



November 11th, 2021

Notice Of Meeting

You are invited to attend the Planning Committee Meeting to be held on **Wednesday, 17th November 2021** at **10:00 am** in **Mourne Room Downshire Civic Centre.**

Committee Membership 2021-2022

- Cllr. D McAteer (Chair)
- Cllr. C Enright (Deputy Chair)
- Cllr. R Burgess
- Cllr. L Devlin
- Cllr. G Hanna
- Cllr. V Harte
- Cllr. M Larkin
- Cllr. D Murphy
- Cllr. L McEvoy
- Cllr. H McKee
- Cllr. G O'Hare
- Cllr. J Trainor

Agenda

1.0 Apologies and Chairperson's remarks.

2.0 Declarations of Interest.

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

- Item 10 - LA07/2019/1134/0 - presented to Committee on 11 March 2020 - deferred for a site visit on 07-08-2020. Cllrs. Burgess, Hanna, Harte, Larkin, Murphy, O'Hare and Trainor attended

Minutes for Adoption

4.0 Minutes of Planning Committee Meeting held on Wednesday 20 October 2021. (Attached).

📎 *Planning Committee Minutes 20.10.2021.pdf*

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For Discussion/Decision

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

📎 *Addendum list - 17-111-2021.pdf*

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Local Development Plan Items - Exempt Information

6.0 LDP: Progress Report – Quarterly Update. (Attached).

This item is deemed to be restricted by virtue of Paragraph 3 of Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 2014 - information relating to the financial of business affairs of any particular person (including the Council holding that information) and the the public may by resolution, be excluded during this item of business.

📎 *PC Report re LDP Progress - Quaterly Update (2nd Q 2021-22).pdf*

Not included

📎 *LDP Progress - Quarterly Update (2nd Q 2021-22)(Report Appendix).pdf*

Not included

7.0 Review and update of LDP Retail and Commercial Leisure Study. (Attached).

This item is deemed to be restricted by virtue of Paragraph 3 of Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 2014 - information relating to the financial of business affairs of any

particular person (including the Council holding that information) and the the public may by resolution, be excluded during this item of business.

 *PC Report - LDP Retail Study Update Nov 2021.pdf*

Not included

Items deemed to be exempt under paragraph 3 of Part 1 of Schedule 6 of the Local Government Act (NI) 2014

8.0 Report re: amendment of Standing Orders following October 2021 High Court Judicial Review judgement. (To follow)

This item is deemed to be restricted by virtue of Paragraph 3 of Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 2014 - information relating to the financial of business affairs of any particular person (including the Council holding that information) and the the public may by resolution, be excluded during this item of business.

Development Management - Planning Applications for determination

9.0 LA07/2019/1653/F - 5 No Apartments, Bin store, Car parking and Associated Site Works - Lands to the East of No 5 Ferry Quarter View and Lands to the North East of No 3 Ferry Quarter View Strangford. (Case Officer report attached).

APPROVAL

- A request for speaking rights has been received from Tony Stevens and Nick Laird in objection to the application. **(Submission attached).**

 *LA07-2019 -1653-F Apartments Ferryquarter.pdf*

Page 20


 *Item 9 - LA07-2019-1653-F (objection N Laird).pdf*

Page 38

10.0 LA07/2019/1134/O - Replacement Dwelling - 90 Manse Road Darraghcross Crossgar. (Case Officer report attached).

REFUSAL

- In line with the updated Operating Protocol no further speaking rights are permitted on this application. (Gerry Tumelty, agent, will be in attendance to answer any questions Members might have).
- Item 10 - LA07/2019/1134/O - presented to Committee on 11 March 2020 - deferred for a site visit on 07-08-2020. Cllrs. Burgess, Hanna, Harte, Larkin, Murphy, O'Hare and Trainor attended

 *LA0720191134O 90 Manse Road.pdf*

Page 40

 *LA07-2019-1134-O 90 Manse Road Addendum for committee.pdf*

Page 45

11.0 LA07/2020/0653/O - Dwelling and garage - Approx 40m south west of 11 St Patrick's Circle Saul Downpatrick. (Case Officer report attached).

REFUSAL

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

📎 *LA07-2020-0653-O St Pats Circle Saul.pdf*

Page 47

📎 *Item 11 - LA07-2020-0653-0.pdf*

Page 55

12.0 LA07/2020/0873/F - 118 detached & semi-detached dwellings, pumping station, landscaping and all site works - Lands 100m west of 14-24 Lime Trees and 20m SE of 62 & 64 Lisburn Road Ballynahinch. (Case Officer report attached).

APPROVAL

- Addendum list

📎 *LA07.2020.0873.F - Lime Trees Housing (approval) COR revised with conditions and dwg nos 08.10.2021 OR_ 02.11.21.pdf*

Page 57

13.0 LA07/2019/0369/F - Erection of Fun Fair Ferris Wheel - Castle Park to rear of 1 to 11 Central Promenade, Newcastle Co. Down. (Case Officer report attached).

APPROVAL

- Addendum list

📎 *LA07-2019-0369- Ferris Wheel 002.pdf*

Page 77

14.0 LA07/2020/1689/F - Overflow asphalt car park (163 car parking space & 13 disabled car parking spaces) accessed via existing Donard Park, car park, erection of 6m high ball stop & 1.8 paladin fence, new footpaths and associated lighting, landscaping and drainage - Land 120m NW of 5 Donard Park & west of the existing Donard Park car park Newcastle. (Case Officer report attached).I

APPROVAL

- Addendum list

15.0 LA07/2021/0786/RM - Demolition of former school building, erection of food store and mountain rescue, provision of car parking, landscaping, and associated site works - Site of former St Mary's Primary School (opposite and east of 1-15 Shan Slieve Drive and south of 32-38 Bryansford Road and 2-8 Tullybrannigan Road) and portion of Bryansford Road Newcastle. (Case Officer report attached)

APPROVAL

- A request for speaking rights has been received from Mark Donnelly and Conleth Rooney BL, on behalf of Don Holdings (NI) Ltd. in objection to the application. **(Submission attached).**
- A request for speaking rights has been received from Dermot Monaghan, MBA Planning and Tim Cousins in support of the application. **(Submission attached).**

LA07-2021-0786-RM Lidl Newcastle (003).pdf Page 93

Item 15 - LA07-2021-0786-RM (objection Don Holdings Ltd).pdf Page 106

LSS Single Page Illustration Map 'X' (003).pdf Page 108

210923 CFR Issue Rev 1 210923 d8 Kenny LSS Issue_.pdf Page 109

Item 15 - LA07-2021-0786-RM (support MBA Architects).pdf Page 121

16.0 LA07/2021/0921/F - Filling of existing ground level to convert existing horsebox parking area to carparking area. Carparking area to consist of 31 no carparking spaces, a parking space suitable to accommodate a mobile coffee van trailer. turning area, cycle racks. picnic tables & 1.1m high perimeter fence - 300m South-South East of No 141 Drumnaquoile Road Dromara. (Case Officer report attached).

APPROVAL

- Addendum list

LA07_2021_0921_F Drumnaquoile Car Park (002).pdf Page 123

17.0 LA07/2021/0601/F - Proposed Single & 2 storey side and rear extensions and demolition of existing side and rear extension - 1A Slievemoyne Park Newcastle. (Case Officer report


attached).

REFUSAL

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

 *LA07 2021 0601 1a Slievemoye Pk_ (003).pdf*

Page 132


 *Item 16 - LA07-2021-0601-F.pdf*

Page 138


18.0 LA07/2021/0652/O - 2 infill dwellings and garages - Lands adjacent and to the south-east of 32 Dromara Road Leitrim Castlewellan. (Case Officer report attached).

REFUSAL

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

 *LA07-2021-0652-O_CO_Report (2).pdf*

Page 140


 *Item 18 - LA07-2021-0652-0.pdf*

Page 148


19.0 LA07/2019/1000/F - Construction of 14 no Social Housing Units together with associated car parking, landscaping and site works for Registered Housing Association - Lands east of Harmony Heights Ballyholland Newry. (Case Officer report attached).

APPROVAL

- A request for speaking rights has been received from Michael Rogers, architect, in support of the application. **(Submission attached).**

 *LA07-2019-1000-F.pdf*

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 *Item 19 - LA07-2019-1000-F.pdf*

Page 163

Items deemed to be exempt under paragraph 1 of Part 1 of Schedule 6 of the Local Government Act (NI) 2014

20.0 LA07/2021/0758/O - Dwelling and garage - Lands immediately south of No. 40 Quarter Road Annalong BT34 4QZ. (Case Officer report attached).

REFUSAL

- A request for speaking rights has been received from Brendan Starkey, agent, and Lynn Edgar, applicant in support of the application. **(Submission has been circulated under separate cover)**

This item is deemed to be exempt under paragraph 1 of Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 2014 - information relating to an individual and the public may, by resolution, be excluded during this item of business.

📎 *LA07-2021-0758-O.pdf*

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Development Management - Planning Applications for determination

21.0 LA07/2021/0835/F - Proposed Domestic Garage and Extension to Existing Curtilage - 87 Oldtown Road Annalong Co Down. (Case Officer report attached).

REFUSAL

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

📎 *LA07-2021-0835-F.pdf*

Page 175

📎 *Item 21 - LA07.2021.0835.F.pdf*

Page 180

22.0 LA07/2021/0911/F Conversion of existing agricultural barn to self-contained holiday accommodation 6 Clonduff Road Ballyaughian Hilltown Co. Down BT34 5XF. (Case Officer report attached).

REFUSAL

- Addendum list

📎 *LA07-2021-0911-F.pdf*

Page 182

23.0 LA07/2021/1483/F - Proposed new play park - Play Park at Kilmorey Park, Adjacent to and immediately North of 15 Cowan Street Newry BT34 2AR. (Case Officer report attached).

APPROVAL

- Addendum list


📎 *LA07_2021_1483_F.pdf*

Page 190

24.0 LA07/2021/1485/F - Proposed new play park - Play park at Annalong Marine Park, 30m East of Community Centre Annalong Glassdrumman Road Annalong BT34 4QL. (Case Officer report attached).

APPROVAL

- Addendum list


 [LA07_2021_1485_F.pdf](#)

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25.0 LA07/2021/0586/O - Proposed dwelling and garage - Lands immediately south of No 7 Glenmore Road, Mullaghbane. (Case Officer report attached).

REFUSAL

- A request for speaking rights has been received from Paul McKernan, agent and Oliver Hearty, applicant, in support of the application. **(Submission attached).**


 [LA07-2021-0586-O.PDF](#)

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26.0 LA07/2021/0665/O - Proposed erection of outline rural detached infill dwelling house and detached domestic garage, site works and associated landscaping Located upon lands approximately 50 meters North East of No. 21 Jacks Road Killeen Newry City Co Armagh N Ireland BT35. (Case Officer report attached).

REFUSAL

- A request for speaking rights has been received from Barney McKevitt, agent, and Brain McKevitt, applicant's father, in support of the application. **(Submission attached).**

 [LA07-2021-0665-O.PDF](#)

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 [Item 26 - LA07-2021-0665-O.pdf](#)


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27.0 LA07/2021/0816/O - Proposed replacement dwelling to create an infill dwelling - Adjacent to No. 10 Hillhead Road, Newry, BT35 8TN. (Case Officer report attached).


REFUSAL

- A request for speaking rights has been received from John Feehan, agent, in

support of the application. **(Submission attached).**

 *LA07-2021-0816-O.PDF*

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 *Item 27 - LA07-2021-0816-0.pdf*

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For Noting

28.0 Historic Actions Tracking Sheet. (Attached).

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

Page 226

**29.0 Planning Committee Performance report - October 2021.
(Attached).**

 *October 2021 Planning Committee Performance Report.pdf*

Page 230

30.0 Current appeals and decisions - October 2021.

 *Appeals and Decisions issued October 2021.pdf*

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NEWRY, MOURNE & DOWN DISTRICT COUNCIL

Minutes of the Planning Committee Meeting of Newry, Mourne and Down District Council held on Wednesday 20 October 2021 at 10.00am in the Mourne Room, Downshire Estate, Downpatrick and via Microsoft Teams.

Chairperson: Councillor D McAteer

In attendance: (Committee Members)

Councillor C Enright
Councillor L Devlin
Councillor G Hanna
Councillor V Harte
Councillor M Larkin
Councillor D Murphy
Councillor L McEvoy
Councillor H McKee
Councillor G O'Hare

(Officials)

Mr C Mallon	Director Enterprise Regeneration & Tourism
Mr A McKay	Chief Planning Officer
Mr P Rooney	Principal Planning Officer
Mr A Hay	Principal Planning Officer (via Teams)
Ms A McAlarney	Senior Planning Officer (via Teams)
Mr M Keane	Senior Planning Officer (via Teams)
Mr A Davidson	Senior Planning Officer (via Teams)
Mr M McQuiston	Senior Planning Officer (via Teams)
Ms P Manley	Senior Planning Officer (via Teams)
Ms S Fegan	Planning Assistant (via Teams)
Ms A McBeth	Planning Assistant (via Teams)
Mr G McShane	Planning Assistant (via Teams)
Mr C McKay	Trainee Planning Assistant (via Teams)
Ms N Largey	Legal Advisor
Mr F O Connor	Legal Advisor
Ms S Taggart	Democratic Services Manager (Acting)
Ms L O'Hare	Democratic Services Officer
Ms L Dillon	Democratic Services Officer
Ms P McKeever	Democratic Services Officer
Ms D Starkey	Democratic Services Officer (via Teams)

P/091/2021: APOLOGIES AND CHAIRPERSON'S REMARKS

Apologies were received from Councillor Burgess and Councillor Trainor.

P/092/2021: DECLARATIONS OF INTEREST

No declarations of interest were received.

P/093/2021: DECLARATIONS IN ACCORDANCE WITH PLANNING COMMITTEE PROTOCOL PARA. 25

- **Item 9 – P/2021/0246/F** – only Cllrs Hanna, Harte, Larkin, McAteer, McEvoy, O'Hare and Trainor attended the site visit on this application.
- **Item 10 – LA07/2020/0661/O** – only Cllrs Hanna, Harte, Larkin, McAteer, McEvoy, O'Hare and Trainor attended the site visit on this application.
- **Item 11 – LA07/2020/1797/F** – only Cllrs Hanna, Harte, Larkin, McAteer, McEvoy, O'Hare and Trainor attended the site visit on this application.
- **Item 12 – LA07/2020/0299/F** – only Cllrs Burgess, Hanna Harte Larkin murphy McAteer O'Hare and Trainor attended the site visit on this application.
- **Item 13 – LA07/2020/0496/F** – only Cllrs, Harte, Larkin, McAteer, McEvoy, O'Hare and Trainor attended the site visit on this application.
- **Item 14 – LA08/2020/0893/F** - only Cllrs Harte, Larkin, McAteer, McEvoy, O'Hare and Trainor attended the site visit on this application.
- **Item 15 – LA07/2021/0498/O** - only Cllrs Hanna, Harte, Larkin, McAteer, McEvoy, O'Hare and Trainor attended the site visit on this application.

MINUTES FOR CONFIRMATION

P/094/2021: MINUTES OF PLANNING COMMITTEE MEETING HELD ON WEDNESDAY 22 SEPTEMBER 2021

Read: Minutes of Planning Committee Meeting held on Wednesday 22 September 2021. **(Copy circulated)**

AGREED: **On the proposal of Councillor McKee seconded by Councillor Hanna it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 22 September 2021 as a true and accurate record.**

FOR DISCUSSION/DECISION

P/095/2021: ADDENDUM LIST

Read: Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 22 September 2021. **(Copy circulated).**

AGREED: **On the proposal of Councillor Devlin, seconded by Councillor Hanna, it was agreed to approve the Officer recommendation in respect of the following applications listed on the addendum list for Wednesday 20 October 2021:**

- Item 20 – LA07/2021/0713/F – Cutting and filing of existing ground levels to create new carpark for 10 carparking spaces with 1.1m high perimeter fence - Lands at 360m SE of 18 Glendesha Road (on Glendesha Rd 445m SSE of junction with Quilly Rd) Mullaghbawn. **APPROVAL**
- Item 21 - LA07/2021/0719/F - New, multi-use, non-bitmac, compacted gravel community trails (Application A - amended site address) - Glendesha Forest (Shanroe Block) 350m SE of No. 18 Glendesha Rd Forkhill Newry. **APPROVAL**
- Item 22 - LA07/2021/0722/F - New, multi-use, non-bitmac, compacted gravel and boardwalk community trails. Application B (revised address) - Glendesha Forest (Shanroe Block) 235m E of No. 21 Glendesha Rd Forkhill Newry. **APPROVAL**
- Item 23 - LA07/2021/0725/F - New multi-use, non-bitmac, compacted gravel community trails. Application C (Revised address) - Glendesha Forest (Shanroe Block) 120m Nor No. 88 Carrive Rd Forkhill Newry. **APPROVAL**
- Item 24 - LA07/2021/0977/F - Multi-use, non-bitmac, compacted gravel community trails application D (amended address) - Glendesha Forest (Shanroe Block) 95m NW of No. 92 Carrive Rd Forkhill Newry. **APPROVAL**
- Item 25 - LA07/2021/0930/F - Cutting and filing of existing ground levels to create an extension to existing car parking area, Car parking area to consist of 19 car parking spaces, cycle racks & 1.1m high perimeter fence - 115m W of No. 33 Old Park Rd Drumaness. **APPROVAL**
- Item 26 - LA07/2021/0933/F - Filing of existing ground level to increase size of existing horsebox parking area. Horsebox parking area to consist of 5 parking spaces and turning area suitable for horseboxes, horse mounting blocks and perimeter fence - 300m NNW of No. 117 Drumnaquoile Rd Ballynahinch. **APPROVAL**
- Item 27 - LA07/2021/1139/F - New, non-bitmac, compacted gravel and stone pitching community trails and boardwalk feature for local walking - Lough Park Ballynahinch. **APPROVAL**
- Item 28 - LA07/2021/1410/F - New, non-bitmac compacted gravel community trails for local walking - Windmill Hill Park Ballynahinch. **APPROVAL**
- Item 31 - LA07/2021/0251/O - Single Dwelling - Site adjacent to 57 Castlewellan Road. **REFUSAL**
- Item 32 - LA07/2021/0507/F - Proposed 4 No.Glamping Pods and Welcome Pod with associated car parking, site works and access - 195m W of No. 198 Lackan Rd Kilcoo Newry. **REFUSAL**

LOCAL DEVELOPMENT PLAN (CLOSED SESSION)

On the proposal of Councillor Hanna, seconded by Councillor Devlin it was agreed to exclude the public and press from the meeting during discussion on the following items:

P/096/2021: **NMD LOCAL TRANSPORT STUDY – PRESENTATION BY DEPARTMENT FOR INFRASTRUCTURE: TRANSPORT**

Mr A Rafferty and Dr. L Barry delivered a presentation on the NMD Local Transport Study.

P/097/2021: **LDP: PLANNING POLICY REVIEW – WASTE MANAGEMENT**

Read: Report dated 20 October 2021 from Mr A McKay, Chief Planning Officer regarding the Local Development Plan – Planning Policy Review - Waste Management. **(copy circulated)**

P/098/2021: LDP: PLANNING POLICY REVIEW – TOURISM

Read: Report dated 20 October 2021 from Mr A McKay, Chief Planning Officer regarding the Local Development Plan – Planning Policy Review - Tourism. **(copy circulated)**

Ms Largey advised Members that in respect of relevant applications where Members had not attended a site inspection, they would not be expressly precluded from taking part in discussions by virtue of a recent High Court decision, but officer advice remained they should not take part in discussions.

Ms Largey also advised the decisions of the Committee would, from today be subject to call-in provisions.

On the proposal of Councillor Devlin seconded by Councillor McKee it was agreed to come out of closed session.

When the Committee came out of closed session, the Chairman advised the following decisions had been agreed:

P/096/2021: NMD LOCAL TRANSPORT STUDY – PRESENTATION BY DEPARTMENT FOR INFRASTRUCTURE: TRANSPORT

AGREED: The content of the presentation was noted.

P/097/2021: LDP: PLANNING POLICY REVIEW – WASTE MANAGEMENT

AGREED: On the proposal of Councillor McKee seconded by Councillor O'Hare the following was agreed:

- To note LDP: Planning Policy Review – Waste Management
- Agree the proposed draft planning policies for inclusion within the draft Plan Strategy, and
- Authorise the Development Plan Team to amend the proposed draft planning policies as necessary (i.e. subject of further consultation engagement, sustainability appraisal, and any change to overarching regional policy) and report back to Members any substantive changes to proposed policy working or direction.

P/098/2021: LDP: PLANNING POLICY REVIEW – TOURISM

AGREED: On the proposal of Councillor Hanna seconded by Councillor O'Hare the following was agreed:

- To note LDP: Planning Policy Review – Tourism
- Agree the proposed draft planning policies for inclusion within the draft Plan Strategy, and
- Authorise the Development Plan Team to amend the proposed draft planning policies as necessary (i.e. subject of further consultation engagement, sustainability

appraisal, and any change to overarching regional policy) and report back to Members any substantive changes to proposed policy wording or direction.

(Break 11.47 – 12.15)

**DEVELOPMENT MANAGEMENT -
PLANNING APPLICATIONS FOR DETERMINATION**

P/099/2021: PLANNING APPLICATIONS (WITH PREVIOUS SITE VISITS)

As per the legal advice given to Members in closed session, Ms Largey advised those Members who had not previously attended site visits or been involved in previous discussions on Planning Applications were no longer exempt from taking part, it would be at Members discretion if they chose to take part, however legal advice still remained to refrain from taking part in any discussion or decision.

(1) LA07/2020/0661/O

Location:

Land opposite and west of Nos 10 -32 Grove Gardens

Proposal:

Housing development

Conclusion and Recommendation from Planning Official:

Approval

Power-point presentation:

Ms A 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:

In line with the updated Operating Protocol no further speaking rights are permitted on this application.

Issues Raised:

- Councillor Hanna raised concerns at the loss of existing parking that would result if the application was granted approval and asked if new parking could be instated.
- Ms McAlarney advised there was potential for parking provision within the red line as demonstrated in her presentation, however she said as the application was outline there was no detail provided of that parking.
- Ms McAlarney said the existing residents did not have dedicated parking spaces, it was on a first come, first served basis and the proposed development would have its own in curtilage parking.

Councillor Hanna proposed to issue a refusal in respect of Planning Application LA/2020/0661/O contrary to officer recommendation on the basis that the proposal would result in a massive impact on on-street parking.

The proposal was not seconded.

Councillor Larkin proposed to issue an approval as per the information and recommendation contained in the Case Officer report presented to Committee. Councillor O'Hare seconded the proposal.

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

FOR:	5
AGAINST:	1
ABSTENTIONS	0

AGREED: On the proposal of Councillor Larkin, seconded by Councillor O'Hare it was agreed to issue an approval in respect of Planning Application LA07/2020/0661/O as per the information and recommendation contained in the Case Officer report presented to Committee.

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

(2) LA07/2020/1797/F

Location:

22 Ballaghbeg Park, Newcastle

Proposal:

Proposed single storey rear extension to dwelling

Conclusion and Recommendation from Planning Official:

Approval

Speaking rights:

In line with the updated Operating Protocol no further speaking rights are permitted on this application.

Barry Hillen, agent, James and Judith Major and Maria Scullion, objectors were in attendance to answer any questions from Members.

Issues Raised:

- Mr McKay advised clarification had been requested from the agent and a drawing had been received which clarified the issue regarding the overhang. He said the objectors had been notified of this and advised if there was any encroachment on neighbouring properties the applicant would be required to serve a notice, this had not been the case and Mr McKay said he was satisfied the proposed development was entirely contained within the boundaries of the property.
- Mr Major considered the plans were inaccurate and had not been addressed by Planning.

Councillor O'Hare proposed to issue an approval as per the information and recommendation contained within the Case Officer report. Councillor Larkin seconded the proposal.

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

FOR: 6
 AGAINST: 0
 ABSTENTIONS: 0

The proposal was declared carried.

AGREED: On the proposal of Councillor O'Hare, seconded by Councillor Larkin it was agreed to issue an approval in respect of Planning Application LA07/2020/1797/F as per the information and recommendation contained within the Case Officer report presented to Committee.

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

(3) LA07/2020/0299/F

Location:

Adjacent to No. 7 Annacloy Road, North Dunnanelly

Proposal:

Single storey 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:

In line with the updated Operating Protocol no further speaking rights are permitted on this application.

Francis Kennedy, agent was in attendance to question any questions from Members.

Issues raised:

- Ms Largey advised the objective test for Members was to determine whether what was on the ground matched the drawings. She said part of a wall could be evidence of commencement as long as it conformed to the approved plans; the advice from DfI Roads and Planning Department was that it did not match the approved plans.
- Mr McKay said a pre-commencement condition was that the access should have been done first. He said the key issue for the Committee was to determine whether development had commenced and having been to the site several times, he considered foundations were not in accordance with the original approved house plan.
- In response to a query from a Member as to whether any other work on the site could be deemed as commencement, Mr McKay replied this was not the case and regardless of the outcome at the Committee Meeting today, he said there were a lot of matters that needed revisiting as none of the work to date related to the approved planning permission.
- Mr Kennedy said Google maps dating from 2008 and 2011 indicated the entrance had been constructed prior to commencement.

- Mr Kennedy said lorries going in and out of the site had resulted in the main entrance being diverted.
- Mr Kennedy said he had measured the site and compared it against the original plans and he considered there to be a strong correlation and, he said it complied with the plans for a distance of 6 metres.
- Ms McAlarney said several site visits had taken place and measurements carried out and she could not see how the foundations that were in place reflected the approved dwelling, irrespective of the access.
- Ms McAlarney said aerial imagery showed evidence of the foundations, however she considered them to be totally different to what was approved.
- Mr McKay said the nearest wall should not be any more than 4 metres from the outbuilding on the site, he said there was no overlap between the current foundations and where the house should be. He said the distance from the corner of the outbuilding and the nearest point of the foundations was approximately 19 – 20 metres and the house should be in the intervening space, so therefore he said there was no overlap.
- Mr Kennedy said he concurred with Mr McKay that the measurement was 19 – 20 metres, but, he said this measurement was the distance from the corner of the outbuilding to the far side, not the near side of the foundations as Mr McKay had said.

Councillor Larkin proposed to issue an approval contrary to Officer recommendation on the basis that having listened to the agent and having visited the site, he considered the 6 metres of foundations that had been approved by Building Control within the timeframe was situated in accordance with the approved plans. He said the boundary was staggered and the evidence produced by the agent indicated that access was in place prior to commencement.

Councillor O'Hare seconded the proposal.

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

FOR:	5
AGAINST:	0
ABSTENTIONS:	1.

The motion was 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 LA07/2020/0299/F contrary to Officer recommendation on the basis that the 6 metres of foundations, approved by Building Control within the timeframe was in accordance with the approved plans, the boundary was staggered and evidence produced indicated access was in place prior to commencement.**

Planning Officers be delegated authority to impose any relevant conditions.

(4) LA07/2021/0498/O

Location:

20 m North of 14 Old Road, Mayobridge

Proposal:

Proposed site for infill dwelling and garage

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Mr Mark Keane, 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:

In line with the updated Operating Protocol no further speaking rights are permitted on this application.

Martin Bailie, agent was in attendance to question any questions from Members.

Councillor Hanna proposed to issue an approval in respect of Planning Application LA07/2021/0498/O contrary to Officer recommendation on the basis that having visited the site, he was satisfied there was continuous frontage and continuous traffic movement around the site.

Councillor O'Hare seconded the proposal.

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

FOR:	6
AGAINST:	0
ABSTENTIONS:	0

The proposal was declared carried.

AGREED:

On the proposal of Councillor Hanna, seconded by Councillor O'Hare it was agreed to issue an approval in respect of Planning Application LA07/2021/0498/O contrary to Officer recommendation on the basis that there was continuous frontage and continuous traffic movement around the site.

Planning Officers be delegated authority to impose any relevant conditions.

(Lunch break – 13.37 – 14.05)

(5) LA07/2020/0496/F

Location:

Approx 105m NE of junction of Bernish Road and Seavers Road.

Proposal:

Consolidation of existing development to form single dwelling

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Mr Pat Rooney, Principal 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:

In line with the updated Operating Protocol no further speaking rights are permitted on this application.

Colin O'Callaghan, agent was in attendance to question any questions from Members.

Noted:

Ms Largey advised the Chair, in the absence of a quorum, he could, at his discretion permit Members who were not previously involved in discussions on this Planning Application or who had not attended the site visit, to take part in the discussion / decision at the Committee Meeting today.

Issues Raised:

- Mr Rooney said the proposed application was located within a designated Special Countryside Area and Area of Outstanding Natural Beauty as designated within the Area Plan and as such, planning permission would only be granted to development proposals that were of national or regional importance or the consolidation of existing development providing it was in character and scale, did not threaten any nature conservation or built heritage interest and could be integrated within the landscape.

Councillor Larkin proposed to issue an approval in respect of Planning Application LA07/2020/0496/0 contrary to Officer recommendation on the basis that following the site visit, he considered there to be existing development on the site and the proposed development would maintain the character and scale of the area, he did not consider the proposed development would threaten the natural heritage and would be integrated within the landscape.

Councillor O'Hare seconded the proposal.

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

FOR:	4
AGAINST:	1
ABSTENTIONS:	0

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 LA07/2020/0496/0 contrary to Officer recommendation on the basis that there was existing development on the site, the proposed development would

maintain the character and scale of the area and it would not threaten the natural heritage of the area.

Planning Officials to be delegated authority to impose any relevant conditions.

Ms Largey advised a quorum had not been present when determining Planning Application LA07/2020/0496/O, and consequently, as per Standing Orders, the decision taken would not be lawful, therefore it would be necessary to either defer Planning Application LA07/2020/0496/O or to re-take the vote to allow Members who were not present at previous discussions to take part.

It was decided to re-take the vote and voting was as follows:

FOR:	6
AGAINST:	1
ABSTENTIONS:	0

The proposal was declared carried.

AGREED: **On the proposal of Councillor Larkin seconded by Councillor O'Hare it was agreed to issue an approval in respect of Planning Application LA07/2020/0496/O contrary to Officer recommendation on the basis that there was existing development on the site, the proposed development would maintain the character and scale of the area and it would not threaten the natural heritage of the area.**

Planning Officials to be delegated authority to impose any relevant conditions.

(6) LA07/2021/0108/F

Location:

50m SW of 31a Ballydrumman Road, Castlewellaan

Proposal:

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:

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

Issues raised:

- Ms McAlarney said if the proposed dwelling were to be re-sited, it would require a new application.

AGREED:

On the proposal of Councillor Hanna, seconded by Councillor McKee, it was unanimously agreed to defer Planning Application LA07/2021/0108/F for a site visit to allow Members to assess the site in more detail.

(7) LA07/2020/0457/F

Location:

Lands at and immediately adjacent to St. Peter's GAA Club lands, Moygannon, Warrenpoint.

Proposal:

Full planning application for construction of practice pitch incorporating goals, ballstops, dugouts, site road, walking track, amenity area, improvements to existing carpark, boundary fencing, two storey pavilion incorporating changing rooms, toilets with meeting rooms over, improvements to existing entrance and visibility splays from Rostrevor Road and alterations and refurbishment of existing changing rooms

Conclusion and Recommendation from Planning Official:

Approval

Power-point presentation:

Mr Mark Keane, 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.

AGREED:

On the proposal of Councillor O'Hare seconded by Councillor McEvoy it was unanimously agreed to issue an approval in respect of Planning Application LA07/2020/0457/F as per the information and recommendation contained within the Case Officer report presented to Committee.

(Recess: 14.43 – 15.09)

(8) LA07/2021/0246/F

Location:

Immediately NW of 102 Tullybrannigan Road, Newcastle

Proposal:

Proposed 2 no. self- contained tourism units.

Conclusion and Recommendation from Planning Official

Refusal

Power-point presentation:

Mr Pat Rooney, Principal 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:

In line with the updated Operating Protocol no further speaking rights were permitted on this application.

Mr Declan Rooney, agent was in attendance to question any questions from Members.

Councillor Hanna proposed to issue a refusal in respect of Planning Application LA07/2021/0246/F as per the information and recommendation contained in the Case Officer report presented to Committee. Councillor Enright seconded the proposal.

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

FOR:	6
AGAINST:	0
ABSTENTIONS:	0

The proposal was declared carried.

AGREED: **On the proposal of Councillor Hanna seconded by Councillor Enright it was agreed to issue a refusal in respect of Planning Application LA07/2021/0246/F as per the information and recommendation contained within the Case Officer report presented to Committee.**

(9) LA07/2021/0734/0

Location:

Approx. 50m SE of 158 Ballylough Road, Castlewellan

Proposal:

Proposed Infill Dwelling and Garage

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:

Mr Declan Rooney, agent and Mr Fintan Forsyth, applicant presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

Issues raised:

- Ms Largey said the agent was correct in his interpretation of the planning legislation in respect of immunity from enforcement, however, she reminded Members the

consistent approach by Council in establishing if a building was immune from enforcement was to request a certificate to demonstrate that.

- The property at No. 158 was in the ownership of the applicant.
- Ms Largey clarified the issue regarding enforcement saying the legal position was that an application for a CLUD would require to be submitted and although there may have been circumstances where the PAC Commissioners deviated from this, the legal test to establish lawful use was to apply for a certificate.

AGREED: **On the proposal of Councillor Hanna seconded by Councillor Murphy, it was unanimously agreed to issue an approval in respect of Planning Application LA07/2021/0734/0 contrary to Officer recommendation on the basis that the application complied with Planning Policy CTY8, there was a continuously built up frontage and the garage on the site was immune from enforcement.**

Planning Officials to be delegated authority to impose any relevant conditions.

(10) LA07/2020/0893/F

Location:

60 metres south of no. 49 Ballsmill Road, Glassdrummond, Crossmaglen

Proposal:

Proposed erection of 2 no. detached rural infill dwelling houses and detached garages ancillary works and additional landscaping

Conclusion and Recommendation from Planning Official:

Approval

Power-point presentation:

Mr Pat Rooney, Principal 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:

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

Issues raised:

- Mr Rooney confirmed that Planning were content the privacy of No. 51 would not be adversely affected by the 2 windows on the gable end of the proposed application.
- Mr Rooney said Planning considered that Nos. 47, 49 and 51 all had road frontage on to the Ballsmill Road, and whilst he acknowledged Nos 49 and 51 had direct access on to the Ballsmill Road, No. 47 also had frontage based on previously approved drawings.
- Councillor McAteer asked if the field to the left had been deemed to be agricultural, would it have had any bearing on the decision taken by Planning. Mr Rooney said Planning had put determining weight on the red line of a previous approval on the site which showed all of the area within the curtilage of the property and he said the field to the left side was within the red line. No. 47 also had access to the Ballsmill Road via a wide driveway and therefore the conclusion by Planning in this case was

to issue an approval, however, Mr Rooney said each application would be dealt with on a case by case basis.

Councillor Larkin proposed to issue an approval in respect of Planning Application LA07/2020/0893/F as per the information and recommendation contained within the report presented to Committee. Councillor O'Hare 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:	0
ABSTENTIONS:	1

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 LA07/2020/0893/F as per the information and recommendation contained within the Officer report presented to Committee.

Planning Officials to be delegated authority to impose any relevant conditions.

(11) LA07/2021/0358/0

Location:

Located approx. 50m SE of No. 91 Maphoner Latbirget Mullaghbawn

Proposal:

Proposed erection of outline rural detached infill dwelling house and detached domestic garage

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Mr Pat Rooney, Principal 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:

Mr Barney McKeivitt, agent presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members

Issues raised:

- Mr McKeivitt said the building that Planning had referred to as unauthorised had been in-situ for over 12 years.
- Mr Rooney said there appeared to be little evidence of usage of the access in conjunction with No. 89. He considered the building did not have frontage on to Smiths Brae and the field had the appearance of an agricultural field and did not appear to be used in conjunction with the building.
- Mr McKeivitt said the access was used frequently. There was a total separation distance from the access and the existing field and the access had been used to

access a boiler business. He said there was no livestock in the field as it was unsuitable for livestock and the area was maintained as part of the building.

- Mr Rooney said the application did not fulfil the necessary criteria to satisfy CTY2A.

AGREED: **On the proposal of Councillor Murphy seconded by Councillor Hanna it was unanimously agreed to defer Planning Application LA07/2021/0358/O for a site visit to allow Members to assess the site in more detail.**

(12) LA07/2021/0020/F

Location:

30m NE of 66 Mearne Road Ballysugagh Downpatrick.

Proposal:

Proposed Barn conversion and extension to dwelling accommodation

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:

Ms Brigin Fegan, architect and Mr Fergus McGrath presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members

Issues raised:

- Mr McGrath considered the building to be of local importance.
- Ms McAlarney said the example of a barn conversion in Killyleagh that Ms Fegan had referred to, could not be compared to the application as they differed in terms of quality, context and situation.
- Ms Fegan referred to a map that indicated the barn had been included on the first ordnance survey map, dating back to the mid-1800s.
- Ms McAlarney said professional judgement was needed in determining if a building was historically important and it was not enough for a building to be old. She said there should be architectural or historical merit to the building and it was important to set a standard for the type of building that would merit conversion.
- Ms Fegan said it was intended to use a core ten roof, which was a new modern material, which, when exposed to rain would turn from a grey colour to a rust colour in keeping with what was already there, also, the external walls would be stripped back to the original stonework.

AGREED: **On the proposal of Councillor Larkin seconded by Councillor Murphy it was unanimously agreed to issue an approval in respect of Planning Application LA07/2021/0020/F contrary to Officer recommendation on the basis that the application complied with policy and the building was locally important.**

Planning Officials to be delegated authority to impose any relevant conditions.

(13) LA07/2021/0515/O

Location:

Adjacent to 9 & 11 Rocks Chapel Road, Downpatrick.

Proposal:

Dwelling and detached garage

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:

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

Councillor W Walker spoke in support of the application.

Issues raised:

- Ms McAlarney said the application failed to meet the requirements of CTY8
- Mr Burgess said he considered the application complied with both CTY8 and CTY2A.
- Councillor Walker said the building was an Orange Hall and there was evidence it was in use and not derelict.
- Ms McAlarney clarified the Case Officer report indicated the hall appeared to be derelict, not that it was derelict.
- Ms McAlarney said Policy CTY2A listed a number of criteria that had to be met, the first of which was a visual test, in that the cluster would have to appear as a visual entity in the local landscape, which Planning considered the application did not.
- Ms McAlarney said it was a matter for the Committee to decide which, if either policy the application complied with, CTY8 or CTY2A.

AGREED:

On the proposal of Councillor Hanna seconded by Councillor Larkin it was unanimously agreed to issue an approval in respect of Planning Application LA07/2021/0515/O contrary to Officer recommendation on the basis that the application complied with both CTY8 and CTY2A in that there were 3 buildings with frontage and the Orange Hall was a focal point.

Planning Officials to be delegated authority to impose any relevant conditions.

FOR NOTING

P/100/2021: HISTORIC ACTION SHEET

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

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

P/101/2021: PLANNING COMMITTEE PERFORMANCE REPORT- SEPTEMBER 2021

Read: Planning Committee Performance Report for September 2021. **(Copy circulated)**

AGREED: It was unanimously agreed to note the Planning Committee Performance Report September 2021.

P/102/2021: CURRENT APPEALS AND DECISIONS -SEPTEMBER 2021

Read: Planning Appeals and Decisions Report for September 2021. **(Copy circulated)**

AGREED: It was unanimously agreed to note the Report on Planning Appeals and Decisions for September 2021.

The meeting concluded at 16.43

For confirmation at the Planning Committee Meeting to be held on Wednesday 17 November 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 20 October 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:

- Item 12 - LA07/2020/0873/F - 118 detached & semi-detached dwellings, pumping station, landscaping and all site works - Lands 100m west of 14-24 Lime Trees and 20m SE of 62 & 64 Lisburn Road Ballynahinch. **APPROVAL**
- Item 13 - LA07/2019/0369/F - Erection of Fun Fair Ferris Wheel - Castle Park to rear of 1 to 11 Central Promenade, Newcastle Co. Down **APPROVAL**
- Item 14 - LA07/2020/1689/F - Overflow asphalt car park (163 car parking space & 13 disabled car parking spaces) accessed via existing Donard Park, car park, erection of 6m high ball stop & 1.8m high paladin fence, new footpaths and associated lighting, landscaping and drainage - Land 120m NW of 5 Donard Park & west of the existing Donard Park car park Newcastle **APPROVAL**
- Item 16 - LA07/2021/0921/F - Filling of existing ground level to convert existing horsebox parking area to carparking area. Carparking area to consist of 31 no carparking spaces, a parking space suitable to accommodate a mobile coffee van trailer, turning area, cycle racks, picnic tables & 1.1m high perimeter fence - 300m South-South East of No 141 Drumnaquoile Road Dromara **APPROVAL**
- Item 22 - LA07/2021/0911/F Conversion of existing agricultural barn to self-contained holiday accommodation 6 Clonduff Road Ballyaughian Hilltown Co. Down BT34 5XF **REFUSAL**
- Item 23 - LA07/2021/1483/F - Proposed new play park - Play Park at Kilmorey Park, Adjacent to and immediately North of 15 Cowan Street Newry BT34 2AR **APPROVAL**
- Item 24 - LA07/2021/1485/F - Proposed new play park - Play park at Annalong Marine Park, 30m East of Community Centre Annalong Glassdrumman Road Annalong BT34 4QL **APPROVAL**

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

Application Reference: LA07/2019/1653/F

Date Received: 13.11.2019

Proposal: 5 No Apartments, Bin store, Car parking and Associated Site Works

Location: Lands to the East of No 5 Ferry Quarter View and Lands to the North East of No 3 Ferry Quarter View Strangford



Site Characteristics & Area Characteristics:

The application site is comprised of 0.43 hectare portion of land positioned to the rear and north-east of the residential development known as Ferryquarter. The site is accessed via the internal road serving Ferryquarter which has an entrance point on the Shore Road. The site is currently vacant from development and is noted to be immediately adjacent an area of communal open space for the existing development. Its topography slopes down in a south to north direction towards the shore.



The immediate character of the area is comprised of residential developments typically comprised of two-storey detached dwellings on mature plots. To the west of the site at Ferryquarter Gardens two-storey terraced dwellings are more typical.

The site is affected by HB18/08/133 - Stella Maris R C Church, Shore Road, Strangford, Downpatrick, Co.Down (Aka St. Mary's Or Star Of The Sea), a Grade B listed building of special architectural or historic interest.

The site is noted to be located within the settlement limit of Strangford. The site lies adjacent but outside the Conservation Area of Strangford as designated in the Ards and Down Area Plan 2015. The site is also located within the Strangford & Lecale AONB.

Site History:

R/2015/0134/F - Lands approximately 100m east of Ferryquarter House Gate Lodge, 12 Shore Road, Strangford - Detached dwelling and garage, car parking, landscaping and associated site works - PERMISSION GRANTED - 17.11.2015

Relevant history within the vicinity of the site

R/2009/0821/F – Lands surrounding Ferry Quarter, 14 Shore Road, Strangford, Co Down – Erection of 10 dwellings, refurbishment of existing gatelodge, new access and ancillary site works. (Amended plans- amended house type location) -PERMISSION GRANTED 26.01.2011

R/2012/0131/F – Lands at Ferry Quarter House, 14 Shore Road, Strangford, BT30 7NL, - Change of house type G to housetype 'G1' from previous approval ref R/2009/0821/F including proposed garage, entrance details and all other associated siteworks, along with revised entrance to site incorporating turning head - PERMISSION GRANTED - 20.07.2012

R/2014/0173/F –Lands surrounding Ferry Quarter Shore Road Strangford - Erection of four detached dwellings with single storey garages carparking landscaping and ancillary development - PERMISSION GRANTED - 08.10.2014

LA07/2018/1626/F – Change of House type under previously approved application R/2014/0173/F to include a minor extension to the gable of dwelling and amendments to elevations - 2 Ferry Quarter View Strangford - PERMISSION GRANTED 05.03.2019

Planning & Material Considerations:

- Regional Development Strategy (RDS)
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- DES 2 PSRNI
- The Ards and Down Area Plan 2015
- Planning Policy Statement 2
- Planning Policy Statement 3
- Planning Policy Statement 6
- Planning Policy Statement 7

- Planning Policy Statement 12

Planning Policy Statement 15

- Creating Places and supplementary guidance.

Consultations:

Northern Ireland Environment Agency (NIEA) – No objections

DfI Roads – No objections

DfC Historic Environment Division (HED) – No objections

DfI Rivers – No objections

Northern Ireland Water (NIW) – No objections

Shared Environmental Services (SES) – No objections

Objections & Representations

The application was advertised in the local press on 27.11.2019

The relevant neighbours were notified of the proposal on 19.11.2019 and again on 12.05.2020 following receipt of amendments.

48 objections have been received from 20 different addresses, along with a petition of objections and 10 letters of support for the proposal.

Summary of Issues Raised in the objections

- Road Safety
- Traffic
- Site History
- Sewage
- Scale of Development
- Environment – nature Conservation & EIA
- Landscaping / Loss of Trees
- Overlooking / loss of privacy
- Impact on community
- Visual impact / Character
- Design
- Amenity and Open Space
- Flooding and Drainage
- Site ownership / Accuracy of plans

The issues raised above will be discussed in the following consideration and assessment.

