

January 7th, 2021

Notice Of Meeting

You are invited to attend the Planning Committee Meeting to be held on **Wednesday, 13th January 2021 at 10:00 am** in **Boardroom Monaghan Row Newry** and **via Microsoft Teams**.

Committee Membership:

- Councillor R Burgess (Chair)
- Councillor J Tinnelly (Deputy Chair)
- Councillor P Brown
- Councillor S Doran
- Councillor G Hanna
- Councillor V Harte
- Councillor M Larkin
- Councillor D Murphy
- Councillor D McAteer
- Councillor G O'Hare
- Councillor G Stokes
- Councillor J Trainor

Agenda

- 1.0 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.

Minutes for Confirmation

4.0 Minutes of Planning Committee Meeting held on Wednesday 16 December 2020 . (Attached).

 *Planning Committee Minutes 16.12.2020.pdf*

Page 1

For Discussion/Decision

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

 *Addendum list - 13-01-2021.pdf*

Page 16

Development Management - Planning Applications for determination

6.0 LA07/2020/0621/F 58 Armagh Road Newry Demolition of existing building and erection of 6 No. apartments (Amended proposal and plans). (Case Officer report attached).

APPROVAL

- Addendum list

 *LA07-2020-0621-F.PDF*

Page 17

7.0 LA07/2020/1591/RM Between 62 & 64 Ballynahinch Road Saintfield Dwelling house and garage with vehicular access onto Drumnaconnell Road. (Case Officer report attached).

APPROVAL

- Addendum list

For Noting

8.0 Historic Actions Tracking Sheet. (Attached).

 *Planning HISTORIC TRACKING SHEET - Updated January 2021.pdf*

Page 39

**9.0 Planning Committee Performance Report December 2020.
(Attached).**

 *DECEMBER 2020 Planning Committee Performance Report.pdf*

Page 43

10.0 December Planning Appeals and Decisions. (Attached).

 *Appeals and Decisions issued in December 2020.pdf*

Page 49

NEWRY, MOURNE & DOWN DISTRICT COUNCIL

Minutes of the Planning Committee Meeting of Newry, Mourne and Down District Council held on Wednesday 16 December 2020 at 10.00am in Council Offices Monaghan Row Newry and via Microsoft Teams

Chairperson: Councillor R Burgess

In attendance: (Committee Members)

Councillor P Brown
Councillor G Hanna
Councillor V Harte
Councillor M Larkin
Councillor D McAteer
Councillor D Murphy
Councillor G O'Hare
Councillor G Stokes
Councillor J Tinnelly

(Officials)

Mr C Mallon	Director Enterprise Regeneration & Tourism
Mr A McKay	Chief Planning Officer
Mr P Rooney	Principal Planning Officer (via Teams)
Ms A McAlarney	Senior Planning Officer (via Teams)
Ms J McParland	Senior Planning Officer (via Teams)
Mr A Davidson	Senior Planning Officer (via Teams)
Mr F O Connor	Legal Advisor (via Teams)
Ms N Largey	Legal Advisor (via Teams)
Ms S Taggart (via Teams)	Democratic Services Manager
Ms C McAteer	Democratic Services Officer
Ms L Dillon	Democratic Services Officer (via Teams)

Others: Mr J Killen DfI Roads

P/107/2020: APOLOGIES AND CHAIRPERSON'S REMARKS

Apologies were received from:
Councillor S Doran
Councillor J Trainor

P/108/2020: DECLARATIONS OF INTEREST

Councillors Tinnelly, Brown and McAteer declared an interest in Item 6: P/2013/0189/F – 100m West of no 15 Drumsesk Road Rostrevor BT34 3EG Sports Complex to include 1 no full size pitch, club house, floodlighting and private entrance onto Warrenpoint Road, and all associated site works. Add information received.

Councillor Harte declared an interest in Item 18 - Land to North of 78 Armagh Road Newry BT35 6PW South of towpath to Bessbrook River/Newry Canal and East of Damolly Retail Park 25 No. dwellings and 2 apartments (27 units in total) associated siteworks & drainage, with road access from Drumgullion Avenue. (Amended plans and proposal)

Mr F O Connor Legal Advisor declared an interest in Item 6: P/2013/0189/F – 100m West of no 15 Drumsesk Road Rostrevor BT34 3EG Sports Complex to include 1 no full size pitch, club house, floodlighting and private entrance onto Warrenpoint Road, and all associated site works. Add information received

P/109/2020: DECLARATIONS IN ACCORDANCE WITH PLANNING COMMITTEE PROTOCOL PARA. 25 – MEMBER TO BE PRESENT FOR ENTIRE ITEM

No declarations received in relation to Paragraph 25 of Planning Committee Operating Protocol.

MINUTES FOR CONFIRMATION

P/110/2020: MINUTES OF PLANNING COMMITTEE MEETING HELD ON WEDNESDAY 18 NOVEMBER 2020

Read: Minutes of Planning Committee Meeting held on Wednesday 18 November 2020. **(Copy circulated)**

AGREED: **On the proposal of Councillor McAteer seconded by Councillor Larkin it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 18 November 2020 as a true and accurate record.**

FOR DISCUSSION/DECISION

P/111/2020: ADDENDUM LIST

Read: Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 16 December 2020. **(Copy circulated).**

AGREED: **On the proposal of Councillor McAteer seconded by Councillor Larkin it was agreed to approve the Officer recommendation in respect of the following applications listed on the addendum list for Wednesday 16 December 2020:**

- **LA07/2019/1276/F** - Lands 38 metres South East of No.50 Kennard Villas Newry BT34 1LQ Residential development comprising 2 no. detached. 2no. semi-detached dwelling and 4no Apartments (total 8 units) associated communal space, landscaping and car parking. (amended scheme). **APPROVAL**
- **LA07/2020/0814/F** - 39 Ringhaddy Road Killinchy Replacement dwelling with stores and boathouse on ground floor. **APPROVAL**

AGREED: On the proposal of Councillor McAteer seconded by Councillor Larkin it was agreed to remove the following application listed on the addendum list for Wednesday 16 December 2020 as it was going to be presented to Committee:-

- **LA07/2020/0910/F** - Lands at Down Business Park 46 Belfast Road Downpatrick Proposed Food Production Facility comprising approximately 18,000 sqm production floor space, warehouse storage area, associated parking and landscaping, site and access works. **APPROVAL**

DEVELOPMENT MANAGEMENT - PLANNING APPLICATIONS FOR DETERMINATION

P/112/2020: PLANNING APPLICATIONS FOR DETERMINATION

The following applications were determined by the Committee:-

(1) P/2013/0189/F

Location:

100m West of No 15 Drumsesk Road Rostrevor BT34 3EG.

Proposal:

Sports complex to include 1 no full size pitch, club house, floodlighting and private entrance onto Warrenpoint Road, and all associated site works. Additional information received.

Conclusion and Recommendation from Planning Official:

Refusal

Note:

Councillors Brown, Tinnelly and McAteer withdrew from discussion/decision on this application.

Power-point presentation:

Jacqui McParland, Senior Planning Officer gave a power point presentation via Teams 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.

Speaking rights: (via Teams)

In objection

Gavin Smyth, Clyde Shanks, presented in objection to the application, detailing and expanding upon a written statement that had been circulated to Committee.

In support:

A written submission in support of the application was received from Sinead Bradley MLA.

Malachy McCourt and Charlie Daly, St Bronagh's GAA Rostrevor, presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

Issues raised:

- Late information was received from consultees, Environmental Health and NIEA, which did not change the recommendation from Planning Department.
- Concerns the proposal will contribute to water deterioration in Carlingford Lough.
- Concerns regarding the protection of protected species.
- Issues regarding access onto a protected route.
- Why the application was not considered under Planning Policy 0S4.
- Does application address spectator numbers/car parking provision/need for the facility given other facilities that are located close by.
- Environmental impact – issues concerning sewage run off into watercourse/flood water back up.
- Habitats Regulations Assessment (HRA) cannot be completed.
- Impact on rural character: location of development is in an AONB; ribbon development already present; substantial land grading would be required; structure and height.

Ms Largey Legal Advisor referred to the legal requirements regarding Habitat assessments and said that under regulations planning permission cannot be granted unless you are satisfied the proposal will not have an adverse effect, and this was a very objective test.

Councillor Hanna proposed and Councillor Larkin seconded to hold a site visit on planning application P/2013/0189/F and in the interim the agent submit an engineering solution to address SES concerns.

AGREED: On the proposal of Councillor Hanna, seconded by Councillor Larkin, to hold a site visit on planning application P/2013/0189/F and in the interim the agent submit an engineering solution to address SES concerns.

(Councillors Brown, Tinnelly and McAteer re-joined the meeting).

(2) LA07/2018/1952/F

Location:

21-23 Church Street Warrenpoint.

Proposal:

Demolition to the rear of existing public house with frontage to Church Street retained including construction of new extension to existing public house. Construction of 2 No retail units and 10 apartments over with pedestrian access off Kings Lane and all associated site works. Kings Lane to be stopped up with pedestrian access only. (Amended Proposal Description)

Conclusion and Recommendation from Planning Official:

Approval

Power-point presentation:

Pat Rooney, Principal Planning Officer gave a power point presentation via Skype 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.

Speaking rights: (via Teams)

In objection:

Carmel McCartan presented in objection to the application, detailing and expanding upon a written statement that had been circulated to Committee.

In support:

Colin D'Alton, agent and Brian McGivern, applicant, presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

Issues raised:

- Adverse effect of proposal on property at Swallow Lodge.
- Concerns regarding fire safety; loss of natural light; noise nuisance; odour from bins; loss of privacy; no provision for a dedicated smoking area.
- Increase in antisocial behaviour if King's Lane is closed.
- Proposal of railed pedestrian access was not accepted by Planning.

Councillor McAteer proposed to issue an approval in respect of Planning Application LA07/2018/1952/F, as per the Officer recommendation on the basis that the development would be a planning gain and an improvement to the area and would widen Kings Lane, thereby making it a safer street for everyone, but that the wording of Condition No. 4 be changed to "a Stopping Up Order will be required to be in place prior to occupation of the premises or alternatively if this order is not granted a 1.1 high pedestrian rail is erected along the newly formed footpath to restrict any pedestrians access/egressing from the new development onto Kings Lane in accordance with the approved plans. Councillor Tinnelly seconded the proposal.

With regard to the change to Condition No.4, as proposed by Councillor McAteer, Mr McKay said he was unsure that Planning could accept this as a lawful condition but suggested changing the condition to read "to the time of occupation". He added a condition needs to be clear and enforceable and he stated that he was advising against the proposed change to Condition No. 4 as outlined by Councillor McAteer.

Mr J Killen DFI Roads referred to the suggestion by Councillor McAteer for a pedestrian railing to be erected and said pedestrians would still be stepping onto a live carriageway and DFI Roads would not see this as a safe option which was why a Stopping Up Order had to be in place before commencement.

Mr McKay said whilst he understood the view regarding the application being a planning gain to the area, he however pointed out there was a fundamental issue regarding road safety at this location and there was a requirement for a Stopping Up Order.

With regards the position to changing Condition No. 4, Mr McKay said this was not a condition Planning could apply.

Ms Largey Legal Advisor concurred with Mr McKay in that the proposal to change Condition 4, was not an enforceable condition and she advised the Committee to reconsider this proposal.

In light of the advice given, Councillor Tinnelly said he would withdraw seconding Councillor McAteer's proposal.

