, a reason for refusal on the basis of character will not be put forward.

- (C) All dwelling units and apartments are built to a size not less than those set out in Annex A.

The indicative dwelling shown in this application will comply satisfactorily with this requirement given its proposed floorspace of 102 sqm.

The proposal therefore complies satisfactorily with Policy LC1.

DCAN 8 – Housing in Existing Urban Areas

This advice note states in paragraph 5.7 that back land development on plot depths of less than 80m are unlikely to be acceptable. The existing depth of the site from the public road at Church Street to the rear boundary at Pillar Well Lane is noted to be currently 29m. On this basis it is considered that the site is not large enough to enable its development for a dwelling to a satisfactory level.

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 reasons.

Refusal Reasons

1. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Criterion A of Policy QD1 of Planning Policy Statement 7: Quality Residential Environments in that the proposal if permitted would represent an overdevelopment of the site.

- 2. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Criterion C of Policy QD1 of Planning Policy Statement 7: Quality Residential Environments in that insufficient private amenity space has been provided for the proposed dwelling.
- 3. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Criterion F of Policy QD1 of Planning Policy Statement 7: Quality Residential Environments in that insufficient and inappropriate provision has been made for the parking of two vehicles within or near the site.
- 4. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Criterion H of Policy QD1 of Planning Policy Statement 7: Quality Residential Environments in that the proposed dwelling would, if approved, have a detrimental impact on the neighbouring properties at Nos 71 and 73 Church Street by reason of dominance.

Signed

Date

Signed

Date



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2019/1142/O

Date Received: 23rd 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 21st August 2019. All relevant neighbour notifications issued on 27th 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

Planning Committee

Planning Application Number: LA07/2019/1142/0

Proposed Gap site for 1 no. Dwelling - Side garden at 75 Station Road, Saintfield.

Statement from applicant - Mr & Mrs G McCandless

1. My wife and I moved to Station Road over 30 years ago raising our two children who have now left the family home. We have been extremely happy in Saintfield and are very keen to remain within the area. We now need to downsize to ease the burden of maintaining a large property and garden particularly as I have undergone two knee replacement operations in recent years.
2. This proposal offers us the opportunity to build a bespoke smaller property to suit our needs in our later years and also allows us to remain part of the Saintfield community and benefit from the great services in the town including an excellent Health Centre and Dental Practice.
3. My wife and I built our house as a self build project mostly using local tradesmen from the Down area with great success. If permission was granted we would fully intend to employ a locally based contractor for the build as we feel it is most important to promote and support local businesses where ever possible and we would like to use our modest project to do this.
4. Finally we would appreciate the Committee looking favourably on this application as it is crucial to our future and we are also more than happy to work with the planners to achieve a satisfactory outcome.

Gary and Sharon McCandless

4th December 2019



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2019/1231/o

Date Received: 14th 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 SPPS.

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 28th August 2019 which expired 11th September 2019; neighbour notification which was issued on 20th August 2019 expired on 3rd 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 25th 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:

Planning Committee Schedule of 11th December 2019

Planning reference: **LA07/2019/1231/O**

Proposal: **Proposed dwelling and garage on a farm.**

Applicant: **Mr Mark Priestley**

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

Recommendation: **Refusal**

Reasons

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.

Site Description

The proposed site is located adjacent to existing farm complex at 22 Drumgooland Road Seaford, Downpatrick in the countryside as designated in the Ards and Down Area. The application site is located in a small narrow linear field which is located to the west of the laneway which services no 22 and the existing farm complex.

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 & Considerations

RDS, SPPS, PPS 21, PPS3, Ards & Down Area Plan 2015

Consultations and Representations

The following consultations were carried out –

Water Ni - No objections

Dfi RS1 - issued as access is acceptable

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.

Following notifications of the relevant neighbours and advertisement in the local press no objections to the proposal were received either.

Assessment of reason for Refusal

The proposal is for a dwelling in a farm under Policy CTY10 of PPS21, the consultations with the various agencies have resulted in a positive responses including DAERA who confirmed that the business has been in existence for more than 6 years and that single farm payment is claimed thus it is deemed that the farm is entitled to apply for a dwelling under the said Policy CTY10 as no reason has been identified which would suggest that an approval would be acceptable in principal.

The proposal is sited to cluster with the dwelling and out buildings and is located with the outbuildings providing a backdrop to the proposed site which will be serviced by its own access laneway with point of access with the public road been located to the existing farm access.

The Planning Department cite Policy CTY13 and state that the site is orientated side-on which they state makes it not suitable for occupation and make it inappropriate.

The writer would refute this statement and as this reason has not been quoted as a reason for refusal rather the Planning Department relay on Policy CTY14 where they state that even a modest sized dwelling would be difficult to accommodate on this site which is in the view of the writer a miss-interoperation.

The Department also state that "the proposed dwelling would sit in between the two adjacent dwellings" and "would result in a line of three dwelling ", however this argument is not sustained in the reason put forward in the officer's report.

The report further state the proposal is not considered to be in accordance with the guidelines of PPS13 & PPS14 however the reason for refusal only refers to Policy CTY14.

Overview

The planning Department consider the site unacceptable for the positioning of a dwelling due to the orientation of the proposed site which is the least valuable portion of land within the applicants control and it has to be argued that the site is capable of accommodating a dwelling and that many dwellings are located gable to the road and in this circumstances the site is set against the backdrop of the already existing farm buildings and the proposal is sited to cluster with the existing farm complex and the developer is not forced to seek an access through the farm yard thus in conflict with Health & Safety regulations or across the frontage of the existing dwelling structure thus depriving that residence of its privacy.

Conclusion

The applicant feels that the Planning Department are forcing him to locate to an alternative site on his ownership resulting in access through the farm yard or across the frontage of the existing dwelling (No22) thus using up good agricultural land.

We would respectfully ask the Planning Committee to overturn this recommendation and grant Planning Permission for the development as applied for.



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**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2019/1234/O

Date Received: 13th 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 21st August 2019 which expired on 4th September 2019 and neighbour notification issued on 15th August 2019 expired on 29th 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:**

Planning Committee Schedule of 11th December 2019

Planning reference: **LA07/2019/1234/O**

Proposal: **Proposed dwelling on infill site.**

Applicant: **Mr Ivan Shannon**

Location **Adjacent and South of 22 Rocks Chapel Road Crossgar.**

Recommendation: **Refusal**

Reasons

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.

Site Description

The proposed site is located along the Rocks Chapel Road, Crossgar in the countryside as designated in the Ards and Down Area. The application site is located between a dwelling (at No 22) and stable blocks and equine yard to the south east.

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 & Considerations

RDS, SPPS, PPS 21, PPS3, PPS6, Ards & Down Area Plan 2015, Building on Tradition (Guidance Document).

Consultations and Representations

The following consultations were carried out –

Water Ni - No objections

Dfi Roads - RS1 - issued as access is acceptable

Following notifications of the relevant neighbours and advertisement in the local press no objections to the proposal were received either.

Assessment of reason for Refusal

The application is submitted on the basis that it the proposal complies 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.

The Planning Department consider that the site is located within a continuously built up frontage of three buildings along a road frontage and the application site forms an infill opportunity.

The application site located between an existing dwelling and stable blocks and avails of the gap site between such buildings, the proposed development respects the surrounding pattern of development and avails of the gap which exists between the existing developments.

The applicant is in control of all lands and property surrounding the site and it is intended to construct a modest building on this gap site and as has been laboured in similar such applications not all plot sizes are uniform rather it is how the development is read in its location.

The proposal respects the development pattern along the road frontage and avails of the gap that exists between existing development as accepted in the officers report and it should be noted that no objections to the proposal have been raised from consultees or neighbours and the access meets with the requirements of Dfj Roads as a RS1 form has been issued

Overview

The main consideration in relation to this proposal is to whether the site is a gap site in a substantially built up frontage along this stretch of road capable of accommodating a dwelling.

It is the opinion of the applicant that the chosen site provides an opportunity for an infill dwelling in compliance with the spirit of the policy and as such should benefit from the grant of permission and the attention of the Committee is drawn to the spate of recent Planning Appeals decisions for infill dwelling in this Council Area which have been won on appeal

Conclusion

We would respectfully ask the Planning Committee to overturn this recommendation and grant Planning Permission for the development as applied for.



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**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2019/1257/F

Date Received: 15th 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 4th September 2019 which expired on 18th September 2019 and neighbour notification issued on 5th September 2019 and expired on 19th 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:**

Planning Committee Schedule of 11th December 2019

Planning reference: LA07/2019/1257/F

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

Applicant: **Mr Shane Robinson**

Location **87 Seaview, Killough.**

Recommendation: **Refusal**

Reason

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.

Site Description

The dwelling is located within the residential development of Seaview which is within the settlement limits of the village of Killough as designated in the Ards and Down Area. The application site is surrounded by dwellings of a similar design and scale.

Site History

No relevant planning history

Planning Policies & Considerations

RDS, SPPS, PPS 21, Addendum PPS7 Residential Extensions and Alterations, Ards & Down Area Plan 2015.

Consultations and Representations

No consultations necessary

Following notifications of the relevant neighbours and advertisement in the local press no objections to the proposal were received either.

Assessment of reason for Refusal

The applicant wishes to carry out a bedroom extension to his dwelling to allow his family the opportunity to have their own private space which the writer consider is necessary as the children grow and develop.

The applicant also wishes his family to have their own bedrooms and to be able to continue to reside as part of the one family unit not have to share sleeping quarters with their siblings and to this avail he proposed a first floor extension over a carport with access of the first floor hallway using the existing window opening to allow access into the new first floor extension while the carport would be located on the ground floor and which would allow

access to the garage facility which exists to the rear of the application site, while maintaining the existing requirement of 2no of street parking spaces. The applicant and his agent prepared drawings for this development taking into account that the proposed extension should appear as subordinate to the main dwelling and to this avail the proposal is set back from the front wall of the existing dwelling and set beneath the ridge of the main dwelling, the materials and finishes will all be to match the existing and the proposed design allows the refuse bins to be brought through the car port from the rear of the dwelling while still allowing access via the side of the proposal.

The applicant has made a major investment in buying his home and is happy with the place he lives and has a good relationship with his neighbours as can be seen by the fact that no objections have been received in relation to the proposal following neighbour notifications and press advertisements.

The proposal was discussed at length with his neighbour prior to preparing drawings for the planning department.

Overview

Should this proposal not be considered acceptable the applicant is been forced to seek to acquire a new dwelling away from where he currently lives, be put to additional expense at these difficult times which he cannot currently afford.

It must be stated that it is the opinion of the writer that the reason for refusing such a proposal is not sustainable and that there is no alternative proposal which will satisfy his requirements and also meet legalisation relating to in-site parking.

A single storey extension would result in the loss of a parking space.

Similar extensions exist within this development the applicant would ask that the committee examine this proposal on site to formualise themselves with the proposal in its context.

The applicant is happy with his current place of residence, his neighbourhood, friends and neighbours and he would like to continue to reside here where he hoped to extend his current dwelling to allow his family to continue to reside with him.

Conclusion

We would respectfully ask the Planning Committee to overturn this recommendation and grant Planning Permission for the development as applied for.



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**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2019/0622/A

Date Received: 16.04.2019

Proposal: 1 no. wall fixed illuminated sign (Retention).

Location: Riverside R.P. Church, Basin Walk, Newry

Site Characteristics & Area Characteristics:

The application site is located within the City Centre of Newry as defined within the Banbridge / Newry and Mourne Area plan 2015, the site is also within a Conservation Area and contains a listed building and the curtilage of a listed building.

The site contains church buildings and their surrounding grounds, at the time of inspection an LED box sign was fixed to the wall of the church hall building but the sign was not operating at this time.

The site is surrounded by several buildings some traditional in their appearance some more modern in appearance, the surrounding buildings have a range of different sign types including painted signs and LED signs.

Site History:

LA07/2018/0426/CA - Church Adjacent to Cue Club, Basin Walk, Newry - Alleged unauthorised erection of digital signage – Current case.

Planning Policies & Material Considerations:

Banbridge / Newry and Mourne Area Plan 2015

Strategic Planning Policy Statement

Planning Policy Statement 6: Planning, Archaeology and The Built Heritage

Planning Policy Statement 17: Control of Outdoor Advertisements

Consultations:

DFI Roads – No objections.

Historic Environment Division (Historic Buildings) – The response states that HED considered that the advertisement is contrary to the SPPS and PPS6 as the sign is considered oversized and overly prominent.

Objections & Representations:

Applications for advertisement consent are not neighbour notified or advertised, no objections or representations have been received.

Consideration and Assessment:

Strategic Planning Policy Statement / Banbridge / Newry and Mourne Area Plan 2015.

The SPPS is a material consideration for this application however as there is no significant change to the policy requirements for Advertisement Consent following the publication of the SPPS and it is arguably less prescriptive, the retained policy of PPS17 will be given substantial weight in determining the principle of the proposal in accordance with paragraph 1.12 of the SPPS.

The site lies within Newry City Centre and Conservation Area as defined in the Area Plan, the plan has no specific policies related to signage and as such, the proposal is not considered contrary to the Area Plan.

Planning Policy Statement 17: Control of Outdoor Advertisements and Planning Policy Statement 6: Planning, Archaeology and The Built Heritage

Policy AD1 is applicable for applications for Consent to Display Advertisements and states that consent will be given where the proposal respects amenity, when assessed in the context of the general characteristics of the locality and it does not prejudice public safety.

Policy BH 9 of PPS6

The Control of Advertisements on a Listed Building

The Department will normally only grant consent for advertisements or signs on a listed building where these are carefully designed and located to respect the architectural form and detailing of the building.

The application site is within an area that contains a number of adverts which range in their size, scale and design and as such the character of the area is one where advertisements are widely visible.

The sign measures 1.8 metres by 0.8 metres and is fixed to the wall of the Lyons Memorial Hall, although HED raised concerns it is considered by the Council that the sign is of an acceptable size and that it is not overly prominent. The surrounding area contains several signs which are of a size much larger than the subject signage and as such it is considered that the proposed sign fits into the area and does not detract from the character or appearance of the area. It is also considered that the sign does not have a detrimental impact on the listed building or the setting of the listed building. It is however considered that the sign is temporary in construction and that it should not remain in place for an indefinite period and so a condition should be included on any approval to allow the sign to remain in place for a period of 5 years, after that period the sign should be removed or advertisement consent applied for again.

There are no residents located adjacent to the signage and so their illuminated nature will not impact on residential amenity.

DFI Roads raised no objections regarding public safety and as such it is considered that public safety will not be prejudiced by the proposal.

The site is located within Newry Conservation Area, the site is located in an area of mixed use and as such it is considered that the proposal will not impact on the Conservation Area given the existing character of the area which contains a number of signs of different size, scale and design.

The proposal is considered to be in compliance with relevant policy and as such a temporary approval can be granted.

This application file must go to the Planning Committee as it is recommended as an approval and there is a material planning objection from a statutory consultee HED Historic Buildings.

Recommendation: Grant Consent

Conditions:

1. The consent hereby granted shall be for a limited period of 5 years only and shall expire on 12/12/2024.

Reason: To enable The Council to consider the development in the light of circumstances then prevailing.

Case Officer:

Date:

Authorised Officer:

Date:



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**Newry, Mourne
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District Council

Application Reference: LA07/2019/1027/F

Date Received: 27th June 2019

Proposal: Single storey rear extension to dwelling.

Location: 4 Riverside Road, Ballynahinch

Site Characteristics and Area Characteristics:

The application site comprises a semi detached two storey dwelling which is located on the southern side of Riverside Road. There is a rear yard amenity area as well as a small front lawn area. There is parking provision to the front of the dwelling in front of the adjoining garage. The immediately adjacent dwellings are of a similar style.

The site is located within the settlement limits of Ballynahinch. The immediate area to the west and south is residential. Opposite the site is Lough Inch Cemetery.

Planning History

R/2008/0678/LDP - 4 Riverside Road, Ballynahinch, BT24 8JB.

Single storey sunroom extension to rear of dwelling.

Permitted Development 03/10/2008

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 24th July 2019 which expired on 7th August 2019 and neighbour notification issued on 10th July 2019 and expired on 24th July 2019. To date there has been 1 objection received in relation to the proposal.

Objection is raised on the following grounds:

- Loss of light to the rear windows of no.2 Riverside. These windows serve the kitchen and living room.
- The visual impact of the proposal. A full height brick elevation adjacent to the garden area would be very prominent.
- The effect of the proposal on the established foliage along the site boundary which we believe will be impacted by excavation.

Consideration and Assessment:

The proposed extensions and alterations are sought in order to facilitate the ease of access and improved living conditions for a resident of the property who has reduced mobility, as set out in the accompanying documentation from the Occupational Therapy department from the HSCNI.

The proposal is for:

- The erection of a single storey rear extension which would extend off the existing sunroom and would have a depth of 6.9m and a width of 4.75m. It would have a pitched roof and there would be two windows in the western elevation of the extension. 4.15m of the rear extension would be built upon the boundary with no. 2 Riverside Road and the final 2.7m of depth would be set in from the boundary by 1.7m. The extension would have a ridge height of 3.8m
- The installation of an external lift to the front elevation, along with accompanying stairs. The lift to be installed would be a 'Pollock – Classic Step-lift 1m.'

Amendments were requested in order to reduce the depth of the proposed extension. The agent has reduced 2m of the finished depth by reducing the depth of the existing rear sunroom which the extension would extend from.

• 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 proposed extension would extend off the rear elevation of the existing sunroom by 6.9m. This proposed extension would significantly increase the amount of bulk and

building footprint to the rear of the dwelling. Whilst on site Officers noted a number of garages set to the rear of adjacent properties surrounding the application site. These garages extend as deep as the proposed extension, and so while this proposed extension would be deeper than guidance allows for under EXT1, it would be considered fairly in keeping with the amount of surrounding bulk to the rear of dwellings.

The proposed lift and stairs proposed to the front of the dwelling would extend 2.2m off the front elevation of the dwelling. There would be a retaining wall to the eastern side of the lift, which would be 1m in height. Whilst the addition of this lift and stairs upon the front elevation would not be in keeping with the adjacent properties, the resulting bulk added to the front would not be extensive and officers do not consider that it would cause harm to the visual amenity of the street, when considering that the proposal would facilitate ease of accessibility for a resident.

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

The proposed front lift and associated stairs would not result in a materially harmful impact upon the residential amenity of any adjacent residents given its size. It would be sufficiently set away from both adjacent boundaries to result in any loss of light, outlook or overbearing impact to these residents.

The proposed rear extension would be single storey and would be sufficiently separated from the boundary with no.6 to result in any materially harmful impact upon their residential amenities by way of loss of light, outlook or overbearing impact. The proposed extension would have two windows on the elevation facing no.6 however one would serve a bathroom and would be obscure glazed. The proposed bedroom would have views towards the boundary treatment between no.4 and 6 which is approximately 1.5m in height and would not result in any more overlooking of rear amenity space than the side windows existing in the rear sunroom of no.4

4m of the proposed rear extension would be built upon the boundary with no. 2 Riverside Road. The remaining 2.9m would be set off the boundary by 1.7m. The proposed extension would have a height of 3.7m in height which would sit on the boundary between no.2 and no.4. the eaves would have a staggered height of 2.3m and 3m. Officers consider that this depth of expanse of brick wall would be overbearing on the rear amenity area of no.2. Furthermore, the proposed extension significantly breaks the 60 degree check for loss of light to the rear window of no.2 Riverside. The rear windows of this dwelling serve a kitchen and a living room and would suffer from a loss of light and overshadowing as a result of this extension. Furthermore, the rear amenity area itself would suffer from a loss of light and overshadowing given the close proximity of the extension. As such, the proposed rear extension would not be considered acceptable due to unacceptable impact on the residential amenities of no.2 Riverside Road.