Consideration and Assessment:

EIA Determination

The proposed development falls outside Category 10 Schedule II Development as contained in The Planning (Environmental Impact Assessment) Regulations (NI) 2017. An EIA determination is not therefore required.

RDS

RG8 of the RDS aims to manage housing growth to achieve sustainable patterns of residential development. The SPPS sets out core planning principles to be employed in the pursuit to achieve sustainable development and aims to support good design and positive place making, while preserving and improving the built and natural environment. Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations.

Ards and Down Area Plan 2015

The ADAP 2015 operates as the current local development plan for this area and identifies the site as being located within the development limits of Strangford.

SPPS

The Strategic Planning Policy Statement for Northern Ireland (SPPS), which sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area, retains certain existing planning policy documents and amongst these are: Planning Policy Statement 7: Quality Residential Environments (PPS 7); and the Addendum to PPS 7: Safeguarding the Character of Established Residential Areas and Planning Policy Statement 12: Creating Places also provides relevant planning guidance.

The SPPS states that the Local Development Plan process is the primary focus for assessing future housing land requirements and managing housing growth to achieve sustainable patterns of residential development, as well as fulfilling other SPPS objectives.

Principle of development

The application site is located within the Settlement Limit of Strangford as designated in the Ards and Down Area Plan (ADAP) 2015. The ADAP policy for development within settlement limits is contained in Policy SETT 1.

Policy SETT 1 of ADAP states that favourable consideration will be given to development proposals within settlement limits including zoned sites, provided that the proposal is sensitive to the size and character of the settlement in terms of scale, form, design and use of materials. This policy therefore provides broad support for the principle of the proposal.

Policy DES 2 of the PSRNI

This policy requires development proposals in towns to make a positive contribution to townscape and be sensitive to the character of the area surrounding the site in terms of design, scale and use of materials.

PPS 7

Policy QD 1 of Planning Policy Statement 7 'Quality Residential Environments' (PPS 7) states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. The design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area. In established residential areas proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas. All proposals will be expected to conform to nine stated criteria.

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

Criterion (a) of Policy QD1 requires that the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, landscaped and hard-surfaced areas. The proposal is for 5 apartments contained within one building.

The character of the surrounding context is typically residential. Dwellings are positioned within an open plan setting, with an un-adopted road serving the dwellings. The dwellings within the development are noted to be of high quality and set within mature plots as shown below.



The proposal seeks approval for one building containing within it 5 apartments. Clearly this is a departure from the existing approved development within Ferryquarter, however, in principle, given the sites location within the settlement limit, it is not precluded.

In assessment of the context of the site, it is noted to be located at the natural end of the development, on a vacant plot which sits below that of the existing development and one which benefits from mature trees.

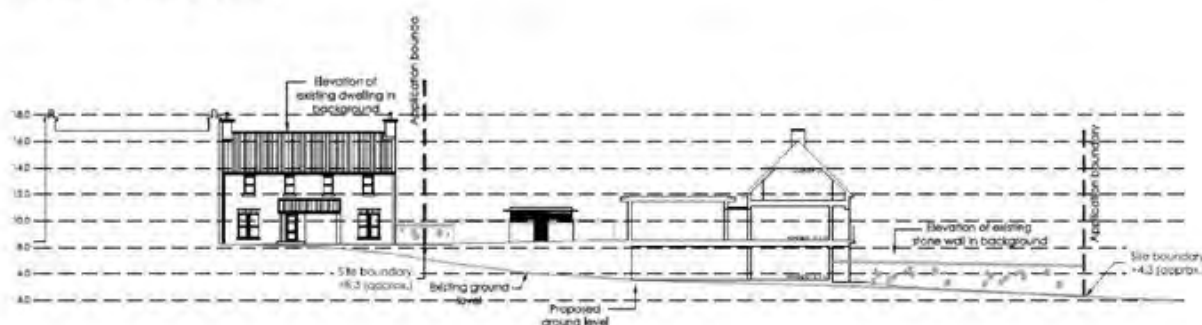


Views of the site are limited to those achieved at its immediate frontage and within the existing development and from longer distances at Shore Road and across the lough at Portaferry.

The proposed layout indicates that the building will be sufficiently separated from existing dwellings via the large parking and amenity to the front of the building.

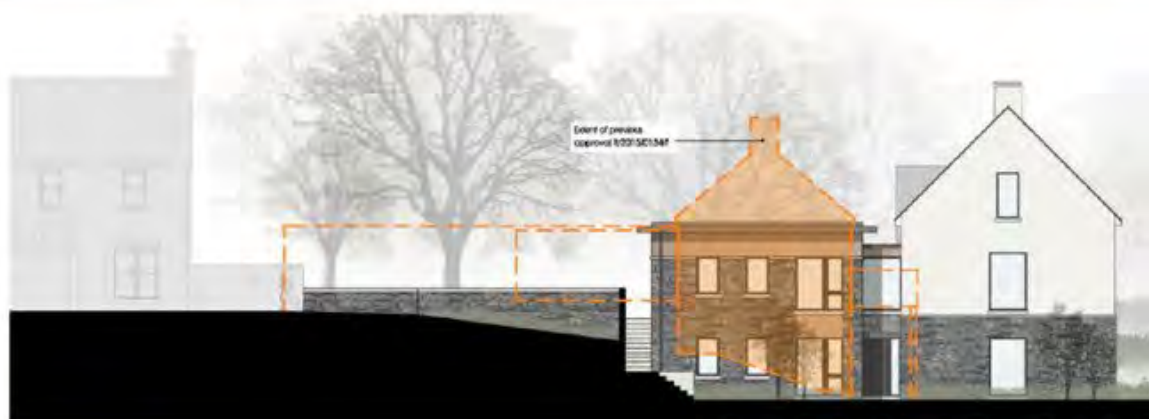
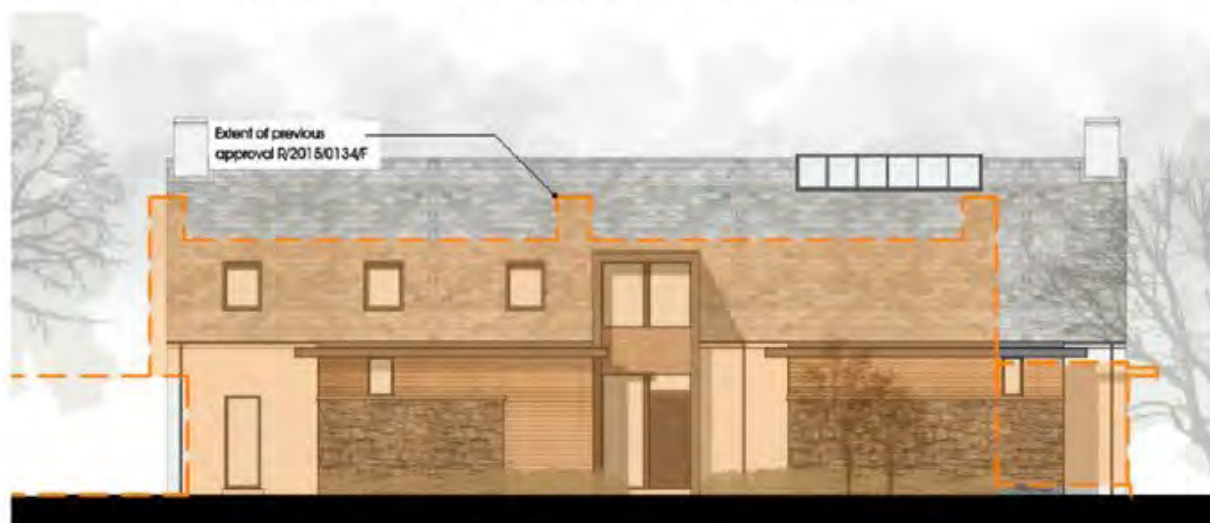


In terms of the topography the proposal will respect the low-lying nature of the development, by setting the development below that of the existing rather than rising the land as can be seen in the section drawing below.



In terms of scale, proportions and massing, the proposed is larger in its footprint and height, than that previously approved on site under planning application R/2015/0134/F. This aspect of the development features highly in the objections raised regarding the proposal, however, the increase in

its size is not considered detrimental to the character or context of the area. The images below show a comparison between the previously approved and that now proposed.



SOUTHERN ELEVATION

Clearly a larger building is now proposed and the massing and proportions have increased from that previously approved, however, an appreciation of this, is considered difficult to achieve from the critical views noted above.

In terms of appearance, the proposed elevation which will present internally to the Ferryquarter development is as shown below.



The apartments will be finished with a replica slate pitched roof, trocal flat roof (grey in colour); aluminium window frames and door frames (grey in colour); stone cladding where shown (brown/grey in colour); smooth render walls where shown (white/off-white in colour); select stone/brick walls where shown (grey in colour); board and batten cladding (larch or similar); precast concrete cills where shown; glass screens to balconies.

The building will have a maximum ridge height of 10.5m above finished ground level. When viewed from within Ferryquarter View, only the first and second floors will be visible from the street i.e. the upper 7.4m of the building. No 5 Ferryquarter View is noted to have a maximum ridge height of 8.4m when measured from the street.

The design of the building, is not a replica of that in the immediate vicinity. The guidance document Creating Places encourages variety in developments, stating in paragraph 3.32 that an even distribution throughout the layout of developers' standard ranges of dwelling designs should be avoided and in paragraph 3.38 that wherever possible a mix of dwellings types should be provided.

When viewed from the lough or indeed Portaferry as the street view image below shows, the development will be integrate into the landscape, given its mature setting.



Overall it is considered that the development respects its surrounding residential context and is appropriate in character layout proportions and massing to the character of the area. Finishes are appropriate the for the area.

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

The application affects HB18/08/133 - Stella Maris R C Church, Shore Road, Strangford, Downpatrick, Co.Down (Aka St. Mary's Or Star Of The Sea), a Grade B listed building of special architectural or historic interest as set out in Section 80 and protected under the Planning Act (NI) 2011.

In assessment of the proposals impact on this feature, the Planning Authority consulted with Historic Environment Division (Historic Buildings) which advised that the proposal complies with SPPS 6.12 (Development proposals impacting on Setting of Listed Buildings) of the Strategic Planning Policy Statement for Northern Ireland (SPPS): Planning for Sustainable Development and BH11 (Development affecting the Setting of a Listed Building) of the Department's Planning Policy Statement 6: Planning, Archaeology and the Built Heritage.

HED (Historic Buildings) noted that the is separated from the listed building and screened by mature planting. They consider the proposal does not represent a demonstrable negative impact on the listed asset.

In consideration of the historic monuments in the area, HED (Historic Monuments) has assessed the application and on the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements. They also advise that the application site has previously been subject to archaeological testing.

In consideration of landscaping. The Planning Authority are aware that there are a number of TPO trees within the vicinity of the site. Objections raised at the outset of this application raised concern regarding the loss of these trees. The application as now assessed, has been amended from that initially submitted and it is noted that all trees within and adjacent the site are to be retained and protected from development.

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

Creating Places advises in paragraph 5.20 that in cases of apartments, private communal open space will be acceptable in the form of landscaped areas, courtyards or roof gardens. These should range from a minimum of 10-30sqm per unit. The appropriate level of provision should be determined by having regard to the particular context of the development.

The proposal provides each of the lower ground and ground floor apartments with a 8sqm private balcony area and the first floor with 2 x 8sqm private balconies all of which will overlook the rear of the site and out to the lough to the east. In addition, the lower ground and ground floor apartments have been provided with small amenity areas on approach to their respective entrances.

All of the apartments could avail of 'Rookery View' a communal viewing and amenity area adjacent the site.

The development has also been provided with a designated area for bins to the front of the building in the car parking area.

It is considered that a good mix of private amenity space has been provided within the scheme and it complies satisfactorily with the guidance set out in 'Creating Places'.

In consideration of landscaping, the plans indicate that the existing wall to the south of the site will be retained as will those existing trees adjacent and within the site – see site layout plan 2888-050-04-06-003 Rev B. Within the development new planting is proposed along the boundaries of the car parking / bin area which will soften its appearance. This area will however, be screened from view by a 1.8m high stone wall with pillars as detailed on Drawing No 2888-050-04-06-004 Rev B.

Details of the proposed planting and indeed how such amenity areas are to be managed and maintained are not currently with the Planning Authority. It seems entirely appropriate therefore to negatively condition the submission of this information before development commences on site.

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

Neighbourhood facilities are not required as part of this development. Development is within the settlement limits of Strangford. Adequate provision has been provided for bin storage and a bin collection point has been provided closer to the entrance of the Ferryquarter development.

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

The development is accessed directly onto the public footpath within the village. Public transport is readily available.

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

Creating Places indicates that 2 bed apartments require 1.5 spaces if unassigned. This development of 5 apartment therefore requires 7.5 spaces. 8 car parking spaces have been provided in a designated area specifically for the residents of this development. This will ensure that residents can conveniently park at their development and not impinge on neighbouring properties. This is particularly important given the open plan nature of Ferryquarter. In addition, residents will be able to adequately surveillance their vehicles from their properties.

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

Those dwellings at Ferryquarter view display a relatively traditional and simple form as shown in photos above. The proposed apartment building is a more modern variation as detailed above.

As discussed above the design of the building is considered to be in keeping with the area and is respectful of the traditional and listed buildings within the immediate vicinity of the site.

SP 18 and DES 2 of PSRNI requires development proposals in towns to make a positive contribution to townscape and be sensitive to the character of the area surrounding the site in terms of design, scale and use of materials. The proposal would meet this aspect of the policy.

(h) the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance; and

The proposal has been assessed against Creating Places: Achieving Quality in Residential Environments. The protection of the privacy of the occupants of residential properties is an important element of the quality of a residential environment and is a key consideration where new development is proposed adjacent to existing properties.

The dwellings closest to the proposal are those at Nos 3 and 5 Ferryquarter View. The proposal is located from these properties (at its nearest point) 31m and 18m respectively. Given these separation distances, the orientation of the existing and proposed, and the amended design, it is considered that the proposal will not have an unacceptable adverse effect on existing properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance.

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

The layout has been designed so as not to lead to an unsafe environment for residents.

The proposed development complies with the requirements of PPS 7 QD1.

PPS7 Addendum – Safeguarding the Character of Established Residential Areas.

Policy LC1 guides that in established residential areas planning permission will only be granted for the redevelopment of existing buildings, or the infilling of vacant sites (including extended garden areas) to accommodate new housing, where all the criteria set out in Policy QD 1 of PPS 7, and all the additional criteria (a) to (c) set out under LC1 are met:

(a) the proposed density while higher than that found in the established residential area is appropriate to its setting in this settlement location

(b) the pattern of development is in keeping with the overall character and environmental quality of the established residential area as discussed under PPS7;

(c) All 5 apartments comprising 2 bedrooms each are to be built in adherence to the details as set out in Annex A.

PPS3 – Access / Movement and Parking

The proposal seeks to utilise the existing access onto Shore Road.

Many of the objections raised the issue of road safety, with a number residents carrying out their own Transport / Traffic assessment of the site.

In assessment of the issue, a lengthy consultation process has been carried out with DfI Roads.

Through the processing of this application, it has been possible for the developer to agree with DfI Roads, the adoption of the first 50m from the entrance point on Shore Road into the development. This aspect of the proposal will provide residents of the entire Ferryquarter development with the benefits which come with road adoption, in particular a bin collection service and issue which is been most concerning for many of the residents.

The concerns raised about the absence of footpaths and speed of traffic travelling though the development have been noted and considered.

DfI have concluded however that the proposal meets PPS3 and DCAN15 requirements, subject to attached conditions. The parking as discussed under PPS7 is acceptable to DOE Parking Standards.

PPS 12 - Housing in Settlements

PPS 12 is not an expression of operational planning policy. Paragraph 2 of PPS 12 says 'Its purpose is to provide strategic direction and guidance in the form of regional planning policy to assist the implementation of the RDS.' Paragraph 6 of PPS 12 says 'This statement should be read in conjunction with the relevant sections of the other prevailing planning policy statements, in particular PPS 7 Quality Residential Developments'.

PPS 2 – Natural Heritage

Policy NH1 of PPS2 - European and Ramsar Sites

The site is approximately 10m from Strangford Lough Special Area of Conservation (SAC), Area of Special Scientific Interest (ASSI), Special Protection Area (SPA) Ramsar site and Marine Nature Reserve (MNR).

In assessment of the above the Planning Authority consulted with Shared Environmental Services (SES).

SES have advised that the potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features of any European site.

Policy NH 2 Species Protected by Law

In assessment of the above, the Planning Authority consulted Northern Ireland Environment Agency : Natural Environment Division (NIEA:NED). NED note that the application site is approximately 0.24 hectares in size and comprises part of an amenity grassland area with hedgerows and mature trees.

The surrounding area is noted to contain substantial areas of woodland and gorse scrub with agricultural fields with hedgerows to the south. The important coastal habitats of Strangford Lough lie immediately adjacent to the east of the site. NIEA:NED consider however that the site, has limited biodiversity value as it consists of non-native hedgerows and trees, including mature or semi-mature beech trees, other immature trees, semi-improved and amenity grassland.

The Ecological Statement states that no NI priority habitats are located within the application boundaries.

The site is approximately 10m from Strangford Lough Special Area of Conservation (SAC), Area of Special Scientific Interest (ASSI), Special Protection Area (SPA) Ramsar site and Marine Nature Reserve at its closest point and there is some potential for pollution from the development reaching the designated sites. However, NED notes that foul sewage from the development will be disposed of via the mains network and providing all construction works follow the appropriate guidelines for pollution prevention NED considers there are unlikely to be any significant effects on the designated sites from polluted run-off. NED also considers that any additional disturbance to the designated sites' features, such as breeding and wintering birds, is likely to be negligible.

NED notes that Letters of Representation raising concerns about otter on the site, they note that the Ecological Statement records that no sites of refuge or field evidence of the presence of protected mammals was found and consider that while otters may be using the surrounding area for foraging and commuting it is very unlikely that otter holts or resting places occur close to the site.

All trees on site are proposed to be retained. NED is satisfied that bats are therefore unlikely to be impacted by the proposal.

Light spill from the proposal may have an adverse impact on otters and bats using the site and surrounding area for foraging and commuting. If external lighting is proposed for the site NED recommends that an appropriate wildlife friendly Lighting Plan is submitted to the Council for agreement. NED also recommends that during construction, no site operations should be undertaken during the hours of darkness. This will ensure that the area remains viable for commuting and foraging otters and bats.

On the basis of the above assessment, it is considered therefore that the proposal would not have a negative impact on any natural heritage and therefore complies with policies NH 1-5 of PPS 2.

Given the sites location within the AONB, Policy NH 6 of PPS 2 is applicable which states that;

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

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

Based on the assessment above, considering the context, siting, design and landscaping of the proposal, it is considered that it complies satisfactorily with the requirements of Policy NH 6.

PPS 6

As detailed in criteria B of Policy QD1 of PPS 7, the impact of the proposal of historic buildings and monuments has been assessed in full. Both HED Buildings and Monuments have advised the planning authority that the proposal complies satisfactorily with the requirements of the SPPS and PPS 6.

The site is affected by LLPA 1 Church, Rectory, The Lodge and associated grounds as identified in the Ards and Down Area Plan 2015. This area has been designated due to the following

- Prominent listed Stella Maris RC Church and surroundings on southern coastal edge of Strangford which are visually significant in views of from the Lough and Ards Peninsula and a good entrance feature into the village
- Substantial locally important dwelling "The Lodge" and its landscaped surroundings containing a series of associated dwellings within distinctive character – The Watch House and a small gate lodge
- Considerable amount of woodland within the original grounds of The Lodge and new plantations to the south; and
- Important mature trees within attractive walled grounds surrounding rectory on opposite side of the road

In light of the context of the site, its position within an existing residential development which has been constructed in recent times, along with the site history of this specific site and the comments from Historic Environment Division, it is considered that this proposal would not have a detrimental impact on the LLPA. Development has been previously approved on site and the proposal is considered to be sufficiently removed from the church not to represent a demonstrable negative impact on this listed asset.

PPS 15

In assessment of the proposal against the above policy, the Planning Authority consulted with DfI Rivers to ascertain any potential flood risk to the proposed dwelling or surrounding area.

DfI Rivers have advised the Planning Authority that policies FLD 1 and 3 are applicable to this site which deal with Development in Fluvial and coastal Flood Plains and Development and Surface Water respectively.

In consideration of FLD 1 DfI Rivers have indicated that The Flood Hazard Map (NI) indicates that the development does not lie within the 1 in 100 year fluvial flood plain but is in close proximity to the 1 in 200 year coastal flood plain which has a level of 3.71mOD at this location. DfI Rivers recommend that any new development be allowed an additional freeboard of 600mm. In assessment of the plans it is noted on the site section drawing 2888-050-04-06-005 Rev B that the site boundary has a level of +4.3m. the site is noted to slope further upwards and therefore the proposed building will sit above the recommended freeboard of 4.31m

In assessment of FLD3 - Development and Surface Water - DfI Rivers has reviewed the submitted Drainage Assessment and while not being responsible for the preparation of the Drainage Assessment accepts its logic and has no reason to disagree with its conclusions.

On this basis therefore, it is considered that the proposal complies satisfactorily with the requirements of PPS 15.

PPS 11

Northern Ireland Water (NIW) has advised the Planning Authority that the site is also located within a development consultation zone in proximity to the WwTW and there is a possibility of nuisance from odour and / or noise.

Policy WM 5 of PPS 11 states that proposals involving the development of land in the vicinity of existing or approved waste management facilities and waste water treatment works (WWTWs), will only be permitted where all the following criteria are met:

- it will not prejudice or unduly restrict activities permitted to be carried out within the waste management facility; and
- it will not give rise to unacceptable adverse impacts in terms of people, transportation systems or the environment.

It is noted that the WwTWs is located 150m from the site with intervening development between it and the site. In addition, the site has been previously approved for development under R/2015/0134/F. It is noted that neither NIEA nor SES raised any issues regarding the sites proximity to the treatment works.

Given the context of the site and the length of time the application has been with the Planning Authority, NIW have agreed to set this issue aside. This does not however set a precedent for future applications and any new application would be required to carry out an odour impact assessment.

Other Matters

Objectors have questioned the ability of the sewage network to cope with the development. In assessment of this NIW have advised the Planning Authority that the receiving Wastewater Treatment Works at Shore Road has available capacity for this development. NIW also advised that the public

water, foul sewer and surface water sewer are within 20m of the site. The developer is advised to liaise with NIW to agree connection to these networks.

Objections have been raised regarding the impact of the proposal on the local community. While it is acknowledged that an additional 5 units in this development is opposed by many of the residents of Ferryquarter, it is considered that given the amendments made to the layout and design of the proposal, along with the provision of a bin collection point and adoption of the first 50m of the entrance road to the development, that many of their concerns, particularly regarding road safety have been alleviated. It is considered that the assessment above, addresses those concerns relating to the impact of the proposal on their privacy / amenity, the natural heritage of the area and the concerns regarding flooding / drainage. All statutory consultees have responded positively to the proposed development.

The approval of this scheme will undoubtedly result in a change for those residents living close to the site, however, it is considered that the building now proposed, albeit containing more units than the single dwelling previously approved, would not have significant detrimental impact on them.

The issue of site ownership and accuracy of the plans, has been addressed by the applicant, with the submission of revised plans, omitting any previously included land which was outside the applicants control.

Summary

On balance and taking into account the objection letters it is concluded that the proposal would not cause demonstrable harm to interests of acknowledged importance and is acceptable to prevailing policy requirements, subject to the attached conditions below being met.

Recommendation: APPROVAL

Drawings

The drawings considered as part of this assessment are as follows

- Location Plan 2888-050-04-06-001 LP Rev E
- Site Survey 2888-050-04-06-002 Rev B
- Site Layout 2888-050-04-06-003 Rev B
- Comparison Drawing 2888-010-10-01-006 Rev L
- Elevations & Floorplans 2888-010-10-01-001 Rev L
- Elevations 2888-010-10-01-002 Rev L
- Boundary Treatment 2888-050-04-06-004 Rev B
- Site Sections 2888-050-04-06-005 Rev B
- Bin Storage 2888-050-04-06-008 Rev D
- Private Streets Determination C1001 Rev B

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: 2888-050-04-06-001 LP Rev E, 2888-050-04-06-002 Rev B, Site Layout 2888-050-04-06-003 Rev B, 2888-010-10-01-006 Rev L, 2888-010-10-01-001 Rev L, 2888-010-10-01-002 Rev L, 2888-050-04-06-004 Rev B, 2888-050-04-06-005 Rev B, 2888-050-04-06-008 Rev D, C1001 Rev B

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

3. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

The Department hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. C1001 Rev B bearing the date stamp 21 May 2021

Reason: To ensure there is a safe and convenient road system within the development and to comply with the provisions of the Private Streets (Northern Ireland) Order 1980.

4. No unit shall be occupied until that part of the service road which provides access to it has been constructed to base course; the final wearing course shall be applied on the completion of the development.

Reason: To ensure the orderly development of the site and the road works necessary to provide satisfactory access to each dwelling

5. No unit shall be occupied until provision has been made and permanently retained within the curtilage of the site for the parking of private cars at the rate of 2 spaces per unit. The parking spaces shall be available for vehicle parking at all times thereafter.

Reason: To ensure adequate (in-curtilage) parking in the interests of road safety and the convenience of road users.

6. The development hereby permitted shall not be commenced until a Street Lighting scheme design has been submitted to and approved by the DfI Roads Street Lighting Section. The approved Street Lighting scheme, including the provision of all plant and materials and installation of same, will be implemented as directed by the DfI Roads Street Lighting Section. (These works will be carried out entirely at the developer's expense)

Reason: To ensure the provision of a satisfactory street lighting system, for road safety and convenience of traffic and pedestrians

7. Prior to the commencement of any of the approved development on site, a final drainage assessment, containing a detailed drainage network design and compliant with Annex D of PPS 15 must be submitted to the Planning Authority for its consideration and approval. Development shall take place in accordance with the approved details.

Reason – To safeguard against flood risk to the development and elsewhere.

8. No works, including vegetation clearance, shall take place between the 1st of March and 31st of August inclusive, unless a suitably competent and experienced ecologist has undertaken a detailed check for active bird's nests in the hedgerows and trees, immediately before works commence and provided written confirmation that no nests are present/birds will be harmed and there are appropriate measures in place to protect nesting birds. Any such

written confirmation shall be submitted to the Planning Authority within 6 weeks of works commencing.

Reason: To protect breeding birds.

9. There shall be no works carried out during the hours of darkness (between sunset and sunrise).

Reason: To protect bats and otters foraging at sunrise and sunset in areas near the site.

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

Reason: In the interests of visual amenity

11. No unit hereby permitted shall be occupied until a scheme of foul and surface water drainage works on-site and off-site have been implemented in accordance with details first submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be retained thereafter.

Reason: In the interest of public health and to safeguard the site and adjacent land against flooding and standing water.

12. Prior to the commencement of development, the developer shall submit to the Council for approval a landscape management and maintenance plan. The plan shall show all existing trees shown on Drawing Number 2888-050-04-06-003 rev B, as being retained and protected by appropriate fencing in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction – Recommendations.

The plan shall provide details of the location, numbers, species and sizes of trees and shrubs to be planted within the site and set out the period of the plan, long term objectives, management responsibilities, performance measures and maintenance schedules for all areas of landscaping and open space.

The scheme of planting as finally approved shall be carried out during the first planting season after the development is occupied and the landscape management plan shall be carried out as approved.

No retained tree shall be cut down, uprooted or destroyed, or have its roots damaged within the crown spread nor shall arboricultural work or tree surgery take place on any retained tree other than in accordance with the approved plans and particulars, without the written approval of 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.

13. 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.

Case Officer: C Cooney

Date: 07.10.2021

Authorised Officer: A.McAlarney

Date: 11 October 2021

LA07/2019/1653/F

5 No Apartments, Bin store, Car parking and Associated Site Works - Lands to the East of No 5 Ferry Quarter View and Lands to the North East of No 3 Ferry Quarter View, Strangford.

ITEM 8

Representation to the Planning Committee, by Nick Laird on behalf of the residents within Ferry Quarter View.

As part of my representation I would be obliged if you could add the attached slide to the Planning Committee presentation pack.

I have four areas that as the resident of Ferry Quarter View I would wish to highlight as material considerations on behalf of those living closest to the proposed planning application site:

- **Point 1:** Developer engagement with Ferry Quarter Residents. Only one engagement has occurred with representatives of the Developer over the past 2 years (Feb 2020), at which no executive from the Developer was in attendance. The residents highlighted various issues including density, privacy, protected trees, bin provision, parking associated with additional vehicles and impact on turning area, errors to extant communal area boundaries and the proposal to build a 7ft wall through a private garden. The residents also raised the issue of past non-compliance of the developer to follow previous planning approval and the subsequent requesting of retrospective planning permission on the site. Despite pointing out these concerns the subsequent and revised design still had numerous errors. The latest iteration in the planning application still has errors to the allocation of communal areas and an encroachment of other communal space within the Ferry Quarter development. It is the view of all residents that the design and scale of the proposed planning application is not in keeping with the character of Ferry Quarter and is a design that one would expect to see in a large city landscape urban area. To that end, I do not see how a recommendation has been concluded that states 'broad support for the principle of the proposal.....the proposal is sensitive to the size and character of the settlement in terms of scale, form, design and use of materials'. Whilst the Planning Officer report also states a proposed solution to a bin collection area by the developer, the report fails to note that an additional 5 flats would result in another 10 bins (every other week) for collection and a resulting extension to a central collection point that would breach an existing communal area and potentially protected trees.
- **Point 2:** Access. The access road into Ferry Quarter View is narrow and without pavements. All the houses in the Ferry Quarter View are oil fire centrally heated. Due to the restrictions on the road, only small specialized oil tankers can provide re-supply. With the inevitable car parking overspill into the turning area at the end of Ferry Quarter View this will have an impact on vehicle turning and access. In addition, emergency vehicles will also be restricted. Noting that the average dimensions of a UK fire appliance are 10.5m x 2.3m, then this will represent a further compromise to safety on the development. Delivery vehicles of a similar size already cannot negotiate the sharp turn into Ferry Quarter View when delivering such items at furniture/white goods and therefore emergency services already face such restrictions on access. Whilst the Planning Report notes a 1.5 car allocation per flat, in reality the majority of residences in the development have 2 cars per household and therefore realism has to be applied. Ultimately, the turning area will become a de facto car parking overspill to the proposed block of 5 flats.

- **Point 3: Privacy.** Whilst the developer has stated that balconies on the planning application will only be to the front of the building, shore facing and on the eastern side, I am still concerned as to my right of privacy (5 Ferry quarter View). Firstly, with the likelihood that the car turning area will become an overspill for parking, cars will be parked just over circa 2 meters from my front lounge window. In addition, and unless all windows on the left hand side of the proposed block of flats are bathroom/frosted windows, which is unlikely, then there will be clear sight from said windows into my master bedroom, lounge, kitchen and dining room. This is unacceptable.

- **Point 4: Impact on the Ferry Quarter Development and Residents.** The last 2 years has had a significant and detrimental impact on all the residents of Ferry Quarter. This has been highly distressful and harmful to the mental health and well-being of the residents who are a tight knit community that continues to take a full and active role in the community, the Strangford Village Association and wider village life. The demographic of Ferry Quarter is not transitional in nature. Most residents see Ferry Quarter as their last home to either see out the latter part of their professional careers as they transition into retirement, or as a final home. Indeed, one of the attractions of the development was the setting and the Developer's commitment to beautifully crafted individual homes (see attached slide – Development Brochure). For those individuals that have purchased a house in Ferry Quarter View it was well understood that a further final single dwelling was to be built (highlighted in Tony's representation as a further increase in density to the original planning application); however, having consulted my close neighbours residents would not have purchased their respective homes if they had been aware that a block of flats were to be built at the end of the cul de sac. It has also been particularly distressful to be confronted with the possibility that a block of flats may now be built next to our homes with all the various impacts such a multiple dwelling will have on the character of the development and importantly the other Ferry Quarter residents. It is a fair reflection that the 48 letters of objection to the planning application are all heart felt, have raised numerous issues over the past 2 years as the application has been amended, and have been made in good conscious out of genuine concerns. Finally, for the planning officer to state that 'those living close to the site would not have significant detrimental impact on them' is in essence very difficult to comprehend and has left many residents highly distressed that our collective concerns have not been adequately addressed nor fully appraised or understood. Ferry Quarter is a beautiful place to live, the proposed planning application will not enhance the development nor is sympathetic to its character and ambiance, just the opposite.

- In sum, I view the detail above as material considerations – not in line with the development plan, the proposal does not fit in with its surroundings, there will be an effect on parking, traffic and safety and finally there will be an impact on privacy for adjoining properties in the development.

It is against this background that we would seek a deferral on a decision with respect to this planning application until the Planning Committee have had an opportunity to visit the site.

Nick Laird CBE



Application Reference: LA07/2019/1134/O

Date Received: 23rd July 2019

Proposal: Replacement dwelling and garage

Location: 90 Manse Road, Darraghcross, Crossgar

Site Characteristics and Area Characteristics:

The application site comprises a portion of a larger agricultural field which contains an old dwelling. There is an agricultural access serving this field and there are some trees forming a hedge along the eastern side boundary of the site. The site sits opposite Darraghcross GAC and just outside the village of Darraghcross.

The site is located in the countryside as defined in the Ards and Down Area Plan 2015. The surrounding area is mainly rural, made up of largely agricultural land with a number of dwellings fronting the road.

Site History:

R/2005/0804/O - 88 & 90 Manse Road, Darragh Cross, Crossgar.

Change of use from former buildings to dwelling.

Appeal Allowed

Planning Policies and Material Considerations:

The application is considered against the Ards and Down Area Plan 2015 and in addition to this is also considered against the guidance set out in Policies CTY1, CTY13 and

CTY14 of PPS 21: Sustainable Development in the Countryside, PPS3: Access, Movement and Parking, and SPPS.

Consultations:

DFI Roads – no objections

NI Water – no objections

NIEA – NED has concerns with this proposal and considers that in the absence of further information, the proposal would be contrary to the Habitats Regulations, Planning Policy Statement 2: Natural Heritage and the Strategic Planning Policy Statement for Northern Ireland in that the development would be likely to harm bats and insufficient information has been submitted to establish otherwise.

Objections & Representations:

The application was advertised in the local press on 7th August 2019 which expired on 21st August 2019 and neighbour notification was issued on 31st July 2019 and expired on 13th August 2019.

To date there have been no representations received in relation to the application.

Consideration and Assessment:

SPPS

The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area. Paragraph 1.12 states that any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS. However, it is added that where the SPPS is silent or less prescriptive on a particular planning policy matter than retained policies this should not be judged to lessen the weight to be afforded to the retained policy. The SPPS retains certain existing planning policy statements and amongst these is Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21). 'Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside' is also retained and provides relevant planning guidance.

Policy CTY 1 of PPS 21 sets out a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. A number of instances when planning permission will be granted for a single dwelling are outlined.

Planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. CTY 3 favours the retention of non-listed vernacular dwellings in the countryside, if the dwelling makes an important contribution to the heritage, appearance or character of the locality.

Following site inspection, Officers consider that the building to be replaced makes a positive impact upon the surrounding area, and it constitutes a vernacular rural building. Annex 2 (Vernacular Buildings) of PPS21 highlights that rural vernacular houses may be recognised as such by meeting most of the primary characteristics and some of the secondary characteristics listed within Annex 2. The dwelling meets a number of both the primary and secondary characteristics, some of which are: Linear plan, limited depth of house, walls of mass load – bearing materials, openings predominantly on the front and back long walls, openings lack symmetry. As such, it is considered that the dwelling is a vernacular rural dwelling. Given its setback from the road and the incline in the field, the building is highly visible in views both ways along the Manse Road. It is therefore considered that the building makes an important contribution to the heritage, appearance and character of the locality and its loss would be detrimental.

In terms of road access, DFI Roads are satisfied with the proposed development subject to compliance with a condition stating that visibility splays will be in accordance with the attached RS1 form.

PPS2: Natural Heritage

Policy NH 2: Species Protected by Law, states that Planning permission will only be granted for a development proposal that is not likely to harm a European protected species. In exceptional circumstances a development proposal that is likely to harm these species may only be permitted where:-

- there are no alternative solutions; and
- it is required for imperative reasons of overriding public interest; and
- there is no detriment to the maintenance of the population of the species at a favourable conservation status; and
- compensatory measures are agreed and fully secured.

Planning permission will only be granted for a development proposal that is not likely to harm any other statutorily protected species and which can be adequately mitigated or compensated against.

Development proposals are required to be sensitive to all protected species, and sited and designed to protect them, their habitats and prevent deterioration and destruction of their breeding sites or resting places. Seasonal factors will also be taken into account.

Owing to the age and setting of the old building and its location adjacent to mature hedging and trees, it was considered necessary to seek a Preliminary Ecological Assessment (PEA) of the site as the building and surrounding vegetation was considered to have bat roost potential. Natural Environment Division were consulted on receipt of the PEA. They have responded stating that due to the low bat roost potential of the building to be replaced, NED require a full emergence/re-entry survey as per the BCT Guidelines.

The proposed development is not acceptable in principle therefore it was not considered necessary to put the applicant to the added expense of commissioning this full emergence/re-entry survey sought by NIEA.

As such, given that the building to be replaced is considered to be vernacular, its loss would be detrimental to the wider area, refusal is recommended.

Officers recommend that a new application be lodged to alter and extend this building to the rear, to enable it to be used as a dwelling, while maintaining the vernacular appearance.

Recommendation:

Refusal is recommended

Refusal Reasons:

1. The proposal is contrary to the SPPS and Policy CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building to be replaced constitutes a vernacular rural building, the loss of which would be detrimental to the heritage, appearance and character of the locality.
2. The proposal fails to comply with the SPPS and PPS2, Policy NH2: Species protected by Law in that it has not been demonstrated that the proposal will not have an unacceptable adverse impact on Protected Species, due to insufficient information being provided.

Informatives:

The drawing number to which this decision relates is: LA07/2019/1134/O 01.

Case officer:**Authorised by:****Date:**



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2019/1134/O

Date Received: 23rd July 2019

Proposal: Replacement dwelling and garage

Location: 90 Manse Road, Darraghcross, Crossgar

Addendum Post Deferral

This planning application initially appeared at committee on 11th March 2020 however was deferred for a site visit which took place on 7th August 2020. Before returning to committee it was necessary to satisfy the request for a full emergence/re-entry bat survey by NIEA.

The agent has provided the required ecological information which NIEA were consulted on. NIEA have since come back raising no ecological concerns to the proposal. As such, the second reason for refusal can be removed from the recommendation. However, officer's recommendation to refuse still stands on the basis that the building to be replaced is considered to be a vernacular rural building which should be retained.

Recommendation:

Refusal is recommended

Refusal Reason:

1. The proposal is contrary to the SPPS and Policy CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building to be replaced constitutes a vernacular rural building, the loss of which would be detrimental to the heritage, appearance and character of the locality.

Case officer:	Jane McMullan
Authorised by:	A.McAlarney
Date:	27 September 2021



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2020/0653/O

Date Received: 28/05/2020

Proposal: Dwelling and garage

Location: Approx. 40m South west of 11 St. Patrick's Circle, Saul, Downpatrick



Site Characteristics and Area Characteristics:

The application site comprises a regularly shaped plot which sits to the south east of no. 11 St Patrick's circle which is a small cul-de-sac. Between the proposed site and the cul-de-sac is a large concrete septic tank. The land to the south of the site is open field which decreases in level before rising again. The proposed stretch of land where the access route would be runs along the back of the western side of the cul-de-sac

and is on higher land than their rear gardens. The land level decreases down towards the Mearne Road.

Part of the site is located within the settlement of Saul and also lies within the AONB. The portion of the site comprising the proposed access is outside the settlement limit of Saul and therefore lies in the countryside.

Site History

No recent or relevant planning history

Planning Policies and Material Considerations:

The application is considered against the Ards and Down Area Plan 2015 and in addition to this is also considered against:

SPPS

PPS3: Access, Movement and Parking,

PPS7: Quality Residential Environments,

Addendum to PPS 7: Safeguarding the Character of Established Residential Areas.

DCAN 8: Housing in Existing Urban Areas.

Consultations:

DFI Roads - DFI Roads offer no objections in principle to this proposal subject to compliance with RS1 form.

NI Water – generic response

Environmental Health –

Environmental Health have no objection in principal to this application but note that this application is sited adjacent to an existing septic tank. There is no information to advise if this septic tank is operational, if it is the application site may have an impact on any soakaway coming from the tank during the development of the site as disruption of any existing soakaway will have an adverse impact on the proposed development and on the adjoining residential properties. The applicant should be asked to provide information as to how they intend to protect the soakaway during and after the construction is complete, should planning permission be granted.

Objections & Representations:

The application was advertised in the local press on 10/06/2020 which expired on 24/06/2020 and neighbour notification issued on 29/05/2020 expired on 12/06/2020. An additional neighbour was identified and notified on 16/06/2020 which expired on 30/06/2020. To date there have been 6 representations received from 4 addresses,

Objection is raised on the following grounds:

- Access road would run along the rear of a number of properties on a high level – would result in a loss of privacy to rear windows of properties
- The proposed access onto Mearne Road would be unsafe.
- Works could damage the adjacent septic tank or soakaways which are already in poor working order and working at maximum capacity
- This field is the only remaining green space in the hamlet
- It would make more sense for the proposed dwelling to extend off the existing access rather than creating a new access.
- The proposed dwelling is in the settlement of Saul, but the access proposed is outside the settlement and would therefore be in contravention of planning policy
- The proposed dwelling would sit directly in front of my lounge windows and would reduce my light. I would ask that any dwelling approved would be no more than single storey.

Consideration and Assessment:

Outline permission is sought for the erection of a dwelling and garage. The proposed dwelling would sit some 40m to the SW of no. 11 St. Patrick's Circle, where the septic tank would sit between the two. The access serving this property would run along the back of the gardens of no's 11-1 (odd numbers) St. Patrick's Circle, on a significantly higher level before decreasing in level down to join Mearne Road.

proposed site From St. Patrick's Circle



View to proposed access onto Mearne Road



View over site with no. 41 Mearne Road beyond.



proposed access route viewed from Mearne Road



The application site lies within the settlement of Saul, however the access for the site would lie outside the settlement limits. As this application site straddles both the settlement limit and countryside, the proposal will be assessed under a range of policies as stated below.

PPS7: Quality Residential Environments

The footprint of the dwelling will be sited within the settlement limits of Saul and as such will be assessed under Policy QD 1 - Quality in New Residential Development, of PPS 7.

Policy QD 1 7 asserts that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. It further states that the design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area. Finally, the proposed development must respect the surrounding context and should be appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance.

The proposed dwelling and garage would sit to the SW of the Cul-de-sac - St. Patrick's Circle, separated by a portion of field occupied by the concrete septic tank. While this is an outline application only, lacking any detail, officers consider that the size of the proposed site would be in keeping with the surrounding plot sizes. Following a site inspection, it was noted that the prevailing house type in the wider area is chalet bungalow, aside from the cul-de-sac itself which contains terraced two storey dwellings. Officers do note however that it is not typical for single dwellings in the surrounding area to be so set back from the road, or to be served by a private access lane.

The footprint of the house and garage would be on a lower level than the the dwellings on St Patrick's circle and while the proposed siting would not be highly visible from Mearne Road given that it would be screened by the development in the Cul-de-sac, the site would be highly visible in views from Slievegrane Road to the SW of the site which is the most critical viewpoint of the site. from this view, the dwelling would sit well into the field with an extensive driveway serving it.

It is considered the dwelling proposed dwelling could have sufficient garden and private amenity space, similar to the immediate area. There would be sufficient separation distance between the proposed dwelling and the existing surrounding, to ensure there would not be harm on these occupiers by way of overbearing impact, loss of light, outlook or privacy. While no plans have been submitted to show the proposed style of dwelling or window placements, officers consider that a chalet bungalow house style would be visually acceptable within the character of the area and surrounding style of dwelling.

There would not be any harmful impact upon features of the natural environment. The whole site is part of a larger field and there would not be any need to clear away trees or vegetation to facilitate the creation of the site.

PPS12: Housing in Settlements

Planning Control Principle 2: Good Design requires all new housing developments to demonstrate a high quality of design, layout and landscaping.

As discussed above this application is for outline permission only and as such no details have been submitted however high-quality design layout and landscaping would all be sought at RM stage.

PPS 21 - Sustainable Development in the Countryside

Planning Policy Statement restricts new development in the countryside. The proposed access must be assessed under the provisions of CTY 1, CTY 13, CTY 14 and CTY 15 given that it is located outside the settlement limit of Saul.

CTY 1 restricts development in the Countryside. As the proposal is for a residential dwelling, the access arrangements are considered ancillary to residential development. CTY 1 states that there are a range of other types of non-residential development that may be acceptable in principle in the countryside, e.g. certain utilities or telecommunications development. However, in the case with this application, the planning department conclude that the access arrangements are ancillary to the dwelling, therefore must be considered a residential development.