Councillor Hanna proposed and Councillor O'Hare seconded to issue an approval in respect of planning application LA07/2018/1952/F as per the information and recommendation contained in the Case Officer report presented to Committee, but subject to the wording of condition No. 4 being changed to "a Stopping Up Order will be required to be in place prior to occupation of the premises".

AGREED: On the proposal of Councillor Hanna, seconded by Councillor O'Hare, it was unanimously agreed to issue an approval in respect of planning application LA07/2018/1952/F as per the information and recommendation contained in the Case Officer report presented to Committee, but subject to the wording of condition No. 4 being changed to "a Stopping Up Order will be required to be in place prior to occupation of the premises".

(11.45am – the meeting adjourned)

11.55am – the meeting resumed)

(3) LA07/2019/0183/F

Location:

215 Moyad Road Kilkeel Newry.

Proposal:

Retention of extension to existing agricultural building for agricultural use, and manufacturing use associated with existing manufacturing business (Moyfab Engineering Ltd).

Conclusion and Recommendation from Planning Official:

Approval

Power-point presentation:

Jacqui McParland, Senior Planning Officer gave a power point presentation via Teams 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.

**Speaking rights:
(via Teams)**

In support

Matthews Crothers, Agent presented in support of the application detailing and expanding upon a written statement that had been circulated to Committee Members

Issues raised:

- DFI Roads requested additional information which Planning Department do not believe is necessary in order to make a decision in this application.

Councillor Hanna proposed to issue an approval in respect of Planning Application LA07/2019/0183/F as per the information and recommendation contained in the Case Officer Report presented to Committee. Councillor Larkin seconded the proposal.

AGREED: On the proposal of Councillor Hanna, seconded by Councillor Larkin, it was unanimously agreed to issue an approval in respect of Planning Application LA07/2019/0183/F as per the information and

recommendation contained in the Case Officer report presented to Committee.

(4) LA07/2020/0167/F

Location:

The Manse 17 Downpatrick Road Crossgar

Proposal:

New Manse and detached domestic garage (Amended proposal description).

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Annette McAlarney, Senior Planning Officer gave a power point presentation via Skype 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.

**Speaking rights:
(via Teams)**

In support:

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

Councillor Hanna proposed and Councillor Larkin seconded to hold a site visit on planning application LA07/2020/0167/F.

AGREED: On the proposal of Councillor Hanna seconded by Councillor Larkin, it was unanimously agreed to hold a site visit on this planning application.

(5) LA07/2020/0251/F

Location:

Land between 14 & 18 Woodvale Burrenwod Road Castlewellan.

Proposal:

Amended access to residential development previously approved under planning Ref LA07/2015/0103/F to include provision of new pedestrian road crossing at access point to residential development. (Amended description)

Conclusion and Recommendation from Planning Official:

Approval

Power-point presentation:

Annette McAlarney, Senior Planning Officer gave a power point presentation via Skype 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.

**Speaking rights:
(via Teams)**

In support:

Barry Fletcher, agent, and Tim Cousins, Traffic Consultant, presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

Issues raised:

- The Senior Planning Officer advised Planners were recommending the setting aside of a DfI requirement for traffic calming for the reasons outlined during the presentation.

Councillor McAteer proposed to issue an approval in respect of Planning Application LA07/2020/0251/F as per the information and recommendation contained in the Case Officer Report presented to Committee. Councillor Hanna seconded the proposal.

AGREED: On the proposal of Councillor McAteer, seconded by Councillor Hanna, it was unanimously agreed to issue an approval in respect of Planning Application LA07/2020/0251/F as per the information and recommendation contained in the Case Officer report presented to Committee.

(6) LA07/2020/0299/F

Location:

Adj. to 7 Annacloy Road North Dunnanelly Downpatrick.

Proposal:

Single storey dwelling.

Conclusion and Recommendation from Planning Official:

Refusal

Noted:

This application was removed from the agenda at the request of Councillor Trainor.

(7) LA07/2020/0450/O

Location:

SW 3 Slievenaman Road Kilcoo Newry BT34 5LF.

Proposal:

2 dwellings.

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Annette McAlarney, Senior Planning Officer gave a power point presentation via Teams 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.

**Speaking rights:
(via Teams)**

In support:

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

Issues raised:

- The view of Planning Department is the proposal is not a substantially built up frontage, and the structure does not sit in it's own right as a building nor has a roof therefore legally it is not a building.

Councillor Larkin proposed to issue an approval in respect of Planning Application LA07/2020/0450/O contrary to Officer recommendation, on the basis that the building referred to was one of 3 which made up the frontage and therefore complied with CTY8 and the house at No. 3 could benefit from a replacement application with a garage. Councillor Murphy seconded the proposal.

AGREED: **On the proposal of Councillor Larkin, seconded by Councillor Murphy, it was agreed to issue an approval in respect of Planning Application LA07/2020/0450/O contrary to Officer recommendation, on the basis that the building referred to was one of 3 which made up the frontage and therefore complied with CTY8 and the house at No. 3 could benefit from a replacement application with a garage**

Planning Officers to be delegated authority to impose any other relevant conditions.

(8) LA07/2020/0719/F

Location:

171 Rathfriland Road Dromara.

Proposal:

Off site Replacement Dwelling

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Ms Annette McAlarney Senior Planning Officer gave a power point presentation via Teams 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.

**Speaking rights:
(via Teams)**

In support:

Damien Broderick TSA Planning, and Jonathan Buckley MLA, presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

Stephen Spiers Agent, and Andrew and Claire Herron were available for questions.

Issues raised:

- Levels – substantial cut needed into the site which is not a sustainable approach.
- Change of residential curtilage to agricultural curtilage - part of the yard was reduced and grassed over for agricultural use.
- Reasons the proposal needs to be located outside the existing curtilage - these have not been demonstrated to justify the location of the proposal.

Mr McKay said the application was for an “off-site” replacement dwelling and it was not appropriate for the Committee to assess something that was not presented before them.

Ms Largey Legal Advisor said if there was an noise issue then it would be expected supporting evidence would be presented. With regarding to homelessness, she cautioned the Committee this was not an approach that should be taken and that the Committee must apply the policy when considering this application.

AGREED: **On the proposal of Councillor Hanna seconded by Councillor Larkin it was agreed Planning Application LA07/2020/0719/F be referred back to the Planning Department to allow for more evidence to be presented to support the case for this application.**

(1.30pm – the meeting adjourned)

(2.00pm – the meeting resumed)

(9) LA07/2020/0910/F

Location:

Lands at Down Business Park 46 Belfast Road Downpatrick

Proposal:

Proposed Food Production Facility comprising approximately 18,000 sqm production floor space, warehouse storage area, associated parking and landscaping, site and access works.

Conclusion and Recommendation from Planning Official:

Approval

Power-point presentation:

Ms Annette McAlarney Senior Planning Officer gave a power point presentation via Teams 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.

Noted: This application was removed from the Addendum List and presented to Committee in the absence of outstanding consultation responses from NIEA and DFI Roads.

Ms McAlarney confirmed all outstanding responses had now been received with no objections and that the application be recommended for approval under delegated authority, with necessary conditions attached.

AGREED: **On the proposal of Councillor Larkin seconded by Councillor Hanna it was agreed to issue an approval in respect of Planning Application LA07/2020/0910/F, under delegated authority with necessary conditions attached.**

(10) LA07/2020/1292/O

Location:

Lands located between Nos 2 & 10 Glassdrumman Road Ballynahinch

Proposal:

Erection of 2 detached infill dwellings and garages.

Conclusion and Recommendation from Planning Official:

Approval

Power-point presentation:

Ms Annette McAlarney Senior Planning Officer gave a power point presentation via Teams 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.

Speaking rights:

(via Teams)

In objection:

Mr Gordon Duff and Robert Wilson presented in objection to the application, detailing and expanding upon a written statement that had been circulated to Committee

In support:

Kieran Carlin Agent, presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

Issues raised:

- Glassdrumman Road extremely busy with both vehicle and pedestrian use.
- Existing hedgerow is a wildlife habitat.
- Two large entrances already exist into the proposal.
- Flooding issues
- Proposal will add/create ribbon development
- No built up frontage

Councillor Hanna proposed to issue an approval in respect of Planning Application LA07/2020/1292/O as per the information and recommendation contained in the Case Officer Report presented to Committee. Councillor McAteer 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:	2
ABSTENTIONS:	0

The proposal was declared carried.

AGREED: On the proposal of Councillor Hanna seconded by Councillor McAteer it was agreed to issue an approval in respect of Planning Application LA07/2020/1292/O as per the information and recommendation contained in the Case Officer Report presented to Committee.

(11) LA07/2016/0631/F

Location:

Land to North of 78 Armagh Road Newry BT35 6PW South of towpath to Bessbrook River/Newry Canal and East of Damolly Retail Park.

Proposal:

25 No. dwellings and 2 apartments (27 units in total) associated siteworks & drainage, with road access from Drumgullion Avenue. (Amended plans and proposal).

Conclusion and Recommendation from Planning Official:

Approval

Note:

Councillor V Harte withdrew from discussion/decision on this application.

Power-point presentation:

Andrew Davidson Senior Planning Officer gave a power point presentation via Teams 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.

Speaking rights:

(via Teams)

In objection:

Derek Campbell presented in objection to the application, detailing and expanding upon a written statement that had been circulated to Committee.

In support:

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

Issues raised:

- Concerns regarding a Right of Way to land at St Colman's College and vehicular access to College grounds.

(2.45pm – Councillor D Murphy left the meeting)

Ms Largey Legal Advisor concurred with the advice provided by Agent's client's solicitors, that a Public Right of Way does not provide for vehicular access and she added that what was being proposed was lawful.

AGREED: On the proposal of Councillor Hanna seconded by Councillor O Hare it was agreed to issue an approval in respect of Planning Application LA07/2016/0631/F as per the information and recommendation contained in the Case Officer Report presented to Committee. Planning Officers to be delegated authority to impose any other relevant conditions.

(Councillor Harte re-joined the meeting)

(12) LA07/2020/0762/O

Location:

20 metres east of 23 Finnegans Road Jonesborough Newry

Proposal:

Outline Planning Permission for a dwelling house, waste water treatment system, new entrance to public road and associated site development works.

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Andrew Davidson Senior Planning Officer gave a power point presentation via Teams 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.

Speaking rights: (via Teams)

In support:

Shane McCoy Agent, presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

Issues raised:

- Does a cluster exist and will the proposal integrate into the countryside?
- Status of the field – agriculture or playing field ?

Councillor Larkin proposed to issue an approval in respect of Planning Application LA07/2020/0762/O, contrary to Officer recommendation on the basis that the application does comply with CTY8 and CTY2A; the development will be bounded on both sides; it will sit within a cluster; the cross roads and playing fields are focal points and it will have a visual entity within the countryside. Councillor O Hare seconded the proposal.

Mr McKay said the requirement for a cluster was that a building had to be associated with a focal point such as a social building or community building or at a crossroads and Planning Department's position was that the cluster was not located at the cross roads and therefore could not be considered as a focal point and this could not be relied on in terms of overturning the recommendation.

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

FOR:	4
AGAINST:	3
ABSTENTIONS:	2

The proposal was declared carried.

AGREED: On the proposal of Councillor Larkin seconded by Councillor O Hare it was agreed to issue an approval in respect of Planning Application LA07/2020/0762/O, contrary to officer recommendation on the basis that that the application does comply with CTY8 and CTY2A; the development will be bounded on both sides; it will sit within a cluster; the cross roads and playing fields are focal points and it will have a visual entity within the countryside.