- **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. There is however there is some foliage running along the boundary between no.2 and no.4 on the side of no.4. As this foliage is not visible from public views, this would not be considered to contribute significantly to local environmental quality.

- **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. Sufficient in curtilage space remains for the parking of two vehicles. While reduced, there would remain space for recreational and domestic purposes.

Recommendation:

Refusal is recommended.

Reasons for Refusal:

1. The proposed extension would be contrary to criteria (b) of policy EXT1 of the Addendum to PPS7 in that the amenity of neighbouring residents at no.2 Riverside Road would be harmed by way of loss of light, overshadowing to the neighbouring property at no.2.
2. The development proposed would fail to comply with criterion (d) of EXT1 in that there would be insufficient space remaining within the curtilage of the property for recreational and domestic purposes.

Informatives:

The drawing number to which this decision relates is: LA07/2019/1027/01 - 07.

Case officer:

Authorised by:

Date:

NEWRY, MOURNE AND DOWN DISTRICT COUNCIL**Minutes of the Local Development Plan Steering Group Meeting****20 November 2019****Board Room, Monaghan Row, Newry Mourne and Down District Council****Attendees:**

Members: Cllr M Larkin (Chair)
Cllr W Clarke
Cllr D McAteer

Officials: Mr A McKay Chief Planning Officer
Mr A Hay Principal Planning Officer
Mr M McQuiston Senior Planning Officer
Mrs M Fitzpatrick Planning Officer
Mrs R McCrickard Business Support Manager (Secretariat)

Apologies: Chief Executive, Marie Ward; Director Enterprise Regeneration and Tourism, Conor Mallon; Cllrs G Hanna, H McKee, L Devlin.

1 Minutes of last meeting on 11 February 2019

The minutes of the last meeting were agreed on the proposal of Cllr Larkin and seconded by Cllr McAteer.

2 Notice of Motion – Climate Change Emergency

Cllr Larkin enquired if Cllr Enright was in attendance to speak to his Notice of Motion (NoM). Mr Hay confirmed that Cllr Enright had been invited to attend the meeting in respect of this item, he further advised that no apology had been received in respect of his non-attendance. Cllr Larkin referred to the NoM and the response report which was on for noting. In the absence of Cllr Enright, Cllr Larkin invited Mr Hay to refer to the response report.

In reference to the report, Mr Hay referred to the status and purpose of the Preferred Options Paper (POP) in the Local Development Plan (LDP) preparation and process. He advised that the POP is not the actual Development Plan but serves as a public consultation document in the LDP preparation process; it is representative of an 'Issues Paper' and does not set out the Council's planning policies, proposals or plans at this stage in the LDP process.

Mr Hay advised that climate change and the associated issues reference in the NoM were considered to varying degree in the context of a number of key issues identified in the POP. He also referred to the Sustainability Appraisal (SA) and that one of the objectives was to "reduce causes of and adapt to climate change". The SA Interim Report found that the POP was considered to have a cumulative positive effect on reducing causes and adapting to climate change.

Mr Hay considered that the declaration of a 'Climate Change Emergency', is a matter for the Council, and that such a declaration will need to be holistic and cut across all council

policy and practice; it is not just about planning, it should not solely focus on its development plan making function.

Mr Hay advised that there is no need to fundamentally revise and amend the POP. He advised that the POP has identified climate change as a key issue for the district; one that will be increasingly taken into consideration in the preparation of each of the 'Development Plan Documents' of the LDP, which is an ongoing process. To revise and amend the POP is not necessary and would only set the clock back in the preparation of a LDP for the district; which would be counterproductive.

Members discussed various issues in relation to climate change – renewable energy, electrification of transport, sustainable transport initiatives – and how these are brought forward through the LDP.

Mr Hay advised that in the further development of our LDP there will be the opportunity to advance a plan making and policy development approach to mitigate, adapt, and build resilience in response to the issues of climate change. In doing so the Planning Department will continue to take cognisance of relevant guidance and good practice, collaborate and engage with others, and be responsive in sustainably planning for climate change.

The response to Notion of Motion – Climate Change Emergency was noted.

3 Terms of Reference: Amendment

Mr Hay advised that in response changes in the governance and reporting arrangements in the consideration and agreement of LDP business it was necessary to amend the Terms of Reference (ToR) for the LDP Steering Group.

The amended ToR was agreed on the proposal of Cllr Larkin and seconded by Cllr McAteer.

4 Preferred Options Paper – Interim Consultation Report (Working Draft)

Mr Hay outlined the background and purpose of the report for members to note. Mr Hay advised that the POP Interim Consultation Paper is a working draft which will be updated and amended as we progress through the plan process.

Mr Hay referred to the POP public consultation exercise and advised that the Consultation Report provided an analysis of the representations received which will inform the preparation of the draft Plan Strategy and Local Policies Plan stages of the LDP process.

Mr Hay, Mr McQuiston and Mrs Fitzpatrick responded to issues raised by Members - general issues in relation to the document and specific issues in relation to the analysis of the representations received in response to a number of Key Issues, the nature of some of these responses, and how these will be addressed and further developed through the LDP. Areas discussed included lifetime homes and renewable energy requirements for developers, and Park & Ride facilities.

Cllr McAteer acknowledged that a considerable amount of work had gone in to the document.

Cllr Larkin, Cllr McAteer and Cllr Clarke thanked officers for the report and agreed that we need to keep abreast of developments and have an influencing factor on what is achievable through LDP.

The POP Interim Consultation Report (Working Draft) was noted.

5 Dates and venues of next meetings

Mr Hay referred members to the LDP Steering Group programme for the next year and the dates of the next meetings. In discussing the venue for the meetings, as the LDP Steering Group now reports to the Planning Committee, it was agreed on the proposal of Cllr Larkin and seconded by Cllr Clarke that all future meetings will be held in Newry. The next meeting is scheduled for 22 January 2020.

Report to:	Planning Committee
Date of Meeting:	11 December 2019
Subject:	Local Development Plan Steering Group Terms of Reference: Amendment
Reporting Officer:	Anthony McKay, Chief Planning Officer
Contact Officer:	Andrew Hay, Principal Planning Officer

Confirm how this Report should be treated by placing an x in either:-

For decision	<input checked="" type="checkbox"/>	For noting only	<input type="checkbox"/>
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1.0	Purpose and Background
1.1	The purpose of this report is for Members to note and agree to amendments to the LDP Steering Group Terms of Reference (ToR), as required in response to a change in the governance and reporting arrangements in the consideration and agreement of LDP business.
1.2	The amended ToR was considered and agreed at the LDP Steering Group meeting on 20/11/19 and recommended to the Planning Committee for agreement.
2.0	Key issues
2.1	Following a change in the governance arrangements for the reporting of the LDP, the LDP Steering Group now reports to the Planning Committee. (previously the LDP Steering Group reported to the SPR Committee)
2.2	To reflect this change in governance, the membership of the LDP Steering Group in respect of 'Elected Members' has been changed to comprise of all (12) Members of the Planning Committee. This change in membership was agreed at the Planning Committee on 29/5/19 and ratified by the Council on 1/7/19. (previously the 'Elected Members' were composed of 11 Members, 5 councillors from the SPR Committee and 6 councillors from the Planning Committee)
2.3	For the meetings of the LDP Steering Group, the existing ToR states that the 'Elected Members' will elect a Chairperson and Deputy Chairperson. Again, to reflect the change in governance and membership, it is proposed that the Chairperson and Deputy Chairperson of the LDP Steering Group be the Chairperson and Deputy Chairperson of the Planning Committee.
2.4	The LDP Steering Group does not have decision making powers, it makes recommendations only. Recommendations requiring decision will be tabled at the Planning Committee. Recommendations requiring decision will be considered and agreed by the Planning Committee. As the Planning Committee does not have delegated authority for decisions in relation to LDP business, the relevant extracts from the minutes of the Planning Committee in relation to LDP business will be reported to the Council for consideration and adoption.

	(previously recommendations requiring decision were tabled at the SPR Committee, to which the Planning Committee was invited)
2.5	The ToR has been amended reflect the above changes.
2.6	The amended ToR was considered and agreed at the LDP Steering Group meeting on 20/11/19 and recommended to the Planning Committee for agreement.
3.0	Recommendations
3.1	It is recommended that the Planning Committee note the content of this report, and agree: <ul style="list-style-type: none"> The amendments to the ToR (as detailed above). A copy of the amended ToR is attached for Members reference (Appendix 1.).
4.0	Resource implications
4.1	N/A
5.0	Equality and good relations implications
5.1	N/A
6.0	Rural Proofing implications
6.1	N/A
7.0	Appendices
	<ul style="list-style-type: none"> Newry, Mourne and Down Local Development Plan Steering Group: Terms of Reference (Revision 2)
8.0	Background Documents
	<ul style="list-style-type: none"> Newry, Mourne and Down Local Development Plan Steering Group: Terms of Reference (Revision 1)

Newry, Mourne and Down Local Development Plan Steering Group

Terms of Reference

PURPOSE:

The purpose of the Steering Group is to oversee and co-ordinate the delivery of the Newry, Mourne and Down Local Development Plan (LDP).

OBJECTIVES:

- To secure the necessary input from Council officers so as to deliver the LDP in accordance with the LDP Timetable agreed with the Department for Infrastructure (DfI), whilst meeting statutory requirements and various tests of 'soundness'.
- To ensure that the public and key stakeholders are engaged in the Plan process as provided for in the Council's Statement of Community Involvement (SCI).
- To secure the engagement of Councillors in the LDP process, particularly at key stages where a corporate Council view needs to be identified and presented to the public (e.g. Preferred Options Paper, Draft Plan Strategy, Draft Local Policies Plan).
- To take appropriate action to address any resource issues and/or address risks identified through the Chief Planning Officer.

MEMBERSHIP:

In accordance with the Council's Statement of Community Involvement (SCI) the LDP Steering Group will comprise of:-

- Elected Members; and
- Senior Council Officers

As determined by the Council, the membership shall be composed of:

Elected Members

- Members of the Planning Committee

Senior Council Officers

- Chief Executive
- Director of Enterprise, Regeneration and Tourism*
- Chief Planning Officer
- Principal Planning Officer

(*Note: the preparation of the LDP is a function of the Planning Department, which sits within the ERT Directorate, should this arrangement change membership shall pass to the relevant Director)

Other Senior Council Officers (e.g. Directors, Assistant Directors, and Heads of Service), and other Council Officers, will be invited to participate in the Steering Group meetings as and when required.

MEETINGS:

The Chairperson and Deputy Chairperson of the Steering Group will be the Chairperson and Deputy Chairperson of the Planning Committee. In the absence of the Chairperson, the Deputy Chairperson will chair the Group. If both are not present, the meeting will nominate a Chair from those present.

The Steering Group does not have decision making powers, it makes recommendations only. Recommendations requiring decision will be tabled at the Planning Committee*.

(*Note: recommendations requiring decision will be considered and agreed by the Planning Committee. As the Planning Committee does not have delegated authority for decisions in relation to LDP business, the relevant extracts from the minutes of the Planning Committee in relation to LDP business will be reported to the Council for consideration and adoption.)

The Steering Group does not operate to any quorum and meetings will proceed regardless of numbers in attendance.

The Steering Group will normally meet on a bi monthly basis or otherwise as may be agreed or required.

Meetings of the Steering Group will be convened by the Chief Planning Officer.

Declarations of Interest:

Members of the Steering Group shall take responsibility to declare proactively any potential conflict of interest arising out of business undertaken by the Group.

Confidentiality:

Confidentiality must be maintained at all times. In the conduct of their duties, members of the Steering Group will be privy to material that is confidential, or which should reasonably be regarded as being of a confidential nature. This material must not be distributed outside of the Group.

Press:

Meetings of the Steering Group will not be open to the press.

Public:

Meetings of the Steering Group will not be open to the public.

Report to:	Planning Committee
Date of Meeting:	11 December 2019
Subject:	Representation Response to Lisburn and Castlereagh City Council's Local Development Plan 2032 - Draft Plan Strategy
Reporting Officer:	Anthony McKay, Chief Planning Officer
Contact Officer:	Andrew Hay, Principal Planning Officer

Confirm how this Report should be treated by placing an x in either:-

For decision	X	For noting only	
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1.0	Purpose and Background
1.1	The purpose of this report is for Members to note and agree the representation response to Lisburn and Castlereagh City Council's Local Development Plan 2032 - Draft Plan Strategy (LCCC LDP dPS)
1.2	The LCCC LDP dPS was published for formal consultation on Friday 8 th November 2019. The closing date for receipt of representations is Friday 10 th January 2020.
1.3	As an adjoining council/planning authority with a common boundary, Newry Mourne and Down District Council (NMDDC) is a statutory consultee in the preparation of LCCC's LDP. In sharing a boundary with LCCC, this Council has an interest in the content of LCCC's Draft Plan Strategy (dPS), the first of its two development plan documents.
1.4	The LCCC LDP dPS has been considered by the Development Plan Team and a representation response has been drafted for Members agreement.
2.0	Key issues
2.1	The Plan Strategy for LCCC is the first document in a two stage process, the second being the Local Policies Plan. Together these will constitute LCCC's new LDP.
2.2	The draft Plan Strategy (dPS) follows the publication of LCCC's Preferred Option Paper in March 2017.
2.4	The LCCC LDP dPS and supporting documents are available to view and download from the following link: https://www.lisburncastlereagh.gov.uk/resident/planning/local-development-plan (Note: the LCCC LDP dPS consists of two parts, Part 1: Plan Strategy, and Part 2: Operational Policies)
2.5	As the Council shares a boundary with LCCC it has an interest in its LDP. The LCCC LDP dPS has been considered by the Development Plan Team and a representation response has been drafted for Members agreement.

2.6	<p>Consultation and engagement with neighbouring Councils provides the opportunity to:</p> <ul style="list-style-type: none"> • identify cross border issues in the areas of economic development, housing, transport, general infrastructure, and the environment • advise of matters of collective interest including the evidence base which informs the draft Plan Strategy, • seek agreement and co-operation, where possible, on cross boundary issues identified • ensure that regional policy development, local transport plans and joint working is appropriately linked to the decision making role.
2.7	<p>In this respect it is acknowledged that mutual co-operation and constructive engagement through meetings and workshops has taken place between officers from our respective Local Development Plan Teams during the preparation of LCCC's dPS to identify cross boundary issues and discuss areas of mutual interest.</p>
2.8	<p>Overall the LCCC LDP dPS is generally well received and most of the comments expressed in the representation response serve as acknowledgements and highlight areas of mutual interest on which further consultation and engagement will be required in the preparation of our respective LDPs. In conclusion, the LCCC LDP dPS informs the preparation of our LDP, and does not give rise to any conflicting areas in the ongoing development of our own dPS.</p>
2.9	<p>Following agreement of the Planning Committee and ratification by the Council at its meeting on 6th January 2010, the representation response will be submitted to LCCC by the closing date of 10th January 2020.</p>
3.0	Recommendations
3.1	<p>It is recommended that the Planning Committee note the content of this report, and agree the:</p> <ul style="list-style-type: none"> • Representation response to Lisburn and Castlereagh City Council's Local Development Plan - Draft Plan Strategy (Appendix 1)
4.0	Resource implications
4.1	N/A
5.0	Equality and good relations implications
5.1	N/A
6.0	Rural Proofing implications
6.1	N/A
7.0	Appendices
	<ul style="list-style-type: none"> • Newry, Mourne and Down District Council's Representation Response to Lisburn and Castlereagh City Council's Local Development Plan - Draft Plan Strategy
8.0	Background Documents
	<ul style="list-style-type: none"> • Lisburn and Castlereagh City Council's Local Development Plan - Draft Plan Strategy

Marie Ward
Chief Executive



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

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Date: xx January 2020

Ref: LCCC LDP dPS

Local Development Plan Team
Civic Headquarters
Lagan Valley Island
Lisburn
BT27 4RL

Dear Sir/Madam

Re: Lisburn & Castlereagh City Council's Local Development Plan 2032 – Draft Plan Strategy

Representation Response of Newry, Mourne and Down District Council

I refer to the publication of your draft Plan Strategy for your Local Development Plan (LDP) and thank you for the opportunity to comment.

As an adjoining council/planning authority with a common boundary, Newry Mourne and Down District Council (NMDDC) is a statutory consultee in the preparation of your LDP. In sharing a boundary with Lisburn & Castlereagh City Council (LCCC), this Council has an interest in the content of your draft Plan Strategy (dPS), the first of your two development plan documents.

We recognise that consultation and engagement with neighbouring Councils provides the opportunity to:

- identify cross border issues in the areas of economic development, housing, transport, general infrastructure, and the environment
- advise of matters of collective interest including the evidence base which informs the draft Plan Strategy,
- seek agreement and co-operation, where possible, on cross boundary issues identified,
- ensure that regional policy development, local transport plans and joint working is appropriately linked to the decision making role.

In this respect we acknowledge the mutual co-operation and constructive engagement through meetings and workshops that have taken place between officers from our respective Local Development Plan Teams during the preparation of your dPS to identify cross boundary issues and discuss areas of mutual interest.

The LDP will be tested at Independent Examination in respect of its 'soundness'. Departmental guidance as set out in Development Plan Practice Note 6: Soundness (DPPN6) advises that a council, *'must have regard to other relevant plans, policies and strategies, not only in its own district but also*

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Newry Office
O'Hagan House
Monaghan Row
Newry BT35 8DJ

Oifig Dhún Pádraig
Downpatrick Office
Downshire Civic Centre
Downshire Estate, Ardglass Road
Downpatrick BT30 6GQ

0300 013 2233 (Council)
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www.newrymournedown.org

Ag freastal ar an Dúin
agus Ard Mhacha Theas
Serving Down
and South Armagh



in its adjoining area'. Reference in this respect is made to Consistency Test C4 and Coherence and Effectiveness Test CE1.

In respect of the above, it is vitally important that, in the progression of the dPS to Independent Examination, LCCC is satisfied that it is in compliance with soundness tests of C4 and CE1. Through continued cross border co-operation and collaboration, the economic, social and environmental interests of Newry Mourne and Down need to be fully taken into account in the strategic planning and economic development of our adjoining districts. In guiding future development and sustainable growth, and in the co-ordinated delivery of strategic development, infrastructure and services, it is important that LCCC, through its dPS, recognise, acknowledge and be ever mindful of Newry, Mourne and Down District as it borders the Republic of Ireland, in particular its placement on the Dublin – Belfast Economic Corridor. The city of Newry together with the neighbouring port of Warrenpoint is strategically positioned on the Dublin – Belfast Economic Corridor serving as both a regional and international gateway.

In reference to the dPS, and associated documents, the Council notes the development of six plan objectives to deliver the vision for the LDP and how they relate to and seek to achieve the spatial aspects of LCCC's Community Plan. It is also noted that these objectives also link directly and are implemented through the strategic policies, spatial strategy and operational policies.

LCCC's spatial strategy and associated settlement hierarchy are noted.

Under the objective 'A: A Quality Place' the strategic housing allocation has been informed by the eight indicators provided by the SPPS. The identification of land at West Lisburn/Blaris for additional strategic housing growth of up to 1500 dwellings is noted. The strategic policy for housing in settlements and the countryside in addition to education, health, community and culture are also noted. Operational policies for residential development including affordable housing in settlements and specialist accommodation are noted, as are the policies for community facilities in the settlements and development in the countryside.