The proposed access serving the dwelling would rise up to run along the rear of St Patrick's Circle before lowering in level and joining Mearne Road. Officers do not see reason for there to be a separate access serving the dwelling especially considering the presence of an access which serves St Patrick's Circle which could presumably be extended to serve this property without need for development outside of the settlement limit. Officers therefore consider that there is no clear overriding reason why this development is essential in this rural location and could not be located within the settlement. The proposal is considered contrary to CTY 1.

Policy CTY 13 - Integration and Design of Buildings in the Countryside, requires a new building in the countryside to be able to be integrated visually within the landscape in which it is set. The department considers that proposed ancillary works namely the driveway (100m long) fails to integrate with its surroundings, given that it would be on a higher land level and therefore evident when travelling along Mearne Road, is considered contrary to CTY 13. It combined with the dwelling would also be highly visible in views from Slievegrane Road to the southwest of the site.

Policy CTY14 requires that buildings in the countryside do not cause a detrimental change to or further erode the rural character of the area. The proposal must respect the traditional pattern of settlement exhibited in that area. The department is concerned with the proposed length of the driveway (100m) which is significantly longer than the setbacks of neighbouring dwellings (outside settlement limit). Furthermore, the impact of ancillary works, will damage the rural character. The proposal fails to respect the traditional pattern of settlement exhibited in that area and will damage the rural character, as such, is contrary to CTY 14.

Policy CTY 15 states that permission will be refused for development that mars the distinction between a settlement and the surrounding countryside or that otherwise results in urban sprawl. As the proposal straddles across both the settlement limit and countryside, when travelling along Mearne Road, the development mars the

distinction between a settlement and the surrounding countryside and is therefore contrary to the aims of CTY 15.

PPS 2 - Natural Heritage

As this site is located within a designated Area of Outstanding Natural Beauty (AONB) Policy NH 6- requires that the siting and scale of new development within a designated AONB must be sympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality. Given the length of the proposed driveway, the scale is considered un-sympathetic to the particular locality.

PPS 3 - Access, Movement and Parking

DFI Roads were consulted, responding with no objections to this proposal, subject to the access being constructed in accordance with the RS1 form attached. In view of this officers consider access arrangements to be acceptable with regards to Policy PPS 3 despite them not being in accordance with the guidance of PPS 21.

Recommendation:

Refusal is recommended

Refusal Reasons:

1. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY1 of Planning Policy Statement 21 (PPS) Sustainable Development in the Countryside, in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Strategic Planning Policy Statement for Northern Ireland and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that, the ancillary works do not integrate with their surroundings.
3. The proposal is contrary to policy NH-6 of PPS2 as that it would not be sympathetic to the special character of the Area of Outstanding Natural Beauty.
4. The proposal is contrary to Policy CTY15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted mar the distinction between the defined settlement limit of Saul and the surrounding countryside resulting in Urban Sprawl.

Case officer: Jane McMullan

Authorised by: David Fitzsimon

Date: 10/09/2021

Planning Committee Schedule of 17th November 2021

Planning reference: **LA07/2020/0653/O**

Proposal: **Proposed Dwelling & Garage.**

Applicant: **Mr P J Fox**

Location **Approx 40m south west of 11 St Patrick's Circle, Saul, Downpatrick.**

Recommendation: **Refusal**

Reasons

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

2. The proposal is contrary to Strategic Planning Policy Statement for Northern Ireland and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that, the ancillary works do not integrate with their surroundings.

3. The proposal is contrary to policy NH-6 of PPS2 as that it would not be sympathetic to the special character of the Area of Outstanding Natural Beauty.

4. The proposal is contrary to Policy CTY15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted mar the distinction between the defined settlement limit of Saul and the surrounding countryside resulting in Urban Sprawl.

Site History No relevant Planning History

Planning Policies & Considerations RDS, SPPS, PPS 21, PPS3, Ards & Down Area Plan 2015, Building on Tradition (Guidance Document).

Consultations and Representations The following consultations were carried out –

Water Ní - No objections

Dfi Roads - No objections

Environmental Health NM&DDC - No objections in principal.

Assessment of reasons for Refusal

The proposal is for a dwelling and garage on lands within the defined development limit of Saul as identified in the Ards & Down Area Plan 2015.

Access to this portion of land can only be gained by the applicant by providing a laneway through lands in his ownership by providing a laneway adjacent to housing at St Patricks Circle. This land lies outside the development limit. The only way open to the developer is to provide this laneway / means of access which will have its access point with the Mearne Road via the existing area of the field gate. It should be noted that this access point is acceptable to Dfi Roads.

Refusal Reason 1 The proposal is located within the Settlement Limits of Saul as defined in the Ards & Down Area Plan 2015 thus it is not contrary to (SPPS) & Policy CTY1 of PPS 21, it is only the proposed means of access / laneway which is contrary to the Policy and it as stated in the officers

report that *"as the proposal is for a residential dwelling, the access arrangements are considered ancillary to residential development"* however the Planning authority state that the access arrangements are considered a residential development in its own right.

In summary the site is within the development limits and acceptable however the access to service the proposal is not ancillary and the proposal is thus recommended for refusal as not been located within a settlement.

Refusal Reason 2 This reason is not considered sustainable for the following points, the access can be condition to be screened with mature hedgerow and mature planting so as to mitigate leaving an open laneway only bounded by a post and wire fence and the applicant is willing to carry out such planting prior to commencement of any other site works associated with this proposal.

Refusal Reason 3 This reason I find is also not sustainable as the applicant could provide a laneway along this portion of the site under Agricultural Permitted Development and it would not be at variance to Policy NH-6 of PPS2 and would be a scar on the character of the AONB. Rather the proposal is to provide a standard laneway and to provide a mature boundary fence with a high degree of planting to help integrate the proposal in its entirety not just along the laneway.

Refusal Reason 4 This argument also has to be rebutted as the main portion of the proposal is located within the development limit and the only aspect that is at variance with the development limit is the means of access.

It is argued that the provision of a laneway to service development within the settlement limit would not mar the distinction between the defined settlement and surrounding countryside.

The officer in her report states that she does *"not see reason for there to be a separate access servicing the dwelling especially considering the presence of an access which services St Patrick's Circle"*. It has to be stated that the applicant does not control lands in St Patrick's Circle or can he hope to do so, he can also not gain access via the laneway to the east which services existing development thus he has lands clearly defined within the development limits but no means of accessing it other than providing a laneway as indicated in this proposal for a dwelling and garage.

Overview Having assessed the reasons for refusal it is clear that the location of a dwelling & garage on the site is acceptable, however the only way of gaining access to the site is by providing a laneway adjacent to the development limit with its point of access acceptable to DfI Roads.

This laneway can be bounded by mature vegetation and the applicant is happy to provide this prior to commencement of other site works.

Conclusion

We would respectfully ask the Planning Committee to overturn this recommendation and grant Planning Permission for the development as applied for.



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

Application Reference: LA07/2020/0873/F

Date Received: 2nd July 2020

Proposal: 118 detached & semi-detached dwellings, pumping station, landscaping and all site works

Location: Lands 100m west of 14-24 Lime Trees and 20m SE of 62 & 64 Lisburn Road, Ballynahinch

Site Characteristics & Area Characteristics:

The application site is located along the southern side of Lisburn Road, on the NW periphery of Ballynahinch (with the site adjoining the settlement limit boundary to the) and approximately 1.5 miles from the Town Centre.

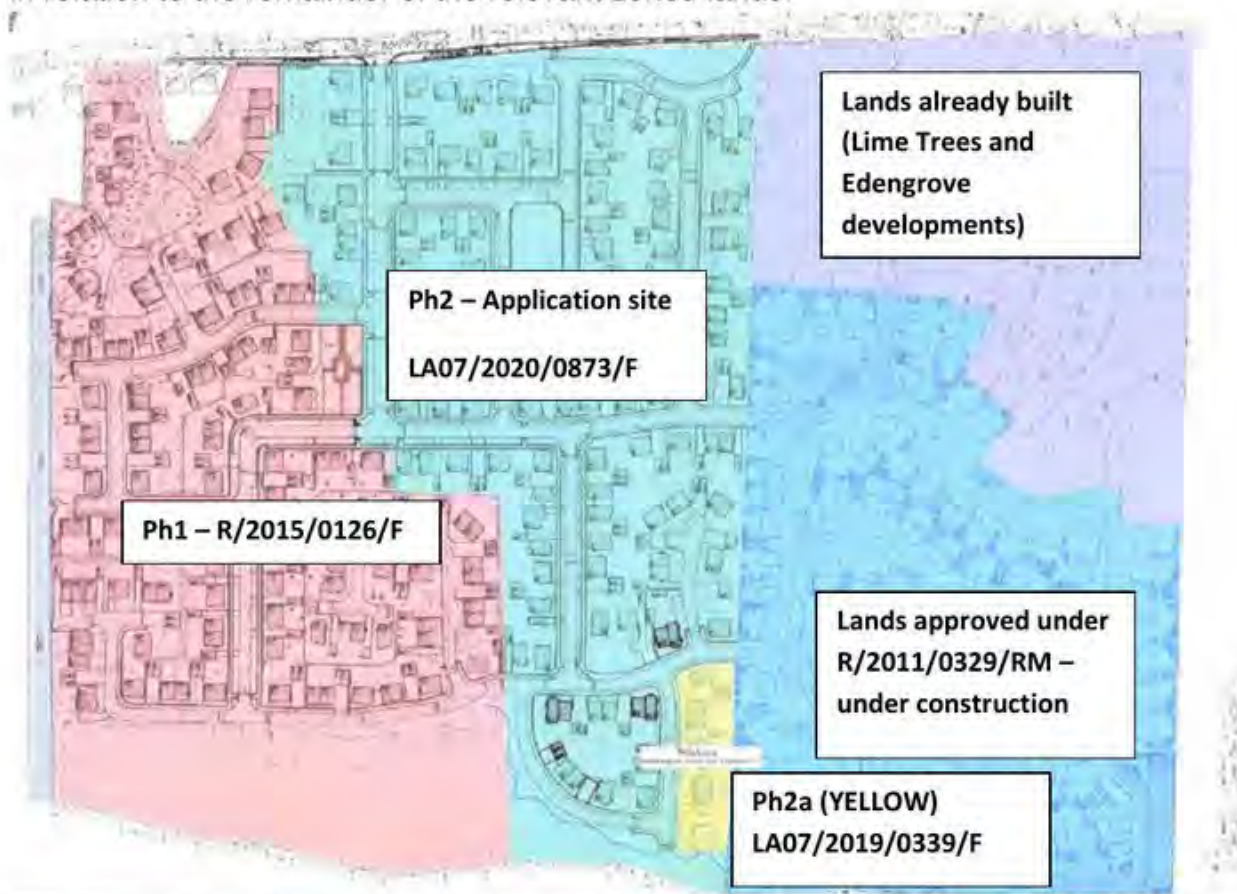
The site is positioned between residential development to the SE (including Lime Trees and Eden Grove, with some units still under construction to the rear of Eden Grove) and additional fields to the NW. To the NE there are two detached dwellings (No's 62 and 64 Lisburn Road) sited some 25m from the NW site boundary. Opposite the site to the NE and on the opposite side of Lisburn Road, there is an existing Engineering business and what appears to be a vacant two storey dwelling (55 Lisburn Road.)

There is an existing access off Lisburn Road in the northern corner of the site, leading to the remnants of a former dwelling (56 Lisburn Road,) in addition to a substantial corrugated building with semi-circular roof positioned in the NW corner of the site. The remainder of the site is primarily agricultural in nature, with the exception of some ground clearance / gravel works in parts. There are mature trees located close to the access in the northern corner and along the SE boundary, with sparse grassland and scrub vegetation throughout the remainder of the site. There is an existing watercourse adjoining the rear (SW) boundary, with several ditches connecting to this from the site.

The site measures approximately 6.64 hectares and is entirely zoned for housing within the current Ards and Down Area Plan 2015, forming part of a larger housing zoning (BH11.) The adjacent river to the rear is designated as a Local Landscape Policy Area (LLPA1.)

Site History:

The current application is submitted as phase 2 development of a wider housing scheme. Phases 1 and 2a have already been approved under R/2015/0126/F and LA07/2019/0339/F respectively. The planning history context is summarised in the image below, with the full site and relevant surrounding history detailed further below in relation to the remainder of the relevant zoned lands:



- **LA07/2019/0339/F (PHASE 2A)**- Lands 170m north of No19 Riverside Meadows and 260m west of 2 Edengrove Park East, Ballynahinch - Erection of 6no detached & semi-detached dwellings, pumping station, landscaping & all other site works – permission granted 26.02.2020
- **LA07/2019/0833/PAN** - Proposed development of 117 dwellings incorporating access from Lisburn Road, public open space, housing access roads, related necessary infrastructure, hard and soft landscaping and all other related works – PAN acceptable 10.10.2019
- **LA07/2018/1512/PAD** - Proposed residential development to adjoin application reference R/2015/0126/F of approx. 108 dwellings – PAD concluded
- **LA07/2016/1202/F** - 56-55 and adjoining lands Lisburn Road, Ballynahinch - Proposed 5no two storey dwellings (3 detached and 2 semi-detached) and site access arrangements – permission refused 01.04.2019

- **R/2015/0126/F (PHASE 1)** - Lands at 56 and 60 Lisburn Road Ballynahinch - Erection of 127 Dwellings comprising detached, semi-detached and townhouse dwellings, garages and all other associated site works – Permission granted 10.06.2020
- **R/2014/0316/F** - 56 and 55 Lisburn Road Ballynahinch plus adjoining lands - Replacement dwelling at no.55 Lisburn Road and erection of 9 dwellings at No.56 Lisburn Road – permission refused 01.04.2019
- **R/2008/0704** - Lands at 56, 60 - 62 Lisburn Road, Ballynahinch. – Tree Preservation Order - Pre application enquiry 21.07.2009
- **R/2004/1683/Q** - Lisburn Road Ballynahinch - Planning history of site. – Pre-application enquiry 05.10.2006
- **R/2004/1947** - Site opposite 51 Lisburn Road, Ballynahinch - Proposed access road and footpath to serve future housing – Invalid application 04.03.2005
- **R/2003/1260** - Land adjacent to 50 Lisburn Road, Ballynahinch. - Proposed new access to serve lands for residential development – Invalid application 03.02.2004
- **R/1986/0943** - Between 50 and 56 Lisburn Road, Ballynahinch – Dwelling – Permission refused 29.01.1987

Relevant surrounding planning history:

There are several records relating to the adjacent residential developments to the east (119 units approved under R/2011/0329/RM and R/2007/0250/O) and south (phase 2a) (6 units approved under LA07/2019/0339/F.) A summary of these records include:

- **LA07/2021/1556/DC** - Discharge of Condition 11 of LA07/2019/0339/F – under consideration
- **LA07/2021/1496/DC** - Discharge of Condition 7 of LA07/2019/0339/F – under consideration
- **LA07/2021/1480/F** - Plot Nos 11,12 - Change of House Types to those approved under previous approval R/2011/0329/RM – under consideration
- **LA07/2020/0816/F** – (plots, 5 and 77 to 80 of R/2011/0329/RM - change of house types to those approved under R/2011/0329/RM) (Plots 79 & 80 retrospective) – Permission Granted 17.11.2020

- **LA07/2020/0017/F** - Plots 1-3 & 6 of planning approval R/2011/0329/RM) - 4 dwellings (2 detached and 2 semi-detached) and associated site works – Permission Granted 13.05.2020
- **LA07/2019/0513/F** -Plots 46 47 and 100 to 106 of Planning Approval R/2011/0329/RM) - Proposed residential development of 13no dwellings comprising 4no detached; 6no semi-detached and 3no terraced dwellings, garages and all associated site works. (Amendment to previous approval) – Permission Granted 19.08.2020
- **LA07/2019/0026/F** - plots 8 to 15 and 76 to 78 of planning approval R/2011/0329/RM) - Residential development of 14 dwellings comprising of 4 detached and 10 semi-detached dwellings and associated site works (amendment to previous approval R/2011/0329/RM) – Permission Granted 08.01.2021
- **LA07/2018/0487/NMC** - Lands adjacent to and SW of Lime Trees and Edengrove Park East West of Edengrove Park West Lisburn Road - Residential development comprising of 46 detached, 70 semi-detached & 3 terraced dwellings (119 units in total), open space, landscaping and other ancillary works – NMC Consent granted 29.05.2018
- **R/2011/0329/RM** - Lands adjacent to and south-west of Lime Tree and Edengrove Park East and west of Edengrove Park West, Lisburn Road, Ballynahinch - Residential development comprising 46 detached, 70 semi-detached and 3 terraced dwellings (119 unit in total), open space, landscaping and other ancillary works – Permission Granted 16.01.2015
- **R/2007/0250/O** - Lands adjacent and south-west of Lime Trees and Edengrove Park East and West of Edengrove Park West, Lisburn Road Ballynahinch - Site for residential development and ancillary works – Permission Granted 25.04.2008

Consultations:

- **Shared Environmental Services (SES) (19.04.2021)** – HRA carried out. No objections, subject to mitigating conditions being met.
- **NMDDC Environmental Health Dept (15/02/2021)** – Having reviewed the necessary additional information (Preliminary Risk Assessment,) has no objections.
- **DfI Roads (08.10.2021)** – No objections to amendments, PSD Drawings approved and conditions / informatives attached.
- **DfI Rivers Agency (20.07.2021)** – No objections, informatives attached.
- **NI Water (10.02.2021)** – PDE response valid to 05.02.2022 for this site – details discussed below.
- **DAERA (13.04.2021)** – Further to additional information, no objections subject to conditions and informatives being met (includes Water Management Unit, Natural Environment Division, Regulation Unit.)

Objections & Representations

- 13 Neighbour notifications issued 19th November 2020
- Application Advertised 29th July 2020
- 0 objections or representations have been received.

Planning Policies & Material Considerations:

- The NI Regional Development Strategy 2035 (RDS)
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Ards and Down Area Plan 2015 (ADAP)
- A Planning Strategy for Rural Northern Ireland (PSRNI)
- PPS2 – Natural Heritage
- PPS3 – Access, Movement & Parking
- PPS7 – Quality Residential Environments
- PPS7 Addendum – Safeguarding the Character of Established Residential Areas
- PPS8 – Open Space, Sport and Outdoor Recreation
- PPS12 – Housing in Settlements
- PPS15 (Revised) – Planning and Flood Risk
- DCAN8 – Housing in Existing Urban Areas
- DCAN15 – Vehicular Access Standards
- 'Creating Places' and 'Living Places' Design Guides
- DOE Parking Standards
- Third party representations / objections

Consideration and Assessment:

RDS and SPPS:

RG8 of the RDS aims to manage housing growth to achieve sustainable patterns of residential development. It aims to provide more high-quality accessible housing within existing urban areas without causing unacceptable damage to the local character and environmental quality or residential amenity of these areas. The SPPS sets out core planning principles 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.

Ards and Down Area Plan 2015:

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The ADAP 2015 operates as the current plan for this site and identifies the site as being within the settlement limit of Ballynahinch (BH01) and zoned for housing (part of a larger 18.3 Ha zoning – BH11) and adjacent to a LLPA (BH20 / LLPA1 – Ballynahinch River Corridor.) The relative Plan requirements are considered below:

BH11 (Housing) - 18.3 Hectares south of Lisburn Road - Under this zoning, there are 7 Key Design Considerations to be met:

- *a minimum gross site density of 20 dwellings per hectare and a maximum gross site density of 25 dwellings per hectare;* The proposed density equates to 18 dwellings per hectare. However, in considering the proposed

density of the entire zoning (370 dwellings in total on 18.3Ha,) a density of 20 dwellings per hectare is met. The proposed density of this phase is considered acceptable when considered in the context of the wider zoning density.

- *a right turn facility to be provided at the access point on B177 Lisburn Road*; This design requirement is met, as detailed on Drawing C19 Rev A;
- *access arrangements and layout of development to ensure that houses front onto Lisburn Road and proposed internal access roads*; The proposed layout on the Site Plan PH2 is acceptable to this design requirement
- *a footway to be provided along the frontage of the site and also to link to the existing footway system*; a 2m minimum width footway has been provided along the entire frontage of the site connecting to the existing footways along Lisburn Road and the proposed footways of the internal layout – this design requirement is met.
- *a 10m buffer shall be left between any development and the Ballynahinch River, (see Proposal BH 20, LLPA 1)*; The proposed development includes a 20m buffer / separation distance to Ballynahinch River which meets this design requirement.
- *the north western boundary of the site to be landscaped with an 8-10 metre belt of trees of native species to provide screening for the development and help integrate it into the surrounding countryside*; The lands affected by this requirement fall under Phase 1, as considered under R/2015/0126/F
- *interim sewage disposal measures may be necessary until such time as the required upgrade to the Waste-Water Treatment Works for Ballynahinch is complete and fully operational*. The proposal includes the provision of a pumping station in the rear area of the site.

BH20 LLPA1 (Ballynahinch River Corridor - LLPA1 is designated in accordance with Policy CON 2 in Volume 1 of the Plan and as indicated on Map No. 3/003a, Ballynahinch Settlement Map and Map No. 3/003b, Ballynahinch Local Landscape Policy Areas Map. Those features or combination of features that contribute to the environmental quality, integrity or character of these areas include:

- river valley corridor provides important link between town and countryside with existing and potential recreation value for public access for riverside walks;
- riverside vegetation and woodland (especially through Montalto Estate) are important in visual and wildlife terms; and
- listed Ballynahinch Mill and former mill race, mill pond and mill bridge are important industrial heritage features.

To protect the integrity of this LLPA, a 20m buffer has been incorporated between all proposed development and the Ballynahinch River. This is considered further under PPS2 considerations. **In summary, the proposal in its amended form, is in line**

with plan requirements and is further considered against additional prevailing policy tests below.

SPPS, PPS2: Following additional information, DAERA NED in comments dated 13.04.2021 are content with the proposal against PPS2 requirements, subject to conditions.

SPPS, PPS3, DCAN 15 and DOE Parking Standards: DfI Roads in comments dated 07.09.2021 has no objections to the amended scheme and Private Streets Determination Drawings have been approved, with respective conditions attached.

SPPS, PPS7 (QD1 and QD2), PPS7 (Addendum), PPS8, PPS15 (Revised,) PSRNI (DES2), DCAN8, DCAN11 and 'Creating Places:' The SPPS is now a material consideration in the assessment of this application however as there is no significant change to the policy requirement for housing in settlement following the publication of the SPPS which is arguably less prescriptive, the retained policy of PPS7, PPS7 (Addendum) and PPS12 will be given substantial weight in determining the principle of the proposal in accordance with paragraph 1.12 of the SPPS:

Surrounding Context/ Topography/ Layout

The proposed scheme relates to 118 dwellings with a mix of 3 bed semi-detached, (30 units,) 4 bed detached, (50 units) and 5 bed detached (38 units) dwellings. These range from two to three storeys in height.

The site is located within the development limits of Ballynahinch on land zoned for housing. The surrounding context is semi-urban, with the site located on the periphery of the settlement limit and rural lands further west / north-west. The surrounding character is therefore somewhat mixed; with low-medium density residential development concentrated to the east / south-east and a more dispersed rural settlement pattern to the west / north-west by way of single dwellings / farmyards. There are also a number of commercial and community premises located opposite the site and further east including; an engineering business, hardware and plumbing retailers and a nursing home. To this effect, the surrounding character is somewhat mixed.

Dwellings within the immediate area of the site i.e., adjacent to the East / South-East (SE) are a mix of detached and semi-detached, predominately of two storey form and with private gardens and in curtilage parking provision. House types vary from chalet style to two storey and red brick is prevalent in external finishes. The more recent dwellings under construction also add a varied roof type, with the use of hipped roofing.

The proposed layout of detached and semi-detached form is reflective of the existing development pattern in this location. The parking layout incorporates in curtilage parking at a rate of two (minimum) spaces per unit, primarily located to the side. It is noted that several of the units rely on one of those spaces being facilitated within the associated garage (including plots 150, 151, 155, 159, 160, 178, 182, 184, 189, 190, 199, 200, 202, 215, 224, 227, 231, 232, 246, 250, 261, 259, 254, 255, 252, 253) however there is sufficient space to accommodate a vehicle where this is the case.

The level of private rear amenity space ranges from 56.8m² – 208.4m², with an average rear garden size of 119.16m². With the exception of 3 units (plots 164, 189 and 230,) the rear amenity space meets / exceeds the minimum 70m² requirement for each dwelling and the average amenity space for the development as a whole is acceptable to policy and design guidance requirements for the nature and scale of this development. All units also have a smaller formalised area to the front of the property.

There are various gradual changes in ground levels across the site, which have been accounted for in the design through the use of under-build / cut and fill as appropriate, though it is noted that these works are not significant, and no retaining walls are required to facilitate the housing layout as proposed on the basis of information provided (including topographical survey, cross sections and boundary detailing.)

It is noted that the overall layout has evolved through the PAD process for this site, with the requirement for dwellings to front onto Lisburn Road (and the internal layout road) and provide dual aspects to corner units now being incorporated into the layout. In this regard, the proposed scheme presents a good range and mix of house types and whilst introduces a three-storey aspect, which is in itself not reflective of the surrounding form, the mix of two and three storey units will help to off-set this slightly increased built form. On the whole, the overall layout and design is in keeping with the predominant residential built form displayed within the area and semi-urban context.

Landscaping/ Hard Surfaced Area/ Pedestrian Links/ Private Open Space

Public open space provision is provided primarily in a central pocket to the front of the development, a smaller pocket to the rear, in addition to a larger linear area of green space to the rear of the site separating the existing river, equating to c.556m². The provision is below the minimum 10% requirement of PPS8 Policy OS1, however when considered in the context of the overall scheme (phases 1 and 2/ 2a,) there is a total provision of 14.1% open space for the development as a whole, which exceeds the minimum requirements. All dwellings within the development front onto the proposed road with all areas of private amenity space located to the rear and bound by either 1.8m brick screen wall / 1.8m high close boarded timber fencing as appropriate, ensuring private amenity space is kept out of view from the main thoroughfare and ensure it remains private. When considering the above, there is adequate provision of open space throughout the development to size of dwellings with a good mix and range of garden sizes within recommended requirements.

The layout also incorporates new landscaping along the frontage of the site and entrance to the development, including an area of open space along with new tree planting along the entire road frontage. This is supplemented with a 1.6m high timber fence, which will act as an acoustic barrier together with the new planting and buffer of traffic noise in the interest of residential amenity. The layout road throughout the scheme is also augmented with extensive landscaping, with the provision of trees to the front of dwellings creating a tree lined internal layout road. The dwellings at the entrance of the development present a dual aspect to both the Lisburn Road and proposed layout road with low lying estate railing, augmented with landscaping which will present an attractive aspect on approach and will help to soften the visual appearance of the development. Pedestrian movement and connectivity is incorporated into the overall layout by way of two additional pedestrian access points off Lisburn Road to the development, in addition to pedestrian links to the existing

residential development to the east and approved development (Phase 1) to the west. Safe pedestrian movements are also facilitated within the site with linkages to the existing pedestrian footways and continuation of new footways on both sides throughout the development, with pedestrian crossing points and raised speed tables as necessary to encourage safe vehicle and pedestrian movements.

Finally, it's noted there is a Tree Preservation Order (TPO) on part of this site (north-western corner – affecting 5 trees) – 3 of the affected trees are retained and the Site Layout Drawing has been amended to reflect these details. Protection of these trees will be followed up by a planning condition to ensure retention and no works undertaken without consent from the Planning Authority. The remaining TPO trees on the application site have been affected by the position of the turning head as approved under planning application R/2015/0126/F and subsequent site clearance and infilling relating to this site which was subject to an enforcement investigation with no further action taken.

Landscaping conditions will be attached as necessary in addition to a condition requiring a comprehensive landscape management plan for the scheme to ensure that the areas of public space and vegetation / trees throughout the site are protected and maintained in perpetuity.

Archaeological and Built Heritage

There are no known identified features of archaeological or built heritage at this location or that would be impacted on as result of the proposed development.

Land Contamination

DAERA's Regulation Unit note that previous activities adjacent to the application site (mechanical engineering and ordnance works) may have caused the land to be affected by contamination. A Preliminary Risk Assessment (PRA) has subsequently been requested and further considered by DAERA, the competent authority in this regard, who conclude that there is no significant potential pollutant linkages and a low risk to environmental receptors, other than the risk due to the construction works. DAERA has no objection to the development in relation to land contamination, subject to necessary conditions being met and informatives being adhered to.

Local Neighbourhood Facilities

Whilst there is no provision within the proposed development for local neighbourhood facilities. Given its location relative to the wide range of community facilities within the locality including town centre there is sufficient access.

Movement Patterns/ Disabled Access

There are a range of house types within the development to accommodate those whose mobility is impaired. Access and parking areas are on a level surface with minimal gradient difference between this and the proposed finished floor level, bin storage areas are also accessible. As noted above, the proposal also incorporates links to the existing pedestrian footway (entrance points off Lisburn Road via staggered steel barrier fencing) and public transport facilities (including bus stops

along Lisburn Road) are linked by the footpath network to encourage sustainable methods of movement.

Parking/ Roads

DfI Roads initially sought clarification on the proposed right hand turning details at the access, in addition to minor amendments in relation to part of the internal pedestrian footway. Following this clarification and amendments, DfI Roads has no objections and Private Street Determination drawings have been authorised by DfI, with respective conditions attached below. As noted above, adequate car parking in the form of in-curtilage parking has been assigned to each dwelling in the development which is within recommended guidance. Furthermore, the development is within walking distance of public transport which will have the potential to avoid excessive car movements and encourage sustainable movements through walking and use of public transport given the close proximity of these facilities to the site.

Impact to Amenity

The layout plan shows adequate separation distances between existing and proposed dwellings to avoid impact to amenity (by way of privacy, dominance, loss of light, overshadowing.) There are no significant changes between levels of neighbouring properties that cause concern in this regard. Separation distances and depth of rear gardens are well within the recommended range of Creating Places.

Environmental Health have noted concerns regarding potential impact to residents due to noise (arising from the proximity to the industrial unit,) and a Noise Impact Assessment was requested. In addition to further information on the proposed pumping station (including noise data sheet.) On receipt and consideration of these necessary details, EHD has no objections subject to 2 conditions in respect of residential amenity – this includes the provision of an acoustic barrier reflective of the details in the NIA, in addition to window and ventilation system requirements to ensure adequate sound reduction technology. The proposed acoustic barrier is shown on the necessary layout drawings and conditions will be necessary to ensure the above measures are implemented and maintained in perpetuity in order to protect residents from any noise impacts.

Environmental Health also noted the potential for land contamination in their initial response and on reviewing the PRA have no further concerns that there would be any impact to residents in this regard.

Prevention of Crime and Promotion of Personal Safety

The layout and orientation of all dwellings (overlooking the layout road / footways and areas of public open space) will encourage a natural and informal surveillance of the overall site, with the aim of enhancing public safety. This includes dwellings to the rear of the site which overlook Ballynahinch River and agricultural lands beyond this. Adequate boundary detailing has been provided around this site periphery to help prevent any issues of security to the development. Rear gardens throughout the scheme back onto additional rear gardens, secured with appropriate close boarded fencing. Conditions are included in respect of street lighting throughout the scheme to

ensure the development is adequately illuminated in the interest of road, pedestrian and personal safety.

House Types

A range of house types have been provided throughout the scheme, with a mix of 3 bed semi-detached, (30 units,) 4 bed detached, (50 units) and 5 bed detached (38 units) dwellings. This is in line with SPPS, PPS7 and PPS12 policy requirements.

Social Housing

The site has not been identified within the area plan requiring social housing provision nor has the applicant/agent provided any indication that the development will be utilised for social housing.

Flooding/ Drainage:

A small part of the Site is bound to the south-west by Ballynahinch River (and is within the floodplain of this area) and DfI flood maps indicate sporadic pluvial (surface water) flooding across the site. There is also a small undesignated watercourse in the central western portion of the site. DfI Rivers confirm policies FLD1-FLD4 of PPS15 (Revised) are applicable to this assessment:

FLD1 - Development in Fluvial and Coastal Flood Plains – The layout has ensured all development is out with the flood plain area to the rear of the site. In accordance with FLD1 a FRA was issued to Rivers on the basis that the proposal is in principle acceptable under exception f) of FLD1 (open / amenity space): DfI Rivers has reviewed the Flood Risk Assessment by Flood Risk Consulting dated October 2019, and whilst not being responsible for the preparation of the Assessment accepts its logic and has no reason to disagree with its conclusions – policy FLD1 is met.

FLD2 - Protection of Flood Defence and Drainage Infrastructure – Amended drawing 2781-050-04-07-054 (Rev B) - Site plan with wayleave endorsed for DfI Rivers (published to the Planning Portal 24th June 2021) shows a 5-meter working strip adjacent to the designated watercourse (Ballynahinch River.) DfI Rivers note that the applicant proposes that the undesignated watercourse that is located in the central western portion of the site will become redundant when replaced by the surface water infrastructure for the proposed housing development. Therefore, Policy FLD2 is satisfied

FLD3 - Development and Surface Water – DfI Rivers has reviewed the Flood Risk and Drainage Assessment Addendum by Flood Risk Consulting dated September 2020, and while not being responsible for the preparation of the Drainage Assessment, accepts its logic and has no reason to disagree with its conclusions.

FLD4 - Artificial Modification of watercourses – The applicant has indicated that the undesignated watercourse that is located in the central western portion of the site will become redundant when replaced by the surface water infrastructure for the proposed housing development. Artificial modification of a watercourse is normally not permitted unless it is necessary to provide access to a development site or for engineering reasons. Consent for the proposed removal/abandonment of the undesignated

watercourse that is located in the central western portion of the site has been granted by DfI Rivers Area Office under Schedule 6 of the Drainage Order 1973. The removal of the undesignated watercourse to facilitate surface water infrastructure to support this development is acceptable to FLD4. DAERA WMU require that a final CEMP (which includes details of mitigating measures to address environmental impacts of the construction and the proposed culverting operations on the aquatic environment) is submitted for agreement in writing with DAERA – this will be dealt with by way of necessary planning condition.

It is noted that the responsibility for justifying the assessment and implementation of the proposed flood risk measures (as laid out in the flood and drainage assessment) rests with the developer and his/her professional advisors – Informatives in relation to flood risk will be attached to this decision as appropriate, for the applicant's awareness.

Water/ Sewerage

The application proposes to connect to mains water supply, dispose of foul sewage to a mains sewer via proposed pumping station and dispose of surface water to an existing watercourse.

Having reviewed the situation at Ballynahinch WWTW, DAERA WMU is concerned that the sewage loading associated with the above proposal has the potential to cause an environmental impact if transferred to Ballynahinch WWTW. WMU advises consultation with NIW to determine if the WWTW and associated sewer network will be able to cope with the additional load or whether the existing WWTW and network would need to be upgraded.

NIW has responded to a PDE for this site, which is valid to 05.02.2022 – this PDE response concludes there is capacity at Ballynahinch WwTW to serve the proposal, however due to the size of this proposal, and/or due to known issues with the network, a Network Capacity Check for the Watermain is required, to ensure this development can be served without having any detrimental effect on the existing network or customers.

In addition, due to the sewer network being at capacity in the Ballynahinch catchment and sewer flows spilling from CSOs into the environment, NI Water is recommending that no further connections should be made to this sewer network, or a condition should be incorporated which requires an alternative drainage / treatment solution for the site. Subject to the necessary consent being obtained for the proposed pumping station (including consent from DAERA WMU consent for an 'emergency overflow,') the proposed alternative sewage solution is considered acceptable to both NIW and DAERA WMU requirements. In addition, Environmental Health require a management plan for the service and maintenance of the pumping station, if not being adopted by NI Water. Planning conditions will be necessary therefore to ensure the necessary consents are obtained for the pumping station prior to occupation of the dwellings on this site, including an agreed appropriate management plan of the pumping station.

Finally, there is no public storm sewer available which can serve this proposal. Correspondence from DfI Rivers Agency dated 22.01.2020 indicates that Schedule 6 consent was granted from Rivers Agency to discharge storm water at an equivalent

green field run-off rate of 62.39 l/s storm water to Ballynahinch River. However, as this consent is only valid for 12 months, it would have expired on 22.01.2021. An up-to-date Schedule 6 consent from DfI Rivers Agency is therefore required to ensure adequate provision to deal with storm water on this site – this will be dealt with by way of negative condition.

Density

Density levels are comparable with existing and proposed development within the vicinity of the site and are acceptable to the Key Design Requirements of the Plan, in the context of the wider housing zoning BH11 (overall zoning density equates to 20Dw / Ha.)

Natural Heritage

Following receipt of the necessary additional information (including Preliminary Ecological Appraisal) to assess the site for potential natural heritage interests, including priority habitats and protected/priority species. DAERA NED in comments dated 25.02.2021 have raised no concerns with the proposal, subject to conditions in relation to removal of vegetation and a minimum 10m buffer between all construction works and Ballynahinch River.

The proposal falls within the threshold of Category 10 (b) of Schedule 2 of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017. The Council has determined through an EIA screening that there would be no likely significant environmental effects and an Environmental Statement is not required.

The application has been considered in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service (SES) on behalf of Newry, Mourne and Down District Council which is the competent authority responsible for authorising the project and any assessment of it required by the Regulations. Having considered the nature, scale, timing, duration and location of the project it is concluded that, provided the necessary mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on site integrity of any European site

Summary Consideration and Assessment

- Proposal is in line with regional policy aims of sustainable urban development in existing urban areas and is acceptable to SPPS and Plan (ADAP 2015) Key Design Requirements;
- Following revisions to the scheme and additional information, the proposal is considered acceptable to Prevailing Policy and design guidance requirements, including; PPS2, PPS3, PPS7, PPS7 Addendum, PPS8, PPS12, PPS15, DCAN8, DCAN15, Creating Places, DOE Parking Spaces;
- No third-party representations or objections have been received.
- Approval is recommended, subject to the attached planning conditions being met.

Recommendation: Approval**Conditions:**

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

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

2. The development hereby permitted shall take place in strict accordance with the following approved plans:
 - 2781-050-01-03-001 - Site Location Plan
 - C304 Rev F – Proposed PSD Layout
 - C219 Rev A – Proposed Right Hand Turning Lane
 - C302 – Road Sections Sheet 1
 - C303 – Road Sections Sheet 2
 - C305 – Road Sections Sheet 3
 - C306 – Road Sections Sheet 4
 - 2781-050-04-07-044 Rev B - Site Plan (PH2)
 - 2781-050-04-07-045 Rev B – Car Parking Schedule (PH2)
 - 2781-050-04-07-046 Rev B – Boundary Treatment Plan (PH2)
 - 2781-050-04-07-048 Rev B – Site Sections
 - 2781-050-04-07-054 Rev B – Site Plan with wayleave
 - LO-01 Rev D – Soft Landscape Proposals
 - LO-02 – Maintained Open Space
 - C260 – Pumping Station Details Sheet 1
 - C261 – Pumping Station Details Sheet 2
 - C262- Pumping Station Details Sheet 3
 - C263 – Pumping Station Details Sheet 4
 - C264 – Pumping Station Details Sheet 5
 - 2781-010-04-001-LC5 – LC5 Floor Plans
 - 2781-010-04-002-LC5 – LC5 Elevations
 - 2781-010-04-003-LC5 – LC5 Floor Plans (handed)
 - 2781-010-04-004-LC5 – LC5 Floor Elevations (handed)
 - 2781-010-04-005-LC5 – LC5 Dual Aspect Floor Plans (handed)
 - 2781-010-04-006-LC5 – LC5 Dual Aspect Elevations (handed)
 - 2781-010-04-LC5 – LC5 Dual Aspect Floor Plans (handed)
 - 2781-010-04-LC5 – LC5 Dual Aspect Elevations (handed)
 - 2781-010-04-001-LC7 – LC7 Floor Plans
 - 2781-010-04-002-LC7 – LC7 Elevations
 - 2781-010-04-003-LC7 – LC7 Floor Plans (handed)
 - 2781-010-04-004-LC7 – LC7 Elevations (handed)
 - 2781-010-04-005-LC7 – LC7 Floor Plans no sunroom (handed)
 - 2781-010-04-006-LC7 – LC7 Elevations no sunroom (handed)
 - 2781-010-04-001-LC8 – LC8 Floor Plans
 - 2781-010-04-002-LC8 – LC8 Elevations
 - 2781-010-04-003-LC8 – LC8 Floor Plans (handed)

- 2781-010-04-004-LC8 – LC8 Elevations (handed)
- 2781-010-04-005-LC8 – LC8 Dual Aspect Floor Plans
- 2781-010-04-006-LC8 – LC8 Dual Aspect Elevations
- 2781-010-04-007-LC8 – LC8 Dual Aspect Floor Plans (handed)
- 2781-010-04-008-LC8 – LC8 Dual Aspect Floor Elevations (handed)
- 2781-010-04-009-LC8 – LC8 Dual Aspect without sunroom Floor Plans
- 2781-010-04-010-LC8 – LC8 Dual Aspect without sunroom Elevations
- 2781-010-04-001-LC9S – LC9S Extended Floor Plans
- 2781-010-04-002-LC9S – LC9S Extended Elevations
- 2781-010-04-003-LC9S – LC9S Extended Floor Plans (handed)
- 2781-010-04-004-LC9S – LC9S Extended Elevations (handed)
- 2781-010-04-005-LC9S.1 – LC9S.1 Extended Floor Plans
- 2781-010-02-006-LC9S.1 – LC9S.1 Extended Elevations
- 2781-010-04-007-LC9S.1 – LC9S.1 Extended Floor Plans (handed)
- 2781-010-04-008-LC9S.1 – LC9S.1 Extended Elevations (handed)
- 2781-010-04-001-LC10 – LC10 Floor Plans
- 2781-010-04-002-LC10 – LC10 Elevations
- 2781-010-04-003-LC10 – LC10 Floor Plans (handed)
- 2781-010-04-004-LC10 – LC10 Elevations (handed)
- 2781-010-04-001-LC12/LC9 – LC12/LC9 Floor Plans
- 2781-010-04-002-LC12/LC9 – LC12/LC9 Elevations
- 2781-010-04-003-LC12/LC9 – LC12/LC9 Floor Plans (handed)
- 2781-010-04-004-LC12/LC9 – LC12/LC9 Elevations (handed)
- 2781-010-04-001-LC12/LC9s – LC12/LC9s Floor Plans
- 2781-010-04-002-LC12/LC9s – LC12/LC9s Elevations
- 2781-010-04-003-LC12/LC9s – LC12/LC9s Floor Plans (handed)
- 2781-010-04-004-LC12/LC9s – LC12/LC9s Elevations (handed)
- 2781-010-04-005-LC12/LC9s – LC12/LC9s Floor Plans (600 split)
- 2781-010-04-006-LC12/LC9s – LC12/LC9s Elevations (600 split)
- 2781-010-04-001-LC12 – LC12 Floor Plans
- 2781-010-04-002-LC12 – LC12 Elevations
- 2781-010-02-003-LC12 – LC12 450 split Floor Plans
- 2781-010-02-004-LC12 – LC12 450 split Elevations
- 2781-010-04-001-LC13 – LC13 Floor Plans
- 2781-010-04-002-LC13 – LC13 Elevations
- 2781-010-04-003-LC13 – LC13 Floor Plans (handed)
- 2781-010-04-004-LC13 – LC13 Elevations (handed)
- 2781-010-04-001- Single Garages G1 and G2
- 2781-010-04-002- Twin Garages G3
- 2781-010-04-003- Single Garages G4 and G5
- 2781-010-04-004- Twin Garages G6
- 2781-010-04- Double Garages G7
- 2781-010-04-006- Double Garages handed G7
- 2781-010-04-007- Boundary Details

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

3.The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.The Department hereby

determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. C219 Rev A dated 08 July 2021 and drawing No. C304 Rev F bearing the date stamp 19th May 2021.

Reason: To ensure there is a safe and convenient road system within the development and to comply with the provisions of the Private Streets (Northern Ireland) Order 1980.

4. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. No other development hereby permitted shall be commenced until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing Number C219 Rev A bearing the date stamp 08 July 2021. The Department hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

Reason: To ensure that the road works considered necessary to provide a proper, safe and convenient means of access to the development are carried out.

5. The visibility splays at the junction of the proposed access road with the public road shall be provided in accordance with drawing C219RevA dated 08 July 2021 and C304RevF bearing the date stamp 19th May 2021 prior to the commencement of any other works or other development.

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

6. No dwelling hereby approved shall be occupied until that part of the service road which provides access to it has been constructed to base course; the final wearing course shall be applied on the completion of the development.

Reason: To ensure the orderly development of the site and the road works necessary to provide satisfactory access to each dwelling.

7. No dwelling hereby approved shall be occupied until provision has been made and permanently retained within the curtilage of the site for the parking of private cars at the rate of 2 space per dwelling.

Reason: To ensure adequate in-curtilage parking in the interests of road safety and the convenience of road users.

8. The Development hereby permitted shall not be commenced until a Street Lighting scheme design has been submitted and approved by the Department for Infrastructure's Street Lighting Section.

Reason: Road safety and convenience of traffic and pedestrians.