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

FOR NOTING

P/113/2020: UPDATED PLANNING CALL-IN PROTOCOL

Read: Report dated 16 December 2020 from Mr A McKay Chief Planning Officer regarding the Updated Planning Call-in Protocol.
(Copy circulated)

AGREED: **On the proposal of Councillor Hanna seconded by Councillor Larkin it was agreed to approve the amendments to the Planning Call-In Protocol as per Report dated 16 December 2020 from Mr A McKay Chief Planning Officer.**

It was also agreed appointment of Chair of the Planning Call In Panel will be decided by the Panel on a meeting by meeting basis and the position of Chair of the Panel to be rotated.

P/114/2020: HISTORIC ACTION SHEET

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

AGREED: **It was unanimously agreed to note the Planning Historic Action Sheet.**

P/115/2020: PLANNING COMMITTEE PERFORMANCE REPORT NOVEMBER 2020

Read: Planning Committee Performance Report for November 2020.
(Copy circulated)

AGREED: **It was unanimously agreed to note the Planning Committee Report for November 2020.**

P/116/2020: PLANNING APPEALS AND DECISIONS

Read: Planning Appeals and Decisions Report for November 2020.
(Copy circulated)

AGREED: **It was unanimously agreed to note the Report on Planning Appeals and Decisions for November 2020.**

The Chairperson wished everyone a happy Christmas and a safe new year.

The Meeting concluded at 3.20pm.

For confirmation at the Planning Committee Meeting to be held on Wednesday 13 January 2021.

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 13 January 2021

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:

- LA07/2020/0621/F 58 Armagh Road Newry Demolition of existing building and erection of 6 No. apartments (Amended proposal and plans **APPROVAL**
- LA07/2020/1591/Rm – between 62 and 64 Ballynahinch Road, Saintfield – dwelling house with garage and vehicular access onto Drumnaconnell Road. **APPROVAL**

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



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

Application Reference: LA07/2020/0621/F

Date Received: 04.05.20

1.0. PROPOSAL: Demolition of existing building and erection of 6 No. apartments (Amended proposal and plans)

2.0. LOCATION: 58 Armagh Road, Newry.

3.0. SITE AND AREA CHARACTERISTICS:

3.1. The site fronts onto the Armagh Road comprising of a detached dwelling on a large plot.

3.2. Existing development to either side of the site is predominantly characterised by a range of single storey/ two storey detached dwellings within relatively large plots

3.3. The site is within the settlement limit of Newry City, as designated in the Banbridge, Newry & Mourne Area Plan 2015 and not zoned for any specific purpose.

4.0. PLANNING POLICIES & MATERIAL CONSIDERATIONS:

Regional Development Strategy (RDS)

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

Strategic Planning Policy Statement of Northern Ireland (SPPS)

Planning Strategy for Rural Northern Ireland (PSRNI)

Planning Policy Statements

PPS 3- Access, Movement and Parking

PPS 7 and its Addendum- Quality Residential Environments

DCAN 8- Housing in Existing Urban Areas

PPS12- Housing in Settlements

Further Guidance

Creating Places, Living Places Urban Stewardship and Design Guide.

5.0. SITE HISTORY:

LA07/2019/1313/O - Demolition of existing building and erection of apartment development. Recommend approval subject to planning conditions relating to size, siting, density etc (Planning appeal in progress)

LA07/2017/1559/F - Demolition of existing dwelling and erection of 7 No. 2 bedroom apartments (7 in total) (change of description). Refused (Planning Appeal in progress)

P/1988/4107 - Alterations to dwelling. Permitted Development. (Application site)

6.0. CONSULTATIONS:

NIW (20.11.20) – Public water supply and foul and surface water sewerage within 20 metres of proposal. Foul sewer capacity issues in Newry Catchment (see paragraph 8.22 below).

DFI Roads (04.11.20) – No objection

Environmental Health (07.10.20) – No objection

7.0. OBJECTIONS & REPRESENTATIONS:

7.1. 30 Neighbours were notified.

7.2 The application was advertised in May 2020 and again in October 2020 following the submission of amended proposals and new drawings.

7.3. 13 representations were received between June 2020 and August 2020 in relation to proposals for the erection of 8 apartments. 3 further objections have been lodged since the submission of an amended proposal for 6 apartments. Consideration will be given to those points of objection that remain relevant to the current proposal as well as new objection letters. The objectors raised several concerns which are summarised as follows:

- Car parking to rear of residents and associated impact to amenity.

The amended layout as submitted 02.10.20 shows a reduced area of parking to the rear from the initial submission. This area of car parking has been moved forward from the boundary with a buffer comprising of the retention of the hedge and the erection of a 2m close lapped fenced boundary. This amendment will help to reduce impact to privacy and noise to adjacent neighbours.

- Detrimental impact to privacy, light, noise, loss of amenity, overlooking, overshadow and general nuisance.

Given the position of the proposed apartment there is unlikely to be any loss of light and overshadowing. Impact by overlooking has been considered. Given the separation distance of the proposed development from nearest property (to the rear) there is sufficient distance between properties to avoid direct overlooking. The side elevations have limited window openings to avoid overlooking and impact to privacy. The retention of planting along with 2m high close lapped fencing will assist in reducing impact by vehicular and pedestrian activity to the rear of the property

The Planning Department have considered the density levels at this site, as well as the number of people potentially residing at the property along with additional pedestrian and vehicular activity that did not previously exist. However, mitigation measures now proposed within the scheme will go some way to alleviating concerns.

- Impact to wildlife due to potential loss of trees to the rear of the property.

Unlike the original submission where the carpark arrangement would have undermined the existing vegetation boundary, current proposals will see the retention of this existing boundary along with supplementation with hedges/ shrubs which will avoid potential impact to wildlife.

- Is lighting proposed within the scheme?

There is no detailing of proposed lighting within the scheme however the detailing of this could be made conditional if necessary.

- Dominant and overbearing, scale and design out of keeping in the landscape

- Apartments on Armagh Rd are two storey and single storey which blends in with the surrounding estates and houses are not overbearing and dominant. They are also designed to look like houses.

The original scheme for 8 apartments within a three-storey building would have been dominant and overbearing in its overall scale and design. The revised scheme is a welcome approach to the development at the site which now comprises of 6 apartments contained within a two-storey building which is much more reflective of the original building, appears as a single residential unit albeit an apartment development and therefore has a lesser visual impact within the landscape and will no longer appear dominant and overbearing.

- Impact on character and change to the neighbourhood

Development within the context of the site along with the apartment development opposite has been considered within the planning report.

- Inadequate parking

Parking has been calculated for the site and is within the recommended guidelines.

- Overlooking windows

Habitual windows on the side elevations have either been removed or restricted to avoid overlooking.

- Proposals like previous is still an attempt to introduce a large scale, multi occupancy dwelling that does not respect the areas already long established focus on family housing, density and overall character

The original submission was for 8 apartments which would have housed 16 people on the site. Current proposals are for 6, 1 bed apartments which could accommodate between 6- 12 people on the site. It is considered had the original property been converted, the main building could have accommodated 4 apartments with potentially a 5th apartment within the outbuilding annex housing up to 10 people. The proposed building and number of units are not much bigger than what could have been accommodated through the retention and conversion of the building.

There are apartments within the area that the proposed land use cannot be disregarded. However, it is accepted that the developer with this revised scheme has made changes which will avoid impact to amenity. The fact the property has been designed to look like a dwelling house will now not appear misplaced at this location.

- Residential zone occupied by mix of single/ two storey dwellings

The revised development proposals are acceptable and reflective of development within the vicinity and is a welcome improvement from the original submission.

- Placement of waste storage

This has been relocated from the original submission and set back from houses and screened from view by planting and hedge.

8.0. PLANNING ASSESSMENT & CONSIDERATION:

- 8.1.** Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan. The plan context is outlined above at Paragraph 3.3. The proposal does not conflict with the Area Plan.

**SPPS, PPS12 (PCP1 and PCP2), PPS7 (QD1), PPS7 (Addendum)
Safeguarding Established Residential Areas, Planning Strategy for Rural**

NI (DES 4), Creating Places, DCAN 8 and DCAN 11, PPS3, Parking Standards and DCAN15:

- 8.2. The SPPS sets out core planning principles and the need to achieve sustainable development. Of particular relevance to this application are the aims of supporting good design and positive place making while preserving and improving the built and natural environment, (Paragraph 3.3) It is considered that the proposal meet the principles set out in the SPPS for the reasons set out below.

PPS 12- Housing in Settlements

8.3. Planning Control Principle 2- Good design

It is considered that the design of the scheme successfully respects the overall character, quality and sustainability of the area. There is further consideration of these issues under PPS 7 below.

Planning Control Principle 3- Sustainable forms of development.

- 8.4. While the site is within the settlement area, the redesign of the development is now in keeping with the character of the immediate residential area and is, considered to be a sustainable form of development. There is further consideration of these issues below.

SPPS, PSRNI, PPS 7- Quality Residential Environments, Policy QD1

- 8.5. Policy QD 1 of PPS 7 states, amongst other things, 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 based on an overall design concept that draws on the positive aspects of the character and appearance of the surrounding area.
- 8.6. It is considered that the now amended proposal complies with the SPPS, Policy QD1 of PPS 7 and Policy DES2 of the Planning Strategy for Rural Northern Ireland (PSRNI) in that it creates a quality and sustainable residential environment. It is considered proposals are respectful of the local character and environmental quality of the established residential area. The proposal in its amended form conforms to the policy set out within QD1 for the reasons set out below, in that:

QDI, A – Nature and Context of the Proposed Development.

- 8.7. The development, to either side of the site, is characterised by a range of single storey/ two storey detached dwellings within relatively large plots with formalised garden and in curtilage parking for 2 vehicles (Glen Patrick Lawns and 60-68, Armagh Road). Two storey semi-detached and terrace housing within formalised plots are located opposite and SE of the site (Violet Hill Avenue). An apartment development is located opposite the site comprising of single and two storey properties with communal open space to front and rear of each unit.

The overall design, scale, mass and layout of the apartment development is respective of existing built form displayed within the vicinity that buildings blend into their surroundings and are not overbearing or dominant. The initial submission for 8 apartments comprised of a large, detached three storey building which was evidently much greater in mass and scale to anything else within the vicinity of the site and was therefore completely at odds with and out of context within its surrounds. By contrast the amended proposal as submitted October 2020 is much more reflective of the original built form, scale, mass, layout and design.

There is a range of external finishes displayed within the immediate vicinity of the site buildings, although the predominant trend is for one finish such as red brick, render or dash. The proposed render finish of the development is in keeping with the context of surrounding development.

In consideration of the original submission although there is a range of hipped roofs displayed within the area these are normally associated with single/ two storey form and are generally not a predominant design feature of this locality which comprise mainly of pitched roofs. The dormer window features in some buildings is displayed along the Armagh Road however these do not project out of roof spaces above two storeys.

There are no three storey buildings found within this locality and therefore the original proposal was not reflective of the existing nature and context of its surroundings found along this part of the Armagh Road. For this reason, the original building type submitted under this application was deemed unacceptable.

The revised scheme in terms of design and layout has considered local context. The scheme incorporates pitched roofing and two storey form, as well as reducing the width of the front elevation of the building. Proposals no longer appear dominant or overbearing in contrast to original proposals submitted. This is a much more improved and acceptable development which will not appear visually misplaced at this location.

- 8.8.** The original proposals included demolition of an existing building set in a landscaped plot and its replacement by a three-storey apartment block. It was intended to create 8 units on a 0.15ha site. Had this proposal been permitted this would have created a density much higher than surrounding development.