Under objective 'B: A Thriving Place' the strategic employment allocation identifying a hierarchy of sites consisting of Strategic Mixed Use Sites at West Lisburn/Blaris and Purdysburn/Knockbracken and Local Employment Sites are noted as is the level of developable land for economic uses that remains in comparison to the likely need over the plan period. The Council notes the intention to retain the Maze Lands as a Strategic Land Reserve of Regional Importance while not forming part of the overall quantum of employment land.

The strategic policy for economic development in the countryside and mineral development are noted and in particular the acknowledgment that the areas most at risk in terms of environmental impacts of mineral development include the existing Area of High Scenic Value of Magheraknock Loughs which is a designation which extends into our District. In respect of this we would welcome discussion on your future work in identifying areas of mineral constraint. It is also acknowledged that minerals development is a regional issue and that the evidence base is still being developed. Operational policy, including that on Valuable Minerals and Unconventional Hydrocarbon Extraction is noted.



Under objective 'C: A Vibrant Place' the retail hierarchy excludes Sprucefield Shopping Centre and instead refers to it having its own policy in recognition of its importance as a destination. It also includes strategic policy for Town Centres, Retailing and Other Uses and the Evening/Night-time Economy. Operational policy for town centres, retailing and other uses is noted.

Under objective 'D: An Attractive Place' the strategic policy for tourism aims to promote a sustainable approach to tourism development, safeguarding key tourism assets while providing opportunities for growth. Strategic policy for open space seeks to protect and enhance existing open space and provide new open space in addition to supporting and protecting a network of accessible green and blue infrastructure and promote the development of strategic and community greenways. The Council acknowledges that further work is to be carried out in this respect and would welcome the opportunity for further engagement in the future. Operational policy in respect of tourism and open space are also noted.

Objective 'E: A Green Place' provides strategic policy for protecting and enhancing the historic and natural environment. The Council notes that while existing designations are carried forward from the existing development plan that further work in reviewing existing and future landscape designations will be assessed as part of the Local Policies Plan. Given our shared boundary and transboundary landscape there is a need to ensure there are no potential issues or adverse impacts arising from landscape designations and the Council would seek further discussion at the appropriate time. The operational policies for historic environment, archaeology, and natural heritage are also noted.

Objective 'F: A Connected Place' seeks to support sustainable transport and other infrastructure. It provides strategic policy for transportation infrastructure, renewable energy, telecommunications and other utilities, waste management and flooding. Given the transboundary nature of some of these issues the Council would welcome further discussion on matters such as improved transport connections, the facilitation of park and ride schemes, and strategic greenways. The acknowledgement that a joined-up approach in relation to waste management is needed and the Arc21 arrangements are noted as is the encouragement of the use of Sustainable Drainage Systems to alleviate surface water flooding. The associated operational policies for transport and infrastructure are also noted.

The Council notes the accompanying supporting documents, in particular the Technical Supplements, Supplementary Planning Guidance and the Sustainability Appraisal.

In conclusion, Newry, Mourne and Down District Council considers that the contents of your draft Plan Strategy documents are not in conflict with the ongoing development of our own draft Plan Strategy. We look forward to continued consultation and engagement with you on matters of common interest at the appropriate time in our respective work programmes.

Yours sincerely

Anthony McKay
Chief Planning Officer

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
		PLANNING MEETING – 09 MAY 2018			
LA07/2017/1721/F	Millvale Services Ltd – proposed parking for neighbouring Millvale Service Station – Millvale Road, Bessbrook	Defer Planning Application LA07/2017/1721/F to allow for a Health and Safety Report / Road Traffic Report to be conducted as soon as possible and report back to Committee for further consideration of the application.	Pat Rooney	21 day letter issued to agent requesting the said information. Expiry date for info is 9.7.18. 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. Remains under consideration	N
		PLANNING MEETING – 1 AUGUST 2018			

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	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	Annette McAlarney	Await legal advice.	N
PLANNING MEETING – 29 AUGUST 2018					
LA07/2017/0821/0.	Mr C Kane - Proposed off site replacement dwelling and garage - 123 Magherahamlet Road, Moneywabane, Ballynahinch.	Defer application for further discussion between agent/applicant and planning officers re: new information submitted and issues raised at the Planning Committee Meeting	Annette McAlarney	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	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.	
		PLANNING MEETING - 13 FEBRUARY 2019			
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	Withdrawn by the Planning Department to allow further consultation to be completed	A Davidson	Remains under consideration	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	Defer to allow revised plans to be considered and ensure a maintenance strip was provided for use by Rivers Agency.	A McAlarney	Applicant has met with Rivers Agency. Planning office has requested updated position from applicant. No response. Proceed to return to May 2019 Committee – DEFER Under consideration	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
		PLANNING MEETING – 26 JUNE 2019			
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 Office Meeting held with applicant; revisions unsatisfactory. Final meeting arranged for 28/11/2019.	N
		PLANNING COMMITTEE MEETING – 24 JULY 2019			
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.		Under consideration.	
		PLANNING COMMITTEE MEETING – 17 SEPTEMBER 2019			
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’Faich Square, Crossmaglen	Defer for discussions between agent and Planning Officers to agree a suitable scheme and delegate authority to Planning Officers to issue the decision	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	Defer for discussions between agent and Planning Officers to agree a suitable scheme and delegate authority to Planning Officers to issue the decision	A Davidson		
LA07/2018/1614/0	Dwelling on a farm – 50m south of No. 24 Island Road, Attical, Killeel	Site visit to be held	M Keane	To be returned to December Meeting.	
LA07/2018/0860/F	Proposed replacement dwelling (amended drawings) – 45 metres NE of No. 14 Rath Road, Clonallon Glebe tb Warrenpoint	Defer for further discussion between Planning Officers and agent/applicant – additional information to be provided	M Keane		
		PLANNING COMMITTEE MEETING – 16 OCTOBER 2019			

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
LA07/2016/1074/RM	Development of Community Treatment and Care Centre	<ul style="list-style-type: none"> • Defer for a site visit • Applicant to bring back a travel plan for making public transport available to the CTC facility to the next Planning Committee Meeting • A meeting be held with the owner of No. 71 Castle Street; Dfi Roads; applicant/agent and Planning Officers to attempt to resolve issues raised at the meeting by the objectors 	P Rooney	To be returned to December Meeting.	
LA07/2017/0542/F	Retail park at Carnbane	Defer for officers to consider late information and take back to the November Planning Committee Meeting	P Rooney	To be returned to December Meeting.	
LA07/2019/0512/0	Infill dwelling and detached garage – lands between Nos 151 and 149 Dunmore Road, Ballynahinch	Defer for a site visit	A McAlarney	To be returned to December Meeting.	
LA07/2019/1031/F	Extension to side dwelling – 4 Oldpark Road, Loughinisland	Defer for further discussions between agent/Planners with a view to agreeing a suitably designed extension which would not impact on the streetscene.	A McAlarney		

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
		Planners to be given authority to issue the decision			

Newry, Mourne & Down District Council – November 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

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	1,173
May	718	212	81	61	124	1,196
June	718	202	86	57	121	1,184
July	664	243	76	51	123	1,157
August	632	227	77	44	128	1,108
September	574	211	70	45	126	1,026
October	534	213	80	39	115	981
November	522	212	71	40	118	963

Newry, Mourne & Down District Council – November 2019

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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

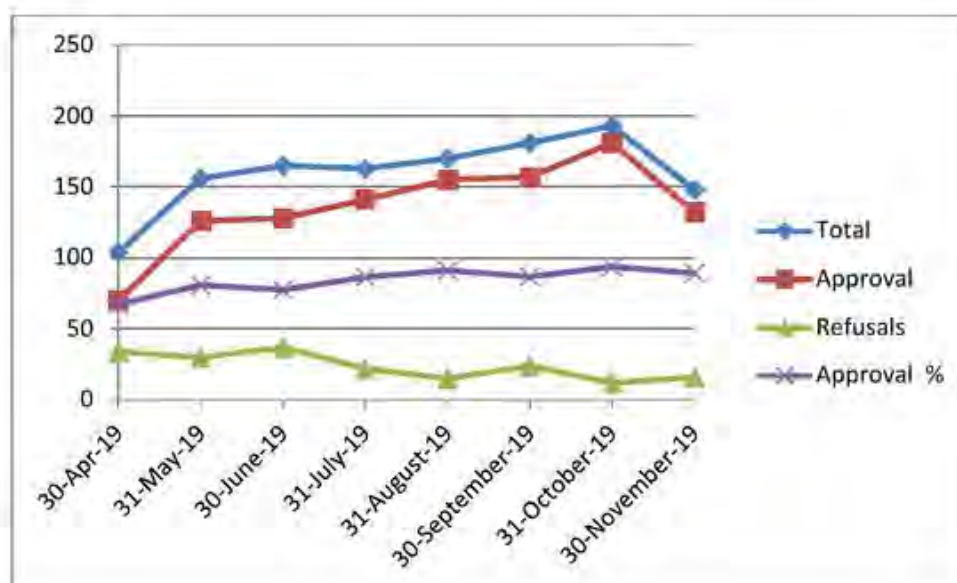
4. Decisions issued per month

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

Newry, Mourne & Down District Council – November 2019

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	1132	Approvals (958)	85%
		Refusals (174)	15%
November	1280	Approvals (1090)	85%
		Refusals (190)	15%



Newry, Mourne & Down District Council – November 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+yrs	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

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
Totals	152	115	37	37

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	24	2	2	0	
Down	21	6	4	2	
TOTAL	45	8	6	2	

Newry, Mourne & Down District Council – November 2019

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Statutory targets monthly update - April 2019 - September 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 ¹	Average processing time ²	% of cases processed within 30 weeks	Number received	Number decided/withdrawn ¹	Average processing time ²	% of cases processed within 15 weeks	Number opened	Number brought to conclusion ³	"70%" conclusion time ³	% of cases concluded within 39 weeks
April	3	1	51.8	0.0%	161	81	22.0	22.2%	28	66	192.0	30.3%
May	1	1	600.0	0.0%	151	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%	109	151	20.0	36.4%	41	43	168.6	30.2%
August	1	2	55.4	50.0%	99	159	22.2	29.6%	24	42	83.5	47.6%
September	1	1	321.0	0.0%	115	166	22.4	24.1%	33	35	185.7	40.0%
October	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
November	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
December	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
January	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
February	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
March	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
Year to date	8	8	162.4	25.0%	758	840	22.0	27.5%	180	270	130.4	37.4%

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 – November 2019

Record of meetings between Planning Officers and Public Representatives 2018-2019

283

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

Current Appeals

284

AUTHORITY **Newry, Mourne and Down**

ITEM NO	1	PAC Ref:	2018/A0201
Planning Ref:	LA07/2018/0410/	DEA	Rowallane
APPELLANT LOCATION	Mr And Mrs Stevenson 80m South East Of 2 School Road Saintfield		
PROPOSAL	RT24 7.IH 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	04/02/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	2	PAC Ref:	2018/A0251
Planning Ref:	LA07/2018/0015/	DEA	The Mournes
APPELLANT LOCATION	Gordon Graham Between 20 And 22 Ulster Avenue Annalong		
PROPOSAL	Co Down 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	29/03/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

285

ITEM NO	3	PAC Ref:	2019/A0009
Planning Ref:	P/2014/0107/F	DEA	Crotlieve
APPELLANT	Paul McAlinden		
LOCATION	53 Rostrevor Road Hilltown Newry BT34 5TZ		

PROPOSAL Erection of dwelling (change of house type on site where works have commenced)

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 Representation

Date of Site Visit

ITEM NO	4	PAC Ref:	2019/A0023
Planning Ref:	LA07/2018/0264/	DEA	Downpatrick
APPELLANT	Steven Skelly		
LOCATION	36 Demense Heights Downpatrick		
PROPOSAL	Extension to dwelling		

APPEAL TYPE DC- Refusal of Planning Permission

Appeal Procedure **Date Appeal Lodged** 07/05/2019

Date of Hearing

Date Statement of Case Due for Hearing

Date Statement of Case Due - Written Representation

Date of Site Visit

Current Appeals

286

ITEM NO	5	PAC Ref:	2019/A0028
Planning Ref:	LA07/2017/1849/	DEA	Rowallane
APPELLANT	Mr N Graham		
LOCATION	6-10 Fairview Saintfield Parks Saintfield		
PROPOSAL	Erection of 9 no domestic dwellings (Townhouses)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	13/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	6	PAC Ref:	2019/A0031
Planning Ref:	LA07/2018/0128/	DEA	Rowallane
APPELLANT	Paul Scott		
LOCATION	Lands 195m SSE Of 95 Cahard Road Cahard Ballinahinch		
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	16/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

287

ITEM NO	7	PAC Ref:	2019/A0037
Planning Ref:	LA07/2018/1371/	DEA	Slieve Croob
APPELLANT	Mr Christopher Rea		
LOCATION	Between 52 & 52A Magheralone Road Ballynahinch		
PROPOSAL	Single dwelling house and garage		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	20/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	8	PAC Ref:	2019/A0041
Planning Ref:	LA07/2017/1799/	DEA	The Mournes
APPELLANT	H Lynch & E Ferguson		
LOCATION	Land East Of 2 Castle Place Newcastle		
PROPOSAL	RT33 0AA 2 No Apartments with associated parking and amenity		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	24/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

288

ITEM NO	9		
Planning Ref:	LA07/2017/1488/	PAC Ref:	2019/A0049
APPELLANT	Blackgate Developments Ltd	DEA	The Mournes
LOCATION	Lands Approximately 60 Metres East Of No. 4 Beach Side Harbour Road		
PROPOSAL	Kilkeel 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	29/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	10		
Planning Ref:	LA07/2019/0164/	PAC Ref:	2019/A0050
APPELLANT	Mr & Mrs N Crean	DEA	Slieve Croob
LOCATION	38 Lighthouse Road Ballyward Castlewellan		
PROPOSAL	Replacement dwelling with retention of old dwelling as agricultural storage		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	29/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

289

ITEM NO 11
Planning Ref: LA07/2019/0018/ **PAC Ref:** 2019/A0051
APPELLANT Mr Cavan Johnston **DEA** Downpatrick
LOCATION Approximately 220m North East Of 51 Shore Road
 Strangford
PROPOSAL Retrospective agricultural building on footprint of existing agricultural building utilising existing rear wall

APPEAL TYPE DC- Refusal of Planning Permission
Appeal Procedure **Date Appeal Lodged** 30/05/2019
Date of Hearing
Date Statement of Case Due for Hearing
Date Statement of Case Due - Written Representation
Date of Site Visit

ITEM NO 12
Planning Ref: LA07/2018/1451/ **PAC Ref:** 2019/A0058
APPELLANT G Hancock **DEA** The Mournes
LOCATION 64 Drummanmore Road
 Maghery
 Killeel
PROPOSAL Proposed retention of 2 No outbuildings within curtilage of existing dwelling for purposes ancillary to the enjoyment of the dwelling house.

APPEAL TYPE DC- Refusal of Planning Permission
Appeal Procedure **Written Reps with Site Visit** **Date Appeal Lodged** 11/06/2019
Date of Hearing
Date Statement of Case Due for Hearing
Date Statement of Case Due - Written Representation
Date of Site Visit

Current Appeals

290

ITEM NO	13	PAC Ref:	2019/A0059
Planning Ref:	LA07/2018/1343/	DEA	Crotlieve
APPELLANT	Mr M Hills		
LOCATION	Lands South And Adjacent To 7 Benagh Road Newry		
PROPOSAL	Erection of a dwelling and garage and associated site works (Infill site)		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	17/06/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	14	PAC Ref:	2019/A0064
Planning Ref:	LA07/2018/0785/	DEA	Crotlieve
APPELLANT	Mr W McMahon		
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	26/06/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

291

ITEM NO	15		
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		
PROPOSAL	Newry 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	27/06/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	16		
Planning Ref:	LA07/2018/0496/	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	04/07/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

292

ITEM NO	17	PAC Ref:	2019/A0082
Planning Ref:	LA07/2019/0013/	DEA	Slieve Croob
APPELLANT LOCATION	Niall Branniff 50 Drumkeeragh Road Ballynahinch		
PROPOSAL	Replacement dwelling		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	19/07/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	18	PAC Ref:	2019/A0090
Planning Ref:	LA07/2018/1946/	DEA	Slieve Croob
APPELLANT LOCATION	Mr & Mrs J McAteer 21 Drumboy Road Dromara		
PROPOSAL	Dwelling and garage on a farm		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	01/08/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

293

ITEM NO	19	PAC Ref:	2019/A0093
Planning Ref:	LA07/2018/1995/	DEA	The Mournes
APPELLANT	Mr N Dodds		
LOCATION	West Of 133 Tullybrannigan Road Newcastle		
PROPOSAL	2 Infill dwellings between 133 & 135 Tullybrannigan Road		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	02/08/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	20	PAC Ref:	2019/A0094
Planning Ref:	LA07/2017/1068/	DEA	The Mournes
APPELLANT	Mr And Mrs M Pedan		
LOCATION	Between No's 42 And 46 Fair Road Greencastle BT34 4J S		
PROPOSAL	Erection of dwelling on gap site		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	02/08/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

294

ITEM NO	21	PAC Ref:	2019/A0096
Planning Ref:	LA07/2017/1064/	DEA	The Mournes
APPELLANT	Mr Pat McCartan		
LOCATION	60 Metres South East Of No. 77 Tullyframe Road Kilkeel		
PROPOSAL	BT34 4R7 Site for dwelling and garage on equestrian holding		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	02/08/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	22	PAC Ref:	2019/A0097
Planning Ref:	LA07/2017/1845/	DEA	Downpatrick
APPELLANT	Mrs Celine McMullan		
LOCATION	Between 4 And 8 Ballintogher Road Saul		
PROPOSAL	Downpatrick 2no new dwellings and garages and associated site and access works		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	08/08/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

295

ITEM NO	23	PAC Ref:	2019/A0104
Planning Ref:	LA07/2019/0005/	DEA	Downpatrick
APPELLANT	Clare Higgins & Shauna Mageenan		
LOCATION	Between 45 And 49 St Patrick's Road Raholp		
PROPOSAL	Downpatrick Proposed two one and half storey dwelling and detached garages		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	23/08/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	24	PAC Ref:	2019/A0106
Planning Ref:	P/2014/0427/O	DEA	Crotlieve
APPELLANT	Joseph McGivern		
LOCATION	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	27/08/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

296

ITEM NO	25		
Planning Ref:	LA07/2019/1054/	PAC Ref:	2019/A0108
APPELLANT	EDB Construction	DEA	Newry
LOCATION	On Lands Between The Sacred Heart Grammar School And Newry High School		
PROPOSAL	Ashgrove Avenue 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	29/08/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	26		
Planning Ref:	LA07/2017/0078/	PAC Ref:	2019/A0111
APPELLANT	Mr D Mahon	DEA	Slieve Croob
LOCATION	20m East Of 223a Newcastle Road Seaforde		
PROPOSAL	BT30 8NP Erection of 3 light industrial units		
	(Additional supporting info received)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	05/09/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

297

ITEM NO	27	PAC Ref:	2019//A0112
Planning Ref:	LA07/2018/1023/	DEA	The Mournes
APPELLANT LOCATION	Mr & Mrs D Sloan 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** 10/09/2019

Date of Hearing

Date Statement of Case Due for Hearing

Date Statement of Case Due - Written Representation

Date of Site Visit

ITEM NO	28	PAC Ref:	2019/A0121
Planning Ref:	LA07/2018/1758/	DEA	Crotlieve
APPELLANT LOCATION	Around A Pound 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** 18/09/2019