9. The Street Lighting scheme, including the provision of all plant and materials and installation of same, will be implemented as directed by the Department for Infrastructure's Street Lighting Section.

Reason: To ensure the provision of a satisfactory street lighting system, for road safety and convenience of traffic and pedestrians.

10. Prior to the commencement of the development hereby approved, a Schedule 6 Consent to Discharge shall be submitted to and agreed in writing by the Newry, Mourne and Down District Council's Planning Authority in consultation with DfI Rivers Agency.

Reason: As required by the terms of Schedule 6 of the Drainage (NI) Order 1973 and to ensure surface water can be safely discharged from the proposed development.

11. Prior to commencement of the development hereby approved, the method of sewage disposal shall be submitted to and agreed in writing by the Local Planning Authority. Development shall take place in accordance with the approved details.

Reason: To ensure a practical solution to sewage disposal is possible at this site.

12. Prior to occupation of the development hereby approved should the proposed pumping station not be adopted by Northern Ireland Water, a management plan for the service and maintenance of the pumping station shall be submitted to and agreed in writing by the Local Planning Authority. The pumping station shall be serviced and maintained in accordance with the approved management plan thereafter.

Reason: To ensure a practical solution to sewage disposal is possible at this site.

13. Prior to the commencement of any of the development hereby approved, a final drainage assessment, containing a detailed drainage network design and compliant with Annex D of PPS 15 shall be submitted to and agreed in writing by the Local Planning Authority. Development shall take place in accordance with the approved details. Alternatively, prior to the commencement of the development hereby approved, written confirmation from NIW shall be obtained confirming agreement to adopt a drainage network that will attenuate the 1 in 100 year storm event.

Reason: To safeguard against flood risk to the development and elsewhere.

14. The area of floodplain (as delineated by the blue line on Drawing L0-01 Rev D – Southern portion) is approved as open space under FLD 1(f) of Revised Planning Policy Statement 15. Development shall be in strict accordance with Drawing L0-01 Rev D and the ground level of this area shall not be raised, nor

shall the flood storage capacity and flood conveyance route for Ballynahinch River be reduced by any unsuitable planting or obstructions.

Reason: To safeguard against flood risk to the development and elsewhere.

15. Once a contractor has been appointed and at least 8 weeks prior to the commencement of all development hereby approved, a Construction Environmental Management Plan (CEMP) shall be submitted to and agreed in writing by the Local Planning Authority. The CEMP should contain all the appropriate environmental mitigation as advised by DAERA WMU in their response dated 08/10/2020. Development shall take place in accordance with the approved CEMP.

Reason: To ensure effective avoidance and mitigation measures have been planned for the protection of the water environment and to ensure that the appointed contractor is aware of and implements the appropriate environmental mitigation during construction phase to protect connected features of European Sites.

16. A suitable buffer of at least 10m must be maintained between the location of all construction works including refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc. and the Ballynahinch River to the South of the application site.

Reason: To protect the aquatic environment.

17. Prior to the development proceeding, any historic wells identified onsite shall be decommissioned following best practice guidance as detailed in the SEPA Good Practice for Decommissioning Redundant Boreholes and wells available at: <https://www.sepa.org.uk/media/34618/decommissioning-redundant-boreholes-andwells.pdf>

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

18. If during the development works, new contamination or risks to the water environment are encountered which have not previously been identified, works should cease, and the Local Planning Authority shall be notified immediately. This new contamination shall be fully investigated in accordance with the Land Contamination: Risk Management (LCRM) guidance (available at <https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>) In the event of unacceptable risks being identified, a remediation strategy shall be agreed in writing with the Local Planning Authority and subsequently implemented in accordance with the approved details and timeframe.

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

19. After completing all remediation and decommissioning works under Conditions 17 and 18 and prior to occupation of the development, a verification report shall be submitted to and approved in writing by the Local Planning Authority. This

report should be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance available at <https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>. The verification report should present all the remediation, decommissioning and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

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

20. The existing trees shaded in yellow on drawing no. 2781-050-04-07-044 Rev B - Site Plan (PH2) (date stamped 19 May 2021) are protected by a Tree Preservation Order and shall be retained. No retained tree shall be cut down, uprooted or destroyed, have its roots damaged nor shall arboricultural work or tree surgery take place on any protected tree without the written approval of the Planning Authority of Newry, Mourne and Down District Council.

Reason: To secure long-term protection of trees.

21. During the first available planting season after the occupation of the first dwelling, or as otherwise agreed in writing by the Local Planning Authority, landscaping shall be carried out in accordance with the Proposed Landscaping Plan (Drawing No L0-01 Rev D date stamp received 19th May 2021) and maintained thereafter.

Reason: In the interest of visual and residential amenity.

22. 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 Local Planning Authority gives its written consent to any variation.

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

23. The open space and amenity areas as indicated on the drawing No L00-01 Rev D date stamp received 19th May 2021 (Soft Landscape Proposals) shall be managed and maintained in accordance with a detailed Landscape Management and Maintenance Plan which shall be submitted to and agreed in writing by the Local Planning Authority prior to the first occupation of any dwelling hereby approved.

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.

24. No vegetation clearance/removal of hedgerows, trees or shrubs shall take place between 1 March and 31 August inclusive, unless a competent ecologist has undertaken a detailed check for active bird's nests immediately before

clearance and provided written confirmation that no nests are present/birds will be harmed and/or there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the Planning Authority within 6 weeks of works commencing.

Reason: To protect breeding birds

25. Prior to occupation of any of the dwellings hereby approved, an acoustic barrier shall be constructed in accordance with Figure L of the report prepared by Leister Acoustics Reference MRL/1369/L01 dated 31 Jan 2020 for the properties described as Zone A and as detailed on Drawing No. 2781-050-04-07-044 Site Plan (PH2) date stamp received 19th May 2021.) This acoustic barrier shall be retained thereafter.

Reason: In the interest of residential amenity

26. The façade sound reduction (of window and ventilation systems) shall provide the Sound Reduction performances noted in Table 5 of the report prepared by Leister Acoustics Reference MRL/1369/L01 dated 31 Jan 2020 for all properties in the development.

Reason: In the interest of Residential Amenity

Case Officer: O. Rooney

08/10/2021

Authorised Officer: Patricia Manley

08/10/21



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

Application Reference: LA07/2019/0369/F

Date Valid: 5th March 2019

Proposal: Erection of Fun Fair Ferris Wheel

Location: Castle Park to rear of 1 to 11 Central Promenade Newcastle

Site Characteristics & Area Characteristics:



The site is comprised of a 0.2 hectare site, comprising a grassed public open space area known as Castle Park located within the town centre of Newcastle. Immediately north of the site lies the Shimna River, while to the south and west the areas are predominantly residential. East of the site lies Central Promenade a busy retail area comprising shops and tourist amenities.

The site is location within the settlement limit of Newcastle and is located within an active open space and amenity open space (Castle Park) as designated in the Ards and Down Area Plan 2015. The site is located partially within the Bryansford Road – Enniskeen Hotel and Shimna River Corridor Local Landscape Policy Area LLPA 2 as designated in the Ards and Down Area Plan 2015. The site is also noted to be located outside but adjacent to an Area of Archaeological Potential.

Site History:

R/2007/1285/F - Land at Castle Park, Situated between Shimna Road and Central Promenade, adjacent to Shimna River to the north and Park Avenue (Bowling Green) to the south, Newcastle.

Planning Policies & Material Considerations - El Scheme for Castle Park to include planting and landscaping, new hand rail and seating, footpath, proposed jetty and slipway, steps from the Central Promenade entrance, lighting and new fencing. - PERMISSION GRANTED - 25.06.2008

R/2009/0713/F - Castle Park, Main Street, Newcastle - Provision of new playground facility at Castle Park, Newcastle. PERMISSION GRANTED - 30.10.2009

LA07/2017/1455/F - Adjacent existing pavilion Castle Park, Newcastle, - Proposed new bowling club pavilion to include main hall, toilet's and changing facilities - PERMISSION GRANTED - 23.11.2018

Planning Policy

Decisions must be taken in accordance with the provision of the Local Development Plan unless material considerations indicate otherwise. However, until the Council adopts its new Local Development Plan, most planning applications will continue to be assessed against the provisions of the Department of the Environments Development Plans, the Strategic Planning Policy Statement (SPPS) and Planning Policy Statement (PPSs) which contain the main operational planning policies for the consideration of development proposals.

Ards and Down Area Plan 2015

The site is located within the settlement limit of Newcastle. It is also partially located with LLPA 2 and adjacent an area of archaeological potential.

Strategic Planning Policy Statement for Northern Ireland (SPPS)

SPPS sets out the guiding principle on determining development proposals in paragraph 3.8, stating that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

PPS 2: Natural Heritage – sets out planning policies relating to the conservation, protection and enhancement of our natural heritage

PPS 3: Access, Movement and Parking (Revised 2005) Clarification 2006) sets out planning policies relating to vehicular and pedestrian access and road safety.

PPS 8: Open space, sport and outdoor recreation sets out the planning policies for the protection of open space the provision of new areas of open space in associated with residential development and the use of lands for the sport and outdoor recreation.

PPS 15: Planning Flood Risk sets out planning policies to minimise and manage flood risk to people, property and the environment.

PPS 16: Tourism sets out the planning policies for tourism development, including the main forms of tourist accommodation and tourist amenities.

Advertising

The application was advertised in the local press on 20.03.2021

Neighbour Notification

The relevant neighbours of the site were notified of the proposal 27.03.2019

Consultations:

Northern Ireland Environment Agency – No objections to the proposal referred to guidance docs

Historic Environment – Content proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

Rivers Agency – no objections to the proposal

Shared Environmental Services – No objections to the proposal

DfI Roads – No objections to the proposal

Environmental Health (NMDDC) No objections subject to the following condition “Any amplified music or PA system associated with the ferris wheel must be operated so as not to cause noise nuisance to nearby residential properties.”

Objections & Representations

One letter of support was received from Newcastle Chamber of Commerce.

Consideration and Assessment

SPPS

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

Ards and Down Area Plan 2015

The application site is located within the Settlement Limit of Newcastle. Policy SETT 1 of ADAP states that favourable consideration will be given to development proposals within settlement limits including zones sites provided that the proposal is sensitive to the size and character of the settlement in terms of scale, form, design and use of materials. This policy therefore provides broad support for the principle of the proposal.

LLPA 2

ADAP 2015 includes a list of features or combination of features that contribute to the environmental quality, integrity or character of this area. It is noted that LLPA 2 extends from Central Promenade in the east of the settlement to an area north-west of the settlement along the Bryansford Road. Castle Park is located in the most easterly section and noted to be an established public open / amenity space

area. The site is currently used for outdoor activities run predominantly by the Council. It is not considered that this seasonal activity will detract from the overall LLPA designation.

PPS 2: Natural Heritage

Policy NH1 – European and Ramsar sites – International is applicable to this application. The Planning Authority have consulted with both Northern Ireland Environment Division (NED) and Shared Environment Services (SES). No objections to the proposal have been offered.

The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features of any European site.

PP3: Access Movement and Parking

DfI Roads have been consulted and confirmed that they have no objections to the proposal. The site is located within the settlement limits of Newcastle and is within the vicinity of a number of public car parks which could provide car parking for those attracted to the proposal.

PPS 8 – Open Space, Sport and Outdoor Recreation

Policy OS 1 states that development which would result in the loss of existing open space or land zoned for the provision of open space will not be permitted. The presumption against the loss of existing open space will apply irrespective of its physical condition and appearance.

The proposal seeks permission for the existing open space area to be used for a Funfair Ferris Wheel. The applicant seeks approval on a temporary basis during the summer months from 1st June – 31st August.

The proposal would therefore be in use for no more than three months in the year. Conditions will be attached to ensure this is the case and that the existing open space will be restored to its original condition when the ferris wheel has left the site. It is considered therefore that the open space use on the site will not be permanently lost and for the majority of the year (September to May) it will continue to be used as such.

PPS 15: Planning and Flood Risk

In assessment of this policy the Planning Authority consulted with DfI Rivers, which advised that, initially, the proposal was partially located within the 1 in 100-year floodplain of the adjacent Shimna River. Following receipt of amendments and further consultation with DfI Rivers, it has been concluded that the proposal now lies outside the 1 in 100-year floodplain. The proposal is therefore compliant with FLD 1 of PPS 15. In addition, DfI Rivers are content that the submitted Flood Risk Assessment has provided adequate mitigation measures in the event of flood warnings.

Policies FLD 2, 3 and 4 are not applicable to the proposal.

Policy FLD 5 relates to Development in Proximity to Reservoirs and is relevant to the proposal given its proximity to Fofanny Dam & Lough Island Reavy Reservoir Impoundments. DfI Rivers have advised

the Planning Authority that based on safety information available to them, they have no reason to object to the proposal from a reservoir flood risk perspective.

The proposal is therefore compliant with the requirements of PPS 15.

PPS 16: Tourism

Policy TSM 1: Tourism Development in Settlements is applicable which states that planning permission will be granted for a proposal for tourism development (including a tourist amenity or tourist accommodation) within a settlement, provided it is of a nature appropriate to the settlement, respects the site context in terms of scale, size and design, and has regard to the specified provisions of a development plan.

The temporary use of the existing open / amenity space area for the Ferris Wheel is appropriate to the sites location with Newcastle. It will be located immediately adjacent the bowling green & pavilion, children's play park, seasonal go-kart and peddle swans area along with the seating areas at Shimna River.

It will have a maximum height of 21.5m above ground level and plans indicate that it will be enclosed with 2m high security fencing during operative hours.



It is considered that the wheel will be sufficiently separated from neighbouring residential properties not be a nuisance. Conditions regarding hours of operation are also considered appropriate and will be detailed below.

Given the temporary nature of the proposal, it is considered that it respects the context of the site in terms of scale, size and design and therefore meets the requirements of Policy TSM 1.

Policy TSM 7 – Criteria for Tourism Development

TSM 7 states that proposals for tourism use will be subject various design and general criteria. The design criteria includes such details as means of enclosure, movement patterns design and layout. Whilst the general criteria requires proposals to be compatible with surrounding land uses, not harm amenities of neighbours, or not adversely affect natural or built heritage and consider traffic generated by the proposal.

With regards to the design criteria, the design and layout are as expected for a Ferris Wheel, with pedestrian access available from the surrounding Shimna Rd, Central Promenade and Park Avenue.

Given the location of the site within Castle Park, the proposal is considered to be compatible with the surrounding land uses and will not detract from the landscape quality and character of the area. As detailed above, conditions regarding operating hours will ensure the amenity of those neighbours along Shimna Road Shimna Parade, Castlebridge Court and Park Avenue will not be detrimentally affected.

No objections have been received from NIEA, SES or HED regarding natural or built heritage. DfI Roads are content with the proposal from a road safety perspective.

It is considered that the proposal conforms satisfactorily to the design and general criteria included with TSM 7.

Conclusion

Having assessed the proposal against the various planning policies and material considerations which apply to the application and taking into account the input of the Councils consultees, it is determined that the proposal is acceptable in planning terms and **APPROVAL** is recommended.

Drawings

The Drawings considered as part of this assessment are as follows

12264/1, 12264 A.2.01, 12264 A.4.01 and 12264/4

RECOMMENDATION: **APPROVAL**

CONDITIONS

1. The development hereby permitted, shall be for a limited period of 3 years only and shall expire on the 31st August 2024. The Ferris Wheel shall only be on site for three months per calendar year (1st June – 31st August).

Reason: To enable The Council to consider the development in the light of circumstances then prevailing.

2. At the end of each 3-month period as referred to in Condition 1, the Ferris wheel and all its associated development shall be removed from the site and the site returned to grass.

REASON: To ensure the maintenance of this area of open space.

3. The development hereby permitted shall take place in strict accordance with the following approved plans: 12264/1, 12264 A.2.01, 12264 A.4.01 and 12264/4

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

4. The use hereby permitted shall not be open to customers outside the following time 09:00-22:00.

Reason: To safeguard the living conditions of residents in nearby properties

Case Officer: C Cooney

Date: 29.09.2021

Authorised Officer: A.McAlarney

Date: 30 September 2021



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2020/1689/F

Date Received: 17.11.2020

Proposal: The application is for full planning permission for an Overflow asphalt car park (163 car parking space & 13 disabled car parking spaces) accessed via existing Donard Park, car park, erection of 6m high ball stop & 1.8 paladin fence, new footpaths and associated lighting, landscaping and drainage.

Location: The application site is located at Land 120m NW of 5 Donard Park & west of the existing Donard Park car park, Newcastle.



Site Characteristics & Area Characteristics:

The site is located directly adjacent to an existing car park and amenity areas including a pitch and surrounded by residential developments in the wider vicinity. The site is currently grassed and is bounded by mature trees to the south west and the existing pitch to the north. The site is accessed through the existing car park from Central Promenade.

Site History:

R/2010/0488/F | Donard Car Park, Newcastle | Provision of reinforced grass to existing area of open space, orientation points, entrance feature and interpretation boards | Permission Granted 31.05.2011

Relevant History

TPO/2008/0018 | Land at Donard Park, Newcastle | TPO CONFIRMED | 08.05.2008.

R/2004/0387/F | Donard Park, Bryansford Road | Upgrade existing gravel pitch to synthetic turf playing pitch, new six lane running track & flood lighting | Permission Granted 15.11.2004.

R/1993/0961 | Lands at Donard Park Newcastle | New floodlighting to playing fields | Permission Granted.

R/1992/0171 | Donard Park Central Promenade Newcastle | Change of use of park land to form rally-kart circuit | Permission Refused

Planning Policies & Material Considerations:

The application site is located within the settlement limits of Newcastle within an area of existing amenity open space and recreation as designated in map 3/004a in the Ards and Down Area Plan 2015. LLPA 6 (Donard Park, Donard Lodge and associated planting and Glen River Corridor) bounds the site to the SW. The relevant regional policy context is provided by:

Regional Development Strategy (RDS)

SPPS – Strategic Planning Policy Statement for Northern Ireland

PPS 2 – Natural Heritage

PPS 3 - Access Movement and Parking

PPS 6 – Planning Archaeology and the Built Environment

PPS 8 - Open Space, Sport and Recreation

PPS 15 – Planning and Flood Risk

Guidance – Parking Standards

Consultations:

DFI Roads – No objections

NIEA Water Management – No objections

NIEA Natural Environment Division – No formal response at the time of writing

Rivers Agency – No objections

Shared Environmental Services – No objections

Historic Environment Division (Historic Monuments) – No objections

Objections & Representations

In line with statutory requirements fifty eight neighbours have been notified on 15.02.2021 and again with amended plans 01.09.2021. The application was advertised in the Down Recorder on 02.12.2020 and the Newry Democrat on 01.12.2020.

One representation was received from Barbara Forsythe (Mrs). She does not object to the new car park, but moreso the antisocial behaviour of young drivers using the car park. This would be a matter for the Council as a whole and outside the remit of planning.

Consideration and Assessment:

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

Under the SPPS, the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations unless the proposed development will cause demonstrable harm to the interests of acknowledged importance. In practice this means that development that accords with an up-to-date development plan should be approved and proposed development that conflicts with an up-to-date development plan should be refused unless other material consideration indicate otherwise. Any conflict between retained policy and the SPPS is to be resolved in favour of the SPPS. There is no conflict in this case between the SPPS and the current policy.

The application seeks permission to provide a new overflow car park to the west of the existing car park.



Proposed layout

Principle of development

The history of the site is an important material consideration. Planning permission was granted for the provision of reinforced grass to be used as an overflow car park within part of this zoning for existing amenity open space and recreation under planning application R/2010/0488/F, which would indicate that a precedent has already been set. Further to this

aspect of the assessment, Policy OS1 of PPS 8 is applicable, which states that the Department will not permit development that would result in the loss of existing open space or land zoned for the provision of open space. An exception will be permitted where it is demonstrated that the loss of open space will have no significant detrimental impact on the amenity, character or biodiversity of an area and where in the case of an area of open space of 2 hectares or less, alternative provision is made by the development which is at least as accessible to current users and at least equivalent in terms of size, usefulness, attractiveness, safety and quality. In consideration of this and taking into account the history on the site, the need for more car parking spaces in Newcastle is evident, the loss of this amenity area is not considered to be significantly detrimental to the area.

Taking into account the planning history of this zoning whereby a considerable portion is already in use as an existing car park no objection is raised to part of these remaining zoned lands also being used as a car park.

It is therefore important to assess the impact such an application would have on interests of acknowledged importance, hence the consultations with DFI Roads, NIEA and Rivers Agency and any other material considerations including objections.

PPS 2 – Natural Heritage

In assessment, it is noted that the site will be accessed through the existing car park and is comprised of an area of semi-improved grassland.

Council consultation was carried out with NIEA - Natural Environment Division. The application is subject to the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) (known as the Habitats Regulations). Shared Environmental Services (SES) were also formally consulted and advise that the project would not be likely to have an adverse effect on the integrity of any European site. They have included two conditions to be included within the report.

A Preliminary Ecological Appraisal (PEA) has been submitted by the Council and recommends that a CEMP is required before development commences on the site. All trees will be retained on the site. The response from NED is still outstanding at the time of writing this report.

PPS 3 - Access, Movement and Parking

Policy AMP 2, Policy AMP 9 Design of Car Parking and Policy AMP 10 Provision of Public and Private Car Parks are all relevant.

Policy AMP 9 states that a high standard of design, layout and landscaping is expected to accompany all proposals for car parking. Planning permission will only be granted for a proposal where all the following criteria are met:

- (A) It respects the character of the local landscape
- (B) It will not adversely affect visual amenity; and
- (C) Provision has been made for security and the direct and safe access and movement of pedestrians and cyclists within the site.

AMP 10 - Provision of Public and Private Car Parks

Planning permission will only be granted for the development or extension of public or private car parks, including park and ride and park and share where it is demonstrated that:

- they do not significantly contribute to an increase in congestion;
- are not detrimental to local environmental quality;
- they meet a need identified by the Department for Regional Development in Transport Plans or accepted by DRD following robust analysis provided by a developer;
- within defined areas of parking restraint they are only used for short-stay parking and are appropriately managed to deter long stay commuter parking; and
- they are compatible with adjoining land uses.

It is considered that the proposed surface level car park extension would utilise part of an area which is free of mature trees. The site has previously been used in the past as an overflow car park and this is a material consideration. The site has a mature backdrop of trees in the wider area. The additional car park part would be read as part of the existing area which is dominated by an existing public car park and playing pitches, it is not considered that the proposal would harm the character or visual amenity of the area. The TPO trees are being retained and the proposal will not impact on the LLPA to the west. Subject to a positive response from NED in terms of the local environmental quality of the site, it complies with this policy. The car park is compatible with the surrounding land uses. Given the history on the site Planning do not consider there to be any intensification in use of the existing accesses, on this basis DfI Roads, consider the proposal to be acceptable with no objections offered. DfI Roads would also point out that it would be desirable in the interests of road safety for the accesses onto the main public roads to be improved.

PPS 6 – Planning Archaeology and the Built Environment

HED (Historic Monuments) requested an archaeological evaluation as per Policy BH 3 of PPS 6. The site was archaeologically evaluated under licence AE/21/086. Nothing of archaeological significance was encountered. Therefore, no further archaeological works are required. HED (Historic Monuments) is content that the proposal is now satisfactory to SPSS and PPS 6 archaeological policy requirements.

PPS 15 – Planning and Flood Risk

FLD1 - Development in Fluvial and Coastal Flood Plains –

Appendix L – NMADDC Site Investigation Report contained within the Drainage Assessment from Tetra Tech concludes the undesignated watercourse that historically traversed the north eastern boundary of the site has been made redundant within the application site. Therefore, FLD1 is satisfied.

FLD2 – Protection of Flood Defence and Drainage Infrastructure – The site is bounded briefly at the south east corner by a watercourse which is designated under the terms of the Drainage (Northern Ireland) Order 1973 and known to DfI Rivers as the 'Glen River'. The proposed Site Plan & Details contained within the Drainage Assessment, shows the development to be suitably distanced from the watercourse with the required maintenance strip left as existing. As such revised PPS 15 FLD 2 is satisfied.

FLD3 - Development and Surface Water - DfI Rivers PAMU have reviewed the Drainage Assessment Addendum by Tetra Tech and our comments are as follows:

DfI Rivers, while not being responsible for the preparation of the Drainage Assessment accepts its logic and has no reason to disagree with its conclusions.

It should be brought to the attention of the applicant that the responsibility for justifying the Drainage Assessment and implementation of the proposed flood risk measures (as laid out in the assessment) rests with the developer and his/her professional advisors (refer to section 5.1 of Revised Planning Policy Statement 15).

The DA states that this is a preliminary drainage design, therefore DfI Rivers requests that the planning authority includes a condition for a final drainage assessment as part of its planning permission if granted.

FLD4 - Artificial Modification of watercourses – Not applicable to the site based on information provided.

FLD5 - Development in Proximity to Reservoirs – Not applicable to this site.

No objections have been raised by Rivers Agency.

Impact on Residential Amenity

The car park is considered to be sited a sufficient distance from adjacent dwellings to prevent any unacceptable impacts.

Conclusion

Taking into account planning policy, consultee responses, planning history and the representation received on the application and all other material planning considerations approval is recommended subject to a positive response from Natural Environment Division (NED) which is currently outstanding.

This application shall be presented to Planning Committee and it is requested that delegated authority is afforded to officers upon a satisfactory response being forthcoming from the outstanding consultee namely NIEA NED.

Recommendation:

Approval

The plans to which this proposal was assessed include:

Site location plan – DDC148-G-1-10a

Proposed Site plan & details – DDC148-G-1-11c

Lighting elevation - DDC148-G-1-12

NIEA WMU consultation response dated 15/01/2021

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: **DDC148-G-1-10a, DDC148-G-1-11c, DDC148-G-1-12 & NIEA WMU consultation response dated 15/01/2021.**

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

3. The appointed contractor shall submit a Final Construction Method Statement (CMS) for approval by the Planning Authority before commencement of any works on site. This plan should contain all the appropriate environmental mitigation as detailed in the standing advice of NIEA WMU in their response dated 15/01/2021.

Reason: To ensure that the appointed contractor is aware of and implements the appropriate environmental mitigation during construction phase that will negate any potential effects on the features of Murlough SAC.

4. No development should take place on-site until a Schedule 6 consent to discharge surface water under the Drainage (Northern Ireland) Order 1973 has been obtained from DFI Rivers.

Reason: To ensure a practical solution to surface water disposal is possible at this site that protects the connected Murlough SAC.

5. Prior to the commencement of any of the approved development on site, a final drainage assessment, compliant with FLD 3 & Annex D of PPS 15, and Sewers for Adoption Northern Ireland 1st Edition, including a detailed drainage network design and a demonstration of how out of sewer flooding due to exceedance of the drainage network will be managed, must be submitted and agreed by the Planning Authority.

Reason: To safeguard against flood risk to the development and from the development to elsewhere.

6. All hard and soft landscape works shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice.

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

7. No retained tree shall be cut down, uprooted or destroyed or have its roots damaged within the root protection area nor shall arboriculture work or tree surgery take place on any retained tree other than in accordance with the approved plans and particulars, without the written consent of the Council.

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

8. The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be

altered, nor shall any excavation be made or any other works carried out, or fires lit without the written consent of the Planning Authority.

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

Informatives

1. Birds

The applicant's attention is drawn to Article 4 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

- kill, injure or take any wild bird; or
 - take, damage or destroy the nest of any wild bird while that nest is in use or being built; or
 - at any other time take, damage or destroy the nest of any wild bird included in Schedule A1; or
 - obstruct or prevent any wild bird from using its nest; or
 - take or destroy an egg of any wild bird; or
 - disturb any wild bird while it is building a nest or is in, on or near a nest containing eggs or young;
- or
- disturb dependent young of such a bird.

Any person who knowingly causes or permits to be done an act which is made unlawful by any

of these provisions shall also be guilty of an offence.

It is therefore advised that any tree, hedge loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season including 1st March to 31st August, unless pre-clearance surveys show an absence of breeding birds.

2. Badgers

The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the badger (*Meles meles*). It is also an offence to intentionally or recklessly: damage or destroy, or obstruct access to, any structure or place which badgers use for shelter or protection; damage or destroy anything which conceals or protects any such structure; disturb a badger while it is occupying a structure or place which it uses for shelter or protection. Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

If there is evidence of badger on the site, all works must cease immediately and further advice sought from the Wildlife Inspector's Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 90569605.

3. Bats.

The applicant's attention is drawn to The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), under which it is an offence:

- a) Deliberately to capture, injure or kill a wild animal of a European protected species, which includes all species of bat;

- b) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
- c) Deliberately to disturb such an animal in such a way as to be likely to;
 - (i) affect the local distribution or abundance of the species to which it belongs;
 - (ii) Impair its ability to survive, breed or reproduce, or rear or care for its young; or
 - (iii) Impair its ability to hibernate or migrate;
- d) Deliberately to obstruct access to a breeding site or resting place of such an animal; or
- e) To damage or destroy a breeding site or resting place of such an animal.

If there is evidence of bat activity / roosts on the site, all works should cease immediately, and further advice sought from the Wildlife Inspector's Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT72JA. Tel. 028 905 69605.

4. Care will need to be taken to ensure that polluting discharges do not occur during any works phase. The applicant should refer and adhere to all relevant precepts in DAERA Standing Advice on Pollution Prevention Guidance. Due to the large number of car parking spaces proposed, Water Management Unit would recommend the development includes the installation of an oil interceptor to prevent oil from on-site activities leaving the site. The applicant should consult Pollution Prevention Guideline (PPG) 03 - Use and design of oil separators in surface water drainage systems. for further advice regarding the installation and maintenance of oil interceptors/separators which can be found at the link given below.
http://www.netregs.org.uk/library_of_topics/pollution_prevention_guides/all_ppgs.aspx Water Management Unit recommends the applicant refers and (where applicable) adheres to the precepts contained in DAERA Standing Advice on Sustainable Drainage Systems in order to minimise the polluting effects of storm water on waterways.
5. This decision relates to planning control and does not cover any other approval which may be necessary under other legislation.
6. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
7. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

Case Officer

C Moane

Date 03/11/2021

Authorised Officer

A.McAlarney

Date 03 November 2021



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

Application Reference: LA07/2021/0786/RM

Date Received: 22.04.2021

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

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

Site Characteristics & Area Characteristics:



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

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

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

Proposed Development

The application proposes the demolition of a former school building (St Mary's Ps) and

- erection of a food store (Lidl) positioned along the eastern boundary of the site with a gross floor area of 2134sqm and a sales area of 1338sqm,
- a mountain rescue centre (MMR) with an approx. gross floor area of 656sqm located at the north-western end of the site
- provision of car parking for 147 spaces including 8 reserved for the rescue centre, 4 spaces for disabled users and 4 parent & toddler spaces
- Vehicular and pedestrian access will be from Bryansford Road with the existing access at Shanslieve Drive closed up
- Associated landscaping and site works including the retention of all but one TPO tree.

In addition to the application forms and drawings the application has also been supported by a Design and Access Statement, Landscape Management and Maintenance Plan and Bat Mitigation Plan.

Site History:

The planning history of the site predominantly relates to applications associated with the school i.e. temporary classrooms, storage facilities, toilet block. However, the most recent application on site is most pertinent to this current application given that it provided the approval for the development in principle under LA07/2018/0001/O.

Neighbour Notification

All relevant neighbours were notified of the proposal on 03.06.2021

Advertising

The application was advertised in the local press on 12.05.2021

Objections & Representations

One objection has been received from Cleaver Fulton Rankin on behalf of their client Don Holdings Ltd. Their objection relates to the accuracy of the drawings and the consequential implications for road safety.

Planning Policies & Material Considerations:

In assessment of this proposal regard shall be given to the

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

Consultations:

In assessment of the proposal consultations were carried out with

Transport NI – No objections subject to conditions

NIEA- No concerns subject to conditions

Environmental Health – No objections in principle subject to conditions

NIW – No objections – subject to conditions

Rivers Agency – No objections subject to conditions

Policy Context

Local Development Plan Context

Section 45 of the Planning Act (Northern Ireland) 2011 requires where an application is made for planning permission, the planning authority in dealing with the application must have regard to the local development plan, so far as material to the application and to any other material considerations. Other material considerations include existing site uses and features, proposed layout and design, impact on the neighbourhood and availability of infrastructure, planning policy publications, supplementary planning guidance, economic factors consultation responses, planning history, objections / representations, plan, prematurity etc.

The Ards and Down Area Plan (ADAP) 2015 is the statutory development plan for the area.

The application site lies within the settlement limits of Newcastle and within whiteland as identified in the ADAP 2015. The site is located outside the Town Centre Boundary.

Consideration and Assessment:

Principle of development

As indicated above the principle of development has been established through the granting of LA07/2018/0001/O which was permitted subject to a number of conditions relating to

- Time
- Development in accordance with those noted stamped approved drawings
- Submission of 1:500 scale layout plan
- Net retail floorspace shall not exceed 1338sqm
- Store shall be used only for retail uses listed
- Store shall be operated as a single unit and not subdivided
- No internal operations including installation of mezzanine floors
- Development shall operate in accordance with the approved Service Management Plan Dated December 2017
- Hours of opening are limited to 08:00 – 21:00 Monday to Saturday and 13:00 – 18:00 Sunday
- Hours of delivery are limited to between the hours of 23:00 and 07:00
- Conditions relating to condenser units, mushroom vents and external plant
- Floodlighting is limited to the approved levels as shown in Lighting Impact Assessment Report

date stamped 13 November December 2017 and shall only operate within the hours of 07:00 to 23:00

- No development activity, including demolition, ground preparation or vegetation clearance, shall take place until a final Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Council.
- Submission of a Bat Mitigation Plan
- Landscaping conditions
- Submission of a Landscape Management & Maintenance Plan
- Implementation of the Travel Plan dated 19th December 2017.

In assessment of the outline planning conditions, it is noted that the matters reserved have been submitted within the conditioned time frame. The application has been accompanied by a 1:500 scale plan showing the site layout and access details. It appears from the plans that the net retail floorspace does not exceed 1338sqm and the store shall be operated as a single unit. The submission includes a Bat Mitigation Plan and Landscape Management & Maintenance Plan.

As the principle of the development has been established, it falls to the Planning Authority to now consider the details of the proposal.

Design

Policy DES 2 Townscape of the Planning Strategy for Rural Northern Ireland (PSRNI) highlights the importance of an attractive and interesting townscape and the role that this plays in the vitality and viability and overall character and quality of the area. The site is a notable vacant plot, which abuts the busy Bryansford Road of Newcastle. It is also located immediately adjacent the residential area known as Tullybrannigan and Donard Park and Playing Fields.

The policy states “the physical appearance of new development will have an effect on the townscape of a settlement not and in the future. It should therefore be of sufficient quality to make a positive contribution to the townscape... The main concern is to ensure that development proposal neither conflict with or detract from the character, amenity and design of an area”.

In consideration of this it is noted that the retail unit (Lidl) will have a mono-pitched roof approx. above 6.1m above finished floor level at its highest point. The walls are to be clad with 140mm Kingspan benchmark, recess panel in metallic silver, with painted white rendered walls with grey rendered base and local natural stone where shown. The main roof is to be proprietary sedum type green roof with ancillary roof finished with profiled metal panel Kingspan roof in metallic silver. The proposed eastern elevation will be fitted with high level glazing, the western and southern elevations will have limited fenestration, the northern elevation will be almost completely glazed.



The Mountain Rescue Centre will be a flat roof building with a maximum ridge height of 7.7m. It will be finished with smooth render walls, painted white, with natural local stone cladding where indicated. The roof will be clad with kingspan, while the windows and rainwater goods will be aluminium ppc in charcoal colour.



From a siting, scale and massing perspective it is considered that the layout and design proposed is appropriate in the area and compliant with DES 2.

From a landscaping perspective the existing site is defined on all boundaries by a number of mature trees which are subject to a Tree Preservation Order (TPO) – see R/2001/0936/TPO. One TPO tree is to be removed, while the remaining TPO trees are to be retained and will be protected in accordance with BSI and allied industry recommendations. This is considered appropriate.

In addition, a comprehensive landscaping scheme has been provided which shows new planting at the entrance to the site and along the eastern boundary, with the existing planting on the southern and western boundaries augmented with additional new planting.

The landscaping scheme has been accompanied by a Landscape Management and Maintenance Plan which sets out in detail the management aims and objectives for the site along with the specific management objectives of each landscape component and the associated maintenance works required on an annual basis.

Based on the above assessment it is considered that the proposed details in terms of siting, design, external appearance of the buildings and landscaping, comply satisfactorily with conditions 2, 19 and 20 of the outline approval.

Adequate access, car parking and manoeuvring provision

Condition 4 of LA07/2018/0001/O required the submission of a scale plan and accurate site survey at 1:500 showing the access to be constructed and other requirements in accordance with the RS1 Form dated 13.02.2020.

A new access onto Bryansford Road is proposed, Policy AMP 2: Access to Public Roads of PPS 3 is applicable which states that planning permission will only be granted for development involving direct access, or the intensification of the use of an existing access, onto a public where

- (A) Such access will not prejudice road safety or significantly inconvenience the flow of traffic
- (B) The proposal does not conflict with Policy AMP3 Access to Protected Routes

Category A is applicable.

Drawing No 01-02 Rev E has been submitted showing the relevant details. In assessment of this the Planning Authority consulted with DfI Roads, who have advised that they have no objections subject to conditions.

The proposal is therefore considered to comply satisfactorily with Condition 4 of the outline approval and Policy AMP 2 of PPS 3.

In terms of parking and servicing Policy AMP 7 of PPS 3 is applicable which requires proposals to provide adequate provision for car parking and appropriate service arrangements. The proposed plans indicate that a total of 147 spaces are proposed to facilitate the whole development, which includes 8 spaces for the Mountain Rescue Centre.

The justification for the proposed parking was provided in the Transport Assessment considered under LA07/2018/0001/O. DfI Roads reviewed and agreed with this assessment.

With regard to servicing, a Service Yard Management Plan was approved at outline. The proposed development will operate in accordance with this plan and thereby complies with Condition 9 of the outline approval.

Natural Heritage Interests

The site is subject to the Conservation (Natural Habitats, etc) regulations (NI) 1995 as amended (known as the Habitats Regulations) and that the site is hydrologically connected to the Shimna River ASSI which is of national importance and is protected by the Environment (NI) Order 2002 (as amended).

The application site also contains bats as protected by the Habitats Regulations.

PPS 2 is applicable and in assessment of its policies and how the proposal affects interest of acknowledged importance, the Planning Authority consulted with Northern Ireland Environment Agency NIEA.

In respect of the proposals impact on Shimna ASSI and Murlough ASSI/SAC, NIEA consider there is a potential for indirect impacts on the site selection features from pollution during construction and operation phases of the proposal. As per the previous response, a final CEMP should be provided detailing all pollution prevention measures.

Condition 17 of the outline planning permission will be complied with on submission of this plan.

In assessment of Bats and Condition 18 of the outline planning permission, NED has assessed the Bat Mitigation Plan (BMP) submitted and is content with the measures detailed within. With regards to the proposed compensation for the loss of the bat roost on site, NED considers that the compensatory bat boxes proposed on boundary trees will be sufficient to ensure no significant impact on bats. Additionally, NED is content with the lighting plan submitted and notes that no lighting spill must occur on the bat boxes that will impact the mitigation for the loss of the bat roosts within the building.

It is considered therefore that the proposal is compliant with conditions 17 and 18 of LA07/2018/0001/O and the requirements of PPS 2.

Given the sites location within the AONB, Policy NH 6 of PPS 2 is applicable which states that;

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

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

Based on the assessment above, considering the context, siting, design and landscaping of the proposal, it is considered that it complies satisfactorily with the requirements of Policy NH 6.

Environmental Health Interests

In assessment of the environmental health interests of the proposal and in consideration of outline conditions Nos 10-16 relating to opening hours, delivery hours, condenser units and vents, along with acoustic fencing and floodlighting, the Councils Environmental Health Department have been consulted. They have reiterated their comments from the outline planning permission and offered no environmental health objections to the proposed development.

The acoustic fencing conditioned in Condition No 14 of LA07/2018/0001/O was required to be positioned between the condenser units and the neighbouring apartment development. The screening was to be placed close to the condenser unit and be of a minimum height of 2m. The fence was to be constructed of with masonry or timber panelling (close lapped with no gaps) or of earth and shall have a minimum self-weight of 25kg/m2.

Details of this acoustic fence have been provided on Drawing No 01-02. The developer has chosen a 2m high timber panelling fence close lapped with no gaps. It will have a minimum self-weight of 25kg/m2.

A detailed lighting plan has been submitted see drawing No S100

It is considered therefore that this submission complies satisfactorily with conditions 10-16.

Planning and Flood Risk

In assessment of the above and in consideration of PPS 15, the Planning Authority consulted with DfI Rivers, who have advised that a watercourse which is designated under the Drainage (NI) Order 1973 flows along the western boundary of the site and is known to DfI Rivers as the 'Shanslieve Stream'. A watercourse undesignated under the Drainage (NI) Order 1973 flows along the northern boundary of the site. Historical Ordnance Survey maps indicate that a watercourse historically flowed along the western boundary of the site.

A Flood Risk Assessment (FRA) was submitted as part of the outline application and considered by DfI Rivers. In their latest response to this Reserved Matters application they advise "In the previous application DfI Rivers accepted the logic of the Flood Risk Assessment & Drainage proposals."

The proposal is therefore considered to be compliant with the requirements of PPS 15.

Other Matters

NIEA: Water Management Unit highlighted to the Planning Authority through the consultation process that they were concerned that the additional sewage loading associated with the above proposal has the potential to cause an environmental impact if transferred to Newcastle waste water treatment works (WWTW). Water Management Unit recommended that the Planning Authority consult with Northern Ireland Water Limited (NIW) to determine if the WWTW and associated sewer network will be able to cope with the additional load or whether the existing WWTW or network would need to be upgraded.

The Planning Authority consulted with NIW who advised in their consultation response of 28th September 2021 that Newcastle WWTW has capacity to serve the proposal.

No further assessment of this issue is therefore required.

Consideration of Objection

As detailed above an objection has been received from Cleaver Fulton Rankin on behalf of their client Don Holding Ltd. Their objection relates mainly to the accuracy of the proposed site layout plan, suggesting that it does not define the land owned by their client. In consideration of this it is noted that there is no requirement for applicants to show land ownership boundaries of third parties.

The Planning Authority however consulted with DfI Roads and asked them to consider the points raised and advise whether there are any road safety issues.

DfI Roads advised in their response dated 15th October 2021 that they consider the red line to be in accordance with that approved under LA07/2018/0001/O and are satisfied that the proposed visibility splays can be achieved within the submitted red line as previously conditioned. DfI Roads have

recommended the imposition of pre commencement conditions covering the access, splays and any forward sight distance.

Ownership disputes are essentially a civil matter to be resolved between the parties involved and are not considered to be a matter for the Planning Authority. Nevertheless, an informative will be applied to any forthcoming approval advising that planning consent does not confer title.

The issues raised by the objector have been considered.

Drawings

The drawings and supporting documents considered as part of this assessment are as follows

01, 01-02, 02-01, 02- 02, 03-01, 03-02, L-100, L-101 S100. 0006, Bat Mitigation Plan April 2021 and Landscape Management & Maintenance Plan March 2019. Service Management Plan dated December 2017, Travel Plan dated 19 December 2017, Noise Impact dated December 2017. Lighting Impact Assessment Report dated 13 November 2017.

Conclusion

Having assessed the proposal against the various planning policies and material considerations which apply to the application and taking into account the input of the Councils consultees, it is determined that the details submitted within this Reserved Matters application comply satisfactorily with the conditions of the outline approval. The proposal is therefore deemed acceptable in planning terms and approval is recommended subject to the following conditions.

Recommendation: Approval

Conditions

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

2. The development hereby permitted shall take place in strict accordance with the following approved plans 01, 01-02, 02-01, 02- 02, 03-01, 03-02, L-100, L-101, S100, 0006, Bat Mitigation Plan April 2021 and Landscape Management & Maintenance Plan March 2019, Service

Management Plan dated December 2017, Travel Plan dated 19 December 2017, Noise Impact dated December 2017. Lighting Impact Assessment Report dated 13 November 2017.

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

3. The vehicular access, including visibility splay of 2.4m x 70m and any forward sight distance, shall be provided in accordance with Drawing No 01-02E bearing the date stamped 22/04/2021 **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 gradients to the development hereby permitted shall not exceed 4% (1 in 25) over the first 10 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. No other development hereby permitted shall become operational until the road works indicated on Drawing No 01-02E bearing the date stamp 22/04/2021 have been fully completed in accordance with the approved plans.

Reason: To ensure that the road works considered necessary to provide a proper, safe and convenient means of access to the site are carried out at the time.

6. The net retail floorspace of the food store hereby approved shall not exceed 1338sqm. No goods or merchandise shall be stationed or displayed on the forecourt of the premises.