The current building on the site has the potential for conversion to accommodate 4 apartments with a further apartment within the annex (domestic buildings to the rear). This proposal is almost like adding a rear extension to the annex to accommodate an additional apartment.

In contrast to the original submission under this application or indeed the planning history (reference: LA07/2017/1559/F), this amended proposal (Amended - October 2020) has taken account of the original scale and form. The building is located on the footprint, has removed side elevational windows from habitual rooms, the parking has been moved away from the rear

boundary with additional landscaping/ fencing and the overall layout softened by planting. The scale, form and layout is much more in keeping with its surrounds and respective of local context.

Whilst it is acknowledged that the development has a higher density than surrounding developments, great care has been taken with the design and layout taking account of impact to amenity and this is a much-improved scheme which will have the appearance of a detached dwelling from the road. This development as amended will no longer have a detrimental impact upon the character and amenity of surrounding development.

- 8.9. The existing living accommodation of the dwelling covers a footprint of approximately 124sqm, with a total footprint of 167.6 sqm which includes the ancillary garage and store (footprint of current proposal is 177.5sqm). The proposed development represents a small increase in the original footprint with significant changes in relation to the design of the building which now will no longer appear imposing within the local landscape.
- 8.10. There are several existing mature deciduous trees to the rear of the road frontage boundary which currently offer screening to the existing dwelling and are an important characteristic feature along the road and help to soften the visual appearance of existing development. Whilst it is acknowledged that it is the intention to retain vegetation as shown on the layout plan however given the extent of ground works for access widening within the crown spread of existing trees, proposals are likely to impact upon the root structure that it is difficult to envisage how such vegetation is capable of being retained to either side of the entrance. Notwithstanding this, the trees are not protected by a Tree Preservation Order and could be removed at any time. However, to ensure that trees are retained along the road frontage a planning condition will be applied.
- 8.11. Communal carparking has been removed from the frontage of the site since the submission of LA07/2017/1559/F. The proposed building has been moved slightly forward from the footprint of the original dwelling along with an area of hardstanding to accommodate vehicular and pedestrian access. The formalised front garden will be retained along with existing vegetation which will assist in softening the visual appearance. Proposals will have limited visual impact when viewed from the public road and when entering the development. Given the existence of vegetation, additional landscaping to supplement existing is not required to integrate the proposal.
- 8.12. The changes implemented within the development are respectful of the surrounding context and is appropriate to the character and topography of the site in terms of scale, mass, layout, design, pattern and form. The proposals fulfil the requirements of the SPPS and PPS7, QD1 (a) and PPS 12.

QD1, F - Parking

- 8.13. Parking provision is now within recommended requirements to serve the development. However, the area where car parking is proposed was originally an area of private open space immediately to the rear of No. 10 Glen Patrick

Lawns. Whilst this will not deter vehicular and pedestrian activity from this area the agent has lessened the impact of this area of parking, moved it away from the boundary, will retain existing vegetation and supplement as well as providing a 2m close lapped fence to assist with buffering between properties to reduce impact to amenity.

Parking provision is now adequate at the site, issues relating to amenity have been mitigated against with the revised scheme and are now deemed acceptable. The proposal meets the requirements of the SPPS and PPS7, QD1 (f).

QD1, G – Proposed Design compared to Local Form, Materials and Detailing.

- 8.14.** The original building is not listed nor has it any special designation attached to it. However, the property has a unique charm and architectural style with use of simple and traditional external finishes set within mature grounds.

The proposal, as originally presented, would have replaced the existing 2 storey property with a large 3-storey apartment block which would almost double the footprint of the original building and is 2 times larger than the original living accommodation.

The new scheme as submitted in October 2020 will replace the original building with a similar styled property and will be set on the footprint of the original building with minimal change to the finished floor levels, height and footprint with the two-storey form and pitched roof reflective of development within the area.

- 8.15.** The original ridge height of the property was 8.56m with the proposed ridge height as submitted in October 2020 at 8.2m which will see a decrease in the ridge height from previous submissions including the former planning history LA07/2017/1559/F. The ground level has been slightly increased by 0.11cm which is negligible and will not appear significant visually whilst there has been a slight increase in the footprint this has no significant impact on the local landscape with development reflective of original built form.

The overall scale, mass and two storey form is acceptable and will appear less dominant in the local landscape when viewed from the Armagh Rd and Glen Patrick Lawns.

- 8.16.** The proposed building is of a much lesser size and scale than previously submitted proposals. The design and layout has been significantly changed from previous versions.

Overall proposals are now in keeping with the local area and design is comparable to the local form and detailing. Thus, proposals now meet the requirements of the SPPS and PPS7, QD1 (g)

QD1, H - Conflict with adjacent Land uses.

- 8.17.** The proposal will introduce communal car parking areas to the rear of Nos. 2, 4, 6 and 10 Glen Patrick Lawns and to the SE of No. 60 Armagh Rd resulting in the introduction of activity by both vehicles and pedestrians within the immediate vicinity of properties which previously didn't exist. However, the agent has taken remedial measures to avoid impact to amenity by moving the parking area away from the boundary, reducing the number of spaces, retention of vegetation with supplementation with additional vegetation and a 2m close lapped fence which will assist in avoiding issues with amenity.

The applicant/agent has taken account of overlooking windows on gable ends particularly to the southern elevation with only bathroom windows on this elevation, this will avoid direct overlooking to properties at Glen Patrick Lawns. The dormer windows have been removed along with the three storey proposal with the building reduced to two storey, located 28m away from No. 10 Glen Patrick Lawns which is within the recommended separation distance between properties to avoid overlooking (20m minimum separation to 30m where there is changes in ground levels, see Creating Places).

The original dwelling at the site had a formal front and rear garden. The rear garden will be replaced by an area of communal carparking. Despite some loss in open space provision it remains within the recommended requirements.

Although acknowledged there will be an increase in density at the site from previous, had the original property been converted it could have potentially accommodated up to 10 people at the site with current proposals accommodating between 6-12 people.

The Planning Department is not against apartment development having agreed the outline planning application with conditions and recognise the apartment development on the opposite side of the road. However, increase in density with the additional pedestrian and vehicular traffic at a site has the potential to cause impact upon amenity of nearest neighbours. The Planning Authority have always taken this seriously and hence why previous proposals for 8 apartments within the original submission and LA07/2017/1559/F were rejected.

Through the amendment of the submission in October 2020, the agent has gone to lengths to ensure amenity is not compromised and redesign has recognised the impact to adjacent properties mitigating against the risk to amenity through the avoidance of overlooking windows, amendments of the car parking area, landscaping and fencing. Considering these changes, proposals now meet criteria of policy.

Criteria of QD1 B, C, D, E and I

Proposals fulfil the criteria of C, E and I whilst criteria B and D is not applicable to the scheme. All remaining criteria A, F, G and H have been fully considered as outlined above.

PPS7 (Addendum) LC1/ LC3

- 8.18.** As the application now fulfils the requirements of QD1 through the amendment of the proposals as presented in October 2020, IT is now able to fulfil the criteria set out under Policy LC1 of the Addendum to PPS 7.
- 8.19.** The development is now in keeping with the overall character and environmental quality of the established residential area which largely comprises of single dwellings in single family occupation with formalised gardens to front and rear with in curtilage parking. Although the development consists of an apartment this has been designed to appear as a detached dwelling.

The overall scale, design and form of the development is acceptable in the street scheme and in keeping with the context of its surroundings.

- 8.20.** Based on the space standards set out in Annex A of the Addendum to PPS 7, the apartment sizes proposed also fit within the recommended parameters of size provision. The development proposes 6 apartments that can accommodate 2 persons in each unit. The space standard guidance set out for a single storey flat for 2 persons and 1 bedroom has 50/55 sqm of space required, there is no calculation for a two or three storey property but using a sequential approach this space provision could be in the region of 60/65sqm. Each apartment now offers in the region of approximately 63 sqm of space to each unit which is within the size requirements.

The applicant/ agent has introduced permeable paving into the development which will assist with sustainable drainage and is welcomed within the development and LC3 is complied with.

Overall proposals fully adhere to the criteria of LC1 of PPS7 (Addendum).

Policy DES 2 of PSRNI

- 8.21.** There is no objection in principle to a residential land use. The redesign of the scheme now makes this development acceptable in overall terms of layout, scale, form and has mitigated against impact to amenity. Proposals will be able to integrate sufficiently into its surroundings without adverse impact on the local character and is an improvement of the visual aspect from what was originally proposed. The proposal complies with DES 2 of PSRNI.

Water/ Sewerage

- 8.22** There is a public water supply as well as foul and surface water sewerage within 20m of the proposal. In their latest comments Northern Ireland Water, in terms of foul sewers, have said that the sewer network is at capacity in the Newry Catchment and recommend that no further connection should be made to this network or a condition should be incorporated which requires an alternative drainage/treatment solution for the proposed site. A condition shall be attached to any approval notice requiring that no development shall take

place on the site until the method of sewage disposal has been agreed in writing with the relevant Authority.

9.0. RECOMMENDATION:

9.1. Approval for the reasons outlined above.

Conditions:

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

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

2. The development hereby permitted shall take place in strict accordance with the following approved plans drawing Nos. 01a (Site Location Map), 04 REV A (Site Plan), 05 REV A (Massing Plan and Elevation), 01 REV A (Ground and First Floor Plan) and 02 Rev A (Elevations).

Reason: To define the planning permission and for the avoidance of doubt.

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 extension or enlargement (including alteration to roofs) shall be made to the apartment development hereby permitted without the grant of a separate planning permission from the Council.

Reason: The further extension of the apartment development requires detailed consideration to safeguard the amenity of adjacent neighbours.

4. The vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No. 04 Rev A published on the Planning Portal on 7 October 2020, prior to the commencement of any other development hereby permitted. 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.

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

5.The access gradient to the apartments hereby permitted shall not exceed 8% (1 in 12.5) over the first 5 m outside the road boundary. Where the vehicular access crosses footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

6. All areas of public open space and landscaping as shown on the approved drawings shall be maintained in accordance with a Landscape Management and Maintenance plan to be submitted to and agreed in writing with the Planning Authority prior to the occupation of any part of the apartment development hereby approved. The plan shall cover a minimum period of 25 years and should set out the long term objectives, management responsibilities, performance measures and maintenance schedules for all areas of landscaping and open space. The Landscape Management and Maintenance Plan shall be carried out as approved. Should the management company dissolve at any stage, then a new Management company shall be appointed and a new Landscape Management and Maintenance Plan shall be submitted to and agreed in writing with the Planning Authority.

Reason: To ensure successful establishment and ongoing management and maintenance in perpetuity of the open space and amenity areas in the interests of visual and residential amenity.

7. The existing natural screenings of the site as shown in drawing No 04 REV A (Site Plan) shall be retained unless necessary to prevent danger to the public in which case a full explanation shall be given to the Planning Authority in writing prior to their removal.

Reason: To ensure the development integrates into the surroundings and to ensure the maintenance of screening to the site.

8. If any retained tree is removed, uprooted or destroyed or dies within 5 years from the date of completion of the development it shall be replaced within the next planting season by another tree or trees in the same location of a species and size as specified by the Planning Authority.

Reason: To ensure the continuity of amenity afforded by existing trees.

9. During the first available planting season after the occupation of the first apartment, or as otherwise agreed in writing with the Planning Authority, landscaping shall be carried out in accordance with drawing No. 04 REV A and maintained in perpetuity to the satisfaction of the Planning Authority.

Reason: In the interest of visual and residential amenity.

10. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies or becomes, in the opinion of the Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless the Council gives its written consent to any variation.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.