Date of Hearing

Date Statement of Case Due for Hearing

Date Statement of Case Due - Written Representation

Date of Site Visit

Current Appeals

298

ITEM NO	29	PAC Ref:	2019/A0126
Planning Ref:	LA07/2019/0462/	DEA	Slieve Gullion
APPELLANT LOCATION	Mr Colm Watters 118 Cullaville Road Crossmaglen		
PROPOSAL	Newly 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	20/09/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	30	PAC Ref:	2019/A0128
Planning Ref:	LA07/2019/0128/	DEA	The Mournes
APPELLANT LOCATION	Spectator Newspapers 81 Main Street Newcastle		
PROPOSAL	Change of use to Offices and escape/access window in first floor staff room in side wall south side of rear return (Amended description)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	24/09/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

299

ITEM NO	31		
Planning Ref:	LA07/2015/1302/	PAC Ref:	2019/A0129
APPELLANT	EDB Construction	DEA	Newry
LOCATION	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 landscaping.		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	25/09/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	32		
Planning Ref:	LA07/2017/1213/	PAC Ref:	2019/A0143
APPELLANT	Tullyherron Farm Feeds	DEA	Slieve Gullion
LOCATION	38 Tullyherron Road Mountnorris Armagh		
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		Date Appeal Lodged	16/10/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

300

ITEM NO	33	PAC Ref:	2019/A0150
Planning Ref:	LA07/2019/1056/	DEA	Slieve Croob
APPELLANT	Felix McEvoy		
LOCATION	60m South East Of No 36 Derryneill Road Ballyward Castlewellan		
PROPOSAL	Proposed holiday chalet with retention of sub structure as commenced on site		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	24/10/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	34	PAC Ref:	2019/A0155
Planning Ref:	LA07/2019/0181/	DEA	Slieve Croob
APPELLANT	Anthony Flanagan		
LOCATION	152 Ballylough Road Castlewellan		
PROPOSAL	2 Storey side and rear extension to provide ancillary accomodation (Retrospective)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	04/11/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

301

ITEM NO	35	PAC Ref:	2019/A0159
Planning Ref:	LA07/2019/1313/	DEA	Newry
APPELLANT LOCATION	EDB Construction Ltd 58 Armagh Road Newry		
PROPOSAL	Demolition of existing building and erection of apartment development.		
APPEAL TYPE	DC - Non Determination of a Planning Application		
Appeal Procedure		Date Appeal Lodged	13/11/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	36	PAC Ref:	2019/A0165
Planning Ref:	LA07/2019/0450/	DEA	Crotlieve
APPELLANT LOCATION	Mr Paul Murney 39 Chapel Hill Road Mayobridge Newry		
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	14/11/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

302

ITEM NO	37		
Planning Ref:	LA07/2018/0995/	PAC Ref:	2019/A0168
APPELLANT	Ian Taylor	DEA	Slieve Croob
LOCATION	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	19/11/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	38		
Planning Ref:	LA07/2019/0866/	PAC Ref:	2019/A0169
APPELLANT	EDB Construction Ltd	DEA	Newry
LOCATION	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	19/11/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

303

ITEM NO	39		
Planning Ref:	LA07/2019/0459/	PAC Ref:	2019/E0025
APPELLANT LOCATION	Roger And Simon Foster 165m North West Of 20 Barkers Road Newtownhamilton	DEA	Slieve Gullion
PROPOSAL	Newrv 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.		
APPEAL TYPE	DC- Refusal of CLUD		
Appeal Procedure	Written Reps	Date Appeal Lodged	18/07/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	40		
Planning Ref:	LA07/2019/0460/	PAC Ref:	2019/E0026
APPELLANT LOCATION	Roger And Simon Foster 65m SW Of 8 Blaney Road Newtownhamilton	DEA	Slieve Gullion
PROPOSAL	Newrv		
APPEAL TYPE	DC- Refusal of CLUD		
Appeal Procedure		Date Appeal Lodged	18/07/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

304

ITEM NO	41		
Planning Ref:	LA07/2019/1057/	PAC Ref:	2019/E0037
APPELLANT	EDB Construction	DEA	Newry
LOCATION	Lands To Rear Of 11-29 Thomas Street And Adjacent To Access Road To Buttercrane Shopping Centre.		
PROPOSAL	Completion of retail building granted planning permission by approvals P/2009/0003/F and P/2011/1020/F.		
APPEAL TYPE	DC - Non Determination of a Planning Application		
Appeal Procedure		Date Appeal Lodged	25/09/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	42		
Planning Ref:	LA07/2019/0514/	PAC Ref:	2019/E0043
APPELLANT	Alastair Chestnutt	DEA	The Mournes
LOCATION	177a Kilkeel Road Annalong BT34 4TN		
PROPOSAL	Retention of existing building		
APPEAL TYPE	DC- Refusal of CLUD		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	21/10/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

305

ITEM NO	43	PAC Ref:	2019/E0044
Planning Ref:	LA07/2019/0746/	DEA	The Mournes
APPELLANT LOCATION	Anna Marie Quinn 20A Cranfield Road Kilkeel		
PROPOSAL	Existing Dwelling		
APPEAL TYPE	DC- Refusal of CLUD		
Appeal Procedure		Date Appeal Lodged	30/10/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	44	PAC Ref:	2019/E0050
Planning Ref:	LA07/2019/0907/	DEA	Newry
APPELLANT LOCATION	EDB Construction Ltd Site 5 Of Approval P/2006/1117/F On Watsons Road 100m West Of No. 26 Lis Ard Court		
PROPOSAL	^{Newry} 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	19/11/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

306

ITEM NO	45		
Planning Ref:	LA07/2018/0128/	PAC Ref:	A07/2018/0128/F
APPELLANT	Paul Scott	DEA	Rowallane
LOCATION	Lands 195m SSE Of 95 Cahard Road Cahard		
PROPOSAL	Rallvnahinch New private access to dwelling previously approved under LA07/2017/1210/RM		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	16/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			



Appeal Decision

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

Appeal Reference:	2019/A0025.
Appeal by:	Mr John Annett.
Appeal against:	The refusal of full planning permission.
Proposed Development:	Retention of change of use from agricultural building to indoor adventure play area, associated store and car parking area.
Location:	75m north-east of 29 Rath Road, Warrenpoint.
Planning Authority:	Newry, Mourne & Down District Council.
Application Reference:	LA07/2017/0707/F.
Procedure:	Written representations and accompanied site visit on 24 September 2019.
Decision by:	Commissioner Mark Watson, dated 19 November 2019.

Decision

1. The appeal is allowed and full planning permission is granted, subject to the conditions below.

Preliminary Matter

2. In its Rebuttal Statement the Council considered that the Appellant's reference to there having been no change of use of the building and the internal works within it not constituting development amounted to a new matter. The appeal relates in part to the retention of a change of use of the subject building. It is what was applied for through the appeal and that matter will therefore be considered.

Reasons

3. The main issues in this appeal are whether retention of the appeal development would:
 - be acceptable in principle;
 - adversely affect neighbouring residential amenity; and
 - result in an unacceptable level of additional traffic on Rath Road.
4. The Banbridge, Newry & Mourne Area Plan 2015 (BNMAP) is the statutory local development plan for the proposal. In it, the site lies in the countryside and within the Rath Road Local landscape Policy Area (LLPA) designation WB40. It was not suggested that the appeal development would be liable to adversely affect the intrinsic environmental value and character of that designation or offend Policy CVN3 of BNMAP. The BNMAP offers no other specific policy or guidance in respect of the appeal development. The appeal development does not offend the

provisions of BNMAP. The site also lies in the Mourne Area of Outstanding Natural Beauty (AONB).

5. In respect of 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 PPS21. PPS21 remains the applicable policy context to consider the proposed development under. The Appellant also raised the matter of compliance with Policy OS3 of Planning Policy Statement 8 – Open Space, Sport and Outdoor Recreation (PPS8). The same reasoning applies in respect of PPS8 when read against the relevant provisions of the SPPS.
6. 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. It goes on to state that planning permission will be granted for non-residential development in the countryside for farm diversification proposals in accordance with Policy CTY11 and outdoor sport and recreational uses in accordance with PPS 8. It follows that if the development complies with Policy CTY11 of PPS21 or Policy OS3 of PPS8 it will comply with Policy CTY1 of PPS21.
7. The appeal site comprises two parcels of land, accessed off a gravelled laneway running north from Rath Road, which form part of the 'Fort Evergreen' outdoor adventure area and petting farm. The western parcel is a rectangular area used for parking of cars. It has been dressed in gravel, slopes downwards to the south and south-west, with a line of mature trees and fencing defining its northern boundary. Mature vegetation provides the western boundary and part of eastern boundary. A grassed earth bund forms the southern boundary. The eastern parcel of land comprises a concrete yard with a large rectangular shed in the eastern most portion. It is finished in half height block-built walls with the upper wall sections and roof finished in profiled metal sheeting, painted green. The ground floor interior is largely given over to an adventure play area comprised of slides, with a nearby seated area. There is also a storage room at the northernmost end of the building which accommodates various supplies relating to the Fort Evergreen business. There is a first floor viewing area surrounding the adventure play area. There is a picnic area to the west and front of the shed within the concrete yard. A zip line and wooden fort lie on adjacent land to the west, not included within the red line of the appeal site. To the south of the appeal building lies a series of stable buildings and pens used to house the Appellant's animals. There is also a smaller building accommodating animals which form part of the petting farm.
8. No. 29 Rath Road lies to the south of the site and is accessed from a different branch of the same laneway. To the east of the mouth of the laneway lie several dwellings Nos. 27, 25 and 21 Rath Road, each of differing design and vintage. The site containing the appeal building is enclosed by mature vegetation and there are no views of it from public viewpoints. Whilst there is a limited peripheral view to the west on Rath Road of part of the car park, this view is peripheral to the direction of travel and is not critical. No objections were raised in respect of the car park element.

9. Fort Evergreen offers a mix of outdoor recreation and education activities relating to animals, with opportunities for children to feed and interact with animals on the holding. The petting farm is comprised of a number of animals including llamas, alpacas, calves, pigs, lambs and smaller animals including rabbits and various poultry. I am told that the business is seasonal, with planned activities based around public holidays such as Christmas and Halloween. Peak periods of business are from around Easter through the summer months until the resumption of the schools in September, although school trips are facilitated in May and June. During other periods the business is generally only open at weekends and the facilities can be engaged for birthday parties. The indoor recreation area is to allow for play during wet periods and the seated area is used for 'classroom' activities for visiting school groups.
10. Policy CTY11 of PPS21 states that planning permission will be granted for a farm diversification proposal where it has been demonstrated that it is to be run in conjunction with the agricultural operations on the farm and subject to compliance with 4 criteria. It goes on to state that proposals will only be acceptable where they involve the re-use or adaptation of existing farm buildings.
11. The Council considered that the farm business was not established for the requisite period, which is 6 years. It also pointed to the farm business being Category 3, one issued to keepers of a small number of animals but ineligible to claim basic payments. Policy CTY10 of PPS21, which sets the basis for determining whether a farm business is active and established for the purposes of PPS21, does not specify a level of farm activity or type of business, only that it be active and established for the requisite period of at least 6 years. Thus, the fact the Appellant's farm business is a Category 3 one is not determining.
12. The appeal development is predicated on business ID 663141. This is by the Appellant's own evidence one started in September 2017. This arose from a need to separate the Fort Evergreen business from the Appellant's brother's farm business for biosecurity reasons. That other business also includes a horticultural nursery and garden centre. Mrs Annett, the Appellant's wife, previously ran the main farm since 2006 under business ID 648745. DAERA recorded that business as having been closed and added Mrs Annett to business ID 663141 from 16 October 2018.
13. The Appellant's evidence is at times contradictory as on one hand it is argued that no change of use has taken place within the building as it always belonged to the Fort Evergreen farm business, but it is also stated that the building was originally erected for storage of feedstuff and machinery, as well as equipment to repair outdoor play equipment. Notwithstanding the lack of a Certificate of Lawfulness of Existing Use or Development (CLEUD) for the appeal building, its design is certainly typical of an agricultural building and the Appellant's own evidence appended to his Statement of Case referred to the original purpose of that building being to store feedstuffs for animals on the farm.
14. The Appellant's representative argued that the Fort Evergreen enterprise is a DAERA registered business since 2017, but before that was part of the previous farm business. Thus in the Appellant's opinion it was a diversification of the original farm business. However, to my mind it is essentially the entirety of the business on the Appellant's planning unit at No. 29 Rath Road, with any residual

agricultural activity relating to care of the animals belonging to Fort Evergreen. Whilst there may be a long history of the Appellant and his family farming on the land within which the application site lies, the submitted evidence is not persuasive that the farm business upon which the case relies has been active and established for the requisite period. Thus the appeal development cannot meet the first criterion of Policy CTY11 of PPS21.

15. The Council raised no objections pertaining to character and scale. Whilst the Objectors had referred to noise from scrambler bikes, I was told that this was a leisure activity carried out on the Appellant's land by his grandson. I saw no evidence of a formal motocross track and the Appellant stated that had he been aware of this concern prior to the appeal he would have spoken to his grandson about it and taken steps to avoid any annoyance to his neighbours. In any event, were motocross activity with resultant detrimental noise impacts to take place, the Objectors would have recourse to complain to the Council's Environmental Health Department in the first instance. For reasons given elsewhere in this decision I am not persuaded that the appeal development would result in detrimental impact on the amenity of nearby residential dwellings including potential problems arising from noise, smell and pollution.
16. Whilst the appeal development can meet the other criteria within CTY11 and the development involves the re-use or adaptation of a farm building, the business has not been established for the requisite period of time and from the evidence before me the Fort Evergreen business is not run in conjunction with the agricultural operations on the farm but amounts to the entirety of those operations. Policy CTY11 of PPS21 and the related provisions of the SPPS are not met when read as a whole.
17. The Appellant's representative also argued that there was support for the appeal development under Policy OS3 of PPS8, pointing to a previous grant of planning permission for an equestrian use on the farm in October 1992 (ref. P/1992/0482/F). That permission granted the retention of an equestrian exercise ring, parking area, access lane and change of use from agricultural store to tack room. There was no dispute between the parties that the permission in question had been granted, nor any assertion that that use had not taken place. No detailed records were provided showing the precise extent or terms of that permission. The site address for that permission was described as to the rear of No. 29 Rath Road, Warrenpoint. That permission accepted that an outdoor recreational use had taken place within the Appellant's planning unit which changed it from agriculture to a mix of outdoor recreation and agriculture, in one sense a form of farm diversification having taken place at that time. I am told that the equestrian activity was gradually phased out, ending completely in 2017, in favour of the ongoing petting farm activity.
18. Notwithstanding that there is no permission for the petting farm, outdoor recreation use was formalised into the Appellant's planning unit in 1992 with the granting of permission for retention of the equestrian activity. Since then the mix of outdoor recreation and conventional agricultural activity has changed over time, with the predominant use becoming that of outdoor recreation. Though there is no CLEUD in respect of the petting farm, I am not persuaded that any material change of use took place in respect of the gradual transition from equestrian activity to a petting farm. To my mind both are forms of outdoor recreation. The development subject

of this appeal is ancillary to the existing outdoor recreational use, but as the building itself was originally intended for the purposes of agriculture, I agree that notwithstanding its ancillary use to the petting farm, planning permission would still have been required for that change of use from agricultural storage to its present use for an indoor play area with storage associated with the petting farm.

19. Policy OS3 of PPS8 states that the development of proposals for outdoor recreational use in the countryside will be permitted where all of 8 listed criteria are met. It has not been suggested that there would be any adverse impact on features of importance to nature conservation, archaeology or built heritage. The appeal development would not result in loss of the best and most versatile agricultural land, nor any unacceptable impact on nearby agricultural activities. As the existing building is entirely enclosed by mature vegetation and the car park can only be glimpsed from one limited and peripheral view, there is no adverse impact on visual amenity or the character of the local landscape. Although not suggested in the Council's draft conditions, I consider that in the event of permission being granted, a condition requiring the retention of existing site boundary vegetation would be necessary to ensure the existing visual enclosure of the site within this AONB location is preserved. This would also address the Objectors' concerns that the appeal development avoid any adverse visual impact.
20. The Objectors referred to the potential for increased noise and traffic on Rath Road arising from the appeal development. The use of the building complements and supports the existing petting farm and I have been given no evidence that the level of traffic associated with the appeal development, along with its hours of operation, would give rise to any unacceptably adverse levels of noise or disturbance arising from road traffic. The matter of increased traffic volume on Rath Road is addressed elsewhere in this decision.
21. I note that the final position of the Objectors in respect to the indoor adventure activity was one of no objection in principle provided there would be no visual impact and there would be less noise outside. From my own assessment of the appeal development I agree that noise would largely be confined to the interior of the building and any level of noise breakout through the doorway would not result in a detrimental impact on the amenity of nearby residential dwellings. I am unaware of any records of noise or other amenity complaints raised against the appeal development and note that the Council's Environmental Health Department raised no objections to the appeal development. The appeal development would not unacceptably impact on the amenities of people living nearby. The use of the building for an indoor play area and the car park would not prejudice public safety and would be compatible with other countryside uses in terms of the nature, scale, extent and frequency or timing of the recreational activities.
22. The existing building is of fairly typical agricultural design and not out of keeping with the rural environment. Given its well enclosed location it is of a scale appropriate to the local area and sympathetic to the surrounding environment in terms of its siting, layout and landscape treatment. The appeal development is located within the countryside, with trips to the site predominantly undertaken by car or buses. I consider that the development takes into account the needs of people with disabilities and given its rural location is, as far as possible, accessible by means of transport other than the private car. The Council raised no objections relating to road safety and whilst the Objectors raised concerns at increased traffic

on Rath Road, I am not persuaded that the level of use and type of activity the appeal development represents would generate levels of traffic that would prejudice road safety or significantly inconvenience the flow of traffic, even though this part of Rath Road is not subject to specific lower speed restrictions. I note that DFI Roads raised no objections to the appeal development. From the submitted evidence and my own assessment I consider that the road network can safely handle the extra vehicular traffic generated and satisfactory arrangements have been provided for access, parking, drainage and waste disposal. I consider that the eight criteria of Policy OS3 of PPS8 are satisfied.

23. Whilst there is no CLEUD in respect of the petting farm or appeal building, I am not persuaded that any material change of use took place between the permitted use for equestrian activity and what is there now, even with the changing ratio between outdoor recreation and agricultural use over time. For the reasons given above I find that the appeal development meets Policy OS3 of PPS8. Although the appeal development does not meet Policy CTY11 of PPS21, the failure to meet that policy is outweighed by its compliance with Policy OS3 of PPS8. As it meets the provisions of PPS8 the appeal development also meets Policy CTY1 of PPS21, as well as the related provisions of the SPPS.
24. The Council's objections and those raised by the third party are not determining. The appeal shall succeed. The Council suggested a condition preventing the sale of the appeal development separately from the registered farm business at 29 Rath Road. Notwithstanding my conclusions against Policy CTY11 of PPS21, I agree that this condition would nevertheless be necessary given the interrelationship between the appeal development and the remaining agricultural activity on the holding, which itself forms part of the Fort Evergreen business. The Appellant indicated that such a condition would be acceptable.

Conditions

- (1) The development hereby approved shall not be separated, sold off or leased from the farm business registered to No. 29 Rath Road, Warrenpoint, Co. Down.
- (2) The existing vegetation along the northern, eastern and western site boundaries shall be permanently retained and no lopping, topping or felling shall take place unless necessary to prevent a danger to the public in which case a written explanation shall be provided to the Council within 14 days of such works taking place.