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

7. The food store hereby permitted shall be limited to the sale and display of convenience goods with the exception of an area not exceeding 268sqm of the total net retail floorspace that may be used for non-convenience retailing. Convenience goods for this purpose are hereby defined as the sale of:

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

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

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

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

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

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

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

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

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

Reason: To protect the amenity of neighbouring dwellings

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

Reason: To protect the amenity of neighbouring dwellings

13. A maximum of 2 mushroom vents shall be located as shown in Figure 2, page 5 of Noise Impact Assessment, dated December 2017. Each unit shall not exceed a sound pressure level of dBLAeq at 5m. There shall be no additional external plant installed without prior consultation and agreement in writing with the Council.

Reason: To protect the amenity of neighbouring dwellings

14. The acoustic screening as shown on Drawing No 01-02 shall be erected prior to operation of the food store and retained as such thereafter.

Reason: To protect the amenity of neighbouring dwellings

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

Reason: To protect the amenity of neighbouring dwellings

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

Reason: To protect the amenity of neighbouring dwellings

17. **No development activity, including demolition, ground preparation or vegetation clearance, shall take place** until a final Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Council. The approved CEMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved CEMP, unless otherwise agreed in writing by the Council. The CEMP shall include the following:

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

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

18. The approved Bat Mitigation Plan (BMP) shall be implemented in accordance with the approved details and all works on site shall conform to the approved BMP, unless otherwise agreed in writing by the Council.

Reason: To protect bats.

19. The landscaping as indicated on Drawing No L-101 shall be managed and maintained in accordance with the Landscape Management and Maintenance Plan dated March 2019. Any changes or alterations to the approved landscape management & maintenance arrangements shall be submitted to and agreed in writing by the Council.

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

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

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

21. **Prior to the commencement** of any development on site, a final drainage assessment, containing a detailed drainage network design and compliant with Annex D of PPS 15 must be submitted to the Planning Council for approval.

Reason – To safeguard against flood risk to the development and elsewhere.

22. The development hereby approved shall not be occupied until the foul water and surface drainage works on-site and off-site have been submitted to and approved by the relevant authority and constructed by the developer in line with the approved design.

Reason : In the interest of public health.

Case Officer: C Cooney
Authorised Officer A.McAlarney

Date: 29.10.2021
Date: 29 October 2021

Speaking Note submitted on behalf of Don Holdings (NI) Ltd in respect of the Planning Committee Meeting on 17 November 2021 (item no. 15 - LA07/2021/0786/RM):

Our client objects to the Reserved Matters application LA07/2021/0786/RM. Our client has serious concerns that Councillors are being asked to make a decision on this application without a thorough assessment having been undertaken, and without being furnished with all the necessary information required to support their decision. This calls in to question the lawfulness of the ultimate decision. The principal elements of our client's objection are as follows:

Pursuant to the Decision Notice dated 23 November 2020, the Council granted Outline planning permission LA07/2018/0001/O concerning the erection of a Lidl store and associated site works. Conditions 2 and 4 of the said permission required the Applicant to submit an accurate scale plan and site survey, specifically demonstrating the access to be constructed, in order to ensure there is a satisfactory means of access and in the interests of road safety.

We note that the Applicant has submitted a revised site plan. However, our client submits that the revised drawing continues to lack sufficient detail. The result is that the Applicant has failed to identify a glaring land ownership issue. The consequence of this is troubling; in that the approved sightlines quite simply cannot be achieved.

Had the Applicant provided the Council with accurate plans and surveys stretching across the entire entrance zone, including the entire width of Bryansford Road, precisely defining the adopted road limits and identifying the proper extent of neighbouring lands, including those of our client, they would have shown that the approved sightlines (already reduced) cut across third party lands and thus can never be realised.

Whilst land ownership is not usually a matter for the Committee, it becomes relevant when the application cannot be achieved due to unachievable sightlines. The consequences of this, as a matter of road safety, are obvious and significant.

More importantly, the Council will have failed to take into account a material and relevant factor if it proceeds on the basis that the plans and drawings provided are correct.

Our client has previously successfully judicially reviewed the Council for failing to take into account and give appropriate weight to its objection. The key issue which now remains is that the Council has been provided with drawings (to include revised drawings) and surveys by the Applicant which are and remain grossly inaccurate.

The Council has a duty to investigate this issue. It cannot simply defer to DfI Roads but must ensure that the Reserved Matters application provides a detailed and accurate survey confirming the Outline planning permission (in terms of visibility splays) is achievable.

It is our client's position that the Council cannot consider the Reserved Matters application until a proper and detailed map and topographical survey has been provided by the Applicant which complies with Conditions 2 and 4 of the Outline planning permission. This map and topographical survey should cover the entire length of the splay lines in both directions, including the full width of Bryansford Road, carriageway and footway. This should include a proper and accurate definition of the lands owned and/or controlled by our client, the Applicant and the extent of the roadway maintained by DfI Roads. Continued use of inaccurate plans is a failure of the Applicant's obligation to provide an "accurate scale plan

and site survey". Further, it is our client's position that the Council must seek confirmation from DfI Roads on this issue before considering the Reserved Matters application.

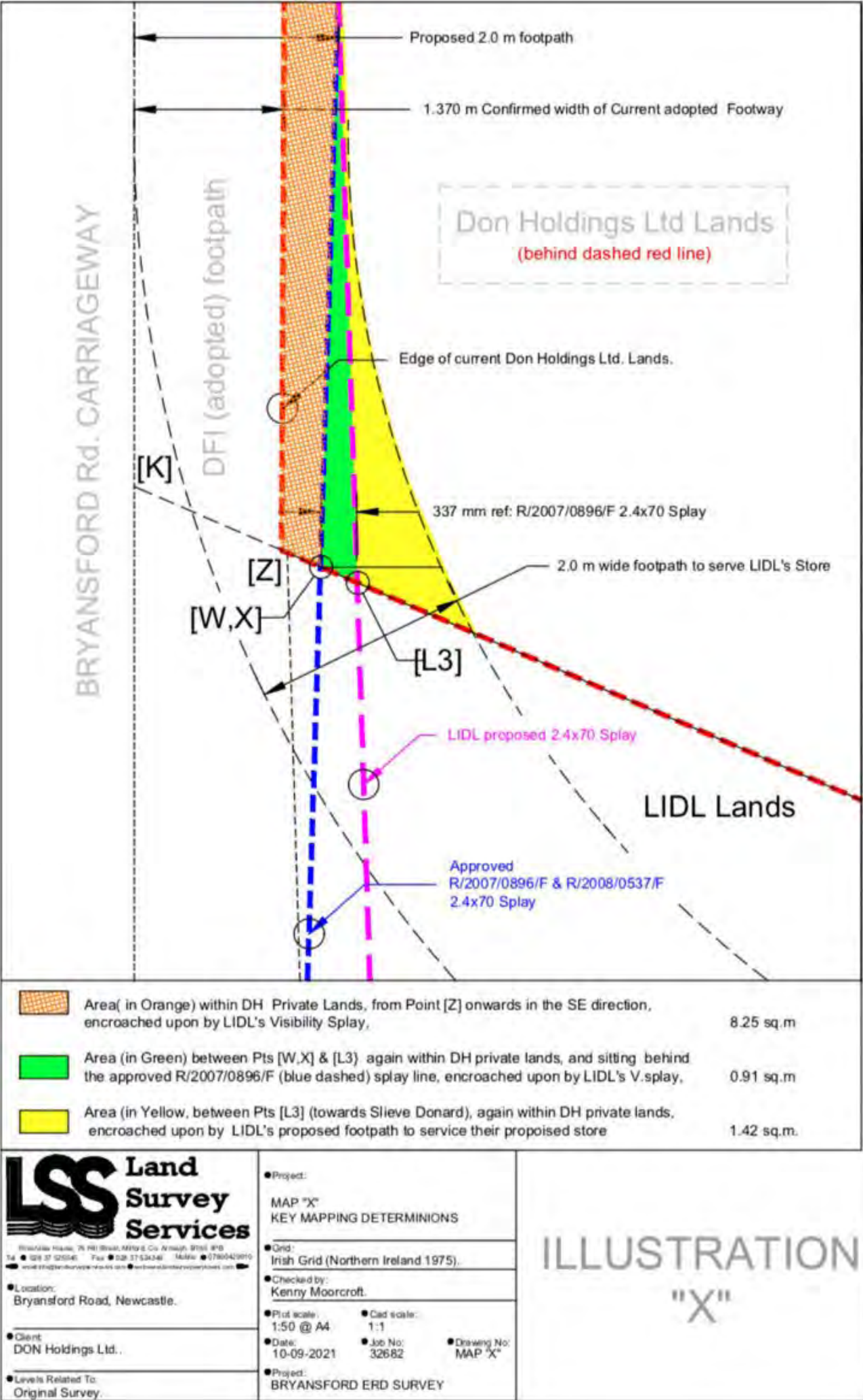
We enclose a precisely dimensioned plan and report prepared by Land Survey Services which clearly illustrates that the splay lines simply cannot be achieved as planned or implemented within the Applicant's boundaries.

If the Council proceeds to simply approve the Reserved Matters application, we consider that would represent an obvious example of the Council fettering its discretion. The Council is obliged to take into account all relevant and material considerations. It cannot seriously contend that accepting the Applicant's previous maps and plans (without requiring a proper survey of the access and visibility splay issues) would discharge its duties as a planning authority.

It is important to note that our client does not object to the concept of a Lidl store and Mountain Rescue Centre on this site, however the current application is fundamentally flawed. We have serious concerns that Members are being asked to make a decision based on inaccurate information, which is especially concerning when it leads to significant public safety issues.

Unless the Council can demonstrate it has investigated the matters raised in our letter of objection dated 23 September 2021, we will have no alternative but to recommend that our client brings a judicial review to challenge any grant of permission in respect of the Reserved Matters.

Submitted by Cleaver Fulton Rankin on behalf of Don Holdings (NI) Ltd to accompany request for speaking rights for Conleth Rooney BL (Counsel for Don Holdings (NI) Ltd) and Mark Donnelly (Director of Don Holdings (NI) Ltd).





Riverview House, 76 Hill Street, Milford, Co. Armagh, BT60 3PB

- TOPOGRAPHICAL LAND SURVEYS
- SETTING OUT
- INTERNAL PLANS, SECTIONS, ELEVATIONS
- CONFINED SPACE SURVEYS
- COMPUTER DATA SEWER SURVEYS
- TRAVERSING
- UNDERGROUND SERVICE TRACING
- SITE INVESTIGATION

Tel. 028 3752 5045 Fax. 028 3752 4346

Mobile 07860 429910

Email: info@landsurveyservicesni.com

Reference: 30475 - Bryansford Road Newcastle Co. Down.

LSS REPORT

Survey Location

Lands adjacent to Bryansford Rd Newcastle

vis a vis

The Old St Marys P School Site
(now owned by LIDL),

and

The Old Roslyn Cottage Lands
(previously owned by KMB Developments 2008 -2014)
(currently owned by Don Holdings Ltd)

all abutting the Bryansford Rd, Newcastle.

Date of Report

9/09/2021

commissioned by

Mark Donnelly
for and on behalf of Don Holdings Ltd

Author

Kenny Morecroft.

[01] BACKGROUND INTRODUCTION

Under the direction of SD McMullan Architects, & acting for various clients over the years, our Firm LSS, has been retained since 2002 onwards, to provide survey material for the rolling phases of the Roslyn Residential Block development, all located off the Bryansford Rd Newcastle.

From summer 2014, right up to the present time, this time retained by Don Holdings Ltd., LSS have revisited, reviewed, and released updated versions on four occasions, building upon and adding to parent surveys.

Such is the care and due diligence exercised by ourselves, that LSS are entirely content to reaffirm that our most recent surveys have been commissioned & executed to an extremely high accuracy, in this case commensurate with the standards used for setting out steelwork within the construction industry.

LSS current instructions *include amongst others*, the establishment of a series of clearly defined / precise measurements relating to: -

- a. Taking note of DFI's feedback within a Council sourced Property Certificate Inquiry furnished by Council in Nov 2020, LSS have been instructed to determine the precise location of the current land boundaries along Bryansford Rd, corresponding precisely to the edge of the public footpaths currently adopted & controlled by DFI.
The edge of DFI adoption boundary, by necessity, will coincide exactly with the edge of Don Holdings Ltd lands, simply where both lands edges meet.
- b. The re-establishment of the approved R/2007/0896/F & R/2008/0856/F 2.4x70m splay lines, both of which are coincident, - that is where they are represented on the ground, and where they precisely pass through the LIDL & Don Holdings Ltd boundary.
- c. Taking cognisance of a & b above, to precisely determine the available splay-lines to LIDL through various key points.
- d. To establish the areas of encroachment by LIDL's proposed scheme across Don Holding Lands.

[02] DOCUMENTS TAKEN NOTE OF:

In carrying out these exercises, LSS have taken cognisance of the following

- A series of LSS's own in-house LSS surveys, commissioned since 2002 and improved upon as time went by. An extra level of care and due diligence was exercised especially within our most recent updates.
- LSS have reviewed a series of LR Maps provided to us, including 2018 editions, referring both to the LIDL Site and Don Holdings lands.
- Notably, a third-party Kelly Farrell digital topographical survey, commissioned by KMB Developments in and around 2005/06 has been retrieved and has been made available to LSS.
- Notably this Kelly Farrell Survey appears to be the only topographical record that provides a particularly accurate record of the pre-existing boundary

conditions to Roslyn Cottage, prior to its demolition from 2006 – 2009 as the case may be.

- LSS have been advised that this KF survey was previously used to precisely fix the precedent site boundaries & site wide parameters of earlier R/2005/0070/F and the follow up R/2007/0896/F planning applications, subsequently approved. Excerpts from this KF survey are already a matter of public record, insofar (as we are advised) were part and parcel of the above applications.
This KF survey has been and will remain key in precisely defining the limits of precedent DOE road adoptions.
- LSS Survey have overlaid our inhouse surveys over this Kelly Farrell Survey, and in those areas surveyed in common, LSS are satisfied that the KF survey provides a good match.
- After audit and vetting, this KF survey has been captured and incorporated within our LSS latest inhouse survey into a single composite survey drawing. LSS believe that this latest all-in-one survey, represents the most accurate record available that precisely describes this locality, both in precedent and current form.
- Archive OSNI Field Mappers trace notes, c/w OSNI archive B&W Ariel photography, retrieved via L&PS OSNI Archive section, prepared on location prior to 00's (and other dates) was particularly useful in defining and understanding the exact nature of how land features were noted and recorded in this vicinity.
- As per SD McMullan briefings, LSS have taken note of a Council's Property Certificate Inquiry lodged by Davidson McDonnell Solicitors in late 2020, taking on board J McMullan's (DFI Roads Service Seaforde Section Office) feedback regarding the extent of public footpaths in 2020 under the control of DFI along the Bryansford Rd.

(Transcript - J McMullan email of 23 November 2020) as briefed by SD McMullan.

"..... On the street fronting the property there was once a narrow footway which was adopted in recent years a developer created a wider footway and entrance, but this wider footway was **never** adopted.
So we [sic DFI Roads] "..... still only maintain the **narrower** portion that was once there prior to these alterations....."

One of LSS tasks at hand is to correctly & precisely determine
"the narrower portion of the public footway."

[03] NOTING OSNI MAPPING HELPDESK INPUT - LATENT INACCURACIES CONFIRMED BY OSNI WITHIN OSNI ACE MAPS, especially in the period of 2005 to 2021.

Given that Clarman have consistently used earlier version of an OSNI ACE Map underlay(s), both at OA stage, and at RM Stage as per their latest site plan, we return to the matter of reliability of OSNI maps.

On referral, by SD McMullan Architects, whose communications LSS have viewed, OSNI have indeed come on record, themselves acknowledging a raft of mapping discrepancies well

beyond the normal published RSME discrepancy range within OSNI ACE Map that were released in the Bryansford Rd locality.

Notwithstanding that while several OSNI ariel flight path surveys have taken place since 2008 onwards, LSS have taken cognisance of OSNI reporting's whereby OSNI reaffirm that no improvement re-mappings were instigated whatsoever on OSNI land-based maps, generally since 2005 in the Bryansford Rd location, despite OSNI's Positional Improvement Program Policy that was applied province wide, almost a decade ago.

In light of temporary hoarding on the Roslyn Apartment site having remained in place, generally unmodified since 2008 – 2019 and onwards, OSNI explained that continuing lack of development progress on these lands inhibited OSNI in escalating any urgency to update their earlier mapping surveys in this location.

In recognising the various OSNI mapping anomalies brought to their attention, some of which outlier measurements were detected in the order of 1.4 metres or so, OSNI have as of the 7th & 8th of Sept 2021, entirely of their own volition & without any request for or on behalf of Don Holdings Ltd, or their Architects for that matter, made their own decision to resurvey the entire Bryansford Rd area adjacent to the subject LIDL & Don Holdings Sites.

Accordingly, as a matter of public record, OSNI's improved and rectified ACE Survey Map will be available (provisionally they say) within the next few weeks. LSS anticipate that this "improved" survey will correct a raft of significant measurement anomalies in this vicinity.

LSS, in reviewing all of SD McMullan mapping appraisals, noted that SDMcM had taken cognisance of an earlier 2012 ed. OSNI sourced ACE Map.

For the sake of completeness to independently vouch all recent mapping audits, LSS had commissioned a fresh 2021 ACE Map from L&PS in June 2021. Notably, LSS were entirely unaware (that is until recently) that no effective improvements had been carried out by OSNI on the Bryansford OSNI ACE Mapping editions since 2005 or so.

LSS anticipate minimal differences when LSS recent topo surveys (early summer 2021) are overlaid upon OSNI improved ACE map, that is when they become available.

[04] ACCURACY / EXAMINATION OF LIDL / CLARMAN RM DETAILED SITE PLAN

To asses accuracy of fit, LSS can reaffirm that their inhouse most recent topo survey drawing has been overlaid upon LIDL's Reserved Matters proposed Site Plan, referenced as follows: -

Council Ref - LA07/21/0786/RM Proposed Site Plan Rev E Scale 1-500
LIDL Ref - Clarman Drwg Stage 3 L070 / 01-02 Rev E Scale 1/500

It should be noted that Clarman's site plan drawing is of a hybrid nature, comprising in part of their in-house topographical line survey, overlaid upon one of the earlier generations of seemingly inaccurate OSNI ACE type Maps.

Clarman's graphic presentation incorporates a particularly wide-line drawing style type, as adopted, especially in the vicinity of proposed entrance at the DH / LIDL boundary interface.

Clarman's detail of the Bryansford Rd detail in the manner they have illustrated it, includes a single thick graphical representation reading (typically) in one instance to a thickness of 310mm wide, and in another case as wide as 525mm.



Given the road safety importance of visibility splay lines, where a 1 metre movement shift in the y axis of a 2.4 x 70m splay represents a highly significant movement shift of 29 metre in the x axis, applying the appropriate fine accuracy detail, especially along the Bryansford Rd footpath & adjoining splays, remains particularly sensitive and critical.

Clarman's thick-line drawing style and the mixing of the OSNI - topo hybrid nature of the LIDL / Clarman submission, in this particular location, has the potential to obfuscate in a multiplier fashion critically important road safety measurement detail.

Importantly, it is noted on Clarman's latest site plan that no indication is provided whatsoever as to the whereabouts of critically important parameters to this follow-on RM Application, where the following details are absent / omitted, as follows

- Any clear definition where LIDL's own boundary directly abuts Don Holdings Ltd Boundary on the boundary interface, & along the Bryansford Rd.
- Any clear definition of the extent of DFI adopted public footpaths that DFI currently own or control.
- Any representation of a pre-existing rear service entrance sliding shutter door serving the retained garage on Don Holdings Ltd Lands, adjacent to & on the proposed curved portion of the entrance footway within LIDL's lands serving the proposed LIDL Store.

[05] ACCURACY / EXAMINATION OF LIDL's PRECEDENT Topographical SITE SURVEY at OA Stage.

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LSS have been briefed that while it is noted that Outline Planning Approval has already been granted, nevertheless given that no fresh ownership declarations are required at RM Stage, the current RM Application by necessity is inextricably linked survey detail attaching to and submitted as part of the Outline Application. Mapping details of the OA & the RM are noted.



Detail enlargement of Clarman's Existing Topo Survey, L070 /01 – 01 – Scale 1/250.

Reference is now made to LIDL's Existing Topo Survey, L070 /01 – 01 – Scale 1/250, dated Sept 2015 included as part of the LA07/2018/0001/O submissions. This LIDL / Clarman Topographical survey Drawing omits a significant tranche of survey detail the SE section of the Brynsford Rd.

However, on the details submitted, LSS notes the following: -

- that where Clarman's Site Survey, dated 2015, reports (in part) to be a particularly accurate submission, clearly Clarman's submission identifies a significant (but troubling) 680mm encroachment shift by way of the positioning of LIDL's enclosing red line, shifting southward directly right into Don Holdings Ltd property, parallel to the true DH / LIDL boundary.
LSS understand that it appears that LIDL have never come on record about this encroachment matter, either to Council regarding statutory third-party notifications at OA stage,, or alternatively to Don Holdings Ltd as the adjoining landowner.
- that a significant portion of earlier to 2015 editions of the OSNI Ace Map has been incorporated within LIDL's survey drawing, noting especially the unreliability (measurement wise) already alluded to by OSNI within recent feedback, - they say majoring on those ACE Maps published several or more years ago.

- that if and when
 - an accurately determined width of the adopted footpath is taken into account,
 - the accurate measurements of adopted lands are precisely determined, and
 - LIDLs drawing submissions are appropriately rectified,
 only then will the cumulative effect of all current LIDL errors become readily apparent.

Currently it would appear within current submissions that this build-up of what may appear as a series of minor transgressions has a distortion effect.

Typically, within the LIDL's proposed curved service footpath where it approaches the Bryansford Rd, in reality this footpath (that is *when property represented & corrected*) infringes significantly upon lands neither in the control or ownership of LIDL, but entirely owned by Don Holdings Ltd.

[06] NOTING DFI ROADS SERVICE REQUIREMENTS, as per LA07/2018/0001/O.

LSS has been made aware that conditioned within LIDL's OA Approvals, Council requires the Applicant to submit

..... a scale plan and accurate site survey at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed and other requirements in accordance with attached form RS1 dated 13/02/2020.....

As mentioned, the level of accuracy within LIDL's submissions in particularly critical areas of their submission, have been somewhat obscured / obfuscated, as explained, especially within the following drawings

- LIDL's Existing Topo Survey, included as part of the LA07/2018/0001/O submissions
Ref : L070 /01 – 01 – Scale 1/250, dated Sept 2015
- LIDL's current RM Site Layout Drawing
Ref ; Clarman Drwg Stage 3 L070 / 01-02 Rev E Scale 1/500

It is held that both these drawing submissions require substantial revisiting and reworking.

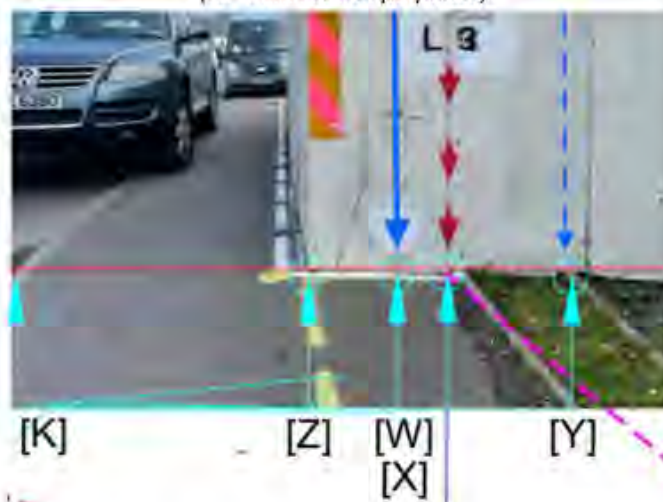
[07] LSS KEY FINDINGS AS FOLLOWS:--

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DETERMINING THE LINE where the current PRIVATELY OWNED LANDS & PUBLIC LANDS meet.

- I. LSS have been briefed that an Article 78 Consent Notice Ref D2034 taken out by KMB Developments Ltd in 2008 currently remains extant (& thus never restored or closed out).
Further briefings reaffirm that J McMullan DFI Seaforde Roads Section Office within his Property Inquiry reporting's to Council in 2020, he refers only to "...a narrow footpath..." under DFI's control. See Section [02] above,
As briefed, LSS note that the "...wider footpath..." referred to by J McMullan as commenced / constructed by KMB in 2008 has never been adopted.
On this occasion, LSS have been requested to determine precisely where Don Holdings Ltd (and their predecessors in title) property ownership limits lie.
The ~ 2005 Kelly Farrell digital survey map will be / has been a key instrument in determining these precise determinations.
- II. In determining the exact DH boundary limit, this in turn co-determines where the previous the DOE adoption limits / current DFI adoption limits must lie on the ground.
- III. For ease of reference regarding various key points, see the key identification below

KEY ILLUSTRATION
(for identification purposes)



- | | |
|--------------|--|
| Point [K] | This is the vertical face edge of the kerb line on the main carriageway. |
| Point [Z] | This is the current reaffirmed ownership corner edge limit of Don Holdings Ltd. Lands. |
| Point [W&X]. | This is the line on the boundary where the R/2007/0896/F 2.4x70m splay runs thru. |
| Point [L3] | This is the point where LIDL's 2.4 x70m splay intersects with LIDL / DH Boundary |
| Point [Y] | This is the line of the "commenced" R/2007/0896/F 4.5x70m splay based on the Planning Approval Document, (the green form) Page 2, Informative Note (1) |

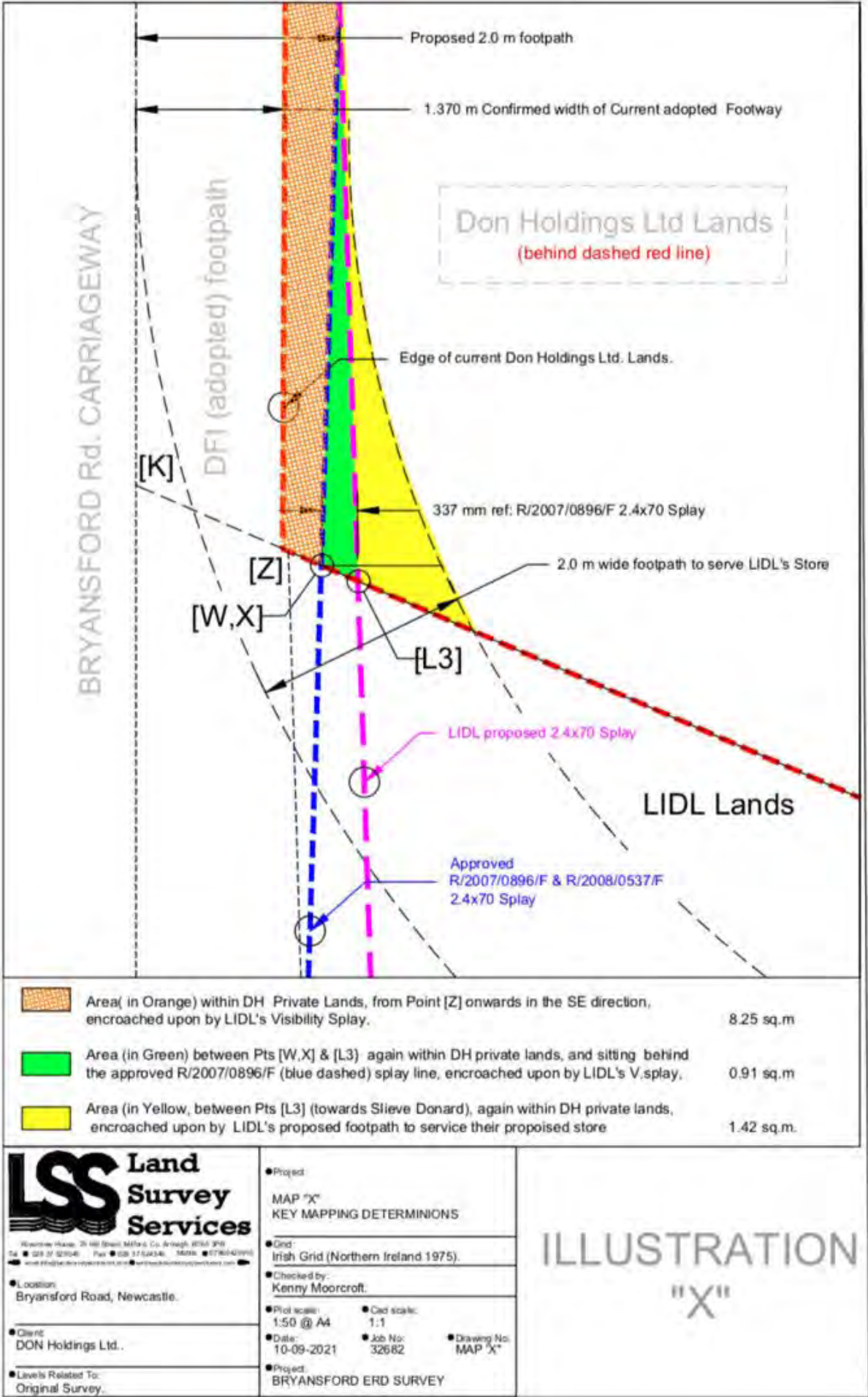
- IV. LSS have referred to a 2018 LR Don Holdings Ltd Lands Map.
By benchmarking this 2018 LR Map against several previous LR Search Maps from 2003 onwards as supporting evidence & background information, this methodology / process leads back to relying upon the ~ 2005 KF Digital Drawings as a prime evidential base to accurately determine precise boundary measurements. No other precedent surveys maps are remotely comparable to this KF survey with regards to accuracy.
Context in this regard was further enhanced by reference to a parent pre-1900's Annesley lease map (recently superseded as a result of LR first registration).

- V. LSS have determined that DON Holdings Ltd ownership limits, along Bryansford Rd, as indicated / inferred from the most recent LR 2018 Map, lie along a consistently straight line.
- VI. LSS note that longstanding flat kerbs (in place > 50 years and still visible) opposite the old Roslyn Cottage Entrance remain in place. These kerbs can be readily viewed, and provide hard physical evidence on the ground as to the general extent of the edge position of the adopted public footpath.
- VII. LSS note that the exact position of the Roslyn Cottage boundary wall prior to 2008 is clearly identified within the Kelly Farrell digital topographical Survey. LSS determine that a straight line, at tangents to and abutting hard onto the old garden wall represent the true boundary position of DH Property. LSS have been advised that no adoptions by DFI have happened in recent times.
- VIII. The distance from the carriageway edge kerb across the public footpath to the edge of Don Holdings private lands, at point reference [W] has been precisely determined at 1340mm
The distance from the SE corner of the carriageway edge kerb, across the public footpath, at the other end of the Bryansford Rd frontage measures as 1410mm. On average, the edge limits of DH property currently average 1370mm distant from the carriageway kerb edge across the entire frontage.
Equally the adopted width of DFI lands must equate to the same 1370mm average dimension.
- IX. On this basis, LSS have observed that the DH timber hoarding, more recently constructed in and around 2019, resides entirely within Don Holdings Ltd.'s private lands at all times, and had never strayed upon nor encroached upon any of the adopted DFI Lands.

[08]

REVIEW OF CURRENT 2.4 x 70m splays as approved both within R/2008/0537/F and R/2007/0896/F Approvals.

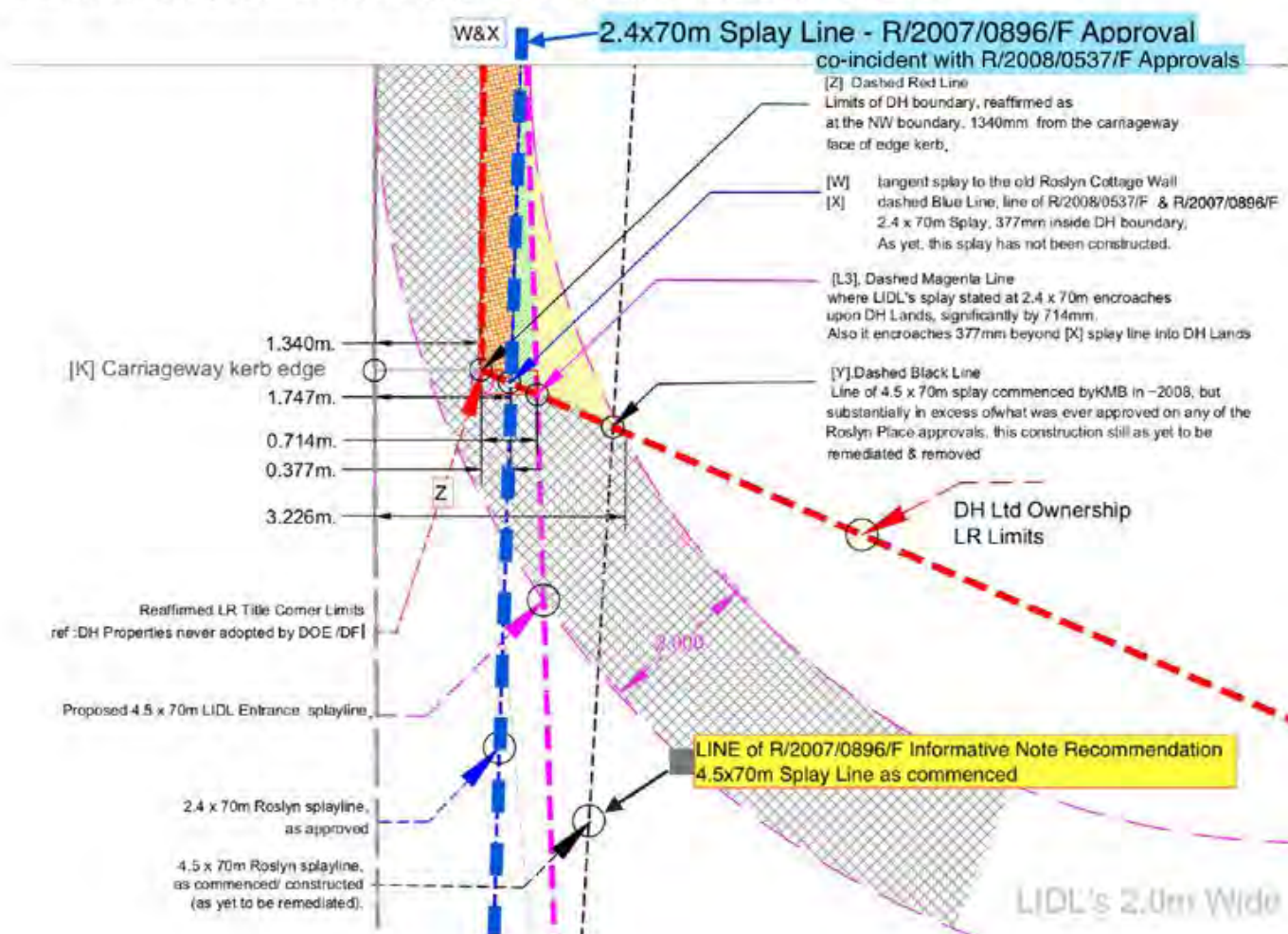
- X. LSS have noted / have been advised that the current splays, previously commenced / constructed by KMB Developments Ltd in and around 2008, were based on **an informative note only** within R/2007/0896/F Planning Approval, and measure in the order of 4.5 x 70m.
This 4.5 x 70m splay protrude thru the hoarding at Point [Y].
LSS note DH's position that this splay, while constructed / commenced by KMB Developments Ltd, to take on board an informative note at that time - however at this point in time it is construed as being entirely superfluous to Don Holdings Ltd requirements, whereby its removal is being contemplated.
- XI. Importantly, (as advised) within the same KMB Developments Ltd. R/2007/0896/F Planning Approval, the approved splays within R/2007/0896/F were stipulated at 2.4 x 70m. ref Point [W & X]. This 2.4 x 70m splay line extends onto public adopted lands across the LIDL frontage, and beyond.
- XII. Regarding the R/2007/0896/F & the R/2008/0537/F approved 2,4x70m splays, LSS measure the offset of these splay lines **reside inside** Don Holding's privately owned land precisely measured by 377mm. See LSS Illustration "X"
The area of lands intruded / encroached upon by LIDL (within the green zone, directly abutting the R/2007/0896/F Approvals) is in the order of 0.91 sq. at this point.



- XIII. On the same basis as xii above, LIDL's proposed splay to service their proposed store, lies inside / overreaches the approved R/2007/0896/F Splay into and upon DH lands by a distance of 337 mm, ~ say 340mm.
The area of lands intruded upon by LIDL (within the green zone) is in the order of 0.91 sq.m. at this point. (See LSS Illustration 'X')
- XIV. LIDL's proposed splay to service their proposed store, lies within / overreaches onto Don Holdings Ltd lands by a distance of 714mm, (377 + 337)
- XV. LSS determine the residual width of public footway available to LIDL to service their pedestrian link footpath at this same point in limited to 667mm, ~ say 670mm at Point [Z].
- XVI. LSS determine the precise width of footpath encroachment at Point [Z] towards the centre of DH Lands is in the order of 1333 mm.

Building upon LSS Illustration Map 'X' (see below)

Further and better particulars regarding how LIDL's entrance interfaces with DH Lands



[09]

REVIEW OF the achievable LIDL VISIBILITY SPLAYS limits, in the immediate vicinity of DON HOLDINGS LANDS at the LIDL/DH boundary interface.

- XVII. LSS determine that the available LIDL Splay, where it crosses the LIDL/DFI adopted footway /DH Private lands interface at point [Z] is limited to and is in the order of 2.4 x 31.97m, 54% short of current DFI requirements. This point [Z]

corresponds to the current position of DH Hoardings, contained entirely within their private lands, and not trespassing in any fashion on the public domain.

- XVIII. LSS determine that the available LIDL Splay, where it crosses the LIDL /DH Interface on the line of both the approved R/2007/0896/F & R/2008/0537/F applications 2.4x70m splay, precisely fixed at point [W,X], is limited to and is in the order of 2.4 x 44.64m. 36% short of current DFI requirements.
- If DH were to concede ownership back to the approved 2.4 x70m line as per the R/2007/0896/F approval, (and for the record, LSS are briefed this is vehemently denied), even in this position, LIDL are unable to achieve DFI's recommended visibility splay without third party encroachment.

[10]

CONCLUSION.

All measurement determinations currently reported are to the accuracies as specified in Section [1] of this report. On that basis they can be relied upon.

Regarding making further comment on LIDL's RM drawing, it is LSS recommendation that the Clarman Site Development drawing should be re-presented in thin line format, simply to avoid the current confusion regarding the width of lines when extracting dimensions.

This amendment will (if acceded to and implemented) will facilitate proper & true vetting on accuracy matters regarding the Applicant's submissions generally.

Where it is anticipated that L&PS OSNI will in the very near future produce an accurate & improved Autumn 2021 ACE Map, and if and where LIDL's amended drawings become available to incorporate this improved ACE Map detail, LSS are entirely content to revisit all fresh mapping submissions to reevaluate.

With the benefit of LIDL's fresh resubmissions, (if and where they become available) as follows, & where they were to incorporate the following, vis a vis,

- the current DFI adoption footpath widths
- Don Holdings Ltd NW & NE boundary accurately defined
- the (pending) corrected ACE MAP site wide overlay / underlay
- clarifications / corrections of the red line boundary conditions
Clarman Ref: Drawing: L070 /01 – 01 – Scale 1/250, dated Sept 2015
- a fresh thin-line traditional survey drawing, substituting the Clarman thick line drawing
Clarman Drwg Stage 3 L070 / 01-02 Rev E Scale 1/500

LSS will be in a position to complete their sign-off audit generally.

It should be noted that LSS along the way have compiled an extensive raft of investigative drawing exercises to assist with this report. Copies can be made available on request.

MBA Planning

Town Planning & Licensing Consultants

4 College House
Citylink Business Park
Belfast
BT12 4HQ

T: 028 9042 1011

E: planning@mbaplanning.com

W: www.mbaplanning.com

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Statement to Planning Committee

on behalf of the Applicant, Lidl Northern Ireland

Proposed Food Store & Mountain Rescue Centre, Bryansford Road,
Newcastle (ref: LA07/2021/0786/RM)

November 2021

1. This Statement on behalf of the Applicant, Lidl Northern Ireland, supports the Planning Department's recommendation to approve this application for reserved matters approval for a food store and mountain rescue centre.
2. The application is submitted pursuant to outline planning permission LA07/2018/0001/O which was granted on 23rd November 2020.
3. The outline planning permission established the principle of development on the site and reserved a number of matters for subsequent approval. These matters have all been submitted for approval in the subject application except for a Final Construction and Environmental Management Plan which will be submitted for approval after a contractor has been appointed and prior to construction commencing.
4. Compliance with the reserved matters conditions is considered in the Planning, Design & Access Statement that accompanies this application and the Planning Department's Professional Planning Report (both available on the planning portal). We agree with the Planning Department's assessment that this application complies with the relevant conditions of the outline planning permission.
5. An objection to the application has been submitted by Cleaver Fulton Rankin Solicitors on behalf of Don Holdings (NI) Limited. The crux of the objection is that the proposed site layout plan is not accurate in that it does not delineate the land owned by Don Holdings. We agree with the Planning Department's response to this – there is no requirement to show land ownership boundaries.

6. The objection also states that *"the application cannot be achieved due to unachievable sightlines"* and that this is *"a matter of road safety"*. It should be noted that DfI Roads have recommended that a condition be imposed requiring that the proposed access including sight lines be provided prior to the commencement of development and that the area within the sight lines shall be kept clear. This deals with the road safety issue raised. The proposed access was robustly assessed during the outline application and found to be policy compliant.
7. The outline application was supported by a significant amount of detail including a site layout plan and elevations and floor plans of the proposed buildings. An objection had been raised by Don Holdings during the outline application that the proposal would have an adverse impact on an apartment building approved on its land under planning reference R/2008/0537/F. This was considered by the Planning Department who concluded that the proposal would not have a detrimental impact on the unbuilt scheme. The proposed food store is the same as shown on the drawings assessed by the Planning Department during the outline application. It remains the case (as demonstrated on page 14 of the Planning, Design & Access Statement) that the proposal will not have a detrimental impact on the unbuilt apartment building. The proposal includes acoustic screening in the form of a 2m high timber fence in order to mitigate noise impact and Environmental Health has confirmed that it is content with this.
8. The proposed food store and mountain rescue centre buildings have a high-quality design and are sympathetic to their surroundings. The food store will materially improve shopping provision in Newcastle and the Mountain Rescue Centre will provide a new permanent base for the Mourne Mountain Rescue Team, allowing them to relocate from their current temporary premises at the PSNI Station in Newcastle. The proposal will allow the Team to provide a much-improved service.
9. The proposal involves an investment of c. £3.2m in construction and the creation of 12 additional retail jobs in the proposed Lidl store (in addition to the 14 existing jobs which will be maintained).
10. The application meets the requirements of the relevant planning conditions and relevant planning policy as noted in the Planning Department's Report. We commend it to the Council.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2021/0921/F

Date Received: 13.05.2021

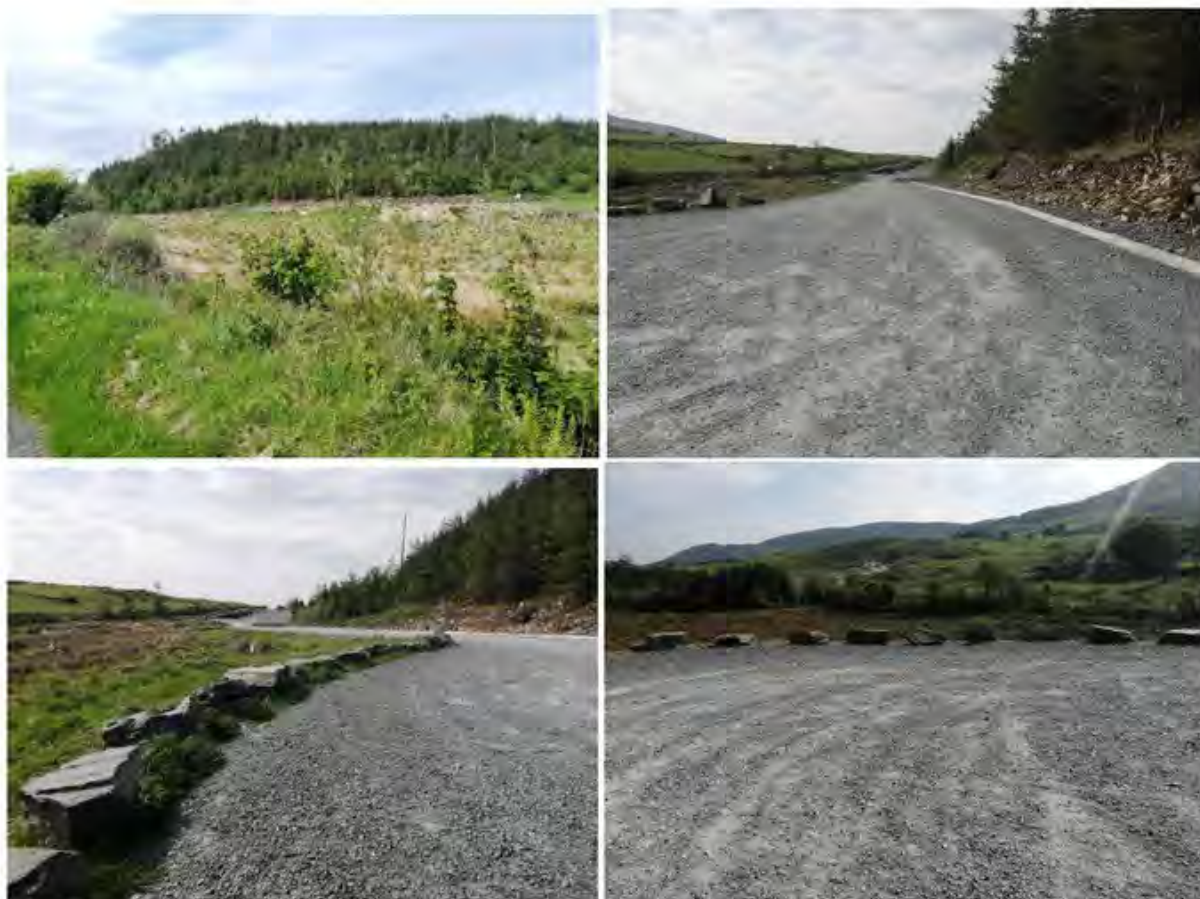
Proposal: The application is for full planning permission for filling of existing ground level to convert existing horsebox parking area to carparking area. Carparking area to consist of 31 no carparking spaces, a parking space suitable to accommodate a mobile coffee van trailer, turning area, cycle racks, picnic tables & 1.1m high perimeter fence.