11. The development hereby approved 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.

12. The development hereby approved shall not be occupied until surface water drainage works on-site and off-site have been submitted and constructed by the developer and approved by the relevant Authority.

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

13. No development shall take place on-site until the method of sewage disposal has been agreed in writing with the relevant Authority.

Reason: To ensure that a feasible method of sewage disposal is available at the site.

14. No construction to be made, trees planted, or other obstruction made within

- 3m (or 1.5 times the depth whichever is greater) of sewers, OR
- 4m (or 1.5 times the depth whichever is greater) of watermain <350mm diameter or 8m of watermain of 350mm diameter or greater.

Reason: To prevent disturbance/ damage to existing sewers / watermain and in the interest of public safety.

15. No floodlighting or street lighting are permitted anywhere within the site without the written consent of the Planning Authority.

Reason: In the interests of residential amenity.

Case Officer: Patricia Manley 22.12.2020

Authorised Officer: Andrew Davidson 22.12.2020

Photographs



Front elevation of No. 58



Front elevation and front garden of No. 58 Armagh Road



Rear and S Elevation of No. 58



Rear and N Elevation of No. 58



View from entrance at Armagh Road (Large detached dwelling within large formal garden with mature boundaries)



Existing dwelling at No. 58



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

Application Reference: LA07/2012/1591/RM

Date Received: 29.10.2020

Proposal: The application is for reserved matters for Dwelling house and garage with vehicular access onto Drumnaconnell Road

Location: The application site is located approx. 1 mile to the SW Saintfield Village in the open countryside.



Site Characteristics & Area Characteristics:

The site is located along the Ballynahinch Road on the outskirts of Saintfield. The site is a rectangular, roadside plot, with a gradual slope in a southerly direction set between No 62 Ballynahinch Road and No 64 Ballynahinch Road. No 64 is a single storey bungalow with attached double garage, which is slightly set back from the main dwelling. There is a single storey stone building with slate roof situated to the rear of No 64. No 64 is accessed directly onto the Ballynahinch Road. The northern boundary of No 64 consists of a wooden fence interspersed with some vegetation. The site is currently part of an existing field which has

been ploughed. The western boundary which fronts onto the Ballynahinch Road consists of a scrappy hedge which has gaps in between. There is field gate which fronts onto the Ballynahinch Road. The northern boundary of the site bounds with No 62 which consists of very mature vegetation which runs the length of the site. No 62 is a large red brick dwelling with red concrete roof tiles and hipped roof. There is a double detached garage to the north of the site which is single storey and matching materials to the dwelling. There is mature vegetation along the frontage of the site.

The site is close to the outskirts of Saintfield and is rural in character. There is a dispersed pattern of single dwellings in the countryside.

Site History:

LA07/2020/0620/O | Between 62 and 64 Ballynahinch Road Saintfield | Dwelling house and garage with vehicular access onto Drumnaconnell Road | Permission granted 14/06/2018.

Planning Policies & Material Considerations:

The site is located within the rural area, in an Area of Constraint on Mineral Developments, as identified in the Ards and Down Area Plan 2015.

The proposal has been assessed against the following policies and plans:

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

Consultations:

NI water – No objections

DFI Roads – No objections subject to conditions

Objections & Representations

In line with statutory requirements three neighbours have been notified on 16.11.2020. The application was advertised in the Down Recorder on 18.11.2020. No letters of objection or support have been received in relation to the proposal to date.

Consideration and Assessment:

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.

Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations. Section 6 (4) states that the determination must be made in accordance with the Plan unless material considerations indicate otherwise.

The application is for reserved matters. The main issues to consider in the determination of this planning application are:

- Principle of Development
- Design and scale
- Access and Parking
- Impact on Residential Amenity

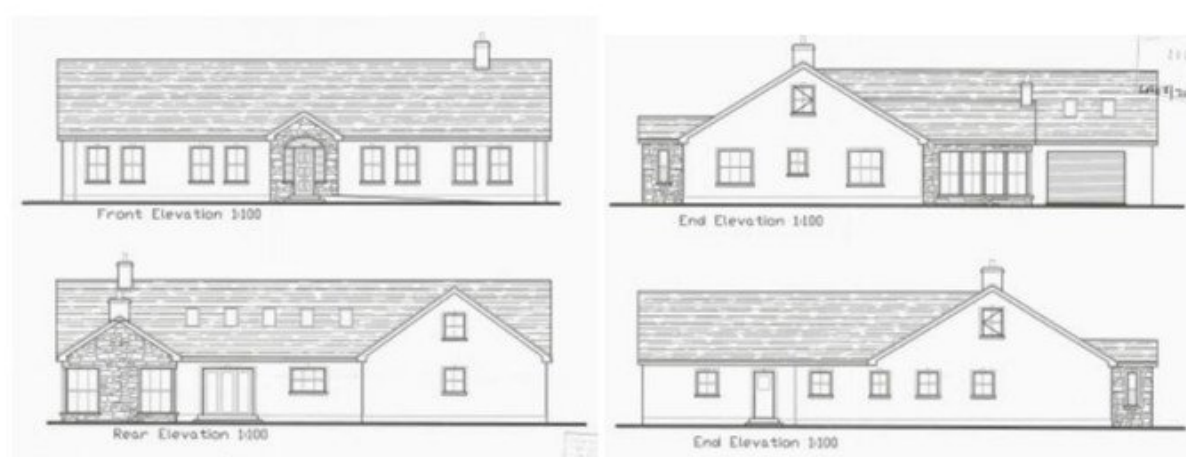
Principle of Development

The principle of development has already been established on the site through granting of planning permission in respect of application LA07/2015/0620/O which was granted permission 14.06.2018. This application has been received within 3 years of the date of the outline and is a valid reserved matters application. The proposal is considered acceptable subject to the environmental considerations set out below.

This permission included 7 conditions including time, access, design, siting, ridge height, underbuild level and landscaping.

Design and Scale

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



Design: The outline approval has a condition relating to the ridge height which should not exceed 6m to FFL and an underbuild condition which should not exceed 0.45m. The application complies with both these conditions. No conditions regarding the required finishes to the dwelling were attached at outline, these include painted render walls with

stonework for the porch to the front elevation. flat concrete roof tiles of natural slate and white pvc windows, these would all be deemed suitable for the rural locality.

The proposed dwelling measures a max 22m in length, and a gable depth of 10.7m. There is a reduced ridge height rear return accommodating the sun lounge and an attached double garage to the rear which extends approx. 10m to the rear. The dwelling has a sizeable frontage, however it is not out of character in the immediate area where there are a range of house types. While the inclusion of the attached double garage to the rear results in white a long rear return, there will be minimal awareness of from the main Ballynahinch Road, given the good boundary treatment on approach to the site and the glimpsing views when coming from the north. When coming from the south the frontage will be the dominate view. The fact that the front hedging will remain in place due to the access being onto Drumnaconnell Road will also ensure that that it will be integrated into the landscape.

Siting & Levels: No curtilage restriction was placed on the outline permission and there is sufficient private amenity space within the curtilage.

Landscaping: The site plan identifies that all boundaries are currently defined with tree planting shown within the site. The plan also shows new planting and a new native species hedgerow.

It is considered that the proposal meets requirements of Policy CTY 13 of PPS21.

CTY 16 Development relying on non main sewerage

Planning permission will only be granted for development relying on non mains sewerage, where the applicant can demonstrate that this will not create or add to a pollution problem. The applicant has shown the existing septic tank in lands that is owned or controlled. The granting of planning approval does not dispense with the necessity of obtaining other consents from other statutory bodies.

PPS 3 - Access, Movement and Parking

This is a reserved matters application, of which the principle of development has already been established. DFI Roads were consulted regarding this proposal and have offered no objections subject to conditions. It is also considered that sufficient provision has been made parking and turning within the site.

Impact on Residential Amenity

The dwellings are considered to be sited a sufficient distance from other adjacent dwellings to prevent any unacceptable impacts. While there are upper floor windows are proposed on the outer gables for a future roof space, the agent has amended the plans to ensure these windows are fitted with obscure glazing. Given the separation distance, scale and positioning of the dwelling it is also considered that there will be no loss of light or overshadowing of neighbouring properties. Consequently, it is considered that the proposed development will have no adverse impact on neighbouring properties.

Conclusion

On balance, the proposal is considered to comply with relevant planning policies and it is recommended that the application be approved subject to conditions.

Recommendation:

Approval

The Drawings upon which this approval is based are as follows:
 site location plan & proposed site layout and access detail – A 3375
 proposed floor plan & elevations – A 3375 (a) REV 1

Conditions:

1. As required by Section 62 of the Planning (Northern Ireland) Act 2011 the development to which this approval relates must be begun by whichever is the later of the following dates:-
 - i. The expiration of a period of 5 years from the grant of outline planning permission; or
 - ii. The expiration of a period of 2 years from the date hereof.

Reason: Time limit.

2. The development hereby permitted shall take place in strict accordance with the following approved plans: **A 3375 and A3375(a) REV 1.**

Reason: To define the planning permission and for the avoidance of doubt.

3. The vehicular access, including visibility splays and forward sight distance shall be provided in accordance with plan **A 3375**, prior to the commencement of any other development hereby permitted. 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.

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

4. The access gradient to the dwelling hereby permitted shall not exceed 8% (1 in 12.5) over the first 5 m outside the road boundary. Where the vehicular access crosses footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

5. All hard and soft landscape works shall be carried out in accordance with Drawing No. A3375, prior to the occupation of any part of the development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planting 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.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.

Informatives

1. Notwithstanding the terms and conditions of the Department of Environment's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Regional Development's consent before any work is commenced which involve making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the Department for Infrastructure Section Engineer whose address is 129 Newcastle Road Seaforde. A monetary deposit will be required to cover works on the public road.
2. It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site.
3. The onus is on the householder/developer to find out if there is existing water and sewer infrastructure within their property. It is an offence under Article 236 of the Water and Sewerage Services (Northern Ireland) Order 2006, to build over or near watermains, sewers, pipes and associated works owned and maintained by Northern Ireland Water unless with the prior consent by NI Water. House owners and developers should obtain details of existing infrastructure from NI Water by requesting a copy of the water and sewer records. Copies of our records are supplied under Articles 257 and 258 of the 2006 Order. There is a nominal charge for this service. Where existing water and sewer infrastructure is located within a property and proposed development of the site interferes with the public watermains, sewers and associated works, the householder/developer may make a Notice under Article 247 of the 2006 Order to have the public infrastructure diverted, realigned. Each diversion and realignment request is considered on its own merits and approval is at the discretion of NI Water. The applicant is required to meet any financial conditions for realignment or diversion of the water and sewer infrastructure, including full costs, company overheads, etc. It is the responsibility of the house builder/builder/developer to establish if existing public watermains, foul/storm sewers, together with appropriate waste water treatment facilities, have adequate capacity to serve the proposal. To establish how best any development may be served by existing public water and sewerage infrastructure, a Pre Development Enquiry (PDE) would require to be submitted. There is a charge for this service. If your proposed development is not near a public watermain, foul sewer or surface water sewer and you cannot discharge your surface water to a natural watercourse you may wish to consider making a requisition Notice asking NI Water to extend the public watermain or foul/storm sewer system to service your development. This can be done by requisitioning a watermain under Article 76 of the 2006 Order and sewers under Article 154 of the 2006 Order. House builders and developers may have to contribute to the cost of extending watermains and sewers. Septic Tank emptying. The applicant must

provide a hard standing area with a 3.5m wide access capable of supporting the weight of a sludge tanker within 30 metres of the septic tank. If you wish to find out more about what you can or cannot do if there is existing water or sewer infrastructure in, over or under your property, or you want to find out how your proposed development can be serviced contact NI Water staff on the Developers Services Business Line 08458770002 and ask for the Developers Services Co-Ordination Team.

4. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
5. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

Case Officer *C Moane*

Date 03/12/2020

Appointed Officer: Anthony McKay

Date 03/12/2020

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 – 1 AUGUST 2018			
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 - 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	Withdrawn by the Planning Department to allow further consultation to be completed	A Davidson	Remains under consideration	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
	and 58 Edenappa Road, Jonesborough				
		PLANNING COMMITTEE MEETING – 24 JULY 2019			
LA07/2018/1787/F	Proposed extension to existing Materials Recovery Facility Building – 23 Downpatrick Road, Killough	Defer this application, which the Committee agreed was an exception under FLD 1, and refer the completed Flood Risk Assessment to Rivers Agency to be reviewed.	A McAlarney	Application to come back to Committee Under consideration.	N
		PLANNING COMMITTEE MEETING – 17 SEPTEMBER 2019			
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	Remains under consideration	N
		PLANNING COMMITTEE MEETING – 16 OCTOBER 2019			
LA07/2019/0773/0	Dwelling – to rear of 71 Church Street, Downpatrick	Withdraw from the addendum list for a meeting with Planners, applicant and agent	A McAlarney	Meeting to be convened with CPO and Agent/applicant	N
PLANNING COMMITTEE MEETING 11 MARCH 2020					

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
LA07/2019/1455/F	New access to dwelling in substitution to that approved under planning ref: LA07/2018/0118/F – 30m SE of 8 Outlacken Road, Belleeks, Newry	Defer for further discussions and agent/applicant to provide evidence to show that the former approved existing access is no longer available to the applicant and that under Policy an alternative access can be granted	A Davidson	Remains under consideration. New agent on application.	N
PLANNING COMMITTEE MEETING 26 AUGUST 2020					
LA07/2019/1302/F	Provision of a dwelling with associated parking and amendment to application R/2011/0794/f to remove parking area for apartments and replace with shared amenity space - to rear of Nos 65-69 South Promenade, Newcastle.	Defer Planning Application LA07/2019/1302/F to allow the applicant to provide evidence that sight lines can be secured for this proposal.	A McAlarney	Awaiting consultation response from DFI Roads on new info submitted.	N
LA07/2019/1087/0	Replacement dwelling and garage - approx. 50m NE of 21 Drakes Bridge Road, Crossgar	Removed from the agenda as agent unable to attend	A McAlarney		N
LA07/2019/1134/0	Replacement dwelling - 90 Manse Road, Darraghcross, Crossgar	Removed from the agenda as agent unable to attend	A McAlarney		N
LA07/2019/0329	Dwelling and garage - approx 60m south of 144 Loughinisland Road, Downpatrick	Removed from the agenda as agent unable to attend	A McAlarney		N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
PLANNING COMMITTEE MEETING 23 SEPTEMBER 2020					
LA07/2020/0176/F	Proposed rural infill detached dwelling and garage – 45m north of 5 Molly Road Lower, Jonesborough	Defer for 3 months to allow time for the garage to the north of the proposed site to be built and then application to be re-considered	A Davidson		N
PLANNING COMMITTEE MEETING 15 DECEMBER 2020					
P/2013/0189/F	Sports Complex to include 1 no full size pitch, club house, floodlighting and private entrance onto Warrenpoint Road, and all associated site works	Site visit to be arranged	J McParland	Date to be agreed	N
LA07/2020/0167/F	The Manse 17 Downpatrick Road Crossgar New Manse and detached domestic garage (Amended proposal description)	Site visit to be arranged	A McAlarney	Date to be agreed	N
LA07/2020/0299/F	Adj. to 7 Annacloy Road North Dunnanelly Downpatrick Single storey dwelling	Removed from the agenda at the request of Councillor Trainor	A McAlarney		N
LA07/2020/0719/F	171 Rathfriland Road Dromara Off site Replacement Dwelling	Defer to give the applicant an opportunity to submit evidence to support their case	A McAlarney		N

Newry, Mourne & Down District Council – December 2020

43

1. Live Applications

MONTH 2020/21	NEW APPLICATIONS	LIVE APPLICATIONS	LIVE APPLICATIONS OVER 12 MONTHS
March, April & May	338	989	242
June	164	965	232
July	175	1,002	241
August	165	1,038	231
September	192	1,046	233
October	179	1,082	234
November	192	1,068	218
December	177	1,044	209

2. Live Applications by length of time in system

Month 2020/21	Under 6 months	Between 6 and 12 months	Between 12 and 18 months	Between 18 and 24 months	Over 24 months	Total
May	540	207	103	43	96	989
June	562	171	101	40	91	965
July	587	174	105	44	92	1,002
August	598	209	93	51	87	1,038
September	613	200	89	49	95	1,046
October	655	193	89	44	101	1,082
November	662	188	81	49	88	1,068
December	654	181	70	50	89	1,044

Newry, Mourne & Down District Council – December 2020

44

3. Live applications per Case Officer

Month 2020/21	Average number of Applications per Case Officer
May	53
June	66
July	68
August	71
September	71
October	74
November	82
December	81

4. Decisions issued per month

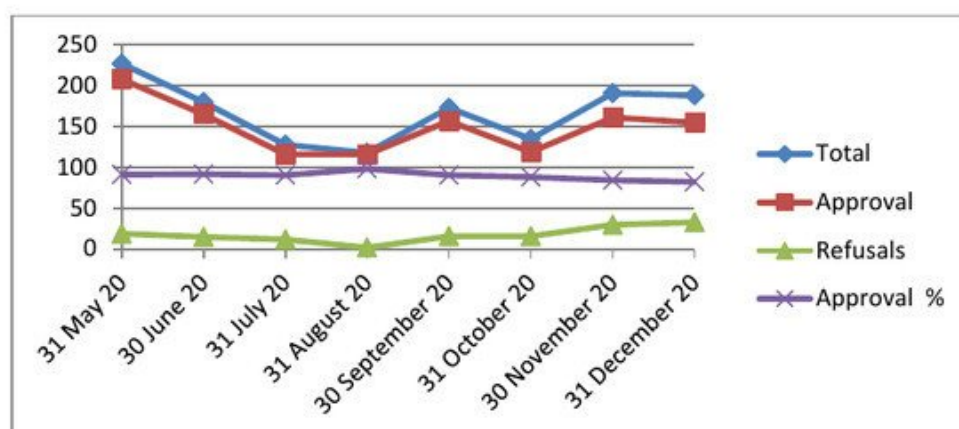
Month 2020/21	Number of Decisions Issued	Number of Decisions Issued under delegated authority
March, April & May	227	216
June	180	166
July	128	122
August	118	110
September	173	163
October	135	129
November	191	179
December	188	182

Newry, Mourne & Down District Council – December 2020

45

5. Decisions Issued YTD

Month 2020/21	Number of Decisions Issued	Breakdown of Decisions	
March, April & May	227	Approvals (208)	92%
		Refusals (19)	8%
June	407	Approvals (373)	92%
		Refusals (34)	8%
July	535	Approvals (489)	91%
		Refusals (46)	9%
August	653	Approvals (605)	93%
		Refusals (48)	7%
September	826	Approvals (762)	92%
		Refusals (64)	8%
October	961	Approvals (881)	92%
		Refusals (80)	8%
November	1,152	Approvals (1,042)	90%
		Refusals (110)	10%
December	1,340	Approvals (1,197)	89%
		Refusals (143)	11%



Newry, Mourne & Down District Council – December 2020

46

6. Enforcement Live cases

Month 2020/21	<=1yr	1-2 yrs	2-3 yrs	3-4 yrs	4-5 yrs	5+ys	Total
March, April & May	180	177	174	89	35	91	746
June	229	168	175	95	35	89	791
July	236	158	187	97	35	92	805
August	238	158	179	107	40	93	815
September	246	147	190	110	44	93	830
October	226	148	175	106	53	93	801
November	229	139	171	99	59	94	791
December	230	130	177	96	57	95	785

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
3 June 2020	15	15	0	6
1 July 2020	5	4	1	1
29 July 2020	6	2	4	0
26 August 2020	16	8	8	4
23 September 2020	9	7	2	2
21 October 2020	9	5	4	2
18 November 2020	13	13	0	6
16 December 2020	14	10	4	2
Totals	87	64	23	23

8. Appeals

Planning Appeal Commission Decisions issued during period 1 November 2020 to 30 November 2020

Area	Number of current appeals	Number of decisions issued	Number of decisions Allowed	Number of decisions Dismissed	Withdrawn
Newry & Mourne	12	1	1	0	0
Down	11	0	0	0	0
TOTAL	23	1	1	0	0

Newry, Mourne & Down District Council – December 2020

47

Statutory targets monthly update - November 2020 (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	1	-	0.0	0.0%		63	3	18.2	33.3%		17	18	146.8	33.3%
May	1	-	0.0	0.0%		97	93	24.2	17.2%		9	69	228.2	14.5%
June	1	3	87.0	0.0%		122	161	26.4	18.6%		49	31	111.8	41.9%
July	2	1	31.8	0.0%		137	113	20.0	25.7%		41	19	91.8	31.6%
August	1	-	0.0	0.0%		138	115	21.2	32.2%		29	23	35.4	73.9%
September	0	1	64.6	0.0%		147	148	19.4	33.8%		26	22	36.5	72.7%
October	1	-	0.0	0.0%		148	115	17.0	34.8%		28	58	100.3	53.4%
November	1	-	0.0	0.0%		147	160	16.9	43.1%		36	37	109.8	35.1%
December	0	-	0.0	0.0%		0	-	0.0	0.0%		0	-	0.0	0.0%
January	0	-	0.0	0.0%		0	-	0.0	0.0%		0	-	0.0	0.0%
February	0	-	0.0	0.0%		0	-	0.0	0.0%		0	-	0.0	0.0%
March	0	-	0.0	0.0%		0	-	0.0	0.0%		0	-	0.0	0.0%
Year to date	8	5	64.6	0.0%		999	908	20.2	30.0%		235	277	122.8	40.4%

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".

Newry, Mourne & Down District Council – December 2020

48

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.