This decision is based on the following drawings submitted with the application:-

DRAWING NUMBER	TITLE	SCALE	DATE
LA07/2017/0707/01	Site Location Map	1:2500	02/05/17
LA07/2017/0707/02	Site Plan	1:500	02/05/17
LA07/2017/0707/03	Working Drawings (Elevations, Floor Plans, Section A-A & Section B-B)	1:100	02/05/17

COMMISSIONER MARK WATSON

List of Appearances

Appellant:-
Mr T Wilson (Agent, T Wilson Planning)
Mr J Annett (Appellant)
Mr M Kearney

List of Documents

Planning Authority:-
'A' Statement of Case & Appendix (NM & D DC)
'B' Rebuttal Statement (NM & D DC)

Appellant:-
'C' Statement of Case & Appendices (T Wilson Planning)
'D' Rebuttal Letter (T Wilson Planning)

Third Parties:-
'E' Objection Letter (Mr D Wolinski)



Appeal Decision

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Appeal Reference:	2019/A0031
Appeal by:	Mr Paul Scott
Appeal against:	The refusal of full planning permission
Proposed Development:	Retention of private access to dwelling previously approved under LA07/2017/1210/RM (as amended)
Location:	Lands 195mSSE of 95 Cahard Road, Ballynahinch
Planning Authority:	Newry Mourne and Down District Council
Application Reference:	LA07/2018/0128/F.
Procedure:	Written representations and Commissioner's site visit on 25 September 2019
Decision by:	Commissioner Pauline Boomer, dated 28 November 2019

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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Appeal Reference:	2019/A0028
Appeal by:	Mr Noel Graham
Appeal against:	The refusal of full planning permission
Proposed Development:	Erection of 9 dwellings
Location:	6-10 Fairview, Saintfield
Planning Authority:	Newry, Mourne & Down District Council
Application Reference:	LA07/2017/1849/F
Procedure:	Written representations and Commissioner's site visit on 14 October 2019
Decision by:	Commissioner Brigid McGlinchey, dated 28 November 2019

Decision

1. The appeal is dismissed.

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 submitted an amended site layout drawing and a Bat Roost Potential Survey (BRPS) with his statement of case. Having reviewed the evidence in the round, I find that the amended drawing and the BRPS constitute new matters which was not before the Council at the time the decision was made. While the Council may have anticipated amendments and the submission of a BRPS as a result of communications with the appellant, the fact remains that these matters were not forwarded to the Council at the time the decision was made so they were not before the Council at the relevant time. The arguments presented including the chain of events that took place do not alter this fact.
4. The appellant presented arguments pertaining to exceptional circumstances as to why the amended site layout drawing and the BRPS were not submitted to the Council before the date of the decision. It is contended that there was a period of three weeks before the decision was issued to redraw a scheme and carry out an extended environmental survey. Whilst the appellant stated that he had been agreeable to reduce the scheme to eight dwellings and create additional parking, there is no evidence in the papers submitted that three weeks before the decision was issued on d22 March 2018 that the Council had countenanced a delay in determining the application to await this amendment. In any case, I consider that three weeks provided a sufficient time period to prepare and submit an amended site layout drawing and that there are no exceptional circumstances advanced which meant it could not have

been raised within that time frame. As the amended drawing is a 'new matter' it does not have the status of a material planning consideration to be considered under Section 59(2) of the Planning Act. I find that the amended drawing should not form part of the appeal. Accordingly, the decision is based on the site layout plan which was before the Council when it made its decision on 22 March 2018.

5. With respect to the submitted BRPS, I note that the appellant had submitted a second NI Biodiversity Checklist dated December 2018. This found that due to the identification of the potential suitability of the extant built structure to support roosting bats, it recommended that a BRPS was undertaken. It advised that such surveys are restricted to 1 March – 15 May and 15 August – 1 November. The appellant argues that the time limit before the planning decision was issued did not take account of the restricted duration for obtaining information for the BRPS. As the first available date to carry out the survey was 1 March, the applicant had effectively three weeks to carry out the survey and submit a report before the decision was issued. I note that such surveys have to be carried out under an appropriate license. The site investigations for the building roost assessments were undertaken by Ayre Environmental Consulting in March 2019 with the subsequent compiled report dated May 2019. Mindful that the Council was aware of the time restrictions for undertaking the survey and that an appropriate license is required, I consider that a restricted period of three weeks was unreasonable to facilitate a survey, prepare a report and have it submitted before the decision was issued. Given that the concern on the potential for roosting bats was the basis for a reason for refusal, the appellant should have been provided with a reasonable amount of time to provide the necessary information. Applying the yardstick of fairness and reasonableness, I am satisfied that the applicant could not have provided the information at that time of the decision being taken. I therefore consider that the BRPS should be considered as part of the appeal process.
6. The Council's corporate stance is set out on its decision notice and this supersedes the assessment and comments of any individual officer or representative from the consultation bodies that were made whilst considering the proposal. The final decision rests with the Council.

Reasons

7. The main issues in this appeal are whether:
 - the proposed development represents a quality residential development having regard to the surrounding context and character of the area and the proposed provision of private amenity space and parking;
 - sufficient information has been submitted in relation to the proposed parking in order to determine the application;
 - sufficient information has been presented to establish the impact on a protected species;
 - sufficient information has been submitted in relation to the Waste Water Network in order to determine the application.
8. As a consequence of the Court of Appeal declaring the adoption of the Belfast Metropolitan Area Plan 2015 (BMAP) to be unlawful on 18 May 2017, the Belfast Urban Area Plan 2001 (BUAP) operates as the statutory local development plan for the proposal. The draft BMAP (dBMAP) is a material consideration. The site lies within the development limit of Saintfield and is not zoned for any purpose in either plan. The BUAP encourages the provision of new housing within existing urban areas to stimulate urban renewal and meet local housing demand. The appeal development

would not be at odds with this or any of the other provisions of the BUAP or the dBMAP.

9. The Strategic Planning Policy Statement for Northern Ireland: Planning for Sustainable Development (SPPS) refers at paragraph 6.137 to the need to deliver increased housing without town cramming and espouses the importance of new development respecting local character and environmental quality, as well as safeguarding the amenity of existing and proposed residents. In respect of the appeal development, there is no conflict or change in policy direction between the provisions of the SPPS and that contained in Planning Policy Statement 7: Quality Residential Environments (PPS7), Planning Policy Statement 2: Natural Heritage and Planning Policy Statement 3: Access, Movement and Parking (PPS3) which provide the relevant policy context. The guidance in *Creating Places: Achieving Quality in Residential Developments* is also material to the consideration of the proposal.
10. The appeal site which covers an area of 0.13ha, has a road frontage width of approximately 30m and extends back to a depth of between 20-44m. It encompasses a two-storey terrace of four buildings fronting onto Fairview and a number of other buildings that extend back along two laneways defining the northeast and southwest boundaries of the site (both referred to as Fairgreen Lane in the appellant's proposed site layout drawing). Though the front elevations of the properties in the terrace have intact pitched tiled roofs and rendered walls, the rear returns are collapsed. The properties to the rear are a mix of one- and two-storey buildings which are boarded up and generally in a state of disrepair. In the P1 from accompanying the planning application, the structures on the site are stated as being "derelict and disused buildings last used approx. 1970". Notwithstanding this, I note planning history indicates that the narrowest building in the terrace had approvals for a change of use from a dwelling to a shop in 1974, a further change of use to a restaurant in 1976 and further approval granted in 1977 for internal alterations associated with the restaurant use. There is no planning history for any of the other properties.
11. A photograph of the terrace dated 15 January 1992 included in the appellant's evidence shows the aforementioned building and the two adjacent buildings as having evident commercial signage on the ground floor though all the premises appear to be vacant at that time. One of these buildings has a large opening with a roller shutter door which is not characteristic of a residential use and the photo shows a sign over the opening for a tyre service business. Whilst the appellant provided no specific details of the uses of the existing individual buildings, based on the planning history, the characteristics of the buildings and the photograph of the terrace, I accept that the appeal proposal entails replacing a mix of residential and commercial buildings. The appeal scheme involves demolition of all the existing buildings and replacing them with nine terraced dwellings, six along the road frontage and three to the rear with access for these latter dwellings from Fairgreen Lane running along the southwest of the site.
12. Policy QD1 of PPS7 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 residential environment. It further states 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. Under the policy, all residential development is required to conform to a number of stated criteria. The Council's objections relate to criteria (a), (c) and (f). Criterion (a) requires that development respects the surrounding context and is appropriate to the character in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and

- hard surfaced areas. Criterion (c) requires adequate provision be made for private open space whilst criterion (f) necessitates that adequate and appropriate provision is made for parking.
13. The headnote of Policy QD1 states that the design and layout of residential development should be based upon an overall design concept that draws on the positive aspects of the character and appearance of the surrounding area. The amplification of the policy indicates that in assessing proposals in established residential areas particular account will be taken of the spacing between buildings, the safeguarding of privacy, the scale and massing of buildings and the use of materials. The acceptability of any scheme is thus dependent on its design and details as well as site-specific features and the context of the surrounding area. The appeal proposal is for nine 2½-storey dwellings (referred to as townhouses) with a ridge height of 8.4m. The six dwellings along the road frontage (No.1-6) are to be staggered in sets of two along the terrace reflecting the slight gradient of the road. They are to be setback 1m from the pavement edge with the residual area (surface unspecified) to be enclosed by railings. Each dwelling in the terrace would have a rear garden with four of the dwellings (Nos.2-5) having a parking space of 'gridforce' with grass within the garden. The other three dwellings (Nos.7-9) are to be positioned to the rear on the deepest part of the site and angled approximately 45° to the alignment of the front terrace. Each would have a rear garden. Five perpendicular parking spaces are indicated along the rear boundary of the site and to the front of No.7. Another parking space is indicated to the site of No.9.
 14. The appeal site is immediately adjacent to a terrace of listed buildings at 1-5 Fairgreen and in proximity to another listed building at No.92 Main Street. From the most recent consultation response of Historic Buildings section of Historic Environment Division dated 8 June 2018, it is apparent that the design of the proposed dwellings were acceptable subject to the proposed works making use of traditional or sympathetic building materials which were listed. Apart from the rainwater goods which are unspecified, the appeal proposal appears to concur with the recommended materials. In this context, I consider that the design of the proposed dwellings would not be incompatible with the overall character of the surrounding area subject to details of the rainwater goods which could be secured by condition. However, the provision of dwellings compatible with the design of the listed buildings is not of itself demonstrative of the acceptability of the scheme. The acceptability of the overall proposal is dependent on the site layout and development concept with particular regard in this case to the proposed amenity space and in-curtilage parking provision.
 15. Guidance provided in Creating Places recommends that back garden provision should range from a minimum of 40sqm to 70sqm per dwelling unit with smaller areas more appropriate for houses with 1 or 2 bedrooms. Whilst the quantum of the proposed amenity space for five of the dwellings meets the recommended minimum standard, four of the dwellings (Nos.2,3,4,5) have a substantial portion of the back garden designated as a parking space. Even if these parking spaces were finished in 'gridforce' with grass, they nonetheless would detract from the amount of useable amenity space. I consider that the shortfall in rear garden provision for these dwellings would not be counterbalanced in any way by the narrow enclosed strip to the front of the dwellings.
 16. Whilst the floor plans for the dwellings identify 2 bedrooms, I note that one of the rooms on the first floor is notated as a study. I consider that given its position to the front of the dwelling and adjacent to the bathroom, that it probably would also be used as a bedroom by potential occupants. I agree with the Council's assessment of the proposal as 3-bedroom properties. I note that the guidance indicates that Paragraph

- 4.31 of the amplification of Policy QD1 attaches particular importance for the need for adequate private amenity space for family dwellings – generally dwellings with 3 or more bedrooms and that Creating Places states that garden sizes for dwellings for families would generally be larger than the average. Considering all these matters, I find that the proposal falls short of making adequate provision for private amenity space for the type of dwelling and the number of units on the site. The proposal therefore fails to comply with criterion (c) of Policy QD1.
17. Policy AMP7 of PPS3 states that development proposals will be required to provide adequate provision for car parking and appropriate servicing arrangements. The policy goes on to state that the precise amount of car parking will be determined according to the specific characteristics of the development and its location having regard to published standards or any reduction provided for in an area of parking restraint designated in a development plan. There would be a total of 10 parking spaces accommodated within the development site, four of which are designated spaces within the rear gardens of a number of dwellings. This quantum of parking would not meet the normal car parking standards espoused in Creating Places with the Council identifying a shortfall of eight parking spaces based on its assessment of the dwellings as 3-bedroom units. Whilst an additional 10 spaces are indicated perpendicular to the front terrace, this land is outwith the appeal site and is not within the appellant's ownership or control.
 18. Policy AMP7 states that a reduced level of car parking provision may be acceptable in a number of stated circumstances. One of these is where the development would benefit from spare capacity available in nearby or on-street car parking. Paragraph 5.43 of the amplification of the policy states that it may be acceptable for small-scale developments, which do not generate significant parking demand, to rely on using on-street parking for a proportion of their parking provision. The policy also states that in assessing these options the decision maker will require evidence to demonstrate the capacity and availability of such alternative parking provision. In his statement of case the appellant stated that there were six commercial uses on the site plus six apartments and a large dwelling on the northeast boundary. Whilst the identified dwelling and the historic commercial uses have been indicated within the terrace, given the dereliction on the site the accommodation for the stated extent of residential and commercial uses was not apparent on the day of my site visit. Whilst he argued that the commercial premises and domestic properties on the site all had parking facilities, there was no obvious on-site parking provision and any existing parking provision has not been specified or quantified. In any case, the evidence from the appellant is that these uses have not been in operation for some considerable time. Whilst historically the existing uses on the site may have used on-street parking, no substantive information has been provided to make an informed judgment on this or to substantiate the appellant's claim that the proposal would increase the number of parking spaces. Whilst there is evident parking to the front of the terrace, no assessment has been made to demonstrate the availability and capacity of this street parking provision given the site's proximity to the town centre approximately 180m away. In this evidence vacuum, I agree with the Council that insufficient information has been submitted to determine the planning application. The Council's objection under PPS3 as set out the fifth refusal reason has therefore been sustained.
 19. Criterion (f) of Policy QD1 of PPS7 also requires that both adequate and appropriate provision is made for parking. The proposed level of parking provision within the site is partially at the expense of making adequate provision for private amenity space. Notwithstanding the gardens to the rear of the houses, much of the visible area behind the street frontage would be taken up by hard surfaced car parking and turning area which would especially dominate the outlook from the three dwellings at the rear.

- Although the appellant refers to the extensive areas of greenery and soft landscaping including the gridforce surface within some of the gardens, it is the hard surfaces which would visually dominate the development which would have an overall overcrowded appearance. I consider that the proposed parking layout would not be adequate nor appropriate and thus it would fail to satisfy criterion (f).
20. Paragraph 1.4 of PPS7 states that the promotion of more housing in urban areas should not be allowed to result in town cramming or damage to areas of distinctive townscape character. I find that the resulting configuration of amenity space and the quantum of parking spaces for the nine proposed dwellings is somewhat contrived. The layout of the houses on the site, which does not allow for a satisfactory resolution of adequate private amenity space and car parking provision, is indicative of overdevelopment of the site. Furthermore, even with the 45° alignment, the inadequate separation distance of 12m from the front elevation of dwelling Unit 9 to the rear elevation of dwelling Unit 4 is further indication of shoehorning the development onto the site. In my judgement, the proposed layout would appear cramped in appearance contrary to the overriding objectives of PPS7 and would be out of character in the surrounding context. I find that the proposal would not satisfy criteria (a), (c) and (f) of Policy QD1. Taking account of all the above factors set against the relevant policy considerations and guidance, I judge that the appeal proposal would not create a quality residential development in accordance with PPS7 and thus would be at odds with the policy provisions of the SPPS. The Council has sustained its first, second and third reasons for refusal.
 21. Policy NH2 also sets out the planning authority's policy on the protection of European protected species and refers specifically those listed in Annex IV of the European Union's Habitats Directive 92/43/EEC. All eight species of bats resident in Northern Ireland are listed in Annex IV. The planning authority's concerns based on the consultation response from NIEA Natural Environment Division (NED) dated 5 February 2019 is that the existing buildings on the site may be suitable for roosting bats and that the demolition of the buildings may have the potential for injury or death of bats. The Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (the Habitats Regulations) transposes the provision of the Directive into domestic law. Regulation 3(4) of the Habitats Regulations requires the Commission in determining this appeal to have regard to the requirements of the Directive. Where there is a reasonable likelihood of bats being present on a site and affected by the development, the planning authority must adopt a precautionary approach.
 22. The site investigations undertaken by Ayre Environmental Consulting Ltd on 21 March 2019 in preparation of the Bat Roost Potential Survey (BRPS) revealed that most of the existing buildings on the appeal site had a negligible habitat features likely to be used by roosting bats. Visual examination however of the east rear roof structure of No.10 found that it had potential roost features (PRFs) due to dislodged, broken and absent roof slates which would provide access to the internal aspect. The presence or absence of suitable PRFs within the internal aspect however was not determined as the inside of the building could not be accessed on the day of the site investigations. It was concluded that as the remaining inspected site area had an overall lack of physical evidence and continued decay to the eastern portions of the other units, it was deemed that the perceived risks of roosting bats utilising the building was minimal and thus it was assessed as holding negligible/low suitability. Nonetheless, due to the presence of identified PRFs and the potential for the loss of low suitability roosting provisions, the recommendations of the BRPS was that a further roosting suitability assessment should be undertaken either as a dusk or dawn survey between May-August to establish if the structure does support a roost. There is no evidence that this survey has been undertaken. In the absence of this information, I cannot be certain

that the development proposal if carried out would not be likely to have a significant detrimental impact on a European protected species. In these circumstances, there remains a lack of sufficient information and the planning authority has therefore sustained its third reason for refusal under PPS2.

23. It is proposed that the appeal development would link into the existing sewage system. The consultation response from NI Water indicated that though the Saintfield Waste Water Treatment Works has available capacity, the wastewater network is at its capacity. NI Water stated that it cannot approve connection with the implication that any further increase in the load has the potential to exacerbate this situation. However NI Water did indicate that it can consider connections where the developer can demonstrate (including calculations) that (i) the proposal is like for like development, (ii) extant previously approved development or (iii) where the development will offer a reduced loading on the sewer network. In these circumstances, I consider that it is necessary to have a concise assessment of the development currently on the site to determine if there is any capacity issue that would preclude linking to the public sewer network in the event of permission for the nine proposed houses being granted.
24. The appellant argues that the staff and residents that were and could be accommodated within the existing commercial and residential development would far exceed the residents of the proposed nine dwellings and consequently, the requirements and loading on the wastewater system is greatly reduced considering the possible reinstatement of the existing premises. However, though the appellant stated that there were six commercial uses on the site plus six apartments and a large dwelling, given the level of dereliction on the site, the accommodation for this extent of uses was not evident to me. In any case, the evidence points that the buildings on the site have not been in use for some considerable time. I therefore cannot determine if the development would offer a reduced loading on the sewer network.
25. Nonetheless, I consider that any shortfall in the existing public sewerage system could be satisfactorily addressed by an on-site treatment plant. As this is a full planning application, the matter can only be resolved by the imposition of a negative condition requiring installation of a package treatment plant on site pending its decommissioning upon any subsequent upgrade of the mains system. I consider the infrastructural deficiency does not weigh against the proposal and this matter of itself would not warrant the withholding of planning permission. The Council has not sustained its objection under its sixth reason for refusal.
26. However, as the other five reasons for refusal are sustained to the extent outlined above, the appeal must fail.