Location: The application site is located 300m NNW of 117 Drumnaquoile Road, Ballynahinch.



Site Characteristics & Area Characteristics:

The site is located just off the Drumnaquoile Road and consists of an existing tarmacked car park with delineated spaces and speed humps. The site extends from this existing car park towards an area that has already been gravelled and stoned which leads towards the walking trails.



Site History:

LA07/2019/0112/F | Drumkeeragh Forest, Drumnaquoile Road, Ballynahinch | Walking, non-bitmac community trails | Permission Granted 29.08.2019.

LA07/2018/1930/F | 280m South-South East of No 141 Drumnaquoile Road | New car park for 30 no carparking spaces, 3 no horsebox parking spaces, turning area for horseboxes and perimeter fence | Permission Granted 05.04.2019.

Planning Policies & Material Considerations:

The application site is located outside the settlements in the open countryside within the AONB as designated in the Ards and Down Area Plan 2015. The relevant regional policy context is provided by:

Regional Development Strategy (RDS)
 SPPS – Strategic Planning Policy Statement for Northern Ireland
 PPS 2 – Natural Heritage
 PPS 3 - Access Movement and Parking
 PPS 8 - Open Space, Sport and Recreation
 PPS 15 – Planning and Flood Risk
 PPS 21 Sustainable Development in the Countryside
 Guidance – Parking Standards

Consultations:

DFI Roads – No objections

NIEA Water management – No objections - Water Management Unit has considered the impacts of the proposal on the surface water environment and on the basis of the information provided are content subject to the caveat contained in the explanatory note, the proposal complies with PPS15 FLD4, Any relevant statutory permissions are obtained, The applicant referring and adhering to standing advice.

NIEA Natural Environment Division – No objections – Natural Environment Division has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns subject to recommendations.

Rivers Agency – no response in relation to the Drainage Assessment at time of writing.

Shared Environmental Services – No formal consultation required

Forestry Service – No objections

Objections & Representations

In line with statutory requirements five neighbours have been notified 02.06.2021. The application was advertised in the Mourne Observer 02.06.2021.

One letter of objection has been received from the residents of No 141 Drumnaquoile Road. No other details of the objection have been presented only that they state they object.

Consideration and Assessment:

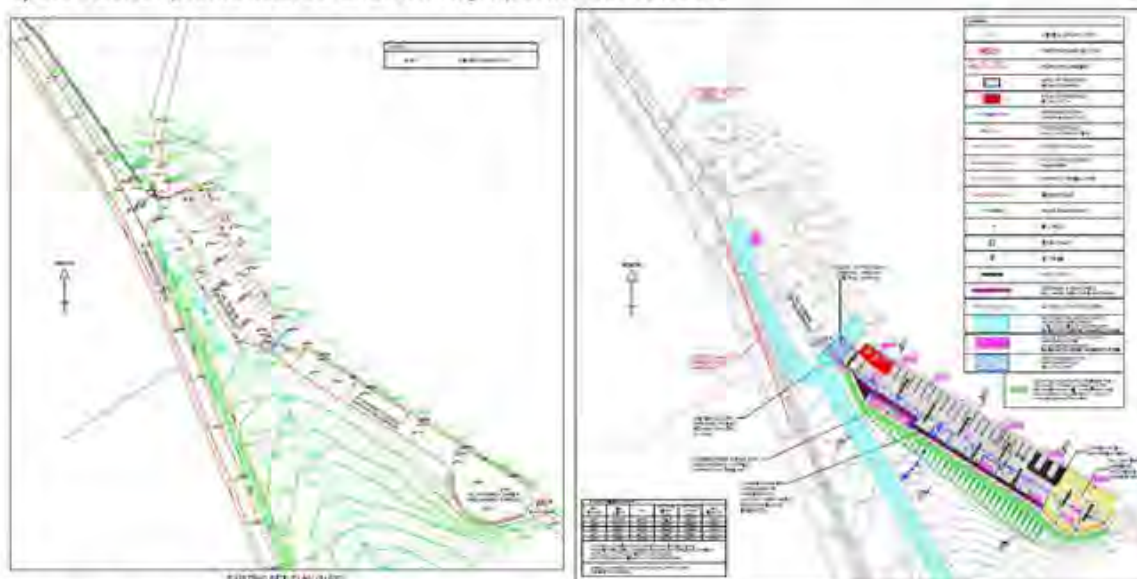
Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations. Section 6 (4) states that the determination must be made in accordance with the Plan unless material considerations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

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

There is no conflict in this case between the SPPS and the current policy.

The application seeks permission for the filling of existing ground level to convert existing horsebox parking area to carparking area. Carparking area to consist of 31 no carparking

spaces, a parking space suitable to accommodate a mobile coffee van trailer, turning area, cycle racks, picnic tables & 1.1m high perimeter fence.



Existing and proposed layout

In assessment of this, it is considered that the existing woodland walking trails have encouraged the use of an outdoor resource which is positive.

The applicant Recreation NI has indicated that when the project was first being developed a car park for 30 cars (including spaces for disabled car parking) and 3 horse boxes would have been adequate for the predicted numbers that would use the trails at Drumkeeragh. This has not been the case, with the popularity of the Trails exceeding all expectations. At Drumkeeragh, it was predicted that 15,000 people would visit the Forest in the first year after the Trail network was opened. The people counter was installed in April 2021 and within the first month of counting, 2500-3100 people have walked the Trail on a monthly basis. When crudely extrapolated up for a full year, this suggests that the trail could easily see 30,000 visitors a year – double what was expected.

Increased use of the site has undoubtedly been exacerbated by COVID. Research undertaken by ORNI during the first lockdown revealed that there was a 46% increase in the numbers using the outdoors for recreation than the same period the previous year and that 51% said they expected to continue to visit the outdoors after COVID was over. As a result of the trails' popularity, the existing car parking provision is inadequate. When the car park is full, cars line both sides of the small country road leading to the official trail head. This causes not only safety issues for those using the trails but for the residents who live along the road close to the trail head.

It is therefore important to assess the impact such an application would have on interests of acknowledged importance, hence the consultations with DFI Roads, NIEA, Rivers Agency and Forestry Service and any other material considerations including objections.

PPS 3 - Access, Movement and Parking - Policy AMP 9 Design of Car Parking

This policy states that a high standard of design, layout and landscaping is expected to accompany all proposals for car parking. Planning permission will only be granted for a proposal where all the following criteria are met:

- (A) It respects the character of the local landscape
- (B) It will not adversely affect visual amenity; and
- (C) Provision has been made for security and the direct and safe access and movement of pedestrians and cyclists within the site.

It is considered that the proposed surface level car park extension would utilise an existing area which is already gravelled and informally operating as an overflow car park.

The site is situated close to the Drumnaquoile roadside by approx. 20m. There is little or no roadside vegetation with views of the car park from along this road when coming from both directions of this road, with a mature backdrop of trees in the wider area.

Concerns were raised with the applicant Outdoor Recreation regarding the rationale of using sealed surface bitmac. They state it is considered more economical and efficient option than non-sealed surface because of the ease of maintenance following installation – no erosion or pot-holing that would be expected with gravel. The allowance for demarcation of spaces – the absence of which would see the car park not used to its full capacity, site-lines impacted and improper parking in designated areas i.e. turning circles and blue-badge parking – allowing the car park to be used as designed. Given that there is already an existing tarmacked car park in place it would be difficult to resist this extension to deal with the increased numbers to the forest. On this basis, it is not considered that the proposal would harm the character or visual amenity of the area. The site is to be defined by a timber fence and native species hedgerow along the SW boundary of the site. It is considered that the proposal satisfactorily complies with this policy. In addition, it is noted that DFI Roads, consider the proposal to be acceptable in terms of road safety with DFI Roads offering no objections.

PPS 2 – Natural Heritage

In assessment, it is noted that the site will be accessed through the existing access and is comprised of an existing car park area which leads to the existing trails.

Council consultation was carried out with NIEA - Natural Environment Division. Shared Environmental Services (SES) were also informally consulted and advise that there is no viable effect pathways identified to any European site.

The information submitted in the Preliminary Ecological Appraisal (PEA) has been considered by NIEA and it is noted the PEA has confirmed the absence of badgers, bats, and priority species within the site. NED has considered the extension of the culvert and advises the applicant is made aware of GPP5 – work and maintenance in or near water. NED have recommended a condition relating to breeding birds. It is considered therefore that the proposal complies satisfactorily with PPS 2.

PPS 15 – Planning and Flood Risk

FLD1 - Development in Fluvial and Coastal Flood Plains –indicates that the development does not lie within the 1 in 100 year fluvial or 1 in 200 year coastal flood plain.

FLD2 - Protection of Flood Defence and Drainage Infrastructure – An undesignated watercourse flows generally from the north to south through the site between the existing and proposed car park, then adjacent to the proposed car park. Provision for access to this

undesigned watercourse under 6.32 of FLD 2, has been addressed on the revision to the site plan, drawing reference 2251/PL/02 Rev B. It is noted on drawing 2252/PL/02 Rev B that infilling work is proposed in close proximity to the existing watercourse. The applicant should ensure during and post construction that any fill material does not become loose which could fall into the watercourse and impede its natural flow. The site may be affected by undesigned watercourses of which we have no record, in the event of an undesigned watercourse being discovered, Policy FLD 2 will apply.

FLD3 - Development and Surface Water - A Drainage Assessment has been submitted 26/10/2021 and is being fully considered by Rivers Agency.

FLD4 - Artificial Modification of watercourses –Under FLD 4 of Planning Policy Statement 15, the planning authority will only permit the artificial modification of a watercourse, including culverting or canalisation operations, in either of the following exceptional circumstances:

- Where the culverting of short length of a watercourse is necessary to provide access to a development site or part thereof;
- Where it can be demonstrated that a specific length of watercourse needs to be culverted for engineering reasons and that there are no reasonable or practicable alternative courses of action.

Artificial modification of a watercourse is normally not permitted unless it is necessary to provide access to a development site or for engineering reasons. This is a matter for The Planning Authority. Any culverting approved by the Planning Authority will also be subject to approval from DfI Rivers under Schedule 6 of the Drainage (NI) Order 1973. A site visit on 7 July 2021 found that the undesigned watercourse has been culverted recently between the existing and proposed car parks. Under the terms of Schedule 6 of the Drainage (NI) Order 1973, any proposals either temporary or permanent, in connection with the development which involves interference with any watercourses such as culverting, bridging, diversion, building adjacent to or discharging storm water etc. requires the written consent of DfI Rivers.

A schedule 6 has been approved on the site.

FLD5 - Development in Proximity to Reservoirs – Not applicable to this site.

No formal response with regard to FLD 3 from Rivers Agency at the time of writing this report.

Forestry Service

As Forestry Service manage the site, they have been asked to comment on the proposal and have advised that they do not object to the proposal.

Impact on Residential Amenity

The car park is considered to be sited a sufficient distance from the any dwellings to prevent any unacceptable impacts. The car park extension should also help alleviate the parking of cars away from the roadside and make the car park safer for its users.

Conclusion

Taking into account planning policy, consultee responses, planning history and representation received on the application and all other material planning considerations approval is recommended subject to a positive response from Rivers Agency which is currently outstanding.

This application shall be presented to Planning Committee and it is requested that delegated authority is afforded to officers upon a satisfactory response being forthcoming from the outstanding consultee.

Recommendation:

Approval

The plans to which this proposal was assessed include:

Site location plan – 2252/PL/01

Existing & Proposed Site layout plan & sections – 2252 PL 02(D)

Elevations – 2252/PL/03

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: **2252/PL/01, 2252/PL/02D, 2252/PL/03.**

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

3. All hard and soft landscape works shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice.

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

4. There shall be no works, including vegetation clearance, during the bird breeding season 1 March to 31 August inclusive, unless otherwise agreed in writing with the Planning Authority.

Reason: To protect breeding birds.

Informatives

1. All standing advice referred to in this response unless otherwise stated can be found at the following link www.daera-ni.gov.uk/water-environment-standingadvice
2. The applicant must refer and adhere to the relevant precepts contained in DAERA Standing Advice:
 - Pollution Prevention Guidance
 - Discharges to the Water Environment

Water Management Unit recommends the applicant refers and adheres to the precepts contained in DAERA Standing Advice Sustainable Drainage Systems.

All infill material must be strictly inert.

The applicant should note discharge consent, issued under the Water (Northern Ireland) Order 1999, is required for any discharges to the aquatic environment and may be required for site drainage during the construction phase of the development.

The applicant should be informed that it is an offence under the Water (Northern Ireland) Order 1999 to discharge or deposit, whether knowingly or otherwise, any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata. Conviction of such an offence may incur a fine of up to £20,000 and / or three months imprisonment. The applicant should ensure that measures are in place to prevent pollution of surface or groundwater as a result of the activities on site, both during construction and thereafter.

3. **Birds**

The applicant's attention is drawn to Article 4 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

- kill, injure or take any wild bird; or
 - take, damage or destroy the nest of any wild bird while that nest is in use or being built; or
 - at any other time take, damage or destroy the nest of any wild bird included in Schedule A1; or
 - obstruct or prevent any wild bird from using its nest; or
 - take or destroy an egg of any wild bird; or
 - disturb any wild bird while it is building a nest or is in, on or near a nest containing eggs or young;
- or
- disturb dependent young of such a bird.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence. It is therefore advised that any tree, hedge loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season including 1st March to 31st August, unless pre-clearance surveys show an absence of breeding birds.

4. **Badgers**

The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the badger (*Meles meles*). It is also an offence to intentionally or recklessly: damage or destroy, or obstruct access to, any structure or place which badgers use for shelter or protection; damage or destroy anything which conceals or protects any such structure; disturb a badger while it is occupying a structure or place which it uses for shelter or protection. Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence. If there is evidence of badger on the site, all works must cease immediately and further advice sought from the Wildlife Inspector's Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 90569605.

5. **Bats.**

The applicant's attention is drawn to The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), under which it is an offence:

- a) Deliberately to capture, injure or kill a wild animal of a European protected species, which includes all species of bat;

b) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;

c) Deliberately to disturb such an animal in such a way as to be likely to;

(i) affect the local distribution or abundance of the species to which it belongs;

(ii) Impair its ability to survive, breed or reproduce, or rear or care for its young; or

(iii) Impair its ability to hibernate or migrate;

d) Deliberately to obstruct access to a breeding site or resting place of such an animal; or

e) To damage or destroy a breeding site or resting place of such an animal.

If there is evidence of bat activity / roosts on the site, all works should cease immediately, and further advice sought from the Wildlife Inspector's Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT72JA. Tel. 028 905 69605.

6. It is therefore advised that any tree or hedgerow loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season (e.g. between 1st March and 31st August).
7. The applicant should comply with all the relevant Pollution Prevention Guidance (PPG's) and the replacement guidance series, Guidance for Pollution Prevention (GPPs) in order to minimise the impact of the project on the environment, paying particular attention to:
 - New GPP 05 - Works and maintenance in or near water.
8. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
9. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
10. This decision relates to planning control and does not cover any other approval which may be necessary under other legislation.

Case Officer

C Moane

Date 03/11/2021

Authorised Officer

A.McAlarney

Date 03 November 2021



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

Application Reference: LA07/2021/0601/F

Proposal: Proposed Single & 2 storey side and rear extensions and demolition of existing side and rear extension.

Location: 1A Slievemoyne Park, Newcastle



Site History:

- No planning history relevant to this application site.

Constraints:

The application site is included in the settlement limits of Newcastle and is also included in an Area of Outstanding Natural Beauty as defined by the Ards and Down Area Plan 2015.

CONSULTATIONS

Advertising: This application was advertised in the local press on the 14th April 2021.

Neighbour Notification: There were eight neighbour notifications issued for this application.

Summary of representations received: There were no representations received.

Consultee	Summary of Comments
None required	

RELEVANT PLANNING POLICY

Policy EXT1 of the Addendum to PPS7 – Residential Extensions and Alterations directs that planning permission will be granted for a proposal to extend or alter a residential property where all of the following criteria are met:

- (a) The scale, massing, design and external materials of the proposal are sympathetic with the built form and appearance of the existing property and will not detract from the appearance and character of the surrounding area;
- (b) The proposal does not unduly affect the privacy or amenity of neighbouring residents;
- (c) The proposal will not cause the unacceptable loss of, or damage to trees or other landscape features which contribute significantly to local environmental quality; and
- (d) Sufficient space remains within the curtilage of the property for recreational and domestic purposes including the parking and manoeuvring of vehicles.

The application site is included in an Area of Outstanding Beauty. Policy NH6 – Areas of Outstanding Natural Beauty of PPS 2 is applicable and requires new development be of an appropriate design, size and scale for the locality.

ASSESSMENT

This application initially sought permission to construct a two-storey extension to the side of the dwelling, a single storey extension to the rear and a detached garden pod. Following concerns raised by the Planning Department regarding the proposal, an amended scheme was submitted for consideration. The following is an assessment of the proposal received by the Planning Department on the 28th July 2021.

To facilitate the side and rear extension proposed by this application, the existing attached garage and single storey rear extension will be demolished. The two-storey side extension will measure a maximum of 7.3m in height. It will extend 5m from the existing two storey-built form and will measure 6.3m in length. To the rear, the single storey extension proposed will have a maximum width of 8.6m and extend a maximum length of 8.9m from the two-storey rear elevation. It will be provided with a pitched roof covering standing at 4.6m in height from GFL. External finishes are to match those of the existing dwelling. See existing and proposed ground floor plans below.

Existing floor Plan



EXISTING GROUND FLOOR PLAN 1:100

Proposed floor Plan



PROPOSED GROUND FLOOR PLAN 1:100

Character and Appearance

The application site comprises a corner plot with frontage to both the Tullybrannigan Road and Slievemoyne Park. It is occupied by a detached two storey dwelling with a single storey garage and rear extension. Access into the site is from Slievemoyne Park. An area for vehicle parking and turning is to the front of the dwelling. Garden areas are to the side and rear and include large matures trees. The sites boundaries fronting to the public street are defined by a dashed wall with higher hedging set behind. The north eastern boundary, shared with No. 32 Tullybrannigan Road is partially defined by a closed board fence and the sites south eastern boundary, shared with No. 1 Slievemoyne Park, is defined by mature landscaping with a low timber fence.

The application site is within a residential area. Dwellings immediately to the south east, within Slievemoyne Park and to the north east along the Tullybrannigan Road are similar type development to that within the application site. Further within the Slievemoyne Park cul-de-sac are four pairs of semi-detached dwellings. To the north west, development comprises of a mix of both single storey and two storey detached dwellings. To the south, is a convenience store and hairdressers with residential properties at first floor level and ground floor level.

The ridge height of the proposed two storey extension would be set just 0.2m below the dwellings existing ridge height and built form will be setback 0.25m from the existing front building line. Two storey-built form will extend 2.3m beyond the side elevation of the existing garage, closer to the adjoining dwelling to the south east, No. 1 Slievemoyne Park.



The driveway of this adjoining dwelling is positioned along the shared boundary separating the two dwellings. Due to its positioning, scale and massing, the side extension, when viewed from within Slievemoyne Park and when travelling north on the Tullybrannigan Road on approach to the application site will reduce the visual gap between these two dwellings. Both the two-storey side extension and rear single storey extension proposed represent a new build with a much larger footprint than that existing. The single storey component will extend development to along the rear shared boundaries of the site, with built form setback just 0.15m off the south eastern boundary and 0.5m off the north eastern. The agent has provided examples of properties in the surrounding area with wider dwelling frontages and a dwelling with a two-storey side extension previously approved along the Tullybrannigan Road. While these examples are acknowledged by the Planning Department, applications for house extensions raise site specific issues and each case will be assessed on its own merits. The acceptability of proposals will depend on the circumstances on the site and its surroundings and decisions will be informed by the policy set out in the Addendum to PPS7. In this case, the concern is the resulting spacing between dwellings. There is a need for adequate spacing along boundaries, this is important to provide ease of access to the rear of the property and to allow for maintenance. This will also serve to eliminate the possibility of any part of the extension, including rainwater goods, overhanging neighbouring property. On review of the layout plan, access to the rear of the dwelling can be achieved along the northern side of the dwelling. The positioning, scale and massing of the proposal however would not respect the siting and spacing of other dwellings within Slievemoyne Park or Tullybrannigan Road. To achieve the floorspace required by the applicant, the rear extension appears contrived into the rear portions of the site. While it is acknowledged that this is a corner site with sufficient space within the curtilage, the extension will fill the existing visual gaps between properties and is considered to represent an overdevelopment of the application site.

Extensions to the front of the property must be in proportion to the property, its fenestration and detailing, with matching materials, roof design and pitch. The finish of the proposal is set to match the existing finish on the property. The finish and design of the extension is considered in keeping with the host property.

Due to its scale, massing and the arrangement of the extension as proposed in this case, given the nature of the site and surrounding area, the works proposed are not considered acceptable and would fail to comply with criteria (a) of EXT1. The proposal, if permitted, would detract from the overall appearance and character of the immediate area and would set a precedent for similar development proposals in the future which would further compromise the character of the area.

Living Conditions of Nearby Residents

As noted above, the footprint of the extension proposed will be larger than that of the single storey building component it replaces resulting in built form extending closer to the boundaries shared with adjoining residential development. Where the proposed extension meets the rear boundaries, two detached garages adjoin the application site. The positioning of these garages mitigates any potential adverse impacts resulting on adjoining properties. While two storey-built form will extend closer to the property to the south east (No.1), there remains a sufficient separation distance to ensure no resulting adverse impacts in terms of overshadowing, loss of light or dominance. No loss of light or overshadowing is considered resulting from the

proposal. The proposed ridge will not extend above that of the existing dwellings. Further, the two-storey component will match the length of the existing two storey-built form.

New ground floor openings are proposed along the extension's rear side elevations. Along the southern elevation, openings will be orientated to face the side elevation of No. 1, however no adverse overlooking will occur given the existing boundary treatment in place and only a door opening exists along this facing elevation. Windows along the northern elevation are setback a considerable distance from properties to the north and thus no adverse overlooking resulting. New roof lights are proposed on each side of the single storey extensions roof. The two-storey extension will be provided with new first floor windows along its south western (front) and north eastern (rear) elevations. The first-floor window along the rear elevation will serve an ensuite and will be provided with opaque glazing. New windows along the extensions front elevation will be orientated towards the public street and will not cause unacceptable overlooking into properties to the south due to the setback distance. Two new ground floor windows openings are to be provided in the existing dwellings northern gable wall. The setback distance from properties to the north ensures no resulting overlooking to consider.

Overall there would not be any harmful impact to surrounding properties by way of loss of light, outlook, privacy or overbearing impact.

Trees or other Landscape Features

The proposed development would be partially on the footprint of existing built form and on grassed areas surrounding the dwelling. The works will not cause the unacceptable loss of, or damage to, trees or other landscape features which contribute significantly to local environmental quality.

Private Amenity Space

The works proposed would reduce space available to the rear and side of the dwelling, however sufficient space is considered remaining to the front and north side of the dwelling for recreational and domestic activities.

Parking and Turning of Vehicles

The extension works would see the removal of the attached garage, however sufficient space remains to the front of the dwelling for vehicle parking. The works proposed would not impact on the existing in-curtilage turning space available for vehicles.

AONB

The proposed extension would harm the character and appearance of the local area. As the local area falls within the designated AONB, it follows that the proposal would conflict with Policy NH6.

SUMMARY

The scale, massing and form of the proposed extension would not be in keeping with the established pattern of development within the local area and if permitted would detract from the appearance of the local area. As such, the proposal does not fully comply with policy EXT1 of the Addendum to PPS7 – Residential Extensions and Alterations and refusal will be recommended.

RECOMMENDATION

Refusal

Refusal Reasons

1. The proposal is contrary to criterion (a) of policy EXT1 of the Department's Planning Policy Statement 7 Addendum: Residential Extensions and Alterations in that the extensions would be oversized and disproportionate and would detract from the established pattern of development and the character of the surrounding area. As the local area falls within the AONB, it follows that this harm would also be contrary to policy NH6 of PPS 2.

Informative:

1. The drawings to which this decision relates are: A1-04, A1-06 Rev A and A1-07 Rev A

Case officer: Laura O'Hare
Authorised by: David Fitzsimon
Date: 10/09/2021

Application Reference: LA07/2021/0601/F

Proposal: Proposed Single & 2 storey side and rear extensions and demolition of existing side and rear extension.
 Location: 1A Slievemoyne Park, Newcastle

The above application has been scheduled for refusal for the following reasons;

1. The proposal is contrary to criterion (a) of policy EXT1 of the Department's Planning Policy Statement 7 Addendum: Residential Extensions and Alterations in that the extensions would be oversized and disproportionate and would detract from the established pattern of development and the character of the surrounding area. As the local area falls within the AONB, it follows that this harm would also be contrary to policy NH6 of PPS 2.

The proposal is contrary to criterion (a) of policy EXT1 of the Department's Planning Policy Statement 7 Addendum: Residential Extensions and Alterations in that the extensions would be oversized and disproportionate and would detract from the established pattern of development and the character of the surrounding area. As the local area falls within the AONB, it follows that this harm would also be contrary to policy NH6 of PPS 2.

Set out the valid and credible planning reasons why this application should be referred to Committee (including reference to relevant planning policies) –

This application is being refused on the basis that it would detract from the established pattern of development in the area. A full photographic submission has been provided to planning showing other development within 150m of the application site, and confirming that the development type in the area is mixed. There is also evidence that larger 2 storey side extensions than this have previously been approved by planning.

Reading through the case officers report, it would appear that the only element of the proposal that is causing any concern is the 2 storey side extension. Elevations showing this in the context of the mature screening to the front of the dwelling have been submitted, as well as photographs from the critical viewpoints along Tullybrannigan Road. These demonstrate how well integrated the proposal is, and that the entire frontage of the property is not visible as a whole from any location. The proposed side extension has been scaled back from the original proposal.

Additionally, an extension for a very similar sized, actually slightly larger, 2 storey side extension was approved under application R/2001/0655/F at 27 Tullybrannigan Road, only across the Road, photos of which have also been submitted.

Policy PPS7 EXT1 (a) states that **"the scale, massing, design and external materials of the proposal are sympathetic with the built form and appearance of the existing property and will not detract from the appearance and character of the surrounding area;"**

Criteria A is the only part on which the refusal recommendation is based, and we hope to have demonstrated above that the proposal does fulfil this criteria also. If this is the case, then Policy PPS2 NH6 does not apply.

We would also ask you consider the following when assessing the application:

1. The building frontage of 13 Tullybrannigan Road is 14.8m on the opposite side of the Tullybrannigan Road. (2 storey for full width)
2. Building frontage of 27 Tullybrannigan Road is 16m (2 storey for full width). A 2 storey side extension was approved under planning application R/2001/0655/F so this should set a precedent in the immediate vicinity.
3. Building frontage of corner stop opposite site has 2 storey frontages of 18.8m onto Tullybrannigan Road and 18.3m onto Slievemoyne Park.

4. This is a corner site on which planning normally promote and accept larger scale development.
5. The only critical view of the site is from the Tullybrannigan Road travelling towards the town. The extension does not come into view until you reach the shop, and at this stage, the existing house is substantially screened by a large mature tree to the front and a 3.2m high hedge. The submitted photographs demonstrate this.
6. No neighbouring objection and the proposal does not affect the private amenity of any neighbour and there is no overshadowing to any neighbouring property. This has been confirmed in the case officers report.
7. The extension is set back from the principal elevation, it has a lower ridge height and is therefore subordinate to the main dwelling, it is finished in the same materials and has matching fenestration to the dwelling.



16m frontage to 2 storey dwelling at 27 Tullybrannigan Road
2 Storey side extension approved under planning application R/2001/0655/F

Whilst we have reduced the width of the proposal by 1.4m, we feel that the site is capable of accommodating this 2 storey side extension element given the extensive screening and negligible impact on any neighbours. The case officers report clearly states that "Overall there would not be any harmful impact to surrounding properties by way of loss of light, outlook, privacy or overbearing impact."

We have demonstrated that other buildings are in the immediate area that have frontages wider than our proposal, and that views towards the proposal are very restricted. We would appreciate if the Committee would take a second look at this proposal and consider the information provided.



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

Application Reference: LA07/2021/0652/O

Date Received: 12/04/2021

Proposal: 2 infill dwellings and garages

Location: Lands adjacent and to the south-east of 32 Dromara Road, Leitrim, Castlewellan



Site Characteristics & Area Characteristics:

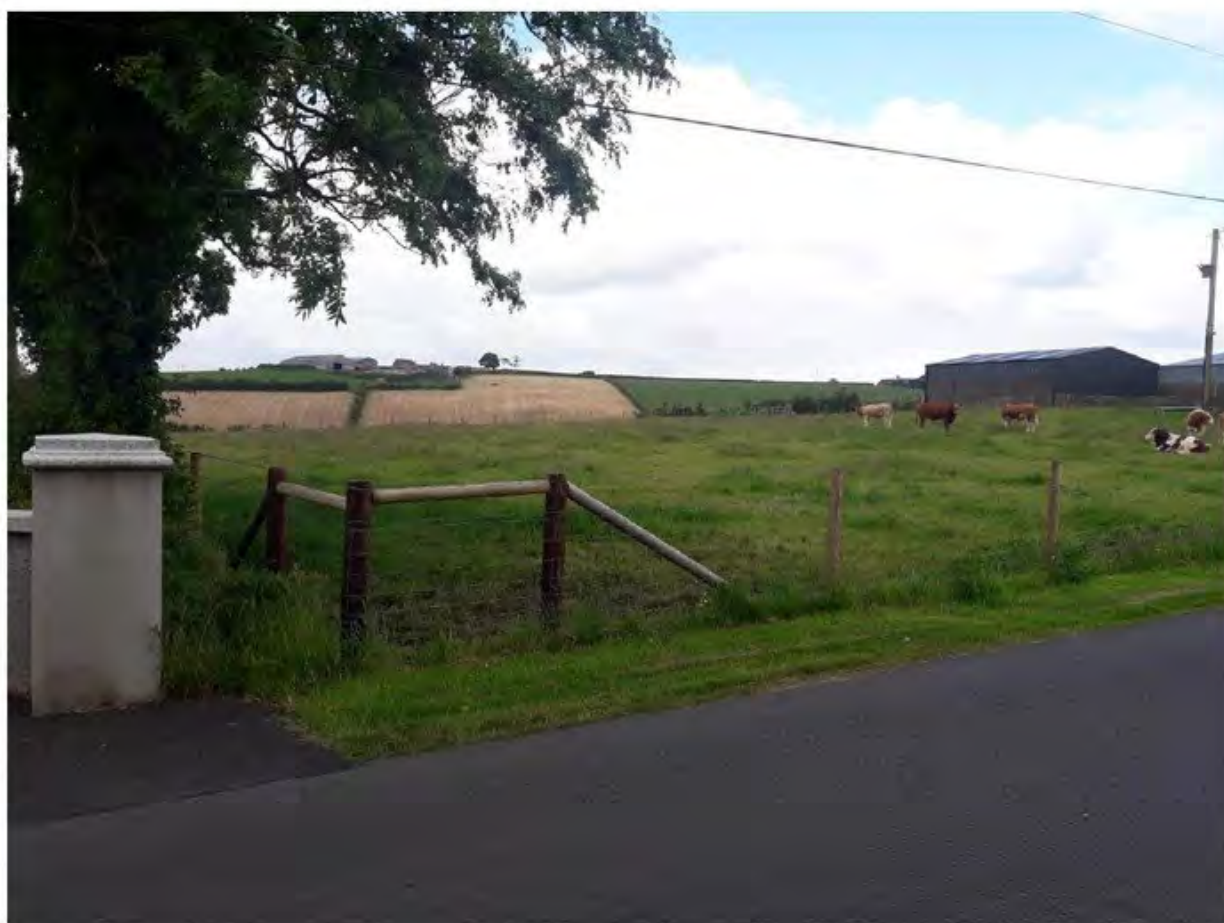
Characteristics of site: The lands outlined in red form an irregular shaped plot located to the south east of no. 32 and north of no. 30 Dromara Road. The site is located in an open agricultural field, is in a maintained condition, resting at a similar level to the adjacent road, and has a strong boundary treatment to the south east. The eastern roadside boundary is defined by post and wire fencing. The northern boundary is defined by post and wire fencing and a block wall running into an agricultural shed. Immediately adjacent and NW of the site lies No.32 Dromara Road a single storey dwelling, which has a number of agricultural buildings surrounding.

Characteristics of site: The application site is located outside any settlement development limits as designated with Banbridge/Newry and Mourne Area Plan

2015. The area is of typical rural character and predominately agricultural use, located within a designated Area of Outstanding Natural Beauty.



Subject lands



Site History:

LA07/2017/1077/O - Dwelling on a farm including garage. Lands to the south-east of 32 Dromara Road, Leitrim, Castlewellan, BT31 9SJ. Permission refused.

Q/2002/0828/F - Erection of one-and-a-half storey dwelling & detached double garage. Opposite 29 Dromara Road, Leitrim, Castlewellan. Permission granted.

Q/2001/0314/O - Site for a dwelling and garage. Opposite 29 Dromara Road, Leitrim, Ballyward, Castlewellan. Permission granted.

Planning Policies & Material Considerations:

Banbridge/Newry and Mourne Area Plan 2015

SPPS - Strategic Planning Policy Statement for Northern Ireland

PPS 2 - Natural Heritage NH 6 - Areas of Outstanding Natural Beauty

PPS 3 - Access, Movement and Parking AMP 2 - Access to Public Roads

PPS 21 - Sustainable Development in the Countryside

CTY 1 - Development in the Countryside

CTY 8 - Ribbon Development

CTY 13 - Integration and Design of Buildings in the Countryside; and

CTY 14 - Rural Character

Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside

Consultations:

NI Water - Generic Response.

DfI Roads – No objections subject to access being constructed in accordance with RS1

Objections & Representations:

3 Neighbours within close proximity of the site were notified on 04/05/2021. Having received an amendments site location plan, these neighbours were renotified on 20/07/2021. This application was advertised in the local press on 28/04/2021. At the time of writing (01/09/2021) a total of 3 letters of objection were received from 2 different address. The planning concerns raised are summarised as follows:

- The submission of dated site location plan
- Inaccuracies with boundary details
- Road safety concerns

- Use of road by members of the public
- Proposal not in keeping with the character
- Reference to rare birds

Objections will be considered through the assessment of the application and the applicable planning policies.

Consideration and Assessment:

The application submitted is seeking outline planning permission for the erection of 2 dwellings and garages in the countryside. The SPPS along with PPS 21 provide the relevant planning context for determining this application.

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is currently within the remit of the Banbridge/Newry and Mourne Area Plan 2015 as the new council has not yet adopted a local development plan. The site is located outside settlement limits on the above Plan in open countryside. There are no specific policies in the Plan that are relevant to the determination of the application and it directs the decision-maker to the operational policies of the SPPS and PPS21,

PPS 21 - Sustainable Development in the Countryside

Policy CTY 1 of PPS 21 identifies a range of types of development which in principle are considered acceptable in the countryside. One of these is the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8.

Policy CTY 8

Policy CTY 8 'Ribbon Development' states that planning permission will be refused for a building which creates or adds to a ribbon of development. However, an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within a substantially and continuously built up frontage. This policy requires four specific elements to be met, the gap site must be within a substantially and continuously built up frontage, the gap must be small, the existing development pattern along the frontage must be respected and other planning and environmental requirements must be met. The policy defines a substantial and built up frontage as a line of three or more buildings along a road frontage within accompanying development to the rear.

The agent considers that the site is such a gap site for two dwellings and garages, falling within a substantial and continuously built up frontage and suitable for a

dwelling. CTY 9 requires a line of 3 or more buildings along a frontage without accompanying development to the rear is required. For the purposes of CTY 8, a building has frontage to the road if the plot on which it stands, abuts or shares a boundary with the road.

The Planning Department accept that on the ground dwelling No. 32 Dromara Road and associated white barn to immediate south have frontage onto the Dromara Road (total of 2 buildings). However, the planning department dispute the agents' assertion regarding the 'one bookend set back and angled' presumably making reference to no. 30 Dromara Road.

No. 30 is accessed from the Dromara Road via a long driveway and a parcel of land divides the dwelling from the road. As confirmed by the PAC, an access driveway alone does not constitute frontage to the road and the visibility of a building from the road is not part of the infill policy test.

Whilst it is accepted that visibility of a building from the road is not part of the policy test for infill development, an access driveway alone does not constitute frontage to the road. No. 30 therefore cannot be counted towards sharing the same road frontage as the subject site. Hence, in total, there are only two buildings north of the subject site that have frontage to the road.

As there is not an existing built-up frontage on both sides of the site, the appeal proposal cannot represent a small gap site within a substantial and continuously built up frontage. Rather, it forms part of an important visual break in the developed appearance of the area along with the intervening vegetation and mature trees north of the appeal site. Accordingly, the appeal proposal fails to comply with Policy CTY8.

Case officers note planning appeal (2020/A0058) and its decision which relates to the planning assessment for Infill Dwellings contained with CTY-8 of PPS21. This appeal dealt specifically whether a dwelling house in a similar arrangement to this application, constituted as buildings with substantial and continuously built up frontage, as envisaged by the policy.

The commissioner stated; "Whilst it is accepted that visibility of a building from the road is not part of the policy test for infill development, an access driveway alone does not constitute frontage to the road". Case officers have considered the specific site the Commissioner was referring to and the planning department consider that the access referred to by the commission has a similar arrangement to that of no. 30 Dromara Road

There is no line of three or more buildings to constitute a substantial and continuously built up frontage, as envisaged by the policy. Accordingly, there is no gap or infill opportunity. As there is no substantial and continuously built up frontage the proposal does not meet the first test as set out in Policy CTY8. In these circumstances (as accepted by the PAC) it is not necessary to assess such matters

of development pattern, plot size, frontage width and scale of development which are deemed irrelevant.

The other planning and environmental requirements under Policy CTY8 fall to be considered under Policy CTY13 which deals with the integration and design of buildings in the countryside and Policy CTY14 which addresses rural character.

Policy CTY 13

Policy CTY 13 - Integration and Design of Buildings in the Countryside, requires a new building in the countryside to be able to be integrated visually within the landscape in which it is set. As this is an outline application the specific siting and design would be determined at the Reserved Matters stage. The area inside the red line takes in an agricultural field, and the agent has submitted an indicative site layout showing the siting of two dwellings and garages with a desired paired access. Case officers note the site benefits from a planting to the south, and existing development to the north. Whilst there would have to be some ancillary works and partial removal of hedgerow to achieve visibility splays, there would be sufficient landscaping to provide a satisfactory backdrop for a dwelling of low elevation, a similar pattern of development exists further along the road. This is an outline application and design details are not available to assess at this stage. The proposal would comply with Policy CTY 13 subject to suitable conditions.

Policy CTY 14

Policy CTY14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of the area. The proposal would result in a suburban style build-up of development when viewed with existing buildings and create a ribbon of development. The proposal is contrary to criterion b and d of Policy CTY14.

Policy CTY 16

CTY 16 ensures that new developments will not create or add to a pollution problem. A septic tank is proposed. Details of its location would be required at reserved matters stage. This proposal is not contrary to CTY 16.

PPS 3 Access, Movement and Parking

The proposal must accord with AMP2 of PPS3. DfI Roads were formally consulted and responded on 07/06/2021 with no objections to this proposal, subject to the access being constructed in accordance with RS1. In view of this officers consider access arrangements to be acceptable.

PPS 2 - Natural Heritage

As this site is located within a designated Area of Outstanding Natural Beauty (AONB) policy NH 6- requires that new development within a designated AONB must

be of an appropriate design, size and scale for the locality. The design and siting of two dwellings and garages within the lands in red would not be considered to be unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.

Considerations of Objections

All of the issues raised (valid planning reasons) in these objections have been fully considered in the assessment of this planning application.

In terms of Road safety, DfI Roads have been formally consulted to ensure the proposal was compliant with PPS 3. The access proposals are in accordance with the requirements of PPS3 and DCAN15 and DfI Roads have no objections subject to the details being shown at reserved matters stage

Reference was made to inaccuracies with boundary details and the submission of a dated site location plan. The planning department made the agent aware of this objection and amended the drawings to reflect the existing pattern of development. Case officers note the entrance at No. 30 Dromara Road seem at odds with what is on the ground in terms of scale and boundary demarcation. The Council has carried out an assessment making use of alternative mapping systems and aided by a site visit.

Reference was to rare birds in neighbouring buildings. Case officers are cognisant of this representation, however given that the subject site is absent of any buildings and mature vegetation, case officers in this instance there will be no expected impact on wild birds.

Recommendation:

Having considered the relevant policy, the proposal does not meet with the criteria as set out in CTY 1, CTY 8, CTY 14 of PPS 21, NH6 of PPS2 and refusal is recommended.

Conditions:

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 and CTY 14 of Planning Policy Statement

21, Sustainable Development in the Countryside in that it fails to meet the provisions for an infill dwelling as there is not a line of 3 or more buildings in a substantial and built up frontage and it would, if permitted, result in the creation of ribbon development along the Dromara Road.

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

Case Officer Signature: S. Maguire
Date: 02/09/2021
Appointed Officer Signature: David Fitzsimon
Date: 03/09/2021

Delegated Application List w/c:	Planning Application Number : LA07/2021/0652/O	Requested by: William Wallace
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PLEASE NOTE THAT SUBMISSIONS SHOULD BE ON THIS FORM AND LIMITED TO TWO PAGES. ANY ADDITIONAL INFORMATION BEYOND TWO PAGES WILL BE DISREGARDED.

Description of the application -

2 infill dwellings and garages as per CTY8 PPS21.

Proposed decision (including reasons if the decision is refusal) –

Recommendation: Refusal

Refusal Reasons: The proposal is contrary to policies CTY1, CTY8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside.

Set out the valid and credible planning reasons why this application should be referred to Committee (including reference to relevant planning policies) –

PPS21 CTY8 allows the development of a small gap site sufficient only to accommodate up to a maximum of two houses, within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size. For the purposes of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage.

Clause 5.33 states that buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked.

Our proposal is for two dwelling and garages on lands between nr 30 and 32 Dromara Road, Leitrim. It has been recommended for refusal against CTY1, CTY8, CTY14 [PPS21] and NH6 [PPS2]

The proposal satisfies CTY16 [no pollution], PPS3 [Access, movement and parking]

CTY1 and CTY14 would be met if CTY8 can be seen to be achieved.

In the case offices report under NH6 [PPS2] it states that the design and siting of two dwellings and garages would **not** be considered to be unsympathetic to the area, therefore deemed to be acceptable, yet it is mentioned as a refusal reason in the recommendation. This perhaps a typo or grammatical error though.

The point of objection from the department is CTY8. The case officer cites an appeal 2020/A0058 stating that this case accurately reflects our proposal. I aim to show that this is not the case and indeed that the proposal does satisfy CTY8.

Set out why this application should be determined by Committee rather than officers -

I wish this application to be determined by Committee rather than officers as I feel it falls within CTY8 and does represent an infill opportunity.