Current Appeals

49

AUTHORITY Newry, Mourne and Down

ITEM NO	1		
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	2		
Planning Ref:	LA07/2019/0181/	PAC Ref:	2019/A0155
APPELLANT	Anthony Flanagan	DEA	Slieve Croob
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

50

ITEM NO	3		
Planning Ref:	LA07/2019/1313/	PAC Ref:	2019/A0159
APPELLANT	EDB Construction Ltd	DEA	Newry
LOCATION	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	Informal Hearing	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	4		
Planning Ref:	LA07/2019/0691/	PAC Ref:	2019/A0238
APPELLANT	Paul Fitzsimons Esq	DEA	Rowallane
LOCATION	65m South East 47 Saintfield Road Crossgar BT30 9HY		
PROPOSAL	Proposed infill dwelling and garage		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	03/03/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

51

ITEM NO	5	PAC Ref:	2019 /A0248
Planning Ref:	LA07/2019/1130/	DEA	The Mournes
APPELLANT	Mr James Rogan		
LOCATION	Site Adjacent To 33 Dunwellan Park Newcastle		
PROPOSAL	New end terrace Dwelling with associated site works		

APPEAL TYPE	DC- Refusal of Planning Permission	Date Appeal Lodged	10/03/2020
Appeal Procedure			
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/E0059
Planning Ref:	LA07/2019/0876/	DEA	Downpatrick
APPELLANT	Mr Michael Trainor		
LOCATION	42b And 42c Clanmaghera Road Tyrella		
PROPOSAL	Downpatrick 2 no dwelling units		

APPEAL TYPE	DC- Refusal of CLUD	Date Appeal Lodged	20/01/2020
Appeal Procedure			
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

52

ITEM NO	7		
Planning Ref:	LA07/2019/1526/	PAC Ref:	2019/E0072
APPELLANT	John Mc Williams	DEA	Crotlieve
LOCATION	Land Extending From A Point 190m SW Of No 97 Rathfriland Road Newry To 22 Sheeptown Road		
PROPOSAL	Newry Form an agricultural lane		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	16/07/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	8		
Planning Ref:	LA07/2017/1559/	PAC Ref:	2020/A0002
APPELLANT	EDB Constructions Ltd	DEA	Newry
LOCATION	58 Armagh Road Newry		
PROPOSAL	Demolition of existing dwelling and erection of 7 No. 2 bedroom apartments (7 in total) (change of description)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	16/07/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

53

ITEM NO	9		
Planning Ref:	LA07/2019/1021/	PAC Ref:	2020/A0003
APPELLANT	Mrs E Fitzsimons	DEA	Rowallane
LOCATION	53A Saintfield Road Crossgar		
PROPOSAL	Retention of building in substitution of previous approval LA07/2015/1224/F		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	16/07/2020
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:	LA07/2019/1257/	PAC Ref:	2020/A0014
APPELLANT	Mr Shane Robinson	DEA	Downpatrick
LOCATION	87 Seaview Killough Downpatrick		
PROPOSAL	2 Storey extension to side of dwelling		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	20/07/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

54

ITEM NO	11	PAC Ref:	2020/A0020
Planning Ref:	LA07/2019/0584/	DEA	The Mournes
APPELLANT	Mr David Gordon		
LOCATION	34 Dougans Road Kilkeel		
PROPOSAL	RT34 4HN Erection of farm dwelling and retention of existing building as a garage		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	21/07/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	12	PAC Ref:	2020/A0029
Planning Ref:	LA07/2019/1184/	DEA	Rowallane
APPELLANT	Mr D Graham		
LOCATION	Lands Between 12 And 18 And Neighbouring House On Private Lane Raleagh Road Crossgar		
PROPOSAL	2 infill dwellings and garages		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	24/08/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

55

ITEM NO	13		
Planning Ref:	LA07/2019/0573/	PAC Ref:	2020/A0045
APPELLANT	Mills Smyth	DEA	Slieve Gullion
LOCATION	95 Aughnagurgan Road Altnamackan		
PROPOSAL	Newry Proposed demolition of all existing buildings and replace with dwelling house and garage.		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	10/09/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	14		
Planning Ref:	LA07/2020/0194/	PAC Ref:	2020/A0060
APPELLANT	Drumee Farms Ltd	DEA	The Mournes
LOCATION	Lands Approx. 100m NE Of 125 Newcastle Road Castlewellan		
PROPOSAL	Retention of multi-purpose agricultural shed, access from Newcastle Road, via established agricultural gateway		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	16/09/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

56

ITEM NO	15	PAC Ref:	2020/A0066
Planning Ref:	LA07/2019/1819/	DEA	Slieve Croob
APPELLANT	William Henry McMaster		
LOCATION	42a Cherryhill Road Spa		
PROPOSAL	Retirement bungalow		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	21/09/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	16	PAC Ref:	2020/A0067
Planning Ref:	LA07/2019/1815/	DEA	Newry
APPELLANT	David & Bronagh Strain		
LOCATION	15 Liska Road Newry BT35 8NH		
PROPOSAL	Proposed new dwelling		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	17/09/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

57

ITEM NO	17		
Planning Ref:	LA07/2019/1575/	PAC Ref:	2020/A0073
APPELLANT	Mr Gerard Rice	DEA	Crotlieve
LOCATION	8 Corcreeghy Road Newry		
PROPOSAL	Retrospective application for the extension of curtilage to include retaining wall, in-filling with inert material, fencing and associated landscaping. Existing Firework containers relocated and form utilisation of car parking.		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	23/09/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	18		
Planning Ref:	LA07/2019/1218/	PAC Ref:	2020/A0090
APPELLANT	Mary B. Agnew	DEA	Slieve Gullion
LOCATION	50 M. NW Of 38 Killnasaggart Road Jonesborough BT35 8JA		
PROPOSAL	Erection of dwelling house		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps with Site Visit	Date Appeal Lodged	27/10/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

58

ITEM NO	19		
Planning Ref:	LA07/2020/0836/	PAC Ref:	2020/A0103
APPELLANT	Mr Dodds	DEA	Rowallane
LOCATION	Adjacent And South Of 40 Craigy Road Craignasasonagh Saintfield		
PROPOSAL	Erection farm animal shelter and wintering shed		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	12/11/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	20		
Planning Ref:	LA07/2018/1616/	PAC Ref:	2020/C002
APPELLANT	David Trevor Shields	DEA	The Mournes
LOCATION	Approximately 35 Metres South East Of 8 Ballinran New Road Kilkeel RT34 47N		
PROPOSAL	Retention of 2no. existing pig sheds with underground slurry tanks, 3no. feed silos and gravel yard, and extension to western gable of shed at rear of site, with loading bay.		
APPEAL TYPE	DC- EIA Determination - app ES is required		
Appeal Procedure	Formal Hearing	Date Appeal Lodged	11/08/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

59

ITEM NO	21	PAC Ref:	2020/E0001
Planning Ref:	LA07/2019/1600/	DEA	Slieve Croob
APPELLANT	Mr Paul Cunningham		
LOCATION	5c Teconnaught Road Downpatrick		
PROPOSAL	Existing dwelling		
APPEAL TYPE	DC- Refusal of CLUD		
Appeal Procedure		Date Appeal Lodged	16/07/2020
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:	2020/E0009
Planning Ref:	LA07/2018/1250/	DEA	Newry
APPELLANT	Mr Brian McNulty		
LOCATION	154 Dublin Road Newry BT35 8NF		
PROPOSAL	Retention of prefabricated building.		
APPEAL TYPE	DC - Non Determination of a Planning Application		
Appeal Procedure	Written Reps	Date Appeal Lodged	18/08/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

60

ITEM NO	23		
Planning Ref:	LA07/2020/0159/	PAC Ref:	2020/E0017
APPELLANT	Mr PJ Duffy	DEA	Crotlieve
LOCATION	16A Derryleckagh Road Newry		
PROPOSAL	RT34 2NI Retention of building of temporary construction		
APPEAL TYPE	DC - Conditions of Approval		
Appeal Procedure	Written Reps	Date Appeal Lodged	21/09/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			



Enforcement Appeal Decision

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61

Appeal Reference:	2019/E0063
Appeal by:	Roisin Browne and Stephen Connell
Appeal against:	An Enforcement Notice dated 23 January 2020
Alleged Breach:	The construction of a rear extension
Location:	10 Cloughreagh Park, Cloughreagh, Bessbrook
Planning Authority:	Newry, Mourne and Down District Council
Reference:	LA07/2016/0369/CA
Procedure:	Informal Hearing on 26 October 2020.
Decision by:	The Commission, dated 18 December 2020

The Commission has considered the report by Commissioner Donaghey and accepts his analysis of the issues and recommendation that the appeal on Ground (a) should succeed. The Commission agrees that the deemed reason for refusal has not been sustained.

Decision – the appeal on Ground (a) succeeds, the Enforcement Notice is quashed and the deemed application is granted unconditionally.

MANDY JONES
Principal Commissioner

PLANNING APPEALS COMMISSION

**THE PLANNING ACT (NORTHERN IRELAND) 2011
SECTION 143**

**Appeal by Roisin Browne and Stephen Connell
against an Enforcement Notice concerning an alleged breach of planning control
involving the construction of a rear extension
at 10 Cloughreagh Park, Cloghreagh, Bessbrook.**

**Report
by
Commissioner Kenneth Donaghey**

Planning Authority Reference: LA07/2016/0369/CA

Procedure: Informal Hearing on 26th October 2020.

Report Date: 10th December 2020

1.0 **BACKGROUND**

- 1.1 The Enforcement Notice (EN) was issued by Newry, Mourne and Down District Council on 23rd January 2020 to take effect from 25th February 2020. It was served by registered post on Ms Roisin Browne, Mr Stephen Connell and Bank of Scotland PLC. The Commission received an appeal against the Enforcement Notice on ground (a), on 24th February 2020. There is a deemed planning application by virtue of Section 145 (5) of the Planning Act (Northern Ireland) 2011.
- 1.2 The Commission notified Newry, Mourne and Down District Council of the appeal by letter dated 24th February 2020. Notice of the appeal was advertised in the local press on 11th March 2020.

2.0 **SITE AND SURROUNDINGS**

- 2.1 Number 10 Cloughreagh Park is a two storey, semi-detached dwelling. The EN refers to a two storey extension which has been erected to the rear. The footprint of the extension encompasses the full width of the existing dwelling and projects approx. 5m from the original rear elevation of the dwelling. The dwelling and extension are finished in a wet dash render. The rear extension has a pitched roof which does not extend above the apex of the original dwelling. The western elevation of the extension features two ground floor windows and two upper floor windows, one of which is glazed with opaque glass. The southern elevation of the extension has large patio doors on the ground floor and a large bedroom window on the upper floor.
- 2.2 There are no windows on the eastern elevation of the extension which is located along the boundary with number 12 Cloughreagh Park. The rear elevation of number 12 Cloughreagh Park comprises a large window to a small downstairs living room and a small rear porch structure which projects to the rear on the eastern side of the elevation. A small boiler house structure with a wall to the rear are situated in the rear yard of number 12 Cloughreagh Park and act as the common boundary with the extension. The wall is approx. 2m in height and projects approx. 3m from the rear elevation of the property.
- 2.3 A 2m closed board timber fence separates the rear amenity space from the property to the west (no 8). A 1m wall separates the rear gardens of the appeal site and number 12. The two dwellings are within generous plots with rear garden areas of approx. 9m in width and 30m in length.

Planning Merits

3.0 **GROUND (A) AND THE DEEMED PLANNING APPLICATION**

The Appellant's Case

- 3.1 This appeal relates to an application which was lodged to the Department of the Environment (DoE) on the 18th March 2015 (P/2015/0230/F). This sought permission for the retention of a two storey rear extension. The application was refused by Newry, Mourne and Down District Council on the 8th December 2016. No objections were received in relation to the planning application from either the public or from any of the consultees.

- 3.2 The extension was erected as a response to the particular domestic circumstances of the applicant at the time. The death of one parent was closely followed by the need to provide care, at the dwelling, for another due to illness.
- 3.3 The extension restricts some light entering a living room window which is located on the rear elevation of number 12 Cloughreagh Park. Given the position of the extension, it may impact on sunlight from 3:30pm in the winter and later in the summer. The rear elevations of both dwellings are south facing. This orientation limits the effect which the extension has upon the light entering 12 Cloughreagh Park. There is already a small single storey boiler house with a 2m high wall to the common boundary with number 12. This structure potentially restricts light entering this window. It is accepted that the extension does not meet the 45 degree light test, however the existing structure adjacent to this window also does not fulfil this test and therefore limits the impact of the extension.
- 3.4 The small boiler house building adjacent to the rear living room window of number 12 Cloughreagh Park predominantly blocks the view of the extension from the rear window. This reduces any dominant impact of the extension upon the neighbouring property.
- 3.5 The owner of number 12 Cloughreagh Park has also expressed his support for the proposal. This letter states that the owner of this property does not have any issue with overshadowing or the extent of the build. The owner has also applied to Newry, Mourne and Down District Council for a similar type extension (LA07/2019/0126/F). An extension to No. 12 in the manner proposed will remove any potential impact on amenity as the rear window will be removed and the rear return will broadly reflect the one constructed at number 10 Cloughreagh Park. The applicant is willing to have his permission limited by condition to 5 years to ensure that the permission can be reviewed in the event that the neighbouring extension is approved but not built.
- 3.6 A similar extension has been erected at number 20 Cloughreagh Park, Council should have taken account of this structure when considering the appeal development.