This decision is based on the following drawings:-

Drawing No	Scale	Title	Date received
1	1:1000	Untitled - Shows site location	23/11/17
2	1:1000	Untitled - Identifies viewpoints	23/11/17
3	1:500	Site survey	21/05/18
4	1:500	Existing site layout	21/05/18
5	1:500	Proposed site layout	21/05/18
6	1:100	Untitled - Shows elevations, floor plans and section	21/05/18
7	1:200/1:100	Untitled - Shows site layout and front elevation	14/08/18
8	1:200	Contextual elevation and shows site layout	21/05/18

COMMISSIONER BRIGID McGLINCHEY

List of Documents

Planning Authority:-

- C1 Statement of case + Appendices
- C2 Rebuttal

Appellant:-

- A1 Statement of case + Appendices
- A2 Rebuttal



Appeal Decision

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Appeal Reference:	2019/A0035
Appeal by:	Mr Sean O'Hare
Appeal against:	The refusal of full planning permission.
Proposed Development:	Farm building and animal handling facility
Location:	Land approximately 200 metres south west of 59 Demesne Road, Seaforde, Ballynahinch, BT24 8NS
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2018/1266/F
Procedure:	Written representations and accompanied site visit on 29 October 2019
Decision by:	Commissioner Rosemary Daly, dated 25 November 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 relate to the:
 - principle of the development in the countryside; and
 - whether the proposed building visually integrates into the surrounding countryside.
3. The Ards and Down Area Plan 2015 operates as the statutory local development plan for the area where the appeal site is located. The plan offers no specific policy to determine farm buildings in the countryside therefore the provisions of regional policy as set out by the Strategic Planning Policy Statement for Northern Ireland (SPPS) must be considered. The SPPS indicates that the provisions of Planning Policy Statement 21 Sustainable Development in the Countryside (PPS21) are retained and will continue to apply until such times as a new development plan is in place for the council area.
4. Policy CTY1 of PPS21 relates to development in the countryside and sets out a range of types of development which in principle are considered to be acceptable in the countryside that will contribute to the aims of sustainable development. One type is agricultural and forestry development in accordance with Policy CTY12. Policy CTY12 states that planning permission will be granted for development on an active and established agricultural or forestry holding where it is demonstrated that stated criteria are met.
5. The appeal site is located off and set back from the Demesne Road, north of the small settlement of Seaforde. An existing entrance and access exist to the site across and running back through a flat agricultural field. Along the roadside the land is relatively

flat and the appeal site continues to match similar levels of the road and then around mid-point on the host field the land begins to rise up. The proposed farm building will be positioned some 75 metres back from the road side, on the lower part of a sloping landscape in the area. The proposal relates to a multi-purpose shed and a small store.

6. On the 17 May 2013 the appellant made a planning application (R/2013/0227/F) on the appeal site, for a proposed 'isolated farm building and animal handling facility'. On the 4 April 2016 the application was refused. The reasons for refusal related to it not being demonstrated that the farm business was active and established; that the building was not necessary for the efficient use of the agricultural holding; and that it had not been demonstrated there were no other alternative sites available to accommodate the proposal. An additional concern at that time was that the ancillary works do not integrate with their surroundings. Referring to the case officer's report at the time I note that DARD had confirmed the appellant farm business number had not been established for a period of 6 years and it was considered the shed was not necessary for the functioning of the farm at that time. Furthermore in the consideration of this application the Council appeared to have more concern with the appearance of the access to the site rather than the proposed building. Notwithstanding this decision and owing to the passage of time the matters relating to this case must take account of the current policy and up to date considerations presented in this case.
7. Before considering the specific criteria of Policy CTY12 the first matter to determine in this appeal is does the appeal proposal relate to an established and active farm business. Paragraph 5.56 of the justification and amplification of Policy CTY12 states that *'for the purpose of this policy the determining criteria for an active and established business will be that set out under Policy CTY10'*. The first criterion set out in Policy CTY10 and applicable to the appeal development is that the farm business to which it relates must be currently active and established for at least 6 years. The appellant is therefore required to provide the farm's DARD business ID number along with other evidence to prove active farming over the required period.
8. The evidence presented by the appellant states that he obtained the farm land from his grandfather, Mr James Gibney, in 2009. This is as confirmed by a copy of a solicitor's letter dated 7 May 2009. The letter also states that the land has been registered with DAERA (formerly DARD) as a business and he has held a DEARA Business ID number since 2009. The appellant is not a full time farmer. The land to which the farm business relates extends to 5.6 hectares (14 acres) including and around the location of the appeal site. A farm map was provided with a Business ID Reference No: 662399 in respect of the appellants land. The map is addressed to 98 Tannaghmore Road, Ballynahinch. The consultation response from DEARA states that the farm business has been in existence for more than six years and that no Single Farm Payments or Less Favoured Area Compensatory Allowances (LFACA) or Agri Environment schemes have been claimed in the last 6 years. Comments from DEARA on their consultation response also state that the Business ID was issued on 26 May 2009; that no subsidy claims have been submitted; and that the proposed site is located on that associated with two different business from 2012 – 2014 and 2016 - 2017.
9. The appellant's evidence states that since he obtained the land in 2009 he has retained full responsibility for ensuring that the land has been kept in good agricultural condition. In doing this he states that he has:
 - Completed tax returns for farm income and expenses;
 - Improved the access to the land;

- Carried out fencing works;
 - Ensured the land has been actively utilised for grazing purposes; and
 - Completed an OPA awareness course (which entails diseases transmitted from sheep) passed exams at CAFRE and is presently a member of a farm business development course.
10. A sample of invoice receipts relating to expenses spanning from 2009 to 2018 were provided by the appellant in respect of his farm land known as 'Scrib Farm'. A number of copy invoices were provided, these include invoices from:
- McKelvey Bros Farm Supplies addressed to 'Scrib Farm'. These invoices relates to various supplies related to the appellant's land including posts and wire fences and date from 6/7/2009, 29/1/13, 11/2/2013 18/2/2013 and 22/4/13.
 - JB Brown Ltd, Hardware House for various supplies including water drums. Dated 23/6/2007 and 11/6/2018.
 - Befab Ltd for Poxo 13 x 3 Jun Green and fixings on 28/02/2018, not noted to any specific address.
 - P Turley & Sons, Builders Plumbers and Electrical Supplies for 1 x 10f gate, 1 closing post and 1 hanging post addressed to the appellant at Tannaghmore Road, Seaforde and dated 3/4/2013.
 - Aughrim Quarry for 50 mm clean stone for Scrib Farm dated 11/2/2013.
 - James Glover & Sons Ltd Fertilisers dated 14/6/2018 and 18/6/2018.
 - Martin Supplies for Flemming 6ft Topper dated 15/06/2018.
 - Multec Limited for Tractor Hitch Attachment dated 18/07/2018; and
 - Joseph Wans Ltd various farm materials dated 17/05/2018.
11. The appellant states that whilst he has worked to maintain and improve the land since he obtained it in 2009, he now has significantly increased his farming activity over the past 2 years to the point where he is now working considerable hours on the farm. The information submitted to my mind verify this claim. The appellant does not dispute that he has not claimed subsidies including Single Farm Payment on the holding. Nonetheless the appellant argues that in the intervening period since 2009 he had been maintaining the land in good agricultural condition and has been operating a farm business. The fact that some of these invoices were for cash sales to my mind does not undermine their validity and I find most of the 'invoices have been linked with the appellant's land at 'Scrib Farm' or at least to his home address at Tannaghmore Road.
12. The appellant's land is now not currently let in conacre. A movement record of 10 pedigree sheep bought for his holding in April 2018 was provided. These sheep have been grazing the land since then. The appellant now holds a flock number 791275. At the appeal site visit I was told that an updated flock movement record is to be lodged in November 2019 and this will relate to a total of 25 pedigree sheep. These sheep were grazing the land at the time of the site visit. This evidence was clarified and not disputed by the Council's representative at the site. The appellant also submitted details of a quote for his farm insurance and tax on his farm vehicle.
13. As referred to by the Commission decision 2017/A0231 the test posed by Criterion (a) of Policy CTY10 is not whether the applicant is an active farmer but whether the farm business is active and established for at least 6 years. The SPPS sets out in a footnote on page 53 that 'agricultural activity' is as defined by Article 4 of the European Council Regulations (EC) No. 1307/2013. The appellant in their evidence detailed what Article 4 states 'agricultural activity' to mean. The definition includes

maintaining an agricultural area in a state which makes it suitable for grazing and cultivation and carrying out a minimum activity on agricultural areas naturally kept in a state suitable for grazing or cultivation. This definition sets a very low threshold for active farming.

14. Taking account of the evidence before me I consider the following matters to be important in determining if the farm business is currently active and has been established for at least 6 years:
 - The appellant Business ID was issued on 26 May 2009;
 - No Single Farm Payment or other subsidies have been claimed by the appellant. This fact is not defining on whether or not agricultural activity has taken place during the required period;
 - Since 2009 the appellant has been maintaining his land in a state including the carrying out of fencing around the land to make it suitable for grazing or cultivation. Whilst agricultural activity was at a low level from 2009 the appellant has provided copies of some invoices which support that agricultural activity by the appellant has occurred at 'Scrib Farm' since 2009;
 - Land was associated with two different farm businesses from 2012 to 2014 and 2016 -2017, but I note that during this time the appellant provided evidence to indicate that he continued to maintain the land for agricultural purposes during that time. An example of this included investment and improvements to the farm land by means of improving the agricultural access and gate way;
 - I note from the case officers that a site visit was undertaken on the 30 July 2013 and that the access to the farm land was already in place. From my inspection it is evident this work was carried out to permit and facilitate vehicular access across the appellant's fields on the farm holding; and
 - the level of activity on the farm has steadily increased from the carrying out of minimum farming activity in the form of the maintenance of the land in a suitable state to now the rearing and breeding of sheep on the land.
15. In this instance there is no dispute that the farm business has been established since 2009. The fact the land has been farmed by other separate business up until 2017 is not determining as evidence has been provided to indicate that the appellant at a minimum maintained the land in a state suitable for grazing or cultivation at points during this period. The evidence indicates that since 2009 the farming activity has slowly but steadily increased from maintaining the land in a suitable state for grazing to now rearing and breeding sheep on the land. As the appellant has provided the farm's DEARA (DARD) business ID along with other evidence to prove active farming over the required period of 6 years I am satisfied the proposed development relates to an active and established agricultural holding.
16. The appeal development is for a new building. Policy CTY12 states in cases where a new building is proposed applicants will also need to provide sufficient information to confirm (1) that there is no suitable existing buildings on the holding or enterprise that can be used; (2) the design and materials to be used are sympathetic to the locality and adjacent buildings; and (3) the proposal is sited beside existing farm or forestry buildings.
17. The appeal proposal represents the first building on the farm holding. The farm map is addressed to 98 Tannaghmore Road, Ballynahinch but land identified on the map is entirely located along Demesne Road. This dwelling or any land at Tannaghmore Road are not detailed on the farm map. The appellant stated that he lives with his mother at 98 Tannaghmore Road, but that this property is not in his ownership and it

is not associated with the farm business. This evidence was not disputed. Furthermore the appellant stated at present it is only used as an address for correspondence given there are currently no existing buildings on the holding. My site inspection verified that this property is detached single storey dwelling with car port and domestic outbuildings. The buildings are small and not suitable for rearing and breeding of sheep. Furthermore there was no indication that the property is associated with farming activity on the land relating to the appellant's farm. Accordingly I am satisfied that the appellant has demonstrated that there are no existing buildings on the holding or enterprise that can be used for the farm business.

18. The proposed building is small scale some 85 square metres and will have a pitch roof with a maximum height of some 5.4 metres stepping down to a lower height of around 3.8 metres. There are no other buildings immediately surrounding the site. The proposed building will comprise two areas one used for storage and one area used as a shed. The finishes will comprise smooth render along the bottom topped with box profile PVC. The design is modest and typical of new agricultural buildings found in the countryside. The proposed design and materials to be used are sympathetic to the locality in the surrounding area. The appeal proposal meets this requirement of Policy CTY12.
19. As the appeal proposal represents the first building on the appellant's holding the third requirement to be sited beside existing farm buildings cannot be achieved. Accordingly the exceptional test of Policy CTY12 is therefore engaged.
20. Policy CTY12 states that exceptionally, consideration may be given to an alternative site away from an existing farm buildings, provided there are no other sites available at another group of buildings on the holding, and where it is essential for the efficient functioning of the business, or there are demonstrable health and safety reasons. As I have already determined the dwelling and associated domestic outbuildings at 98 Tannaghmore Road are not part of the appellant's farm holding and there are no other sites available to the appellant the first provision of the exceptional test is satisfied.
21. The appellant stated the proposed buildings will be used for multi-purpose and that it is necessary to house and look after his sheep over the winter and during the lambing season. At the appeal site visit the appellant indicated that at present he has no buildings on the farm and that the sheep are kept outside all year around including the winter and lambing season. The existing arrangements are not good for the efficient operation of the farm. He stated he was concerned now for the welfare of his animals coming into the winter months and that previously the existing external working arrangements were fatal was when his sheep were unwell and there is no shelter available. This arrangement had already resulted in the loss of some lambs.
22. A number of letters of support were presented by the appellant. Notably the letter of support from Alderman Robert Gibson, whom states that he, himself, is a full time farmer for over 30 years and owns a breeds stock. With his experience he states when breeding stock it is essential to have a covered shed to facilitate the handling and safe lambing. He notes that without a shed the appellant has lost a number of lambs during lambing time in 2019 and states that the proposal is essential for appellant to improve the husbandry of the animals he owns and manages in a suitable environment.
23. The appellant's evidence also states that the proposed farm building is designed to assist the welfare of sheep as set out by Schedule 1 of the Welfare of Farmed Animals Regulations (NI) 2000. The building will also be used to store feedstuff,

fertiliser, medical equipment and machinery at the farm location. Accordingly the appellant states the building is essential for the efficient use of the holdings including the health and safety of the welfare of the animals on the holding. This evidence was not disputed. On the balance of probabilities and given the nature of the appellant's farm business, relating to the breeding and rearing animals, I am persuaded that the proposed building is essential for the efficient functioning of the farm business.

24. Taking account of the presented evidence I am satisfied there are no other existing buildings or suitable sites on the holding. Furthermore I consider the proposed building is essential for the efficient use of the agricultural holding. Accordingly the proposal satisfies the exceptional test of Policy CTY12 of PPS21. The Council's third reason for refusal is not sustained.
25. The Council's second and fourth reason for refusal both relate to the ability of the proposed development to integrate into the surrounding countryside. Criterion (c) of Policy CTY12 requires that development visually integrates into the local landscape and additional landscaping is provided where necessary. Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.
26. Policy CTY13 policy states a new building will be unacceptable where it meets a number of concerns from (a) to (g). In this case the Council noted their concerns relate to points (b), (c), (d) and (e). Point (b) is where the new building is on a site that lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape. Point (c) is that the new building relies primarily on the use of new landscaping for integration.
27. The appeal site is set back in the second field from the side of Demesne Road. The roadside boundary is defined by a low lying hedge. Views of the appeal site and landform from the road side are possible. A small stream runs along the east boundary of the site. This boundary is defined by dense vegetation some 4-5 metres high. The proposed building will be sited some 40 metres to the rear of this boundary vegetation. The building will be positioned gable end towards the road. The proposed siting of the modest building one field back from the road and some 75 metres from the road edge when combined with surrounding intermittent boundary vegetation means that the building would satisfactorily integrate on the appeal site. Furthermore the rising land form to the west and rear part of the host field also provides a visual backdrop to the proposed 5.4 metre high building.
28. The Council did not fully explained their concerns relating to the visual impact of the ancillary works in the form of the lane. Despite the visual appearance of the access being an issue in the previous application (R/2013/0227/F) for an agricultural building I note the Council did not proceed to take enforcement action against what they considered to be an unacceptable form of development on the surrounding area. In the overall scheme I do not find the ancillary works associated with the access to be so visually unacceptable when viewed from the surrounding area. The lane is positioned on flat land where the existing roadside hedge screens views of it within the surrounding context. I do not consider the lane, which appears now to have been part of the character of this area for some time to be inappropriate for the site and locality. The proposal does not offend points (e) or (d) of Policy CTY13.
29. The proposal does not rely primarily on the use of new landscaping to enable the building to integrate on the site. However I do consider the augmentation and planting of native trees along the road side boundary would further break views of the

proposed farm building on the appeal site when viewed from the Demesne Road. Such planting could be ensured with the use of a planning condition as agreed by the appellant at the appeal site visit.

30. Having considered the criteria in both CTY12 and CTY 13 I am satisfied that the modest scale agricultural building would satisfactorily integrate into the landscape and its surroundings. The proposed set back from the road combined with the surround boundary vegetation and rising land form to the rear means the proposal would satisfactorily integrate into the landscape. The appeal proposal meets this requirement of Policy CTY12 and CTY13. In this regard The Council's concerns in this regard raised by reasons for refusal 2 and 4 are not sustained.
31. In the interests of road safety the necessary visibility splays of 2.4 metres by 90 metres as shown on the site access drawing date received, by Newry, Mourne and Down District Council, 6 Mar 2019, are in situ on the ground. I was told at the site visit that no third party land was required in respect of the provision of the necessary visibility splays. Given the width of the grass verge along the roadside, the visibility splays are in situ. I am satisfied the visibility slays do not require third party land. The third party concerns are not sustained in this regard. A condition requiring the retention of the visibility splays, to ensure a safe access to the site, is necessary in the interests of road safety.
32. I note an undesignated watercourse transverses the appeal site's eastern boundary and that the DFI Rivers Planning Advisory Unit have confirmed that the sites north east boundary may lie within a strategic flood plain, DFI note the proposal shows this area to be a paddock and the actual built development will take place on elevated ground and out of the floodplain. It was confirmed by the parties at the appeal site visit that because of the scale and position of the proposed building a drainage assessment was not required for the appeal development. I am satisfied these matters are not determining in this appeal.
33. As I have found the proposal to meet the requirements of Policy CTY12 and Policy CTY13 it consequently meets the provisions of Policy CTY1 as it falls within the range of the type of development which in principle is considered to be acceptable in the countryside. The Council's first reason for refusal is not sustained.
34. For the reasons set out above I find the Council's four reasons and third party concerns not to be sustained.

Conditions

- (1) The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.
- (2) A row of native species trees, including at least five trees at some 2 metres in height, shall be planted along the inner side of the road side boundary of the site before development commences on the site. Thereafter the trees shall be permanently maintained and allowed to grow above that height. Any trees dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of similar size and species unless the Council give written consent to any variation.

- (3) The visibility splays as shown on the existing site access plan scale 1:500 dated Newry, Mourne and Down District Council received on the 6 March 2019 shall be kept clear and permanently retained.