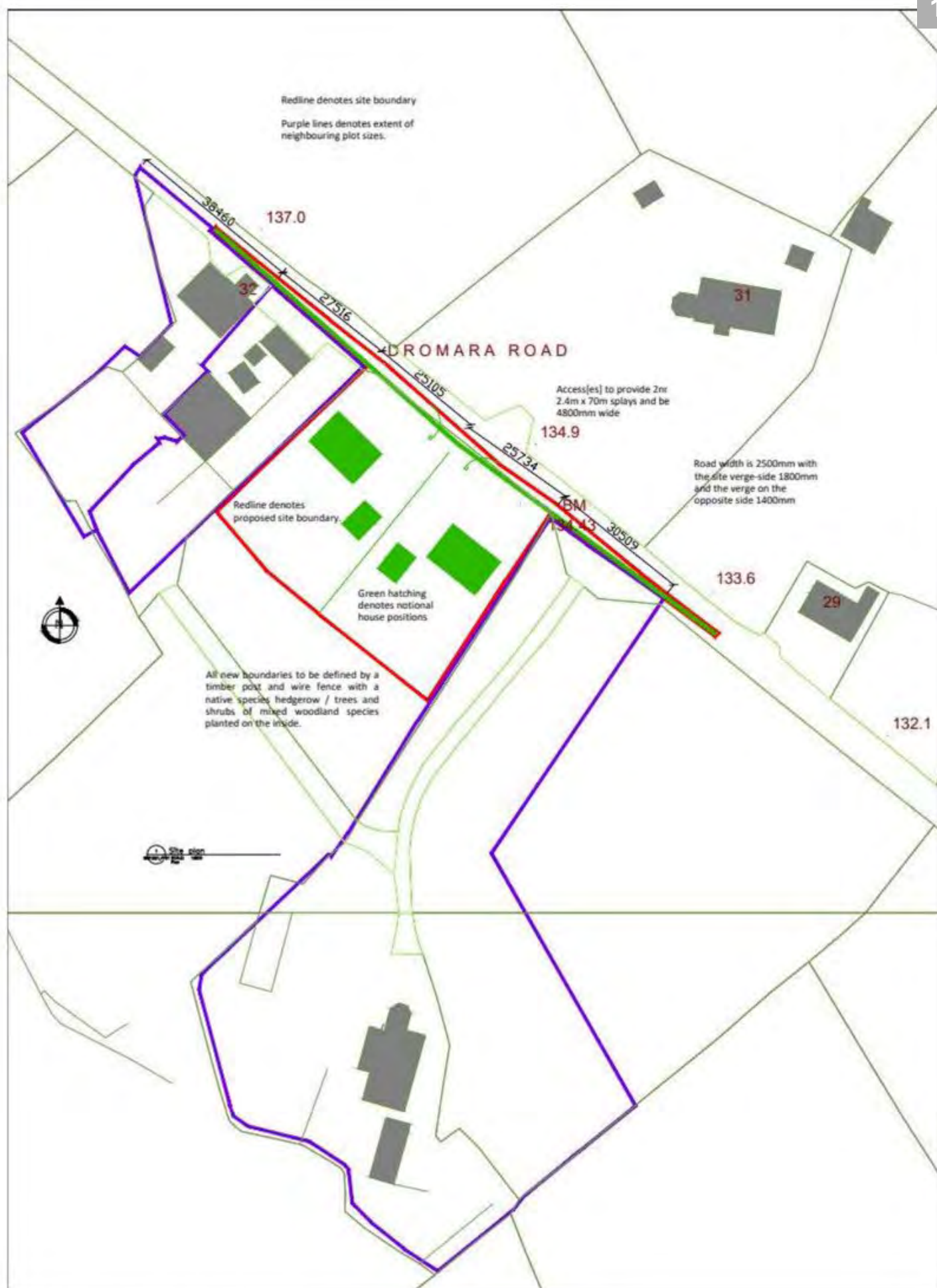
The department accepts house nr 32 and the associated outbuildings to the north [although south is mentioned in the report] represents one book-end. The department does not accept house nr 30 as being the other book-end. Quote 'Nr 30 is accessed via a driveway and a parcel of land divides the dwelling from the road An access driveway alone does not constitute frontage to the road', a point has been bourne out in several appeal cases and must be therefore respected. The case officer cites an appeal 2020/A0058 stating that this case accurately reflects our proposal.

I believe the reading of this proposal is incorrect and the interpretation against CTY8 is flawed and unfair to the applicant. I contest that point made that the curtilage does not stretch to the road. When measured the site road frontage is approximately 20m and is not made up of the access driveway alone. I have site photos showing garden areas on both sides of the driveway. These are not merely verges bordering the driveway but are an extension of the maintained and landscaped gardens.

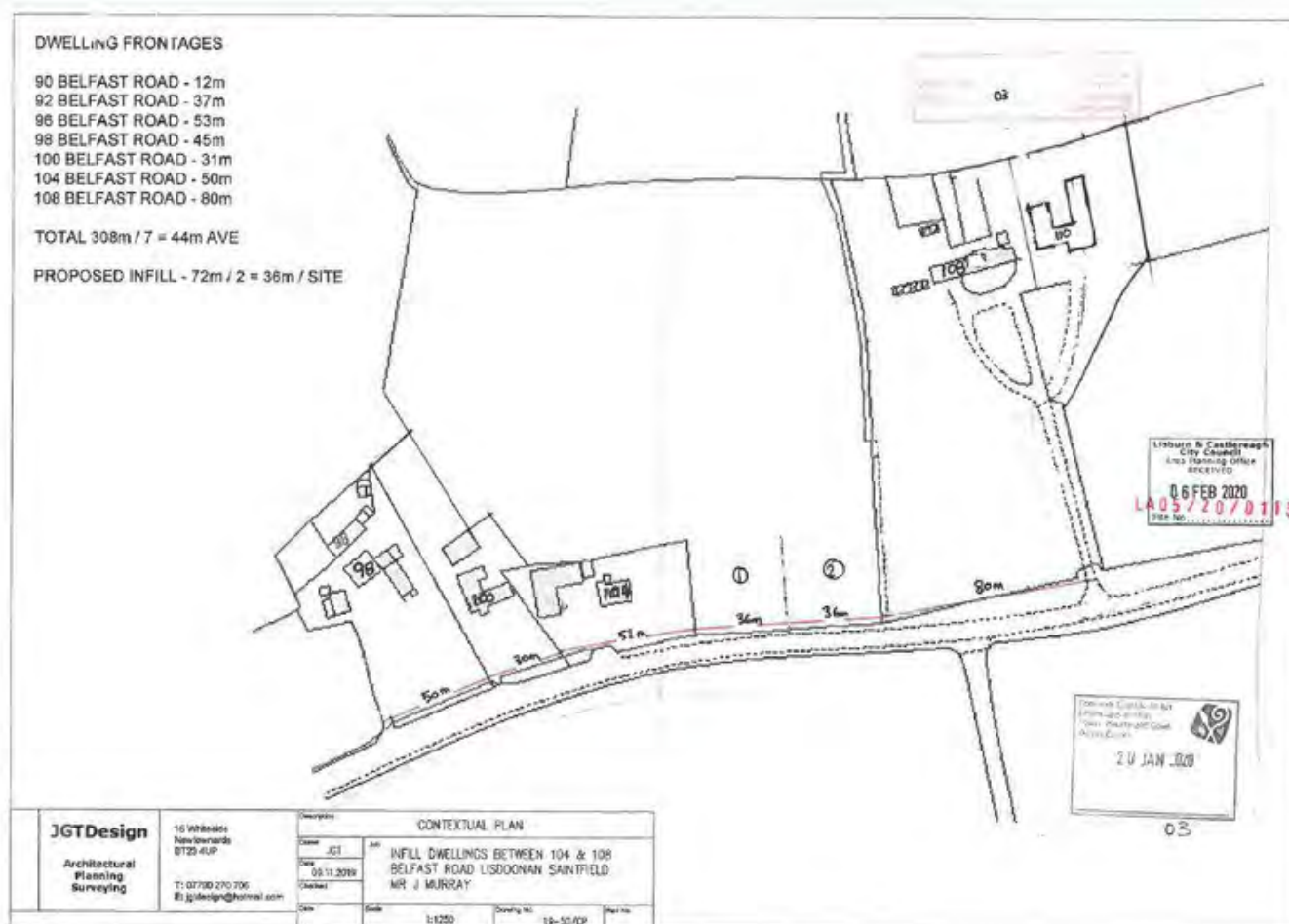
At the roadside house nr 30 has built a block wall linking into wing walls and pillars at his entrance. This roadside wall extends the length of the roadside field. I am not suggests that this wall corresponds to site frontage but is significant in that this does represent a domestic property. i.e. one would not go to the expense of foundations, concrete block, materials and labour to fence in a field.

The appeal case given as a precedent 2020/A0058 to our proposal is not comparable. In that appeal case there is clearly a parcel of land separating the dwelling from the road, and it does have a driveway alone linking it to the road. That parcel of land also neighbours the proposed site. In our proposal any lands to the side the house, not in front, and is located away from the proposed site. I have the plans and photos illustrating this.

I believe this evidence shows that the neighbouring site benefit from road frontage and is visually linked and therefore does satisfy CTY8.



Partial plan from submitted drawing



Appeal site as per Case officers report

Site photos





Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2019/1000/F

Date Received: June 2019

Proposal:

Full permission is sought for the Construction of 14 no Social Housing Units together with associated car parking, landscaping and site works for Registered Housing Association under policy CTY5 of PPS21, on lands East of Harmony Heights, Ballyholland.

Applicant: Rural Housing Association

Location:

The lands comprising the application site are located just outside the development limits of Ballyholland as identified in the Banbridge, Newry and Mourne Area Plan 2015, and comprises 3 fields at present.

The site adjoins and will be accessed via the existing housing development of Harmony Heights to the west, while the remainder of the site adjoins fields.

Site Characteristics & Area Characteristics:

The site outlined in red extends from the existing housing development of Harmony Heights, and includes several fields at present. Harmony Heights comprises a cul-de-sac at present made up of detached and semi-detached dwellings. The units backing on to the application site comprise 4 detached dwellings which are single storey in form to the front, however this development also includes 2 storey

dwellings. The dwelling of no.6 Bettys Hill Rd also adjoins the site, which is also accessed via the development of Harmony Heights.

The lands comprising the application site undulate and slope steadily downhill from Harmony Heights towards the sheds which adjoin the western boundary. These fields are overgrown with gorse wyndbushes at present.

Site history

A history search has been carried out for the site and surrounds whereby no relevant history was observed relating to the application site.

Representations

Having account the extent of the red line and current practice neighbour notification was undertaken with a number of properties within Harmony Heights and also 6 Bettys Hill Road initially in Sept 2019, and again in Nov 2019, Jan 2020 and August 2020 following receipt of amended plans/additional info.

Several additional properties were also identified to be notified during the processing of the case and following receipt of amended red line for access purposes.

The application was also advertised in July 2019.

To date some 30 representations in opposition to the proposal have been received (Nov 2021) from the owner/occupiers of properties in Harmony Heights, Caiseal

Court, Mourne View, Innisfree Park and Bettys Hill Rd, whereby the main issues raised include:

- Very few of those seeking these units have any association with the area,
- If approved would set a dangerous precedent, for small settlements being targeted by Social Housing providers who cant access towns/cities,
- Policy CTY5 is discriminatory in favour of social housing providers,
- Concerns regarding intensification of traffic,
- The roadway cannot cope with any extra traffic,
- All other options of potential sites have not been investigated. There are a number of other sites outside the development limits that would lend themselves more favourably,
- The potential effect on wildlife needs to be considered,
- Overdevelopment of the land with extra traffic which will create increased dangers to pedestrians,
- The site address provided is vague,
- Support by the NIHE should not be a deciding factor,
- Development of this nature should be directed inside the settlement limit, and only if it is proven there is no land available, should consideration be given to this,
- A decision should only be made when the development plan has investigated the availability of all housing lands,
- The analysis provided of 2 sites within the development limits is inadequate,
- Analysis of other sites outside the development limits is inadequate,
- While the site is beside the development limit, the development cannot be visually integrated into the landscape thus is contrary to policy CTY1 of PPS21,
- Development will result in urban sprawl, marring the distinction, being contrary to Policy CTY15 of PPS21,
- The applicant has not provided an assessment of local housing needs,
- The plans indicate pumping apparatus however no details have been provided,
- There is potential a pumping station will harm the amenities of residents due to odour and noise,
- Excessive excavations and retaining walls are required which are not reflective of the character of the area,
- Future residents will have no outlook with walls and fencing,
- Sections provided are inadequate,
- The development is dominated by mass car parking and areas of hard-standing
- No evidence has been provided for consent to discharge to the watercourse,
- The drainage assessment is deficient,
- A working strip is required along the boundary with the watercourse,
- The ecological assessment is deficient,
- The site is surrounded by farm land and agricultural buildings,
- The existing roads infrastructure within Harmony Heights is not adequate to accommodate the increase in traffic,
- Health and safety issues with construction traffic,
- Traffic calming measures are required,
- Issues with the red line for Roads,
- Individual access arrangements and in-curtilage parking are inadequate,

- Lack of detail how the 2 roads will meet,
- Details of retaining structures have not been provided,
- This application should be refused due to the deficiencies,
- Issues of prematurity related to the LDP and distortion of housing figures,
- Devalue existing properties,
- General objection to the erection of social housing in Ballyholland. This is no an area for social housing,
- There are a number of electronic objections who state they object with no reasons provided,

The above is a summary of the main issues raised. It is not an exhaustive list. See file for full content of all reps received.

Consultations-

Having account the nature of this proposal and location and constraints of the site, and also having account the content of the representations received, consultations have been carried out with a number of bodies including Transport NI, NI Water, NIEA, Rivers Agency, Shared Environmental Services, Environmental Health, and NIHE as part of this application.

TNI- During the processing of the case consultation has been issued to TNI on 5 separate occasions. TNI in its most recent response (Oct 2021) offer no objections in principle subject to conditions.

NIW- No objections subject to informatives

NIEA- No objections subject to informatives.

Rivers- Following submission of further info offer no objections subject to informative. (The site is not in a floodplain. A maintenance strip has been provided for and a Drainage Assessment was provided).

SES- No objection in principle subject to conditions.

Env Health- No objections in principle subject to condition.

NIHE- NIHE complete housing need assessments annually across all the common landlord / local housing areas within NIHE Districts. At 31 March 2019 NIHE identified a projected housing need, to 31 March 2024, of 14 social housing units for Ballyholland / The Commons local housing area. NIHE fully support the need for this scheme to help address unmet need in the area.

In addition to the above, comment was sought internally from The Planning Depts Development Plan Team.

During the processing of the case further information has been submitted to address concerns from the Planning Dept but also in response to issues and request from consultees.

Policy considerations-

RDS, Banbridge, Newry and Mourne Area Plan 2015, SPPS, PPS2, PPS3, PPS15, PPS21, and supplementary guidance.

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is currently within the remit of the Banbridge / Newry & Mourne Area Plan 2015 as the new council has not yet adopted a local development plan.

As stated above the application site is located in the countryside, on the outer edge of the development limits of the small settlement of Ballyholland as identified in the Area Plan.

The existing development of Harmony Heights marks the end of the settlement development limit, whereby the application site will access and extend from this existing housing cul-de-sac.

Although located in the countryside and outside any settlement development, whereby the provisions of PPS21 and the SPS apply, this is a housing scheme whereby the general thrust and principles of PPS7 and supplementary guidance are noted.

This is a Full application, whereby a P1 form, site location plan, site layout plans, and detailed plans have been formally submitted.

Since being received in June 2019, there have been several amendments, whereby this report is now based on the most recent submission including site plan Drawing No. D02K.

Principle of Development

As the site is located in the countryside PPS21 applies, whereby Policy CTY5 (Social and Affordable Housing) makes provision for such developments adjacent to or near small settlements, subject to a maximum of 14 units, however this is subject to the application being made by a registered Housing Association and where need has been demonstrated, which cannot be met within an existing settlement in the locality. Any development associated with this policy would be restricted and conditioned for social housing only accordingly.

Following informal consultation with the Local Development Plan team (LDP), it is accepted Ballyholland meets the criteria and definition of a small settlement (population of less than 2250) for the purposes of this policy.

The LDP offer no objection to the principle of this development at this location.

This application has been submitted by Rural Housing Association.

As stated above consultation was undertaken with NIHE who have identified a projected housing need, to 31 March 2024, of 14 social housing units for this area and fully support the need for this scheme to help address unmet need in the area.

The applicant provided an assessment of alternative sites within the development limit and has discounted these.

As such it is considered this proposal does not offend the requirements of policy CTY5, thus there can be no objection to the principle of 14 social housing unit on this site, despite the opposition as listed above.

Policy CTY1 of PPS21 and Paragraph 6.70 of the SPPS requires all development proposals in the countryside to be designed and sited to integrate sympathetically with their surroundings, respect rural character, and to meet other planning and environmental considerations.

These considerations must be assessed under policies CTY13 and CTY14 of PPS21.

These policies assess the impact the proposal will have on the rural area by reason of design, siting, integration, landscaping and overall rural character of the local area.

Policy CTY13 and CTY14

These policies state that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and is of an appropriate design. PP will also be granted for a build in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. Policies CTY13 and 14 set out a number of criteria.

As stated above the lands comprising the application site slope steadily downhill from the existing Harmony Heights development. This existing development will act as a backdrop to the application site and will effectively read as an extension to it.

The proposed development will respect the existing ground levels and gradient and will comprise 2 storey detached and semi-detached units proposed, which are in keeping with the character, scale, density, layout and appearance of the area.

(Finishes include blue/black tile roof, white render walls, hardwood windows and upvc RWG's which are considered acceptable).

As such it is considered the topography of the lands is such that the development proposed will not appear unduly prominent in the landscape and will integrate with the surroundings given the siting and house types proposed.

The existing boundary stone walls are to be retained with additional planting to assist in the integration of the site and to reduce its impact both on the area and also existing properties.

A retaining wall is proposed along the rear of Sites 11-14, due to the lower level of the site below Harmony Heights. This wall will have limited visual impact from any public viewpoint due to its location and the positioning of the units proposed.

Each unit will have front and rear gardens with in-curtilage parking.

The relationship of the layout with existing properties is also noted, whereby it is considered the proposed development will not result in any unacceptable adverse impact on any existing property due to the layout, levels and separation distances.

It is considered the proposals do not offend the requirements of CTY13 and 14.

Impact on Residential Amenity

As stated, the site adjoins an existing housing development, whereby it is considered the separation distance of the development including the siting of proposed units to any existing property together with the topography of the lands will ensure no unacceptable impact will result on the amenity of any existing property, in terms of overlooking, overshadowing, loss of light, dominance or noise.

Sites 11-14 back onto Harmony Heights, however will be at a much lower level with a planted buffer also separating these opposing developments.

It is also noted the entrance road and footpaths will run along the boundary with no.6 Bettys Hill Rd, whereby this boundary will comprise planting, fencing and retaining wall to protect the amenity of this property.

Policy CTY15

The content of policy CTY15 is noted, and while it may appear this proposal contravenes this policy, the fact that it complies with policy CTY5 is determining in this instance and is considered to outweigh this.

Policy CTY16

It is noted the development will be connected to the mains with a pumping station in the bottom corner of the site, whereby consultees have returned no objections. This pumping station is far removed from any existing property.

PPS 2 - Natural Heritage

The application site is hydrologically connected to the Carlingford Lough Area of Special Scientific Interest (ASSI)/ Special Protection Area (SPA)/ Ramsar (hereafter referred to as the designated site) which is of international and national importance and is protected by Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) and The Environment (Northern Ireland) Order 2002. A Preliminary Ecological Appraisal was submitted by the agent.

During the processing of the case consultation was undertaken with NIEA and SES, who offered no concerns/objections to the proposals, advising the proposals are unlikely to have any significant impact on any protected species or habitats that resembles a Northern Irish Priority Habitat

PPS3 Access, Movement and Parking

This development will be accessed via Harmony Heights, connecting to this development at a point which appears like a natural extension of the road, with a footpath to either side.

All units will access from this new entrance road, each with its own in-curtilage parking.

Works are proposed to the entrance of the site where it adjoins the existing Harmony Heights development as indicated on the site plan, with realignment and increased radius to be provided at the request of DFI Roads.

DFI Roads initially had concerns with the proposals which overlapped with some of the concerns raised by interested third parties, however following receipt of amended plans are now content the proposals meet the policy requirements, and offer no objections in principle.

It is noted a number of the representations received relate to traffic and access matters. Transport NI have been consulted on a number of occasions throughout the processing of the case, and now offer no objections in principle.

Summary

While it is noted there is significant local opposition to this proposal, it is considered it complies with the relevant policy, and there are no grounds to sustain a refusal.

As such Approval is recommended subject to conditions.

Recommendation: Approval

Conditions:

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

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

2. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

The Department hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawings hereby approved (C101-303-01 Rev A, bearing the date stamp 15 June 2021)

Reason: To ensure there is a safe and convenient road system within the development and to comply with the provisions of the Private Streets (Northern Ireland) Order 1980.

1. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

No other development hereby permitted shall be commenced until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing Number C101-303-01 Rev A, bearing the date stamp 15 June 2021 The Department hereby attaches to the determination a

requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

Reason: To ensure that the road works considered necessary to provide a proper, safe and convenient means of access to the development are carried out.

3. The visibility splays at the junction of the proposed access road with the public road shall be provided in accordance with the plans hereby approved, prior to the commencement of any other works or other development.

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

4. No dwellings shall be occupied until that part of the service road which provides access to it has been constructed to base course; the final wearing course shall be applied on the completion of the development.

Reason: To ensure the orderly development of the site and the road works necessary to provide satisfactory access to each dwelling

5. No dwelling shall be occupied until provision has been made and permanently retained within the curtilage of the site for the parking of private cars at the rate of 2 space per dwelling.

Reason: To ensure adequate (in-curtilage) parking in the interests of road safety and the convenience of road users.

6. The Development hereby permitted shall not be commenced until a Street Lighting scheme design has been submitted and approved by the Department for Infrastructure Street Lighting Section.

Reason: Road safety and convenience of traffic and pedestrians.

7. The Street Lighting scheme, including the provision of all plant and materials and installation of same, will be implemented as directed by the Department for Infrastructure Street Lighting Section

(These works will be carried out entirely at the developer's expense.)

Reason: To ensure the provision of a satisfactory street lighting system, for road safety and convenience of traffic and pedestrians.

8. The Existing natural boundary treatments as indicated in the plans hereby approved along the site boundaries shall be retained.

Reason: To protect the biodiversity value of the site, including protected species.

9. ALL landscape and planting proposals shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The planting plan shall be carried out during the first available planting season after construction works have been completed, in accordance with the plans hereby approved.

Reason: In the interests of visual and residential amenity.

10. The boundary with no.6 Bettys Hill Road shall be secured at all times, and the proposals along this boundary as indicated on the plans hereby approved, shall be completed in their entirety prior to the occupation of any unit hereby approved, which shall be permanently retained thereafter.

11. If within a period of 5 years from the date the development is completed any tree, shrub, or hedge is removed, uprooted, destroyed, 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 written consent to any variation.

Reason: To ensure the provision of landscaping to the site..

12. The boundary fencing associated with each unit as indicated on the plans hereby approved shall be completed prior to the occupation of the unit it serves, which shall be permanently retained thereafter.

Reason: In the interests of visual and residential amenity.

13. A suitable buffer of at least 10 metres must be maintained between the location of refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc. and the adjacent watercourse.

Reason: To protect water quality within the adjacent watercourse and the site features of designated sites downstream.

14. There shall be no direct discharge of untreated surface water run-off during the construction and operational phase to the adjacent watercourse along the eastern boundary.

15. A maintenance strip shall be provided adjacent to the watercourse in line with the plans hereby approved. This maintenance strip shall be protected from impediments (including tree planting, hedges, permanent fencing and sheds), land raising or future unapproved development at all times. Clear access and egress should be provided at all times.

Reason: To ensure the orderly development of the site.

16. The approval hereby granted is purely for the provision of social housing and shall be carried out by or on behalf of Rural Housing Association or a registered Housing Association and the units shall be managed by Rural Housing Association or a registered Housing Association.

Reason: In order to allow the Department to control the use of the development hereby permitted.

17. The units hereby approved shall be occupied only by a person or persons who have been selected from the Northern Ireland Housing Executive housing waiting list.

Reason: To service the social housing need as identified in the Housing Needs Assessment prepared by NIHE, and in the interests of roads safety.

(Informatives)

Signed: M Keane 03-11-21

Authorised Officer: A McKay 03-11-2021



Your Ref: LA07/2019/1000F
Our Ref: 18168-PL14-SDLW-101121

10th November 2021

FAO Democratic Services
Newry, Mourne & Down District Council
Planning Office,
O'Hagan House,
Monaghan Row,
Newry
BT35 8DL

Dear Sir / Madam,

Re: Lands East of Harmony Heights, Ballyholland, Newry, Co.Down

As the agents for the development at the above address, we wish to request speaking rights in support of the Case Officers recommendation to grant Planning Approval for the social housing scheme.

I trust this is in order. Please contact the office should you have any queries.

Yours sincerely

Michael Rogers

.....
Michael Rogers
Director
Studiorogers

Enc



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference:

LA07/2021/0758/O

Date Received:

20.04.2021

Proposal:

Proposed site for dwelling and domestic garage

Location:

Lands immediately south of No. 40 Quarter Road Annalong BT34 4QZ

Site Characteristics & Area Characteristics:

The application site is located outside any settlement development limits as designated with Banbridge/Newry and Mourne Area Plan 2015. The site is within an Area of Outstanding Beauty and adjacent a Site of Local Nature Conservation Importance (NC03/155).

The lands outlined in red form a square shaped agricultural plot located directly SE of Nos. 40 and 42 Quarter Road. The adjacent dwellings are single storey. The application site is flat and bounded by dry stone walls along all boundaries. The area is of typical rural character.

Application site



Nos. 40 and 42 Quarter Road directly adjacent the site

Planning Policies & Material Considerations:

This application will be assessed under the following policy considerations:

- Strategic Planning Policy Statement (SPPS)
- Banbridge, Newry and Mourne Area Plan (2015)
- PPS 2: Natural Heritage
- PPS 21: Sustainable Development in the Countryside
- PPS 3: Access, Movement and Parking
- DCAN 15: Parking Requirements

Site History:

No planning history for application site.

Consultations:

DfI Roads - Please ask the applicant to submit an amended 1/2500 scale plan clearly extending the red line to include the require sight visibility splays of 2.4m x 70m in both directions.

An email was sent to the agent 18th June requesting this information with a deadline of 25th June. An amended drawing was received 9th August and Roads were reconsulted and issued a response 8th September with no objections subject to conditions being attached.

Water – Generic response

Objections & Representations:

Neighbour notifications: 24.05.2021

Advertisement: 12.05.2021

Two letters of objections were received from the residents of Nos 40 and 42 Quarter Road. The main points within the letters include the following:

- The development is outside a zoned development area.
- It is in an area of outstanding natural beauty - Mourne AONB.
- Permission for this would set up a ribbon development along Quarter Road.
- This would also greatly affect the amenity of the scenic panorama of the outstanding vista travelling north along Quarter Road.
- Such a scenic area as this should be preserved, to add a modern dwelling would set a precedence.

Assessment**Proposal**

The proposal is an outline application for the erection of a dwelling under CTY 6 of PPS 21 as outlined in the Design and Access Statement. No floorplans or elevations

have been submitted with this application, these would be required at reserved matters stage.

Principle of Development

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is currently within the remit of the Banbridge / Newry & Mourne Area Plan 2015 as the new council has not yet adopted a local development plan. The site is located outside settlement limits on the above Plan and is un-zoned. There are no specific policies in the Plan that are relevant to the determination of the application and it directs the decision-maker to the operational policies of the SPPS and the retained PPS21.

There is little change in the SPPS from that of the policies within PPS 21 and it is arguably less prescriptive, therefore PPS 21: Sustainable Development in the Countryside will provide the material considerations for this application.

As mentioned above, the relevant policy is Policy CTY 6 of PPS 21.

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

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

All permissions granted under this policy will be subject to a condition restricting the occupation of the dwelling to a named individual and their dependents.

One of the applicants listed on the P1 form Mr David Edgar currently resides at No. 8 Quarter Road, Annalong. The other two applicants (Mr David Edgar's son and wife) Mr William Edgar and Mrs Lynn Edgar currently reside at No. 7 Victoria Court which is 3.9 miles away from the father's dwelling. A Google Maps search shows that this would be an 8-minute journey by car. The proposed site is adjacent to 40 Quarter Road, Annalong which is 1 mile from Mr David Edgar's property which would take 2 minutes to travel to by car.

Medical records have been provided in letters dated 2012 as well as a complete medical history. A care log has also been submitted which appears to have been compiled informally by the applicant.

The Planning Department have no reason to dispute the evidence submitted however it falls to consider criterion (a) above as to whether a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused. From the evidence submitted it would appear that there are no formal care arrangements in place. Moreover, the proposed site is only 2.9 miles (6 minutes) closer than the existing residence of Mr William Edgar and his wife. The proposed site is not located beside William's father's residence.

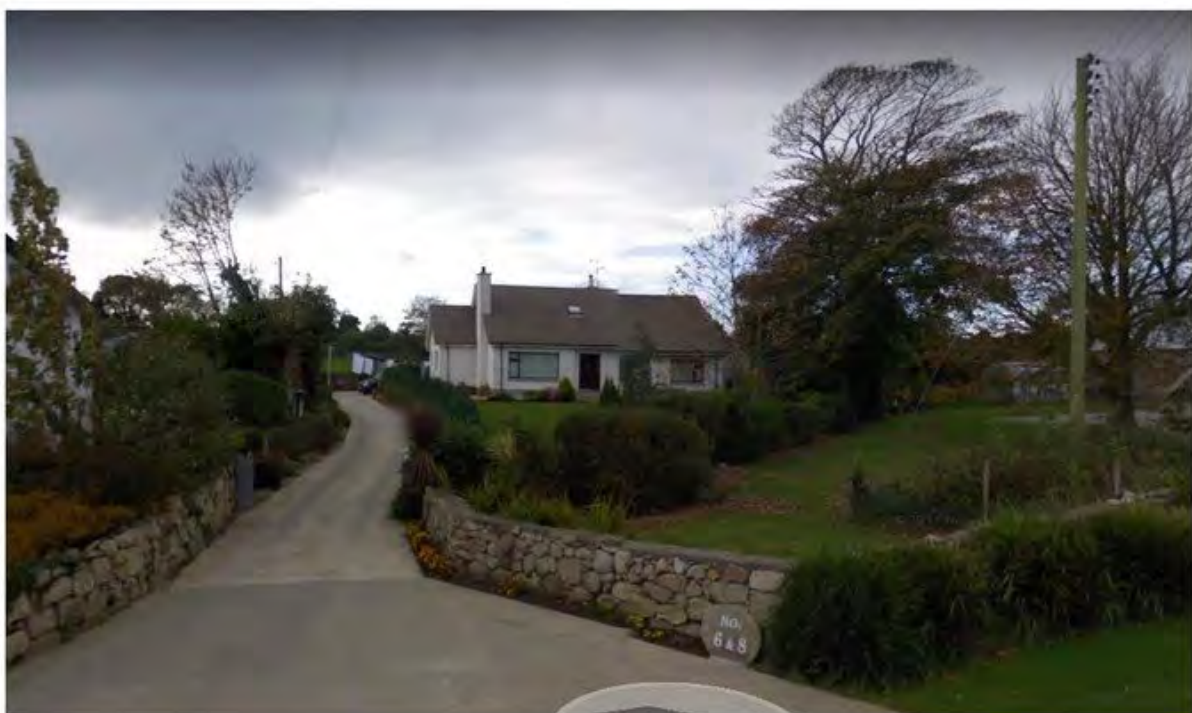
In relation to criterion (b) of Policy CTY 6, within the Design and Access Statement it has been stated that the curtilages of the existing dwellings are so restricted for the dwellings to be reasonably extended to facilitate appropriate living accommodation.



No. 7 Victoria Court



No. 7 Victoria Court



No. 8 Quarter Road



Curtilage of No. 8 Quarter Road

From the images above, I am NOT satisfied that the curtilages of the properties are so restricted for the dwellings to be reasonably extended to facilitate appropriate living accommodation.

An email was sent to the agent 18th June 2021 stating that "it is considered that there are no compelling site-specific reasons to establish the principle of development at the site proposed and therefore the proposal is contrary to CTY 6." However the agent was afforded an opportunity to submit further information. No information was initially received before the deadline stipulated (25th June 2021), however the application could not be moved on as a response from DfI Roads was outstanding.

I received a phone call from Mrs Lynn Edgar (applicants' wife/daughter in law) 9th August who requested an update on the application. I advised that an email was sent to the agent (outlined above) and that no further information has been received before the deadline and when DfI Roads issue a response, it is likely that the application will be moved forward with a recommendation of refusal. The applicant queried why the application was to be recommended for refusal and I advised that it was considered that there were no compelling site-specific reasons to allow a dwelling at this site. I also advised that the proposed site was not directly beside her father in law's home and that it was considered the proposal did not meet the requirements of the policy.

Following the phone call, I received an email from the agent on the same day to advise that they have nothing to add and that all the information was outlined in the

Design and Access Statement. The agent queried if this information had been acknowledged as the Statement was not uploaded onto the Portal. I advised that due to the sensitive information within the DAS, it was not uploaded onto the Portal, but a hard copy was kept on file and all information had been considered.

I received an email from the agent the following day 10th August 2021 with an attached letter from the applicants. The main points within the letter are as follows:

- There is no legitimate argument between 1 minute (distance from proposed site to Mr David Edgar's home) and 7 minutes (distance from current home to Mr David Edgar's home) as the extra 6 minutes could be vital;
- Mr and Mrs Edgar are both trained in first aid;
- Mr William Edgar has had to leave the family home since the application has been submitted to live with his father to provide care;
- Several trips are required a day which adds up.

Paragraph 5.29 of the Policy says that applicants will be expected to provide sufficient information to allow a proper assessment of each specific case. The paragraph requires that supporting information should be submitted and includes such information as a statement detailing the special personal or domestic circumstances supported if appropriate by medical evidence from a medical or health professional ; details of the level of care required in relation to any medical condition again supported by the appropriate health professional, the identity of the main carer, their current address and occupation, an explanation of why care can only be provided at the specific location and how genuine hardship would be caused if planning permission were refused.

From the information submitted to date (15th September 2021), I note that the principal carer is his wife, however she also requires help to care for Mr David Edgar.

I note that the care is also being provided by the applicant's son (Mr William Edgar (applicant) and daughter in law (Mrs Lynn Edgar). Both Mr William and Lynn Edgar have full time jobs and a young family and have outlined that if the current situation is to endure they may need to request to reduce their work hours or resign. In the most recent letter submitted, it was outlined that Mr David Edgar's health has deteriorated which has led to his son living there to provide care.

Medical records were submitted alongside this application. An informal care log was also submitted that appears to have been compiled by the applicants and outlines daily tasks dating from 21st December to 14th February such as making and delivering dinner, washing, tidying house, doing groceries and sorting out medication. No details of the level of care required in relation to the medical condition supported by the appropriate health professional has been submitted. No details on why care can only be provided at the specific location has been submitted. No formal details on existing care arrangements have been submitted.

While the Planning Dept accept that the applicant has a health condition that requires care from his wife, son and daughter in law, the information submitted to date does not outline the extent and implications on the applicant's future health or

any hardship both applicants and family may currently be experiencing due to their current living arrangements.

In this evidential context, I am not persuaded that the applicants have demonstrated that there are compelling and site-specific reasons to grant planning permission for a new dwelling on the application site 2.9miles (6 minutes) closer than the existing residence of Mr William Edgar and his wife and that hardship would be caused if planning permission were refused.

CTY 8: Ribbon Development

Policy CTY 8 states that "Planning permission will be refused for a building which creates or adds to a ribbon of development."

It is considered that the development of this site would result in Ribbon Development along Quarter Road. The development of a dwelling on this site would be detrimental to the character, appearance and amenity of the countryside and would create and reinforce a built-up appearance along Quarter Road.

Design, Scale, Size and Massing

Policy CTY13 -*Integration and Design of Buildings in the Countryside* outlines that a dwelling will be acceptable where it is visually integrated into the landscape and is of an appropriate design. CTY 14 – *Rural Character* outlines that a dwelling will be acceptable where it does not cause a detrimental change to, or further erode the rural character of an area.

The site is located on a flat roadside field. The application boundary follows the natural boundaries of the field however this would be considered too large for a dwelling's curtilage. Therefore, the site would require at least 2 new boundaries to provide an appropriately sized site. Nonetheless, the existing boundaries are defined by a dry natural stone wall which appears to be the same as other adjacent dwellings. A condition could be attached to any approval to ensure all boundaries are defined prior to the occupation of the dwelling. The adjacent dwellings are single storey in nature. A ridge height condition could be attached to ensure the proposed dwelling does not appear prominent and would integrate alongside the adjacent dwellings. As this is an outline application, no floor plans or elevations have been submitted, therefore all design aspects would be assessed at Reserved Matters stage and controlled by conditions attached to the outline approval. I am satisfied the proposal complies with Policy CTY 13 subject to conditions restricting the ridge height, appropriate design in accordance with Building on Tradition, landscaping proposals and boundaries.

However, as per Policy CTY 14 it is considered that the proposal would result in a suburban style build-up of development when viewed with existing and approved buildings and would add to a ribbon of development along Quarter Road. The proposal fails to comply with Policy CTY 14.

Impact on Amenity

The proposed dwelling is to be sited directly SE of No. 40 Quarter Road. The application site is flat and appears to be on the same level as the adjacent dwellings.

Appropriate design and ridge height conditions could ensure that a dwelling at this site would not impact the amenity of adjacent dwellings to an unacceptable level.

PPS 2: Natural Heritage

As the site is within an Area of Outstanding Natural Beauty, Policy NH 6 of PPS 2 applies. This policy states:

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

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

It is considered that the development of this site is not sympathetic to the special character of the AONB as a dwelling at this site would add to Ribbon Development along Quarter Road and would create and reinforce a built-up appearance along Quarter Road.

Access and Transportation

Policy AMP2 of PPS3 states that planning permission will only be granted for a development proposal involving direct access onto a public road where such access will not prejudice road safety. Paragraph 5.16 of Policy AMP2 makes reference to DCAN 15 which sets out the current standards for sightlines that will be applied to a new access onto a public road. DfI Roads have been consulted and following the submission of an amended plan, offer no objections in principle subject to condition.

Recommendation:

Refusal

Reasons for refusal:

1. The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not provided satisfactory long-term evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted add to

a ribbon of development along Quarter Road; and would therefore result in a detrimental change to further erode the rural character of the countryside.

4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted add to a ribbon of development along Quarter Road; and would therefore result in a detrimental change to further erode the rural character of the countryside.
5. The proposal is contrary to the Strategic Planning Policy Strategy for Northern Ireland and to Planning Policy Statement 2: Natural Heritage in that it is contrary to Policy NH 6 in that (a) the proposal is not sympathetic to the special character of the Area of Outstanding Natural Beauty of the particular locality.

Informatives:

1. This refusal notice relates to the following plans: 01RevA.

Case Officer Signature: Eadaoin Farrell
Date: 15.09.2021
Appointed Officer Signature: M Keane
Date: 15-09-21



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

Application Reference: LA07/2021/0835/F

Date Received: 30th April 2021

Proposal: Proposed Domestic Garage and Extension to Existing Curtilage

Location: 87 Oldtown Road, Annalong, Co Down

Site Characteristics & Area Characteristics:

The site is located outside the settlement development limit as designated in the Banbridge Newry and Mourne Area Plan 2015 (Map no.3/01 Newry and Mourne). The site is located on un-zoned land within the Mourne Area of Outstanding Natural Beauty (AONB).

The application site is accessible via a laneway on the Oldtown Road upon which number 81 Oldtown Road is also served. Whilst conducting a site visit it was noted that the house at present is not currently occupied. The site consists of a storey and a half dwelling which is finished in a dash finish with block work to the sides and a slate roof. The surrounding amenity area is overgrown and not easily accessible. The site is enclosed via dry natural stone walls which are characteristic of the area and hedging.

Planning Policies & Material Considerations:

The planning application has been assessed against the following:

- Banbridge, Newry and Mourne Area Plan 2015
- Strategic Planning Policy Statement (SPPS) for Northern Ireland 2015
- PPS2 Natural Heritage (July 2013)
- PPS7 (Addendum) Residential Extensions and Alterations Policy EXT1 (March 2008)
- PPS21 Sustainable Development in the Countryside (June 2010)

Site History:

Reference	Address	Proposal	Decision
P/2001/1161/F	Head Road, (200 metres NW of 79 Oldtown Road) Annalong	Erection of a dwelling	Approved
P/1999/1113/O	Head Road, (200m north west of No. 79 Old Town Road) Annalong	Site for dwelling	Approved
P/1998/1665	Head Road Annalong (200m South West of no 227)	Site for dwelling	Withdrawn

Consultations:

A consultation was sent to NI Water- Guidance was provided which should be read by the applicant.

Objections & Representations:

2 Neighbours were notified on the 25th May 2021. The application was advertised in the local press on the 19th May 2021. No objections have been received to date (13/08/2021).

Note: Following a site visit on the 28th June 2021 and following internal discussions an email was sent to the agent (20th July 2021) stating that the Mourne Wall is of character of the area and that the Planning Department feel the proposed garage could fit within the curtilage of the current site, and there is no justification for the extension of curtilage. A deadline was provided for comment or revised plans of the 3rd of August 2021. As of the 13th of August 2021, no comment has been received.

Assessment:

As outlined above there are several elements to this proposal, including:

- Proposed domestic garage
- Extension to existing curtilage

Banbridge/Newry and Mourne Area Plan 2015

Section 45 of the Planning Act (NI) 2011 requires the Council to have regard to the Local Development Plan (LDP), so far as material to the application and to any other material considerations. The relevant LDP is Banbridge, Newry and Mourne Area Plan 2015 as the Council has not yet adopted a LDP. The site is located outside the Settlement Development Limits as illustrated on map 3/01 Newry and Mourne. There are no specific policies in the Plan relating to the proposed use therefore this application will be assessed against regional planning policy.

Strategic Planning Policy Statement (SPPS) 2015

As there is no significant change to the policy requirements for the proposed development following publication of the SPPS, the retained planning policy is PPS7 addendum Residential Extensions and Alterations and PPS21 Sustainable Development in the Countryside. This policy will be given substantial weight in determining the principle of the proposal in accordance with paragraph 1.12 of the SPPS.

Paragraph 3.8 states: Under the SPPS, the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interest of acknowledged importance. In practice this means that development that accords with an up-to-date development plan should be approved and proposed development that conflicts with an up-to-date development plan should be refused, unless other material considerations indicate otherwise.

PPS7 (Addendum) EXT1: Residential Extensions and Alterations (March 2008)

Policy EXT1 of PPS7 (Addendum) states that permission will be granted for a proposal to extend or alter a residential property where specific criteria are met.

Scale, Massing and Design

The proposed garage is measuring 8.7m by 5.5m approximately and 3.5m at the highest ridge point. This is subordinate in scale to the existing dwelling on the site. The garage is to be finished with a plastered wall, grey metal roof and consist of a door to the front and side as well as a window to the side. Albeit not a traditional garage it is considered that it is far enough removed from the Oldtown Road and other dwellings as to not cause any demonstrable harm.

The agent was asked to reconsider the siting of the garage as it is felt by the Planning Department that it is inappropriate to remove the Mourne Wall and extend the curtilage. No evidence has been submitted to demonstrate the need for the garage to be placed outside the existing curtilage and for the curtilage of the current dwelling to be extended.

Impact on Character of Surrounding Area

It is considered that the development of a garage on the site would not be considered prominent within its environment and would not impact the character of the area. However, the siting of the garage and the demolishing of the Mourne Wall with extension of the approved curtilage, would impact the character of the surrounding area. As above the agent was asked to reconsider the proposals due to this however, no information/evidence has been submitted to demonstrate the need.

Privacy/Overlooking

It is considered that the development will not unduly affect the privacy or amenity of the neighbouring dwellings.

Dominance/Overshadowing/Loss of light

It is considered that there are no issues of dominance, overshadowing or loss of light as a result of the development.

Loss or Damage to Trees/Landscape

The extension of curtilage would require the removal of the Mourne Wall; it is proposed to replace this with a new post and wire fence. It is considered that this is inappropriate in its context and surroundings. However, there would be no loss or damage to trees or environmental features as a result of this proposal.

Impacts on amenity space within the curtilage of the property

The proposal is for a Domestic Garage and Extension to Existing Curtilage. It was determined that if the garage was proposed within the existing curtilage there would remain sufficient space for those residing in the dwelling for recreational and domestic purposes.

The proposed extension of curtilage is contrary to policy and has not a valid reason upon which to do so. No comments were received from the agent justifying this extension of curtilage.

The Addendum to PPS7 clearly states that proposals which require the use of land outside the established curtilage of the property, will result in a detrimental change to rural character.

While the location of this site is acknowledged, the existing curtilage is considered to be of sufficient size to accommodate the garage proposed, without disturbing the natural mourne stone wall boundary, and there is no justification for the extension to the curtilage in this instance.

Recommendation: Refusal

Refusal Reasons:

1. The proposal is contrary to the policy provisions of the Strategic Planning Policy Statement and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there are no overriding reasons why this development is essential in this rural location.
2. The proposal is contrary to Policy EXT 1 of the Addendum to Planning Policy Statement 7 in that the proposed extension to the residential curtilage and the removal of the Mourne Wall would not be sympathetic to the existing built form and appearance of the existing property and would cause the unacceptable loss of a local landscape feature which would also detract from the appearance and character of the surrounding area.