Planning Authority's Case

- 3.7 The DoE, received a planning application, P/2015/0230/F on 19th March 2015 for a two storey rear extension, new bay window and canopy on front elevation. Council advised the agent in a letter dated 22nd January 2016 that it was evident that work was progressing on site and that the works did not reflect the proposed plans submitted. This proposal was amended on the 23rd August 2016. The amended description was for the "retention of two storey rear extension and new bay window and canopy on front elevation".
- 3.8 P/2015/0230/F was refused by the Council on the 8th December 2016. The proposal was considered contrary to the Strategic Planning Policy Statement (SPPS) and Policy EXT 1 (b) of Planning Policy Statement 7 (Addendum): Residential Extensions and Alterations (aPPS7) in that the proposal would unduly affect the amenity of neighbouring residents at No 12 Cloughreagh Park by reason of dominance and overshadowing / loss of light.

- 3.9 An enforcement case (LA/2016/0369/CA) was opened in respect of this development on 13th December 2016. Newry, Mourne and Down District Council served the Enforcement Notice subject to appeal, dated 23rd January 2020. This notice was to take effect from the 25th February 2020.
- 3.10 This appeal is brought under section 143 (3) part (a) of the Planning Act (Northern Ireland) 2011, which states that that, *'In respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged'*.
- 3.11 Section 45 of the Planning Act (Northern Ireland) 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 Banbridge, Newry and Mourne Area Plan 2015. The site is located within the settlement development limit of Newry. There are no specific policies in the plan relating to the appeal site, therefore this development will be assessed against regional planning policy.
- 3.12 There is no significant change to the policy requirements for the alteration and extension of a dwelling following the publication of the SPPS. The retained planning policy is aPPS7. This policy is given substantial weight in determining the principle of the unauthorised development in accordance with para 1.12 of the SPPS.
- 3.13 Policy EXT 1 of aPPS7, criterion (b) advises that a proposal must not unduly affect the privacy or amenity of neighbouring residents. The impact that this extension has on number 12 Cloughreagh Park is unduly adverse. Both the 45 degree and 60 degree light tests, as described in Annex A, show that this rear extension causes a loss of light to the ground floor rear window of number 12. This window is the primary source of light from the rear, to the ground floor of this dwelling. As stated within the justification and amplification of this policy, sunlight and daylight are valued elements of a good quality living environment. Where an extension would be likely to reduce the amount of light entering a window of a room to an unreasonable degree then planning permission is unlikely to be granted. The height, length and depth of the extension create an unacceptable loss of light to the ground floor window to an extent where it has a significantly detrimental impact on residential amenity.
- 3.14 The sun rises in the east and sets in the west, therefore the extension will cast a shadow over the back of no 12 from mid-day onwards. Whilst the policy acknowledges that overshadowing to a garden area on its own will rarely constitute significant grounds to justify refusal of permission, it has to be weighed in the decision making process. Council is of the opinion that coupled with the loss of light to the primary window of a habitable room, the level of overshadowing is sufficient to warrant refusal in this case.
- 3.15 Paragraph A31 of aPPS7 refers to the effect dominance can have on the immediate aspect or outlook from an adjoining property. This paragraph also states that 'neighbouring occupiers should not be adversely affected by a sense of being hemmed in by an extension'. The large blank wall of the unauthorised rear extension, is located less than 1m from the boundary. It is substantial and excessively overbearing. This results in dominance on the immediate aspect from the neighbouring dwelling. This also makes the amenity area to the rear of the

dwelling unattractive to outdoor use and therefore has a significant detrimental effect on the residential amenity of the property. The loss of light to number 12 is also a consequence of this dominance.

- 3.16 The policy makes provision for extensions when the majority of dwellings in the area have been extended in a similar way. The surrounding area has been considered. There is no prevailing pattern of two storey rear extensions in the surrounding area. Number 20 Cloughreagh Park has a two storey rear extension and is in close proximity to the appeal site. This extension is 1.7m shorter in length and 1.3m higher than the extension at number 10. However, this extension was approved by a previous planning authority (P/2002/1095/F) and Council should not be fettered by poor planning decisions. This decision was also made under the Planning Strategy for Rural Northern Ireland (PSRNI), which was more lenient in its approach to extensions than aPPS7. PSRNI was weaker in its protection for neighbouring properties as it did not specifically reference dominance as a consideration within the extension policies.
- 3.17 The special circumstances of this case have been considered, however it has not been demonstrated that an extension of this scale is a necessary response to those particular circumstances. There is no evidence to suggest that the extension was specifically designed or built to a particular standard to allow for accessibility or for other care giving purposes.
- 3.18 An application for a similar type extension has been made at number 12 Cloughreagh Park. LA07/2019/0126/F has been recommended for refusal by the case officer but remains under consideration. The agent has suggested linking the developments by condition to ensure there is no impact upon amenity. Section 52 part 1 (a) of the Planning Act (Northern Ireland) 2011 advises that conditions can only be imposed upon lands which are under the control of the applicant. Therefore any condition linking either development, which is not on lands under the control of the applicant, would be unenforceable and therefore unlawful.
- 3.19 It is the contention of Newry Mourne and Down District Council that planning permission should not be forthcoming for the development. This is because it significantly reduces the light entering a habitable room and has a significant detrimental effect on the ability of residents to enjoy their amenity open space. This when combined with the domineering effect of the extension on the adjoining dwelling represents significant demonstrable harm to the amenity of the residents of number 12 Cloughreagh Park.

Consideration

- 3.20 The question posed by both the appeal on ground (a) and the deemed planning application is whether planning permission should be granted for the development. The main issue in this appeal is whether the extension unduly affects the amenity of neighbouring residents by virtue of dominance and overshadowing / loss of light.
- 3.21 Section 45(1) of the Planning Act requires that regard must be had to the LDP, so far as material to the application and any other material considerations. Section 6(4) of the Act requires that where in making any determination under the Act, regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The relevant LDP is Banbridge,

Newry and Mourne Area Plan 2015. The site is located within the settlement development limit of Newry. There are no specific policies in the plan which relate to the appeal development. The other material considerations are discussed below.

- 3.22 The SPPS is material to all decisions on individual planning applications and appeals. However, in respect of the appeal development no conflict arises between the SPPS and the retained policy as set out by aPPS7. Policy EXT1 thereof states that planning permission will be granted for a proposal to extend or alter a residential property where four criteria (a-d) are met. This policy also refers to guidance set out in Annex A which is to be taken into account when assessing proposals against the criteria.
- 3.23 The only concern raised by the Council was in respect of criterion (b) of Policy EXT1 which requires that the proposal does not unduly affect the privacy or amenity of neighbouring residents. The Council's submitted evidence relates only to the impact on residential amenity. Furthermore the concerns in respect of residential amenity relate only to the effects of the development on 12 Cloughreagh Park by way of overshadowing/loss of light and dominance.
- 3.24 Paragraph A31 of the Annex to aPPS7 sets out guidance on the issue of dominance. It advises that neighbouring occupiers should not be adversely affected by the sense of being 'hemmed in' by an extension. This can often result from the construction of a large blank wall. During my site inspection I assessed the development from the garden area at 12 Cloughreagh Park. It is accepted that the extension creates a large two storey blank wall along part of the common boundary with number 12 Cloughreagh Park, but this is only over a small section of the common boundary. Given the size of the rear window, the generous plot width and rear amenity space, the extension does not dominate outward views from the rear living room of number 12. Taking account of the prevailing local environment, I am of the opinion that this extension does not have a dominant impact upon the neighbouring property.
- 3.25 In terms of overshadowing and loss of light, the Council's assertion that the property would be overshadowed from mid-day onwards is not supported by any technical analysis, nor does it take account of seasonal variations in the strength or height of the sun. From my own assessment of the orientation of the extension I would agree that there is a degree of overshadowing at the rear elevation of the neighbouring property. However, the orientation of the property in relation to the sun path means that this would only take place later in the afternoon and this would not be to an unacceptable level. The external amenity space adjacent to the rear elevation would experience some overshadowing. However, I note that overshadowing to a garden area on its own rarely constitutes grounds for the refusal of permission. On the basis of my own observations, I disagree with the Council's analysis of over-shadowing and I do not accept that the proposal would be unacceptable in terms of overshadowing.
- 3.26 Annex A of Policy EXT 1 directs that 60 degree and 45 degree light tests should be used to help assess the loss of light caused by an extension. The extension is of two storey construction, therefore the 45 degree test is the appropriate guidance to apply in this instance. Council did not submit a light test drawing. It should be noted that this test is a tool for assessment rather than a rigid standard which must be met. Council have argued that the extension offends both tests and results in the loss of

light to a primary window of a habitable room. The room in question is a small downstairs living room and the subject window is the only aspect from this room. However, this window measures approx. 2m in length and 1.2m in height and is large in comparison to the size of the room. The extension is a two storey extension which is built adjacent to the common boundary, approx. 1.5m from this window and projects almost 5m from the original rear elevation of the dwelling. It is separated from the extension by a small boiler house and existing 2m wall. The small boiler house and boundary wall adjacent to the extension already restrict some light entering this window and I do not consider that the extension significantly exacerbates this situation.

- 3.27 The aspect from the rear window of 12 Cloughreagh Park is south facing and would receive direct sunlight for large parts of the day dependant on the time of year. The rear garden of number 12 Cloughreagh Park is also relatively open and unobstructed to the south. The parties have accepted that this extension fails the 45 degree light test and I would concur. However, this is an assessment tool to be used in conjunction with other relevant factors to gauge the acceptability of proposals. For reasons stated, I am of the opinion that the extension does not reduce the amount of light entering the ground floor window at 12 Cloughreagh Park to an unacceptable degree. Given the consideration above, I am not persuaded that the extension causes an unacceptable degree of overshadowing or loss of light to the property at 12 Cloughreagh Park.
- 3.28 As I have found the subject development to be acceptable, I need not consider the issues of precedent, linkage with any proposed extension at number 12 or the imposition of a condition rendering the permission temporary.
- 3.29 I have considered the particular domestic circumstances that have been outlined by the appellant. However, I have found the extension to be acceptable in policy terms, on its own merits.
- 3.30 On the basis of the analysis above I do not consider that the extension to number 10 Cloughreagh Park unduly affects the residential amenity of the occupants of 12 Cloughreagh Park.

4.0 RECOMMENDATION

- 4.1 I recommend to the Commission that the appeal on Ground (a) succeeds, the Enforcement Notice is quashed and the deemed planning application is granted unconditionally.

List of Appearances at the Remote Hearing

Planning Authority: - Mr Eamon McArdle - Newry, Mourne and Down District Council

Appellant: - Mr John Young - Collins and Collins (Agent)
Mr Stephen Connell (Appellant)

List of Documents

Planning Authority: - "A" Statement from Newry, Mourne and Down District Council

Appellant(s):- "B" Statement from Collins and Collins