This decision relates to the following drawings:

- Site Location Map Scale 1:2500 Rev A dated received by Newry, Mourne and Down District Council 28 September 2018;
- Siting site access Scale 1:500 dated received by Newry, Mourne and Down District Council 6 March 2019; and
- Plans and Elevations dated received by Newry, Mourne and Down District Council 16 August 2018;

COMMISSIONER ROSEMARY DALY

2019/A0035

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List of Appearances

Planning Authority:- A McAlaney, Newry, Mourne and Down District Council

Appellant:- Mr S O Hare, appellant
Mr D Donaldson, Donaldson Planning

List of Documents

Planning Authority:- "A" Statement of Case Newry Mourne and Down District Council
"A1" Comments Newry Mourne and Down District Council

Appellant:- "B" Statement of Case Donaldson Planning
"B1" Comments Donaldson Planning

Third Party:- "C" M McEvoy, Statement of Case



Appeal Decision

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Appeal Reference:	2019/E0004
Appeal by:	Copart UK Ltd
Appeal against:	The refusal of a Certificate of Lawfulness for Existing Use or Development
Development:	Vehicle Storage, Dismantling and Sales Operation
Location:	39 Junction Road, Saintfield
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2018/1381/LDE
Procedure:	Informal Hearing on 24 th July 2019
Decision by:	Commissioner A Speirs, dated 5 th November 2019

Decision

1. The appeal is allowed and a certificate of lawfulness is attached.

Preliminary matter

2. A third party submitted a statement of case, objecting to the grant of a certificate of lawfulness. It requires to be recognised that the application for such a certificate is not the same as an application for planning permission. The lawfulness, or otherwise, of a use or development is a matter of law and is based on the facts of the case, rather than planning merits.

Reasons

3. The application for a certificate of lawfulness for an existing use or development (CLEUD) was received by the Council on 24th July 2018, in accordance with Section 169 of the Planning Act (Northern Ireland) 2011.
4. Section 169 of the Act makes provision for the issue of a CLEUD; Section 169(1) states that "if any person wishes to ascertain whether – (a) any existing use of buildings or other land ... would be lawful, that person may make an application for the purpose to the appropriate council specifying the land and describing the use, operations or other matter". Section 169(2) indicates that "for the purposes of this Act uses and operations are lawful at any time if – (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and (b) they do not constitute a

contravention of any of the requirements of any enforcement notice then in force". Section 169(4) states that "if, on an application under this section, the council is provided with information satisfying it of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the council or a description substituted by it, the council must issue a certificate to that effect; and in any other case it must refuse the application".

5. Section 131(1) of the 2011 Planning Act states that "for the purposes of this Act – (a) carrying out development without the planning permission required; or (b) failing to comply with any condition or limitation subject to which planning permission has been granted, constitutes a breach of planning control. Section 132 refers to time limits for taking enforcement action against breaches of planning control. Subparagraph (1) relates to operations. Subparagraph (2) refers to changes of use to dwellings. Section 132(3) refers to all other types of development and states "in the case of any other breach of planning control, no enforcement action may be taken after the end of the period of 5 years beginning with the date of the breach".
6. In the case of an application for a CLEUD, the onus is on the applicant to provide evidence of the lawfulness of the use or development cited in the application forms. The issue in this case therefore is whether the submitted evidence is sufficient to demonstrate, on the balance of probabilities, that the land and buildings have been used continuously for the described use for a period of 5 years or more at the time of the application.
7. The appeal site is currently in use by Copart UK Ltd; the business mainly consists of the sale of damaged and salvage vehicles, primarily by online auction. Vehicles are stored on the site prior to sale. Some vehicles, those that are beyond repair, are depolluted prior to disposal for scrap. The site operator has a Waste Management Licence for treatment of end of life vehicles. Buyers are permitted to view vehicles at the site prior to bidding/purchase. No vehicle parts are sold at the site.
8. The use of land for the breaking of vehicles, and for vehicle sales, are sui generis uses. Article 3(1) of the Planning (Use Classes) Order (Northern Ireland) 2015 does not, therefore, come into play. However, I concur with the appellant that both the previous, and current, uses primarily involve(d) sales. If the proposals were being considered in terms of planning policy, that pertaining to retailing would apply. In considering whether a material change of use of the site has occurred, an important question is whether the character of the land has changed.
9. In planning terms there is nothing to differentiate 4x4 vehicles from other cars or vans. The site was in mixed use when operated by Mackins. The uses that took place were: storage of vehicles, breaking of vehicles, sales of parts, and sales of complete vehicles. Evidence submitted in respect of the latter element included copies of invoices dating between 2012 and 2017, relating to the sale of 78 complete vehicles. I note that Mackins advertising in 'goldenpages.ie' refers to 4x4

- vehicles being bought and sold, as well as vehicle parts. As the objectors' representative pointed out, there are significant gaps in the dates of the invoices and I acknowledge this; against this, I note the appellant's assertion that full details of all sales were not available and that additional sales are likely to have taken place, 'off the record' or on an undocumented basis. I was also advised that Mackins had destroyed all invoices dating before 2012. Whilst I cannot attach significant weight to alleged sales, without documentation to support same, I accept the appellant company's assertion that sales of roadworthy vehicles would have been a significant element of sales income, given the comparative value of an entire vehicle as opposed to used spare parts. I consider, based on the 'snapshot' of the invoices provided, that the sale of complete vehicles was not ancillary to any of the other uses of the site, but was a material use in its own right.
10. I note that two 'letters of comfort' had been provided by DOE Planning in relation to the use of the site. The first, dated October 2004, referred to 'vehicle storage, dismantling and sales operation' at 39 Junction Road, and stated that "... based on the evidence submitted the Department accepts that the business has operated on this site for over 40 years and as such is immune from any enforcement action ...". Another letter, dated November 2009, refers to the same uses of the site and to a plan showing the extent of same, and states that "This is the area that this office has accepted as the boundary of the site which is immune from enforcement under the ten year rule". I note that the aforementioned plan identifies much the same area of land identified in the CLEUD application; the only exception is a strip of land along the Northeast side of the site, which lies outside the site identified to Planning Service. This strip of land is included in the site identified in the subject CLEUD application. I note that the appellant company's waste management licence identifies the smaller site on a 1:2500 scale plan dated March 2004. However aerial photographs dated 24th May 2013, 30th May 2016, 13th August 2015, and 5th July 2017 show a significant number of vehicles being stored in the site identified with the subject CLEUD application.
 11. Whilst the Planning (Amendment) (Northern Ireland) Order 2003 introduced legislation allowing for applications for CLEUDS, this was not mandatory, and the failure of Mackins to follow this statutory route in establishing the status of the uses on the site does not weigh against the appellant company. The judgement in the case of *Saxby v SSE* [1998] JPL 1132, established that the correct means of establishing lawfulness of development was through making an application for a lawful development certificate. From my experience, however, this practice was not widely used in Northern Ireland and it was common for lawfulness to be confirmed by letter. In my opinion the letters from DOE Planning Service are material to this case and should be accorded significant weight. I note that the letters refer to sales as a generalised term and do not specify the sales of vehicle parts only. Whilst evidence from Companies House dated between 2014 and 2017 refers to Mackins 4x4 Breakers Ltd as a car parts dealer, I am satisfied that the business involved other established uses as well.
 12. The objectors' representative referred to the judgement in the case of *Thurrock BC v SSETR and Holding* [2001] JPL 1388 and [2002] JPL 1278 (CA). That case

establishes that if present day unauthorised uses which have yet to accrue lawfulness through the passage of time, cease to be active on the ground for more than an insignificant period, even without an intention that they be abandoned, their resumption will be a fresh breach of planning control.

13. There is convincing evidence that Mackins' use of the site had been ongoing for many years by the time the company decided to sell the business. The objectors alleged that the use of the site by Mackins was abandoned in and around 2016/2017 and that this is evidenced in the photographs of the site dated around that period. It seems to me entirely reasonable that Mackins would have 'wound down' the business prior to the take-over by Copart. Indeed, any reasonable person could have expected this to happen. There are copies of invoices in evidence to demonstrate that Mackins continued trading until mid-2017, albeit on a considerably smaller scale than previously. The aerial photograph dated 17th July 2017 shows vehicles being stored in the northeastern part of the site. The sales brochure, relating to the site, refers to the business being sold "as a going concern". Copart completed its acquisition of the site in late 2017 and began trading in April 2018; the company clearly bought the site on the basis that it considered its business would not represent a change of use. The period of dormancy on the site was limited to around 9 months, which is not significant in the context and circumstances of this appeal. The only change to the physical condition of the land and buildings was that the number of vehicles stored was reduced. No supervening land use took place. There is no evidence that Mackins intentionally abandoned the use of the site for those activities that had become established and lawful by dint of their continuation over many years.
14. The objectors' representative referred to the judgement in *R oao John Childs v FSS and Test Valley DC* [2005] EWHC 2369 (Admin). This case related to an increase in the number of caravans sited on land. I accept that intensification of a use of land could potentially represent a material change of use. However, I agree with the appellant company that one has to examine the character of the site before and after any intensification takes place in order to determine if the change has been material.
15. The objectors referred to vehicle movements on the local road network and problems being caused by large vehicles attending the appeal site. However, I was not provided with any figures or analysis to demonstrate that vehicular movements are significantly different to those during Mackins' occupation of the site. The only information provided by the third parties' representative at the hearing was that they had "a perception" that vehicle movements had increased significantly. There is evidence that there were 70-85 vehicle movements per day associated with the Mackins operation in 2010. I was advised that Copart uses its own non-articulated truck to deliver vehicles to the site; this can carry 6 to 8 vehicles at a time. Third party vehicles could also be used. I was advised that vehicle movements are now much the same as during Mackins' tenure of the site. Judging from the level of storage evident in the aerial photographs prior to 2016, I consider that the Mackins business must have involved large trucks delivering vehicles to the site, and removing others for disposal as scrap metal.

16. With regard to the physical characteristics of the Mackins and Copart uses, there is little difference in the appearance of the site today from what it would have been when the Mackins business was fully operational. A fence has been erected for security reasons at the entrance to the complex of buildings, but this is not significant, in itself. No new buildings have been erected and the site is used to store a large number of cars and other vehicles. From the aerial photographs taken between 2013 and 2017, and my observations of the site in September 2019, I conclude that the extent of the site, and the storage area, has not significantly changed. It is not visually apparent that the main retail use now is for entire cars, as opposed to used vehicle parts. I accept that the proportions of sales have changed from mainly vehicle parts, to mainly sales of cars, but this would not be immediately obvious from the appearance and character of the site.
17. The Mackins operation involved the breaking of vehicles for the sale of parts, the sale of whole vehicles and storage of large numbers of vehicles on the site. The Copart operation also involves mixed use of the site with storage of vehicles, disassembly and depollution of 15-20% of vehicles and sales of complete vehicles. The storage is the most visually apparent use on the site. The proportions of other uses have changed, with sales of whole vehicles having largely replaced the breaking and vehicle parts sales elements. Whilst the level of vehicle sales now averages around 250 per month, I do not consider that this has resulted in a material change in the character of the operations occurring on the site. Intensification in the sales of whole vehicles is not, in itself, sufficient justification for concluding that a material change in the use of the site has resulted. The Council's decision to refuse to issue a certificate of lawfulness was not well founded.

COMMISSIONER ANDY SPEIRS

Attendances at Hearing:

Council – C Cooney

Appellant – W Orbinson, QC Instructed by Donaldson Planning
Ms G Rice, Donaldson Planning
Mr J Canning, Counsel for Appellant Company

Third parties – Mr A Ryan TLT Solicitors for Mr and Mrs Gill

Documents:

Doc A – Council's Statement of Case

Doc B – Appellant's Statement of Case

Doc C – Objectors' Statement of Case

Doc D – Aerial photographs supplied by Mr Ryan

PLANNING ACT (NORTHERN IRELAND) 2011: SECTION 169

CERTIFICATE OF LAWFULNESS OF EXISTING USE OR DEVELOPMENT

The Planning Appeals Commission hereby certifies that on 24th July 2018 the use described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and shown hatched on the plan attached to this certificate was lawful within the meaning of section 169 of the Planning Act 2011, for the reasons set out in decision to which this certificate is appended.

Signed

COMMISSIONER A SPEIRS

5th November 2019

FIRST SCHEDULE

A mixed use comprising:

- The storage of damaged and salvage motor vehicles,
- The dismantling and depollution of motor vehicles that are beyond repair, amounting to around 15-20% of vehicles stored on the site, prior to their disposal off-site for scrap, and,
- The sale of an average of 250 damaged and/or salvage motor vehicles per month, primarily by online auction.

SECOND SCHEDULE

The land shown edged in red on the 1:2500 scale drawing reference D70, submitted to Newry, Mourne and Down District Council on 24th July 2018

Notes:

(1) This certificate is issued solely for the purpose of section 169 of the Planning Act 2011.

(2) It certifies that the use described in the First Schedule taking place on the land described in the Second Schedule was lawful on the specified date and, thus, was not liable to enforcement action under Section 138 or 139 of the Planning Act (Northern Ireland) 2011 on that date.

(3) This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described or which relates to other land may render the owner and occupier liable to enforcement action.



Appeal Decision

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Appeal Reference:	2019/A0027
Appeal by:	Mr & Mrs Cyril Hamilton.
Appeal against:	The refusal of outline planning permission.
Proposed Development:	Dwelling (Infill Site).
Location:	Lands between 153 & 157 Strangford Road, Downpatrick.
Planning Authority:	Comhairle Ceantair an Iúir, Mhúrn agus an Dúin. Newry, Mourne & Down District Council.
Application Reference:	LA07/2018/0663/O.
Procedure:	Written representations and accompanied site visit on 13th September 2019.
Decision by:	Commissioner Damien Hannon, dated 21st November 2019.

Decision

1. The appeal is allowed and outline planning permission is granted, subject to the conditions set out below.

Reasons

2. The main issues raised by this appeal are whether the proposed development is acceptable in principle in the countryside and its impact on visual amenity and rural character.
3. The Ards and Down Area Plan 2015 (ADAP), the statutory development plan relevant to the appeal site, contains no policies specific to proposals for residential development in the countryside. Furthermore, there is no conflict between the provisions of the Strategic Planning Policy Statement for Northern Ireland - Planning for Sustainable Development - September 2015 (SPPS) and retained policy regarding issues raised by this appeal. Consequently, the relevant policy context is provided by Planning Policy Statement 21 - Sustainable Development in the Countryside (PPS 21).
4. Policy CTY 1 of PPS 21 sets out a range of types of development which are acceptable in the countryside in principle. The appellant argued that the proposal was acceptable as the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8 of PPS 21. Policy CTY 8 states that permission will be granted 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. This policy test is repeated, in respect of rural character, in criterion (d) of Policy CTY 14.

5. The rectangular appeal site has a frontage of some 40m onto Strangford Road. It is bounded to the east by the curtilage of 157 Strangford Road and to the west by the curtilage of 153 Strangford Road which itself is bounded to its west by No. 151. Nos 151, 153 and 157 constitute an otherwise substantial and continuously built up frontage for the purposes of Policy CTY 8.
6. The appeal site occupies part of a gap of some 80m between buildings at Nos 151 and 153. The Council stated that between them, Nos 151, 153 and 157 had an average frontage of 49m and argued that consequently, it would not be possible to develop the gap site in a way that would respect the existing development pattern along the frontage, as one dwelling would appear too spacious and two would appear too cramped. However, while a measure such as average frontage width can inform assessment the existing frontage development pattern, the policy does not necessitate duplication of such a mathematical factor in respect of proposals for infill development. The assessment of whether a proposal would respect the existing development pattern along the frontage requires consideration of the matters of size, scale, siting and plot size in the round.
7. Based on my observations and the evidence presented, I conclude that the appeal site could accommodate one dwelling and that two dwellings could be accommodated within the full extent of the gap, whilst respecting the existing development pattern along the frontage. Provided appropriate provision is made for landscaping, the proposal is acceptable as the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policies CTY 8 and CTY 14 of PPS 21. Consequently, I consider the proposal to constitute development, which is acceptable in principle in the countryside in compliance with Policy CTY 1. The Council's three reasons for refusal based on policies CTY 1, CTY 8 and CTY 14 are not sustained and the appeal succeeds. There was no suggestion that adequate access standards cannot be provided and this can be dealt with at reserved matters stage.

Conditions

- 1) The following reserved matters shall be as approved by the council – the siting, design and external appearance of the buildings and the means of access thereto.
- 2) No development shall take place until there has been submitted to and approved by the council, a landscaping plan showing a scheme of planting along site boundaries and behind visibility splays, including retention of the existing trees along the site's eastern boundary and providing the location, numbers, species and sizes of trees and shrubs to be planted within the site. The scheme of planting as finally approved shall be carried out during the first planting season after the dwelling is occupied. 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) Application for approval of the reserved matters shall be made to the Department before the expiration of three years from the date of this decision.

- 4) 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 Ordinance Survey extract received by the Council on 31st October 2018 and numbered LA07/2018/1663/01.

COMMISSIONER DAMIEN HANNON

List of Appearances

Planning Authority:-	Ms. Annette McAlarney
Appellant:-	Ms. Anne Hamilton Mr. Gerry Tumelty (Agent)

List of Documents

Planning Authority:-	COU1 Statement of Case
Appellant:-	APP1 Statement of Case APP 2 Comments



Appeal Decision

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Appeal Reference:	2019/E0002
Appeal by:	Mr William McDonnell
Appeal against:	The refusal of an application for a Certificate of Lawfulness of Existing Use or Development.
Development:	Construction works undertaken were lawful under planning reference P/2011/0124/F and P/2007/0735/RM and therefore constitute a material start to the dwelling approved under P/2011/0124/F.
Location:	Aughnagon Road and opposite to 60 Derryleckagh Road, Mayobridge, Newry
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2018/1792/LDE
Procedure:	Hearing on 24 July 2019
Decision by:	Commissioner Rosemary Daly, dated 11 November 2019

Decision

1. The appeal is allowed and the attached Certificate of Lawfulness is granted.

Reasoning

2. The main issue in this appeal is whether the planning permission, as granted in accordance with applications R/2007/0735/RM and P/2011/0124/F, for the erection of a dwelling has lawfully commenced and thereby represents a material start to the approved dwelling.
3. Section 169 of the Planning Act (Northern Ireland) 2011 provides for applications of certificate of lawfulness of existing use or development. A lawful development certificate (LDC) is a statement specifying what was lawful at a particular date. In an appeal against the refusal of an application for a certificate of lawfulness of the existing development, the test to be applied is whether the refusal to certify that development is well founded.
4. The subject application for the Certificate of Lawfulness of Existing Use or Development (CLEUD) was submitted to the Council on 14 November 2018. The application sought confirmation that construction works on the site were lawful under planning reference P/2011/0124/F and P/2007/0735/RM and therefore constituted a material start to the dwelling approved by application P/2011/0124/F. On the appeal site exists the construction of walls to the first floor level of a small building. The walls are constructed up to the first floor wall plate level with a block plinth along the top of the walls. A small door and two window openings exist to

the front elevation and a wider opening exists to the south elevation of the constructed walls. The walls are not enclosed with a roof. The position and footprint of the building has been drawn out on the submitted drawing 02 (received by Newry, Mourne and Down District Council on the 14 November 2018). In this appeal the matter to be considered is whether the existing construction works on site are lawful.

5. Following consideration of the submitted information the Council, on 21 February 2019, issued a decision refusing to certify the construction works on the site were lawful. Irrespective of the case officers report having a slightly different reason for refusal it is the reason on the decision that I must consider in this appeal. The Council's reason for their decision was they were not satisfied that the operations specified constituted development, because the construction works undertaken for applications P/2011/0124/F and P/2007/0735/RM were not lawful and do not constitute a material start to the approved dwelling.
6. Planning permission was initially granted on the appeal site in 1988 (P/1988/0285/F) and was renewed on five occasions. A reserved matters application (P/2007/0735/RM) was approved on 17 May 2010. The first condition of the reserved matters decision required the development to commence on the site before the expiration of 5 years from the date of the outline permission or the expiration of 2 years of the date of the approved reserved. In accordance with these time frames the permission for the subject dwelling therefore expired before or on the 17 May 2012.
7. The reserved matters details approved a detached two storey dwelling, with a detached domestic garage located to the south east elevation of the main dwelling. The details also approved access onto the Aughnagon Road. The full plans included and approved detailed drawings for a two bay domestic garage at this time. Notwithstanding the description of development in this application only referred to the 'erection of a dwelling', the Council, at the appeal hearing stated that they accept that a domestic garage was envisaged as part of the proposal.
8. The appellant advised the access to the dwelling was constructed in accordance with the approved reserved matter (P/2007/0735/RM) details. This had occurred in 2011 prior to the expiry of that permission. This was not disputed by the Council. The appellant stated that layout out of the access prior to the commencement of development fulfilled the requirements of the pre-commencement condition stipulated by condition 4 of the reserved matters permission. However the appellant accepted, at the hearing, that the construction of the access in accordance with the approved plans was not development in the course of the erection of the approved building as set out by Article 36 (1) (a) of the Planning (Northern Ireland) Order 1991.
9. Notwithstanding the laying out of the access as detailed by the approved reserved matters the appellant stated that it was the P/2011/0124/F permission that they were seeking to implement. This permission approved the relocation of the dwelling in substitution of the existing approved dwelling by the previous planning permission P/2007/0735/RM. The permission related to drawings which included full details of the dwelling and a block plan showing the relocation of both the dwelling and a garage. The detailed design of the dwelling was provided and approved. It reflected the same design as previously approved in the reserved
2019/E0002

matters application. Except for the block plan showing the repositioning of the domestic garage no detailed plans for the domestic garage were provided in or approved in this application. The block plan also indicated the repositioning of the access north of where the existing constructed access is located.

10. At the appeal hearing the Council stated notwithstanding the lack of detailed drawings relating to the domestic garage this element of the development would have been in the mind of planning authority as indicated by the approved block plan. The representative for the Council stated they accept that a domestic garage forms part of what was the approved development on the site. The first planning condition of this decision (P/2011/0124/F) was that the development hereby permitted shall be begun before the expiration of 1 year from the date of this decision. The decision was dated 21 February 2013. Accordingly development would have to commence before or on 21 February 2014.
11. The onus falls on the appellant to demonstrate that works of construction in respect of the approved erection of the dwelling commenced before 21 February 2014.
12. The appellant stated Mr William Kelly of Kelly Homes Ltd was the contractor appointed to commence the construction on the site. The appellant stated it was his understanding that construction works commenced on the site in respect of foundations for the domestic garage on 11 February 2014 and that Building Control had come out to see the site clearance on 13 February 2014. The appellant and builder confirmed that during the excavation of the foundations they had encountered hard rock and that heavier diggers had to be brought to the site to remove the rock. An underground spring was also encountered at this time. These factors led to the foundations for the domestic garage associated with the approved dwelling being reduced and pulled slightly forward on the site. The appellant presented that this minor repositioning was not significant and would not be adverse if considered under the prevailing policy guidelines, as the previously approved application had shown the main dwelling to be located at this position on the site. The appellant argues that this repositioning should be considered as a minor deviation from the original siting.
13. The appellant's builder Mr Kelly, who was present at the hearing, verified the appellant's evidence. Mr Kelly provided original receipts and a comprehensive list of the receipts including dates. Mr Kelly explained due to the characteristics of the site, the excavation of the foundations took longer than anticipated and that normally the digging out of foundations would be completed in a matter of a few days. The list of receipts and actual receipts are as follows in date order leading up to and on the 21 February 2014:
 - 11 February 2014 – Digger moved onto the site;
 - 12 February 2014 – Case 130 (digger) fill lorry, hire of lorry;
 - 13 February 2014 – Case 130 (digger) fill lorry, hire of lorry
 - 17 February 2014 – Case 130 (digger) fill lorry, hire of lorry and Cleomack Haulage moving digger to Aughnagon Road;
 - 18 February 2014 - Case 210 (digger) with hammer and driver
 - 19 February 2014 – Case 210 (digger) with hammer and driver
 - 20 February 2014 – Case 210 (digger) with hammer and driver

- 21 February 2014 - Marking out, taking levels for garage, meet building control, Case 210 (digger) with Hammer, Case 210 (digger) with bucket, A393 Mesh, Labour, Plant and materials; and
 - On the following day, 22 February 2014, receipts were provided for a Case 210 (digger) Hammer, Case 210 (digger) Bucket, A393 Mesh, Lorry, 1 roll of pipe, 2 load of stone Fitzpatrick's, Labour, Plant and Material.
14. Additionally the appellant stated that a request to building control was submitted on the 19 February 2014. The request by the contractor was for Building Control to inspect the excavated trenches with the view to pouring concrete on the same day. The appellant stated that for some reason Building Control did not inspect the site on that day. Therefore a later request had to be submitted again on the 21 February 2014. The appellant stated that building control inspected the property on the 21 February 2014.
15. In support of the above claims the appellant in their appendices provided a copy of a letter from Newry and Mourne District Council, dated 10 January 2014, which acknowledged receipt of plans and other documents on 9 January 2014 in respect of *'new detached garage at Aughnagon Road, Mayobridge'*. The letter also states that the application will shortly be assessed under current building regulations and a decision would be sent. The letter also informed the appellant's architect who the building control surveyor dealing with the plans and who the surveyor carrying out the site inspection would be.
16. A copy of a letter dated 12 February 2014 was also provided. The letter is to Building Control from the appellant's builder advising that commencement has started on the site at Aughnagon Road. The letter was sent seeking an inspection request. A fax sending confirmation accompanied the letter. Furthermore a copy of the letter again to Building Control dated 19 February 2014 was also attached, this letter advised building control that the foundation excavation is ready for inspection. This letter was also accompanied with a fax sending confirmation.
17. The Council provided copies of emails to and from Building Control. A screen shot of Building Control records was provided with a list of times and inspections carried out by Building Control. These records note on the 13 February 2014 at 10.00am a commencement inspection had been carried out. The records note that *'work commenced on site, site being cleared but foundations not yet excavated, advised to contact when ready'*. On the 21 February 2014 at 10.00am a foundations inspection was carried out. The records note at this time *'William Kelly (builder) on site. Site for detached garage cut into the bank. Rock bearing stratum. Breaking out of rock to form foundation trenches at time of inspection. Re-inspection booked out by builder when ready'*. I note that the 21 February fell on a Friday. Building Control records detail that on the next working day, the following Monday, 24 February 2014, that the site was inspected. The notes state *"William Kelly (builder) on site. Foundation trenches excavated 900 mm wide in rock bearing stratum. A393 mesh cut in strips to be placed in foundation trench. Appears satisfactory"*. I find the Building Control records to be consistent with the time line and evidence provided by the appellant builder Mr Kelly and indicated that foundations for a garage were in place before the expiration of date of the 2011 permission.

18. Furthermore the appellant stated that for two weeks leading up to the 21 February 2014 major works were undertaken and that construction had commenced prior to the expiry of the 2011 permission. The appellant also continued onto construct the walls of the garage. Details of this was also provided on the appellant's receipt summary and copies of the original receipts were provided. Building control records also continue to note this. An aerial photograph dated 18 April 2014 was also provided by the appellant. The photograph shows the site with the access opened, visibility splays in place and the position of the garage foundations in place. The photograph appears to indicate that construction continued further than the excavation of the foundations as a concrete shaded area is evident on the photograph. Whilst this photograph is dated within a month from the date of the expiry of the 2011 permission, to my mind this evidence is also consistent with the timeline of events provided by the appellant's builder and the Building Control records.
19. The appellant stated that considerable expenditure has accrued in the commencement of the development at the site and quoted a figure of some £16,000 between site clearance, removal of rock, excavation of foundations and the pouring of concrete coupled with the work already undertaken to put the access and visibility splays in place. This evidence I consider to be consistent with the level of work undertaken at the appeal site.
20. Taking into account the evidence presented I am satisfied on the balance of probabilities that development in the form of the garage foundations commenced on site prior to the expiry of the 2011 planning permission. At the appeal hearing the Council also stated they did not dispute that the break out of foundations had commenced on the site before the expiry of the 2011 planning permission. Nonetheless the Council stated their concern was that development that had taken place was not the development that was approved by the 2011 planning permission.
21. The original reserved matters application (P/2007/0735/RM) hence the detailed plans approved a domestic garage on the site. As noted above this was not disputed even though the description of development did not refer to the domestic garage. Nonetheless I note that the decision notice refers to the said reserved matters and details the drawings to which it relates. Drawing 04 Rev1 provides details of a double garage. The footprint of the garage measures some 6.5 metres by 6.8 metres, a total of around 44. 2 square metres. The height of the garage, elevation and roof details were also provided. The approved block plan shows the positioning of the garage on the site. The full planning permission (P/2011/0124/F) approved the relocation of the dwelling in substitution of the existing approved application (P/2007/0735/RM). This permission also sets out the drawings to which the planning permission relates. In respect of this application no detailed drawings were provided for the domestic garage. However the site layout block plan shows the repositioning of both the dwelling and the domestic garage. The footprint of the garage as shown on the site layout block plan measures some 9 metres by 6 metres. The garage is positioned some 17 metres back from the edge of the road (including the distance over the visibility splays as shown on the plan). The Council accepted that this reposition of the domestic garage was also envisaged in this planning permission. This is evident as the new location of the domestic garage was within the footprint of where the dwelling had been previously approved.

22. As already noted the builder during the construction of the foundations for the garage had problems due to hard rock and a spring found on the site. On this basis the builder stated that they had no option but to move the garage slightly forward by some 1.5 metres. An overlay drawing was provided by the Council (PAC4). The footprint of the domestic garage as built is smaller than that approved by the 2011 and 2007 permissions. The footprint of what has been constructed is some 6 metres by 6 metres. The garage as built also has a smaller footprint than what was approved by 2011 permission and some 4 metres of the garage overlaps the position of the approved footprint of the garage on the site.
23. In considering all the matters before me I find the following matters to be significant:
- a. There is no dispute that a domestic garage did not form part of the 2007 permission or the 2011 repositioning permission.
 - b. Whilst the orientation and form of the garage differ on site from the details provided by the 2007 permission, the planning authority did not deem it necessary to seek clarification or details on the elevation or height of the garage. Therefore the full parameters of the garage are not defined by any detailed drawings. The only defined parameter is the footprint and position of the garage on the site.
 - c. The footprint and walls as constructed significantly overlap the majority of the approved footprint of the domestic garage in accordance with the only defined parameters for the garage as indicated by the 2011 permission.
 - d. The builder has explained why the building was slightly moved forward on the site. When viewed from the surroundings and the public road this change in position would be scarcely discernible and is not significant. To my mind this deviation in the positioning of the footprint of the garage is *de-minimis* in the overall scale of the approved development on the site.
 - e. It has been demonstrated that the works in the construction of the domestic garage commenced within the time limits of the 2011 planning permission.
24. All in all from my consideration of the above evidence it is clear that development had commenced on the site before the expiry of the planning permission. The 2011 permission left it open for the appellant to build a garage of any design. The only restrictions given were its position on the site and the area of its footprint in accordance with the approved block plan. Taking all the factors into account I am satisfied that approved development of a detached garage had lawfully commenced on site by Feb 2011. The development on the appeal site therefore constitutes lawful development and represents a material start to the planning permission P/2011/0142/F.

COMMISSIONER ROSEMARY DALY

List of Appearances

Planning Authority:- Mr G Murtagh, Newry, Mourne and Down District Council

Appellant:-
Mr J Young, Collins & Collins
Mr T Mc Donald, Appellant
Mr J McKevitt, Builder
Mr W Kelly, Builder

List of Documents

Planning Authority:-
"A" Newry, Mourne and Down District Council Statement of Case and Appendices
PAC3 Planning history drawings and Email from Building Control
PAC4 Overlap drawing of approved block plans with the as built footprint of the domestic garage

Appellant:-
"B" Collins & Collins Statement of Case and Appendices
PAC1 – Drawing passed to builder.
PAC2 – Schedule of Invoices relating to the site

PLANNING ACT (NORTHERN IRELAND) 2011: SECTION 169

CERTIFICATE OF LAWFULNESS OF EXISTING USE OR DEVELOPMENT

The Planning Appeals Commission hereby certifies that on 14 November 2018 the development described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and shown hatched on the plan attached to this certificate was lawful within the meaning of section 169 of the Planning Act 2011, for the following reason:

The construction works undertaken, in the form of the garage walls, are lawful and therefore constitute a material start to the dwelling approved by planning application P/2011/0124/F.

Signed

Rosemary Daly

COMMISSIONER ROSEMARY DALY

11 November 2019

FIRST SCHEDULE

Construction works in the form of garage walls relating to planning permission P/2011/0124/F for the relocation of dwelling in substitution of existing approved application (P/2007/0735/RM) and as shown to be positioned on Drawing No 2 dated Newry, Mourne and Down District Council date received 14 Nov 2018

SECOND SCHEDULE

Lands at Aughnagon Road and opposite 60 Derryleckagh Road, Mayobridge, Newry, BT34 3RB

Notes:

- (1) This certificate is issued solely for the purpose of section 169 of the Planning Act 2011.
- (2) It certifies that the matter described in the First Schedule taking place on the land described in the Second Schedule was lawful on the specified date and, is thus, not liable to enforcement action under section 138 or 139 of the Planning Act (Northern Ireland) on that date.
- (3) This certificate applies only to the extent of the matter described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any matter which is materially different from that described or which relate to other land may render the owner and occupier liable to enforcement action.



Appeal Decision

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Appeal Reference:	2019/A0062
Appeal by:	Brenda Rooney
Appeal against:	Refusal of Outline Planning Permission
Proposed Development:	Single storey dwelling
Location:	Approx. 60m NE of 82 Bann Road, Castlewellan
Planning Authority:	Newry Mourne and Down District Council
Application Reference:	LA07/2019/0488/O
Procedure:	Written representations with Commissioner's site visit on 31 st October 2019.
Decision by:	Commissioner Helen Fitzsimons on 11 th November 2019

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether the proposed development is acceptable in principle in the countryside and whether it would have an adverse impact on the visual amenities of the surrounding rural area.
3. The Ards and Down Area Plan 2015 (ADAP) is the local development plan which operates in the area where the appeal site is located. The appeal site lies in the open countryside outside any designated settlement. There are no plans or policies pertinent to the appeal proposal within ADAP.
4. The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area. The SPPS retains certain existing Planning Policy Statements (PPS) one of which is Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS 21).
5. 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. It goes on to say 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.
6. One of the acceptable types of development is a dwelling in accordance with Policy CTY 6 'Personal and Domestic Circumstances' This policy states that 'planning permission will be granted for a dwelling in the countryside for the long term needs of the applicant, where there are compelling, and site specific reasons for this

related to the applicant's personal or domestic circumstances and provided two stated criteria are met. Criterion (a) requires the applicant to provide satisfactory evidence that new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused ; and Criterion (b) states that there are no alternative solutions to meet the particular circumstances of the case such as, an extension or annex attached to the existing dwelling ; the conversion or reuse of another building within the curtilage of the property ; or the use of a temporary mobile home for a limited period to deal with immediate short term circumstances. Although this policy was not relied upon by the Council in its reasons for refusal the appellant put forward a case on personal and domestic circumstances and the policy is before me for my consideration.

7. Paragraph 5.29 of the Policy says that applicants will be expected to provide sufficient information to allow a proper assessment of each specific case. The paragraph requires that supporting information should be submitted and includes such information as a statement detailing the special personal or domestic circumstances supported if appropriate by medical evidence from a medical or health professional details of the level of care required in relation to any medical condition again supported by the appropriate health professional, the identity of the main carer, their current address and occupation, an explanation of why care can only be provided at the specific location and how genuine hardship would be caused if planning permission were refused.
8. The appellant currently resides close to the appeal site. She wishes to construct the proposed dwelling to facilitate the long term care of her mother whose health is failing. Both the appellant and her mother would reside in the proposed dwelling. She considers her existing dwelling to be unsuitable for her mother due to its deteriorating built fabric.
9. I accept that the appellant's mother has a health condition that will require long term care in the future. However, no supporting information was submitted detailing the special personal or domestic circumstances; nor was there any supporting medical evidence from a medical or health professional or details of the level of care required in relation to any medical condition once again supported by the appropriate health professional. I was given no explanation as to why care can only be provided at the specific location and how genuine hardship would be caused if planning permission were refused
10. Even if such evidence had been provided the appellant did not provide me with evidence that any of the alternative solutions suggested in the policy had been considered or indeed that she had considered replacing her existing dwelling with a new one, which the Council indicated, at the site visit, would be acceptable under Policy CTY 3 of PPS 21.
11. As it the proposal would not comply with the requirements of Policy CTY 6 of PPS 21 and I was given no overriding reasons why the development is essential and could not be located in a settlement the proposed development also fails Policy CTY 1 of PPS 21 and it is not acceptable in principle in the countryside. The Council's first reason for refusal is sustained.

12. The appeal site comprises a small field which has direct frontage onto Bann Road. Land within the appeal site falls steeply away towards the east. Its south western boundary is defined by a tree and roadside hedging. The north / north-west boundary is formed by a stone wall, whilst that to the south east is sparsely vegetated. The remaining boundary comprises mature trees.
13. Policy CTY 13 of PPS 21 'Integration and Design of Buildings in the Countryside' says 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 appropriate design. New buildings will be unacceptable where they fail stated criteria. The Council raised objections under criterion (b) the site lacks long established boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape.
14. Given the significant differences in ground levels within the appeal site and those on Bann Road there would be little evidence of a dwelling with a restricted ridge height on the appeal site when seen from Bann Road and the proposed development would integrate. At the site visit the Council identified an additional viewpoint from which to assess the impact of the appeal proposal along Ballymagreehan Road. When travelling in both directions on Ballymagreehan Road a dwelling with a restricted ridge height would be seen against the backdrop of rising land and the vegetated south western boundary. These landscape features would be sufficient to provide enclosure and a dwelling on the appeal site would integrate. There would be no adverse impact on the visual amenities of the countryside as a result of the proposed development. The Council has not sustained its second reason for refusal based on Policy CTY 13 of PPS 21.
15. Policy CTY 14 of PPS 21 'Rural Character' 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 states that a new building will be unacceptable in five circumstances one of which is (a) it is unduly prominent in the landscape. Given the degree of integration that could be provided for a dwelling with a restricted ridge height on the appeal site it would not be an unduly prominent feature in the landscape. The Council has not sustained its third reason for refusal.
16. Policy AMP 3 of Planning Policy Statement 3 'Access Movement and Parking' (PPS 3) says that the Department will restrict the number of new accesses and control the level of use of existing accesses onto Protected Routes. On Protected Routes outside settlement limits planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access in four stated cases. The fourth exception is 'other categories of development' where approval may be justified in particular cases for other developments which would meet the criteria for development within a Green Belt or Countryside Policy Area where access cannot reasonably be obtained from an adjacent minor road. The preamble to PPS 21 states that the PPS will take precedence over policy provisions for Green Belts and Countryside Policy Areas. As I have concluded that the proposed development does not meet the requirements of Policy CTY 6 of PPS 21 and that is not an exception under Policy CTY 1 of PPS 21 it is not an exception under Policy AMP 3 of PPS 3. The Council has sustained its fourth reason for refusal.

17. Notwithstanding that I have concluded that the proposal meets Policies CTY 13 and CTY 14 of PPS 21 as it is not acceptable in principle in the countryside the appeal must fail and planning permission is refused.

This decision relates to the 1:1250 scale site location plan.

COMMISSIONER HELEN FITZSIMONS

2019/A0062**Attendances**

Council: - Ms Jane Mc Mullan

Appellant: - Ms Brenda Rooney

List of Documents

Planning Authority: - C1 Written Statement and Appendices

Appellant: -
A1 Written Statement
A2 Comments