Case Officer Signature: Roisin McGrane

Date: 13.08.2021

Appointed Officer Signature: Pat Rooney

Date: 01.09.2021

COMMITTEE BRIEFING NOTE

Application Reference: LA07/2021/0835/F
Proposal: Proposed Domestic Garage and Extension to Existing Curtilage
Location: 87 Oldtown Road, Annalong

REASON FOR REFUSAL

1. The proposal is contrary to the policy provisions of the Strategic Planning Policy Statement and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there are no overriding reasons why this development is essential in this rural location.
2. The proposal is contrary to Policy EXT 1 of the Addendum to Planning Policy Statement 7 in that the proposed extension to the residential curtilage and the removal of the Mourne Wall would not be sympathetic to the existing built form and appearance of the existing property and would cause the unacceptable loss of a local landscape feature which would also detract from the appearance and character of the surrounding area.

REDEFINING THE RESIDENTIAL CURTILAGE – NEED

Planning permission is sought to erect a domestic garage for purposes incidental to the enjoyment to the existing dwelling at No.87 Oldtown Rd. This dwelling has been in situ for approximately 15-years. The existing dwelling is set to the rear of the existing plot – there is insufficient private amenity space to the rear to accommodate a garage. The topography of the land within the existing curtilage to the immediate east of the dwelling is extremely challenging – it drops in level by over 10ft and is entirely covered by dense vegetation (see photos below). Significant site clearance works, and land levelling would be required to render this part of the site capable of accommodating the garage – this would be a costly engineering operation. Erecting a garage to the front of the existing building line in designated AONB's is to be resisted and in doing so would have a more negative impact upon the prevailing character of the area than the existing proposal.



Whilst technically there may be space within the existing curtilage to accommodate a garage, the site specific circumstances and prevailing planning policy and guidance preclude this from being a cost effective, practical, or feasible solution to the problem in hand.

The most prudent solution is to erect the garage on flat land level with, and to the immediate west of, the existing dwelling. This involves a 'redefining' of the existing curtilage which includes moving the existing boundary to the west by approximately 10m and drawing the curtilage to the east much closer to the existing dwelling (as it stands

the eastern boundary of the property is very poorly defined). As such, this would not be an 'extension' of the curtilage per-se. If anything, this would result in a reduction in the residential curtilage from approximately 3,350sqm to 2,530sqm.

LOSS OF THE MOURNE WALL & IMPACT UPON CHARACTER

This is a dry stone wall typically found in the Mourne's region, which must not be misunderstood or misrepresented as 'the Mourne Wall'. The Mourne Wall is a specific and historically important man made feature of the Mourne's that encloses an area of approximately 9,000 acres transecting 15 mountain peaks. This proposal has no impact upon the Mourne Wall. Positing a refusal reason on the grounds that the proposal would result in the 'loss of the Mourne Wall' is harmfully misleading. Aside from anything else, refusal reason 2 as worded is imprecise and factually erroneous.

This aside, it is acknowledged that Officers expressed concern with the loss of this wall and the perceived impact that would have upon the character of the area. The agent was advised of this but, at that time, felt that the position adopted by Offices was unreasonable, for the following reasons:

- The site (and wall) is located at the end of a laneway and cannot be seen from any critical viewpoint from along the public road network. Removing this wall would have a negligible impact upon the character of the area;
- Dry stone walls are prevalent in this location – the loss of a small section of wall would have no impact upon the rural character of the area;
- Dry stone walls are not afforded protection under current planning policy or legislation. Should he wish, the applicant could avail of his statutory permitted development rights to remove this wall and erect a new fence in its stead.

Without prejudice to this, the applicant is happy to form the new proposed western boundary from the existing dry stone wall by translocating it from its existing position. The proposal will not therefore result in the loss of the dry stone wall. The Council was furnished with revised drawings denoting this in Sept 2021 and these are present on the Planning Portal. As this application has not yet been determined, it's assessment should be concluded upon the basis of the revised drawings.

CONCLUSION

'Redrawing' the curtilage in the manner proposed is the most prudent, practical, and cost effective solution to providing an ancillary garage here. The proposal offers significant betterment by clearly defining the boundaries of the existing dwelling and delivering a plot size more in keeping with others in the vicinity than existing. Forming the western boundary from the existing dry stone wall addresses Officers concerns in respect of the perceived impact that its loss would have upon the rural character of the area.

This proposal would not result in the loss of an important landscape feature, nor would it unduly impact upon the rural character of the area. It complies with all requirements of policy EXT1 of APPS7 and, accordingly, satisfies the provisions of PPS21 policy CTY1 and is acceptable in this rural location.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference:

LA07/2021/0911/F

Date Received:

05.05.2021

Proposal:

Conversion of existing agricultural barn to self-contained holiday accommodation

Location:

6 Clonduff Road
Ballyaughian
Hilltown
Co. Down

Site Characteristics & Area Characteristics:

The site is located within the rural countryside outside any settlement limits as designated under the Banbridge, Newry and Mourne Area Plan 2015 (BNMP 2015). The site is also within an Area of Outstanding Natural Beauty.

The application site comprises No. 6 Clonduff Road which is a 1 ½ storey dwelling and associated farm buildings and farm yard. The subject building is sited approximately 10m east from the roadside and is finished in natural stone with a tin roof. Part of the application building appears to have been extended overtime. The building is

accessed via an existing entrance that serves the farm yard and dwelling. The application proposes to use this access also.



Subject building outlined in red



Subject building

Planning Policies & Material

Considerations:

This application will be assessed under the following policy considerations:

- Strategic Planning Policy Statement (SPPS)
- Banbridge, Newry and Mourne Area Plan (2015)
- PPS 2: Natural Heritage
- PPS 3: Access, Movement and Parking
- PPS 21: Sustainable Development in the Countryside

Site History:

No planning history.

Consultations:

Roads – No objections

Environmental Health – No objections

Water – Generic response

Objections & Representations:

Neighbour notifications - 15.07.2021

Advertisement - 02.06.2021

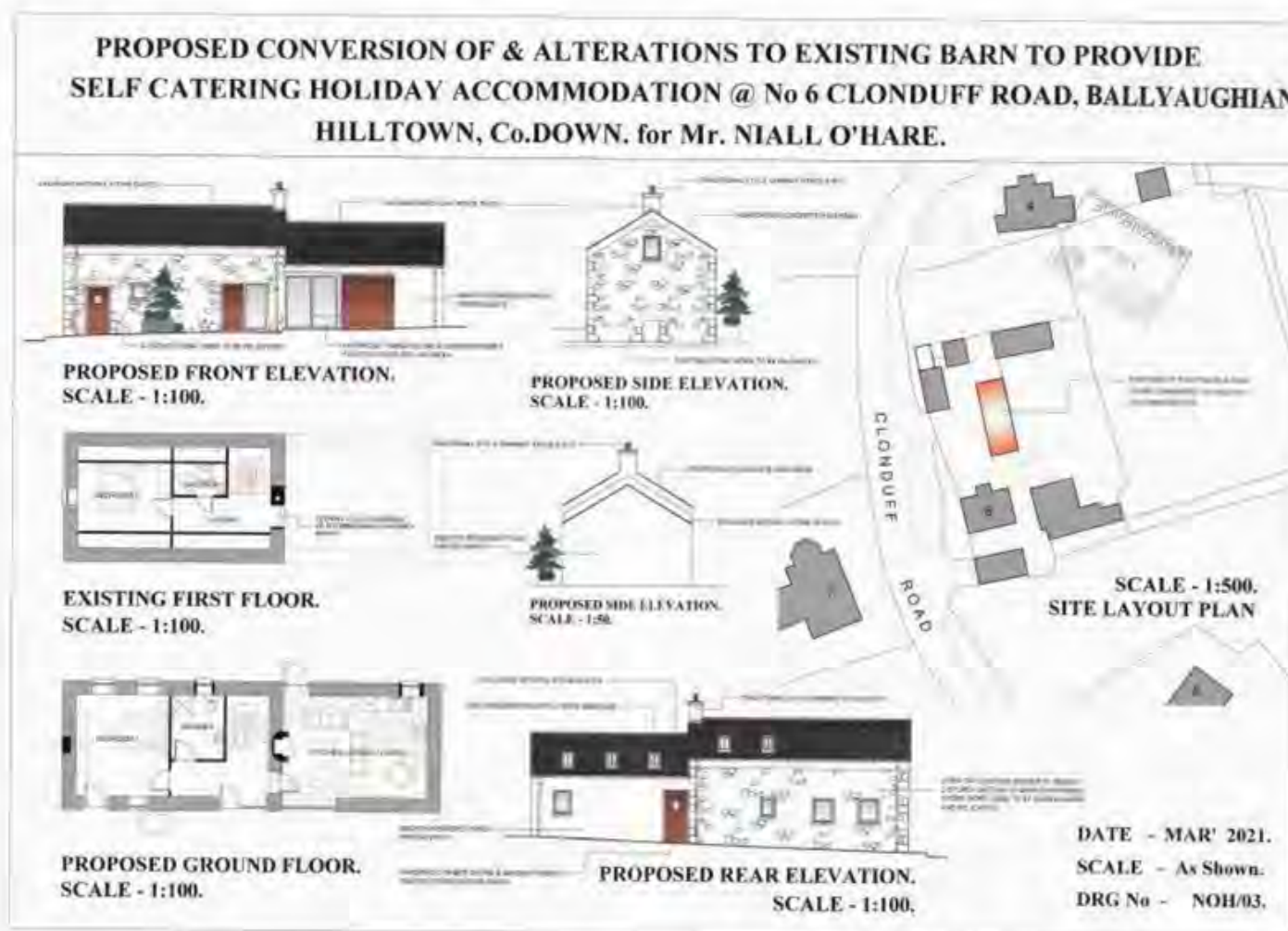
A letter of objection was received from the occupier of neighbouring property No. 4 Clonduff Road. It was considered that the letter contained sensitive information and therefore wasn't uploaded onto the Planning Portal and will not be discussed in full within this report. The main concerns were in relation to additional noise that the proposal may bring to the area as well as safety concerns over strangers coming to the area.

The letter of objection has been considered in full and Environmental Health have no concerns with the proposal in terms of noise, air pollution, general amenity, air quality, contaminated land and other considerations.

Assessment

Proposal

The proposal involves the conversion of an existing agricultural barn to self-contained holiday accommodation. The proposal does not involve the creation of any additional footprint. There will be a large kitchen/dining/living area, bedroom and shower at ground floor and a second bedroom and shower at first floor level. The existing exterior stone work is to be re-jointed while the extended part of the building is to be finished in a smooth render painted white. The roof is to be finished with salvaged natural stone slates and the windows and doors are to be hardwood timber painted red or green. The proposal is shown below.



Proposed plans

Strategic Planning Policy Statement

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

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

This application seeks a "Conversion of existing agricultural barn to self-contained holiday accommodation".

No supporting information was submitted alongside this application. An email was sent to the applicant 7th July 2021 requesting more information as to what policy the application is being submitted under. Further information was received 22nd July 2021 in the form of a Design and Access Statement which outlined "the fact that this proposal involves the conversion of an existing building, ensures that Policy TSM 5 of PPS 16 is not engaged." The DAS goes on to consider Policy CTY 4 of PPS 21, however no reference was made to the greater weight that should be applied to the SPPS in relation to conversions. No information was submitted to show how the building is a "locally important building".

A second email was sent to the applicant 29th July to advise of the further criteria that needs to be met since the introduction of the SPPS. The applicant was advised that due to the lack of information provided, the application will be moved forward recommended for refusal.

Further information was received 5th August in the form of a document by O'Callaghan Planning. The further information outlined that:

"The building, being an older traditional barn / outbuilding, does in fact fit the definition laid out in the SPPS, and it is felt that officers have looked to the first part of the (non-definitive) list of typologies i.e. former school houses and churches without regard to the later reference to older traditional barns. To emphasise this building's age, we would draw your attention to the historic map extract below, dating to 1957. While the Policy does not define "old", we feel that a building of this age cannot be characterised otherwise. The building is traditional insofar as it is linear, rectangular, of low elevation, and it could almost be characterised as vernacular."

In consideration of all the information to date, the Planning Department consider that the building is not considered a locally important building and it has no distinguishable features than standard outbuildings. The subject building is set back from the road within a farm yard with public views subsequently obscured and part of the building appears to have been extended more recently. The Department consider that the building is not of any particular importance and therefore the proposal does not comply with the SPPS.

The document submitted goes on to state: "If, upon reflection, the Council remains of the view that the subject building is not an old traditional barn or outbuilding, we would emphasise that the assessment of the proposal has to shift elsewhere, to the "other policies set out within the SPPS"". The document makes reference to PPS 16 and goes on to outline "6.260 of the SPPS states that the guiding principle should be to ensure policies and proposals facilitate appropriate tourism development in the

countryside **such as** appropriate farm diversification schemes, **the re-use of rural buildings.....".**

PPS 16 refers the proposed conversion of an existing building to provide a tourist amenity to Policy CTY 4 (discussed above – more weight given to SPPS) and states that proposals involving the reuse or adaptation of existing farm buildings should be assessed under Policy CTY 11 – Farm Diversification of PPS 21. Criterion (a) of CTY 11 requires the farm business to be currently established and active. Although the information provided does not allude to the proposal being assessed under Policy CTY 11 I will make comments for clarity. No information (business ID, farm maps, invoices etc) has been provided to show that this is the case therefore an informed assessed could not be made and the proposal fails to comply with criterion (a) of this policy.

The application proposes self-catering accommodation which is of a permanent fixed nature. The relevant Policy within PPS 16 is Policy TSM 5. The criteria within this policy is outlined below:

Planning approval will be granted for self-catering units of tourist accommodation in any of the following circumstances:

(a) one or more new units all located within the grounds of an existing or approved hotel, self catering complex, guest house or holiday park;
(b) a cluster of 3 or more new units are to be provided at or close to an existing or approved tourist amenity that is / will be a significant visitor attraction in its own right;
(c) the restoration of an existing clachan or close, through conversion and / or replacement of existing buildings, subject to the retention of the original scale and proportions of the buildings and sympathetic treatment of boundaries. Where practicable original materials and finishes should be included.

- (a) The subject building is not located within the grounds of an existing or approved hotel, self catering complex, guest house or holiday park;
- (b) The proposal does not involve a cluster of 3 or more new units to be provided at or close to an existing or approved tourist amenity that is/will be a significant visitor attraction in its own right;
- (c) The proposal does not involve the restoration of an existing clachan.

It is considered that the proposal fails to comply with Policy TSM 5 as outlined above.

For the reasons outlined above, it is considered that the principle of development cannot be established at this site. I will consider the other relevant policies for future reference.

Policy CTY13

Policy CTY 13 states that planning permission will only be granted for a building in the countryside where it can be visually integrated into the landscape and is of an

appropriate design. As the proposal does not involve the creation of any floorspace and the existing structure is to remain with the exception of proposed finishes, the proposal is considered to comply with Policy CTY13.

Policy CTY14

Policy CTY 14 relates to rural character. As previously stated, as the proposal does not involve the development of any new buildings, it is not considered that the proposal will appear as unduly prominent in the landscape. It will not result in suburban style build up nor add or create a ribbon of development. The proposal is considered to comply with Policy CTY14.

Policy NH6

Policy NH6 relates to areas of Outstanding Natural Beauty and states that planning permission will only be granted where it is of an appropriate design, size and scale for the locality. As the proposal does not involve the development of any new buildings or floorspace, it is considered to comply with Policy NH 6.

Recommendation: Refusal

Reasons for refusal:

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location.
2. The proposal is contrary to the Strategic Planning Policy Statement in that the subject building is not considered a locally important building.
3. The proposal is contrary to Policy TSM 5 of PPS 16 in that the proposal does not involve:
 - (a) The subject building is not located within the grounds of an existing or approved hotel, self catering complex, guest house or holiday park;
 - (b) The proposal does not involve a cluster of 3 or more new units to be provided at or close to an existing or approved tourist amenity that is/will be a significant visitor attraction in its own right; and
 - (c) The proposal does not involve the restoration of an existing clachan or close.

Case Officer Signature: Eadaoin Farrell

Date: 09.09.2021

Appointed Officer Signature: M Keane

Date: 10-09-21



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference:
LA07/2021/1483/F

Date Received:
27/07/2021

Proposal:
Proposed new play park

Location:
Play Park at Kilmorey Park Adjacent to and immediately North of 15 Cowan Street Newry
BT34 2AR

Site Characteristics & Area Characteristics:

The application site is an open area of hardstanding located adjacent and immediately north of 15 Cowan Street Newry (Image 1). The site sits just south of an all-weather pitch and approximately 67m east of St Patricks Church which is a listed building (Image 2). The site is relatively flat, although it is split level. The wider southern portion is elevated compared to the narrower northern portion. The borders of the site consist of steep grass verges to the west and a low stone wall to the east.



(Image 1)



(Image 2)

Site History:

- P/2006/0360/F - Kilmorey Play area, Cowan Street, Newry - Erection of ball stop fence parallel to Cowan Street – GRANTED
- P/1973/0183 - CLONALLON GLEBE - PROPOSED MEETING HOUSE – GRANTED

Planning Policies & Material Considerations:

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

Consultations:

Environmental Health – No objection

HED – No objection

Rivers – No objection in principle (see consideration and assessment for further information)

Objections & Representations:

Thirty-six neighbours were notified of the proposal on 21/09/2021. The proposal was advertised in the local press on 08/09/2021. No objections or representations have been received at the time of writing.

Consideration and Assessment:

Section 45 of the Planning Act (NI) 2011 requires the Council to have regard to the Local Development Plan (LDP), so far as material to the application and to any other material considerations. The relevant LDP is the Banbridge, Newry and Mourne Area Plan 2015. The application site is located in the settlement development limits of Newry. This slender site is located on an existing area of open hardstanding measuring approximately 40m x 25m at its southern portion and 15m x 50m towards the northern section. St Patrick's Church sits elevated on a hill to the west of the site.

The proposal involves the construction of a playpark. The playpark will be enclosed by green, galvanised lbex Mess Fencing measuring 1.2m high running around the perimeter of the site. This fence will replace the existing stone wall. The surface of the playpark will be asphalt. A new guarding gate will be located at the entrance adjacent to Cowan Street.

Proposed equipment includes around 16 various items of equipment such as steel cableways, 2m ground trampoline, alphabet caterpillar, inclusive sensory zone, see saw and swing.

The proposal accords with the criteria set out in Policy ECU 1: Education, Health, Community and Cultural uses. The plan states unforeseen demand for new community facilities may arise over the lifetime of the plan and accordingly a flexible approach is

required in considering such development within the settlement limits in order to make the most effective use of existing facilities.

With respect to potential impact on listed buildings, HED has confirmed that the proposal is sufficiently removed from St Patrick's Church in its situation and scale as to have a negligible impact. HED is content the proposal accords with Paragraph 6.12 of Strategic Policy Planning Statement for Northern Ireland and Policy BH 11 (Development affecting the Setting of a Listed Building) of the Department's Planning Policy Statement 6: Planning, Archaeology and the Built Heritage and is satisfied that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

DfI Rivers indicated via consultation response dated 02/11/2021 that, while there was no objection to the proposal in principle, there were potential surface water concerns relating to FLD3 - Development and Surface Water PPS 15 FLD3. Their response advised that if planning deemed the site to exceed 1000m² of hard standing as part of the proposed works then DfI Rivers would require a Drainage Assessment be submitted as part of a new consultation for our consideration. It was also indicated that the developer should appoint a competent professional to carry out a flood risk assessment if a drainage assessment was not required by policy.

A follow up phone call was received on 03/11/2021 flagging this response was erroneous given that the application site already involves an existing area of hardstanding which would not be expanded. It was advised that DfI Rivers had no objection to the proposal on these grounds and that the guidance relating to FLD3 should be discarded.

Therefore, I am content the proposal will not pose any flooding risk.

The proposal will not impact the amenity of any neighbouring residents given its separation distance.

The application does not involve the loss of any open greenspace, with all development located on a currently undeveloped and derelict area of hardstanding. For this reason, the proposal is considered to have an overall wider community benefit for the local community and Newry as a whole. I am content the siting a suitable location for this type of community activity scheme proposed.

Recommendation: Approval

Conditions:

1. The development hereby permitted shall take place in strict accordance with the following approved plans: NM185 – G – 1 – 10

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

2. 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.

<p>Case Officer Signature: Calum McCormick</p> <p>Date: 03-11-2021</p>
<p>Authorised Officer Signature:</p> <p>M Keane</p> <p>Date: 03-11-21</p>



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

Application Reference:

LA07/2021/1485/F

Date Received:

27/07/2021

Proposal:

Proposed new play park

Location:

Play park at Annalong Marine Park 30m East of Community Centre, Annalong Marine Park, Glassdrumman Road, Annalong

Site Characteristics & Area Characteristics:

The application site is a small portion of grassed open space located to the east of Annalong Community Centre and north of Annalong Cornmill. The site is relatively flat and set back from the public road. The site is within the development limits of Annalong and with an AONB.



(Image 1)

Site History:

Planning Reference	Address	Proposal	Status
LA07/2018/1643/PAD	Marine Park Glassdrumman Road Annalong BT34 4QJ	The construction of a new build 7-class primary school for the amalgamation of St. Mary's Primary School Glassdrumman, Moneydarragh Primary School Annalong and St. Joseph's Primary School Ballymartin	PAD CONCLUDED
P/2013/0170/F	Lands at Annalong Marine Park Glassdrumman Road Annalong	Provision of multi-use games area and small scale public realm improvements to include granite paving, street furniture, light columns and planting	GRANTED
P/2010/0962/LDP	Lands at Annalong Cornmill and caravan park, Glasdrumman Road, Annalong	General upgrading of car park and picnic area to include the construction of motorhome area, site furniture, additional landscaping, interpretative signage and entrance feature, upgrading of existing paths	PERMITTED DEVELOPMENT
P/1987/0123	ANNALONG MARINE PARK ANNALONG	Erection of thirteen holiday chalets	GRANTED
P/1982/0537	ANNALONG, COUNTY DOWN	MARINE PARK	GRANTED

Planning Policies & Material Considerations:

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

Consultations:

Environmental Health – No objection

Objections & Representations:

Seventeen neighbours were notified of the proposal on 22/09/2021. The proposal was advertised in the local press on 08/09/2021. No objections or representations have been received at the time of writing.

Consideration and Assessment:

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

The proposal involves the construction of a playpark on what is a small circular site currently consisting of open grass. The playpark will be enclosed by metal bow topped perimeter fencing measuring approximately 1m high which will be painted dark green and galvanised. The playpark will measure approximately 35m in diameter and will be located approximately 26m east of the Annalong Community Centre, 10m north of the Glasdrumman Road and around 40m from the nearest residential area. Proposed equipment includes 23 various items of equipment such as dual steel cableways, 2m ground trampoline, a roundabout, see saw, swing, and 2x picnic tables on an asphalt surface.

The proposal accords with the criteria set out in Policy ECU 1: Education, Health, Community and Cultural uses. The plan states unforeseen demand for new community facilities may arise over the lifetime of the plan and accordingly a flexible approach is required in considering such development within the settlement limits in order to make the most effective use of existing facilities.

I am satisfied there is a demand for the development and the need has been identified by the Council. The proposal will not impact the number of car parking spaces for Annalong Community Centre, nor the amenity of any neighbouring residents given its separation distance. When balanced against the potential for loss of open greenspace, the proposal is considered to have an overall wider community benefit for Annalong and it is of a suitable location for this type of community activity scheme proposed.

Recommendation: Approval

Conditions:

1. The development hereby permitted shall take place in strict accordance with the following approved plans: NM004 – G – 1 – 10

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

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

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

Case Officer Signature: Calum McCormick

Date: 14-10-2021

Authorised Officer Signature:

M Keane

Date: 14-10-21



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

Application Reference: LA07/2021/0586/O

Date Received: 15/03/2021

Proposal: Proposed dwelling and garage.

Location: Lands immediately south of No 7 Glenmore Road, Mullaghbane.

Site Characteristics & Area Characteristics:

The application site is located outside any settlement limits as defined within the Banbridge / Newry and Mourne Area Plan 2015, the site is within an Area of Outstanding Natural beauty.

The site is on the edge of the public road and is an area of steep rising ground which is quite overgrown and rocky, the area to the south of the site has been partially cleared with a large amount of rock present. Beyond the area of cleared ground is a newly constructed single-story dwelling, adjacent and north of the site is No 7 a small single storey dwelling, north of No 7 is a small agricultural style building.

The site is within a rural area of countryside, there are a few properties within the vicinity of the site however at present the character of the area remains rural.

Site History:

LA07/2015/0995/F - Two storey farm dwelling with detached garage and associated site works - Lands 91M NW of No.3 Glenmore Road Mullaghbane – Permission Refused 09/06/2016.

LA07/2017/0313/F - Replacement dwelling - Site adjacent and north of 3 Glenmore Road, Mullaghbane – Permission Approved 21/10/2019.

Planning Policies & Material Considerations:

The following policy documents provide the primary planning context for the determination of this application:

- Banbridge / Newry and Mourne Area Plan 2015
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 21 – Sustainable Development in the Countryside
- Planning Policy Statement 3 – Access, Movement and Parking / DCAN 15

- Planning Policy Statement 2 Natural Heritage
- Building on Tradition.

Consultations:

DFI Roads – No objections.

NI Water – Generic response.

Objections & Representations:

The application was advertised on 14/04/2021, four neighbours were notified on 05/05/2021, no representations or objections have been received.

Consideration and Assessment:

Strategic Planning Policy Statement for Northern Ireland

Paragraph 1.12 of the SPPS states that where the SPPS introduces a change of policy direction and / or provides a policy clarification that would be in conflict with the retained policy the SPPS should be accorded greater weight in the assessment of individual planning applications. However, the SPPS does not introduce a change of policy direction nor provide a policy clarification in respect of proposals for residential development in the countryside. Consequently, the relevant policy context is provided by the retained Planning Policy Statement 21, Sustainable Development in the Countryside. Policy CTY1 of PPS21 sets out a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.

Planning Policy Statement 21 – Sustainable Development in the Countryside

Policy CTY1 of PPS21 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development. PPS21 states that planning permission will be granted for infill dwellings in accordance with policy CTY8.

Policy Consideration

Policy CTY8 states that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

The first step in determining whether an infill opportunity exists is to identify whether there is an otherwise substantial and continuously built up frontage present. A roadside dwelling No 7 is located north of the application site, this property has a frontage with the public road. North of this property is an agricultural style building within a separate curtilage which also has a frontage to the road. South of the site is an area of open land and then a recently constructed dwelling which has a frontage with the public road. It is considered that 3 buildings are located along the road frontage.

The second step in determining if an infill opportunity exists is to identify whether the gap site is small and the third step in determining if an infill opportunity exists is whether in terms of size, scale, siting and plot size the proposal would respect the existing development pattern. For the purpose of policy that is "sufficient only to accommodate up to a maximum of two houses". The proposal is for outline permission and so little details are provided, the application site has a road frontage of 65 metres and there is an area of open land with a frontage of 70 metres, this land is set between the development identified to the north and south. The agent for the application argues that the frontage is in keeping with existing properties in the area, in additional information submitted they state that the policy test is not whether the gap can accommodate more than two dwellings but whether the gap site could accommodate more than two dwellings which are in keeping with the existing settlement pattern.

Policy CTY 8, however, relates to the gap between road frontage buildings as outlined by the PAC and not to the width of the frontage for an application site. In this instance, the gap between No 7 and the newly constructed dwelling to the south measures 150m. Irrespective of the road frontage width of properties in the area, such a gap could accommodate more than two dwellings while respecting the existing development pattern in the area. As a result, proposal fails to meet the second and third steps.

PAC decision 2019/A0158 relates to a similar situation with the gap between buildings for the appeal site being 137 metres, the PAC stated that this gap was not considered small but that it could accommodate more than two dwellings, it concluded that as a result the proposal failed to meet the second and third steps, the planning appeal was dismissed.

Further PAC decision 2017/A0096 states;

Whilst I accept that there is other development within the substantial and continuous built up frontage on wider plots the critical test in Policy CTY 8 pertaining to this appeal is whether the gap between buildings is sufficient only (my emphasis) to accommodate up to two houses. Notwithstanding that the appellant submitted a layout showing two dwellings located within the appeal site, as I consider that the 120m wide gap could readily accommodate up to three dwellings the proposal fails to meet this requirement of Policy CTY 8. The proposed development would add to the existing ribbon of development that defines this part of Flagstaff Road.

The fourth step of the infill policy in CTY 8 that must be considered is whether the proposal meets other planning and environmental requirements.

Policy CTY 13 of PPS 21 requires a building to be visually integrated into the surrounding landscape. The application site is a relatively open agricultural field located on the edge of the public road and as such a dwelling on the site would be considered a prominent feature in the landscape. The site at present is open to views as the site lacks natural boundaries and would be unable to provide a suitable degree of enclosure for a dwelling to integrate into the landscape. To provide a suitable degree of enclosure and screening this would rely on the use of new landscaping. It is considered that the proposal fails to comply with parts a, b and c of Policy CTY13.

CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. A new building will be unacceptable where it will be unduly prominent, result in a suburban style build-up of development when viewed with existing buildings, and where it creates or adds to a ribbon of development.

As previously stated the site is on the edge of the public road and when cleared would be open and would require substantial planting to allow a dwelling to integrate and so any dwelling on the site would be prominent. A dwelling on the site would result in a suburban style build-up of development when viewed with existing buildings in the area and a dwelling on the site would create a ribbon of development along Glenmore Road. It is considered that the proposal fails to comply with parts a, b and d of Policy CTY14.

Area of Outstanding Natural Beauty

Planning Policy Statement 2 Policy NH6 is applicable due to the location within an AONB. The proposal (for the reasons noted above) is considered unsympathetic to the special character of the AONB and therefore fails this policy criterion.

Access and Parking

DFI Roads raised no objections to the proposal and as such it is considered that access and parking provisions are acceptable.

Development relying on non-mains sewerage.

Policy CTY 16 – The application would appear to comply with this policy, a condition should be included to ensure a copy of a consent to discharge be submitted prior to commencement of the development.

Recommendation: Refusal

Reasons for Refusal:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it fails to meet the provisions for an infill dwelling and would, if permitted, result in the creation of ribbon development along Glenmore Road and does not represent an exception of policy.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the site is prominent and unable to provide a suitable degree of enclosure for a building to integrate into the landscape and the proposal relies primarily on the use of new landscaping for integration and therefore would not visually integrate into the surrounding landscape.
4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY14 of Planning Policy Statement 21, Sustainable Development

in the Countryside in that the building would, if permitted be unduly prominent and result in a suburban style build-up of development when viewed with existing and approved buildings and would create a ribbon of development and would therefore result in a detrimental change to and further erode the rural character of the countryside.

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

Case Officer: Wayne Donaldson

Date: 26/08/2021

Authorised Officer: David Fitzsimon

Date: 26/08/2021



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

Application Reference: LA07/2021/0665/O

Date Received: 08 Apr 2021

Proposal: Proposed erection of outline rural detached infill dwelling house and detached domestic garage, site works and associated landscaping

Location: Located upon lands approximately 50 meters North East of No. 21 Jacks Road Killeen Newry City Co Armagh N Ireland BT35 8FX

Site Characteristics & Area Characteristics:

The application site is an agricultural paddock, located off Jacks Road, Killeen. The roadside boundary is defined by a dry-stone wall. The site slopes gradually downwards from the southern boundary to this roadside boundary. Lands outlined in blue are within the applicant's ownership.

The application site is located approx. 0.2km west from the nearest settlement limit of Killeen and lies within open countryside as designated in the Banbridge/ Newry and Mourne Area Plan 2015.



Date of Site Visit:
08/06/2021

Site History: N/A

Planning Policies and Material Considerations:

Banbridge Newry Mourne Area Plan 2015

Strategic Planning Policy Statement for Northern Ireland

Planning Policy Statement 21

Planning Policy Statement 2

Consultations:

Transport NI – No objections to proposal.

NI Water – Generic response to routine planning application.

Objections and Representations:

Neighbours were notified of the proposal on 30 Apr 2021. The proposal was also advertised in local press on 28 Apr 2021.

No objections or representations have been submitted for consideration.

Consideration and Assessment:**The Banbridge, Newry and Mourne Area Plan 2015**

Section 45 of the Planning Act (NI) 2011 requires the Council to have regard to the Local Development Plan (LDP), so far as material to the application and to any other material considerations. The relevant LDP is Banbridge, Newry and Mourne Area Plan 2015 as the Council has not yet adopted a LDP.

Strategic Planning Policy Statement (SPPS)

There is no significant change to the policy requirements for infill dwellings following the publication of the SPPS and as it is arguably less prescriptive, the retained policies of PPS21 will be given substantial weight in determining the principle of the proposal in accordance with paragraph 1.12 of the SPPS.

Planning Policy Statement 21 – Sustainable Development in the Countryside

Policy CTY 1 refers to a range of development which in principle are acceptable in the countryside. This development includes infill dwellings if they meet the criteria set out in CTY8.

Policy CTY 8 – Ribbon Development

As the application is for the infill of a site, the relevant policy is Policy CTY 8 – Ribbon Development. This policy outlines the criteria that must be met in order to grant planning permission for an infill site.

An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and

continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.

For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

The Planning Department accept that there are 3 buildings along this stretch of Jacks Road, with the application site sited between these buildings. Number 25 Jacks Road has a domestic curtilage which extends to the roadside boundary (as detailed in planning approval P/2008/0203/RM). Number 21 and associated farm buildings are set back off the roadside and are accessed via the laneway which also runs adjacent to the application site.

The Planning Department considers that these buildings do not benefit from frontage onto Jacks Road, with the area to the front of the main dwelling having the appearance of an agricultural field (not within the residential curtilage of the dwelling) and additional information was sought from the agent (11/08/2021).

The agent provided some information to the Planning Department (received 16/08/2021) and this was considered. Upon review of this information, the Department have not been satisfied that the area in question is that of domestic garden space.



The above-mentioned area very closely resembles that of the application site, with similar stone wall boundary treatment on both areas. The agent has described this application site as an 'agricultural paddock' on the application form submitted for consideration. The Planning Department consider that there is no distinction between these two areas. The sole access to this site is gained via a pillar and agricultural gate arrangement opposite the main dwelling. This is not considered to be a typical arrangement for residential garden space. At the time of the site visit, the area appeared separate from the main dwelling, was overgrown in nature and did not appear to have the features of a domestic garden space.

It is not considered that these buildings, located off the roadside boundary and set behind this space, contributes to the frontage.

The application site therefore fails policy CTY 8 and does not represent an exception to policy in that the site does not sit within a substantial and continuously built up frontage.

CTY 13 – Integration and Design of Buildings in the Countryside

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

The proposal is for outline planning permission. With appropriate siting and curtilage restrictions, the proposed dwelling would not be a prominent feature in the landscape. The site could provide a suitable degree of enclosure for the building to integrate into the landscape. Ancillary works would integrate with their surroundings.

The design of the building would be assessed at Reserved Matters stage.

CTY 14 – Rural Character

Planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.

The new building does not meet criteria outlined within CTY 14 in that the proposal would, if permitted, add to a ribbon of development along Jacks Road. The proposal would also, if permitted, result in a suburban style build-up of development when viewed with existing and approved buildings along Jacks Road and would cause a detrimental change to and further erode the rural character of the local area.

CTY 16 – Development relying on non-mains sewerage

The P1 form indicates that foul sewage will be disposed of via septic tank. The application complies with Policy CTY 16. A condition should be included with any approval to ensure a copy of a consent to discharge be submitted prior to commencement of the development.

Planning Policy Statement 2 – Natural Heritage

Policy NH 6 - Areas of Outstanding Natural Beauty

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

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

The siting of the proposal is not sympathetic to the special character of the AONB in that it would contribute to ribbon development along Jacks Road.

Recommendation:

Refusal

Refusal Reasons:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 1 of PPS 21 Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 8 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that the application site does not constitute a small gap site within an otherwise substantial and continuously built up frontage and would, if permitted, add to ribbon development along Jacks Road and does not represent an exception to policy.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 14 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that the proposal would add to a ribbon of development along Jacks Road, and would result in a suburban style build-up of development when viewed with existing and approved buildings along Jacks Road, which would result in a detrimental change to the rural character of the area.
4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy NH 6 of Planning Policy Statement 2 Natural Heritage in that the proposal is not sympathetic to the special character of the AONB.

Case Officer: E.Moore 17.09.2021

Authorised Officer: A.Davidson 17.09.2021

Principle of Development:

- It is the applicants understanding that the adjacent plot, with frontage onto Jacks Road, should be considered as the **"entire curtilage" of No.21**. There is nowhere within the existing planning policy, which states any existing "farm buildings" / access laneways should be excluded from the planning assessment of built-up frontage or should exclude existing residential gardens.
- The **"curtilage"** of the existing plot, associated with the existing agricultural building, includes the access laneway and the access arrangement onto Jacks Road.
- Curtilage has been defined in a legal test case, (whereby in Sinclair v Lockhart), it was found curtilage land should serve the purpose of the building within it, in some reasonably necessary or useful manner. This was clearly outlined within the planning supporting statement, whereby the existing garden area does clearly serve, the purpose of the existing building. The curtilage land in question, form's part and parcel of the building to which it is related, especially due to dwelling house drainage and soakaway,
- In consideration of planning guidance issued on the specific determination of what is defined as a frontage; frontage is defined as follows - A building has a frontage to a road, if the plot on which it stands abuts or shares a boundary with that road. The wording is quite specific for interpretation, which it stands abuts or shares a boundary with that road. This is an either-or scenario for determination.
- In previous detailed correspondence to the council's planning department, it was advised we considered the existing access arrangement to be an integral portion of the curtilage and frontage. The question to be considered by committee is how an existing access garden to the existing building cannot be considered to be an integral part of "one holding", whereby its positioning onto the public road and in light of other planning precedents granted, whereby it was deemed acceptable in those other planning cases, yet this development proposal fails to meet the same qualifying criteria.
- The planning department accept that there are 3 buildings along this stretch of Jacks Road with the application site sited in between these buildings. The planning department do not consider the dwelling house and agricultural buildings at (No.21) to have the benefit of frontage, with the garden area to the front of the dwelling at (21) having the appearance of an agricultural field rather than a domestic garden associated with No.21 Jacks Road.
- The department consider the application site to have the same operational agricultural status similar to the garden area to the front of the Dwelling House and agricultural buildings at No.21.
- There are Significant Distinction differences between these two separate independent areas; **(1.)** The Dwelling House and Front Garden Predate legislation for Planning, as the house and buildings are over 100 years old. **(2.)** The Applicant does not claim Agricultural Single Farm Payment for the "garden area" associated with the garden of the Dwelling House and the farm map illustrating this status was presented to the Council

in correspondence and totally disregarded. (3) The Garden Area associated with No.21 has an existing septic tank and soakaway for the Dwelling House at No.21 contained within it. (4) The Land Registry Map for the Dwelling House No.21 Jacks Road, Folio (AR11612) indicates the garden area associated with the Dwelling house. Barclays Bank provided a residential mortgage for the property in 1992 and included the domestic Garden area. (5) The rates applicable for the Dwelling House at No.21 includes a garden area, and there is no rear garden area associated with No.21 due to the land topography. (6) The proposed site is different from the garden area, that it can be accessed from the agricultural gateway access from the rear field. The garden area can only be access from the shared concrete hardstanding area to the front of the dwelling house within its curtilage.

- There are being a significant number of previous planning precedents granted within this council area for infill development proposals similar to this application. The applicant is very perturbed by the Councils position and feels his application recommendation is totally inequitable in direct comparison to recent planning precedents granted within the same area.

Integration, Design & Rural Character:

- The proposal is located between existing developments and given the existing properties and layout of the road the proposed dwelling will be visible when travelling along the public road and it would not be considered a prominent feature in the landscape. The existing development either side of the proposed site provides a suitable degree of enclosure, the proposal includes additional planting along the road frontage and other boundaries. However, it is not considered that the proposal relies primarily on the use of new landscaping for integration but as previously stated, existing developments and the layout of the public road allows the development to integrate successfully. The proposed dwelling is traditional in design and set back from the public road slightly behind the line of the existing development, which will further aid integration to the local surroundings and reduce views when travelling in either direction along the Smyth brae road. There is also adequate space for parking provision and amenity space within the development.
- The proposal complies with Policy CTY13 as the design and layout of the proposed dwellings allows the new buildings to integrate visually within the landscape in which they will be set.
- The proposal complies with Policy CTY14 as it was earlier proven that the proposal meets the requirements of Policy CTY8 and is considered as an infill opportunity and will not result in ribbon development or suburban build up. Therefore, the development is not considered unduly prominent and will not cause a detrimental change to or further erode the rural character of the area.
- We therefore respectfully request that the planning committee consider and overturn the case officer's recommendation as the proposal fully conforms to Policy CTY8 as the existing garden area is directly within the curtilage of No.21 Jacks Road and has a considered frontage onto Jacks Road.

APPENDIX 1



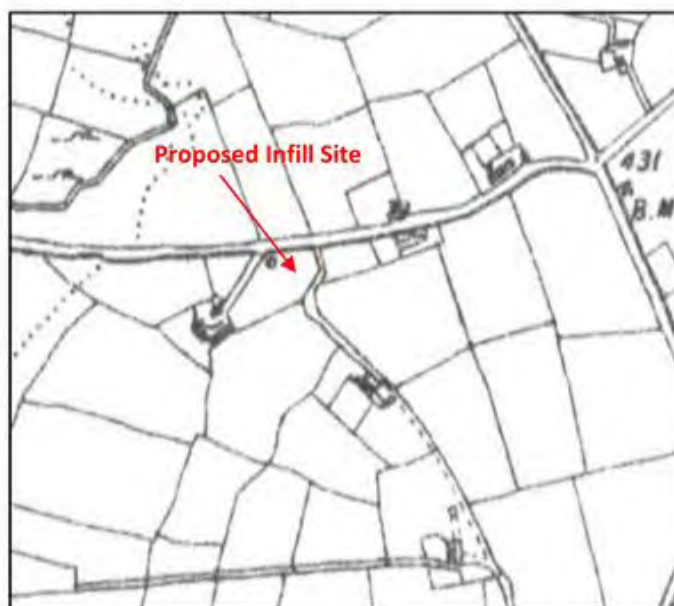
Existing Aerial View of Proposed Infill Development site (Red Line Area) at Jacks Road, Killeen.



DAERA 2018 Guide to Land Eligibility - Section 4 provides details on what lands are ineligible for subsidy purposes. It is the farmer's responsibility to ensure that they only claim on eligible land and deduct all ineligible areas irrespective of what is indicated on their farm map. The subject Garden Area was deemed to be an ineligible area for claiming purposes and is illustrated accordingly.

2021 – Applicant Farm Map illustrating it is not claimed for Single Farm Payment (SFP)

APPENDIX 2



The OS Series 3rd Edition (c1900 Map) illustrates a clear and precise boundary delineation from the other farm lands surrounding the existing farm holding. The map also indicates a building to the right-hand side of the existing laneway. Although, since being previously removed, the applicant has confirmed this building was used for storage of vegetables and fruits grown within the garden area associated with the existing dwelling house. There was also a small building located to the left, which was a water well building.





Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2021/0816/O

Date Received: 5/5/2021

Proposal: Proposed replacement dwelling to create an infill dwelling

Location: Adjacent to No. 10 Hillhead Road, Newry, BT35 8TN

Site Characteristics & Area Characteristics:



Site History:

No relevant planning history.

P/1988/0588- No. 10 Hillhead Road- Site for replacement dwelling- granted

P/1988/0949- No. 10 Hillhead Road- Site for replacement dwelling- granted
Approval notices checked the dwelling to be replaced was demolished to allow for the construction of no.10 Hillhead Road.

Policies & Material Considerations:

The Strategic Planning Policy Statement (SPPS)
The Banbridge/Newry and Mourne Area Plan 2015
Planning Policy Statement 3
Planning Policy Statement 15
Planning Policy Statement 21

Consultations:

DFI Roads – Additional amendments required and requested see report below

NIEA WMU- Standing advice- conditions and informatives

NIW- Statutory advice on single units

Rivers Agency- No objections. Site does not lie within 1 in 100yr fluvial flood plain or in 1 in 200yr coastal flood plain, FLD 2,3,4&5 n/a.

Environmental Health- No objections, consent to discharge required

NIE networks- No objections.

Objections & Representations

No. of neighbours notified= 6

Advert expiry= 2/6/2021

No. of representations received= 0

Consideration and Assessment:

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is located outside of settlement development limits, in the countryside. There are no specific policies in the plan relevant to the determination of the application, so the application will be considered under the operational policies of the SPPS, PPS 3, PPS 15 & PPS 21.

Having considered the relevant policy contained within the provisions of the SPPS, the SPPS is less prescriptive on this particular planning matter than the retained policy, therefore the retained policy is afforded the determining weight in accordance with paragraph 1.12 of the SPPS.

The policy context is Planning Policy Statement 21 (PPS 21), given the sites position within the countryside. The application has been submitted for a dwelling and has been accompanied by a Design and Access statement. Within the contents of this statement the agent considers the site 'occupies what can be viewed as a small gap sufficient to accommodate only one dwelling when considering the existing pattern development, within an otherwise substantial and continuously built up frontage of more than 3 buildings'. The D&A also references an old stone dwelling house to the front of the site. The agent states, 'the roof has fallen in on this old dwelling and the applicant wished to remove this, however if the department felt that this should be possibly be retained for historical value, then this is something that maybe considered.'

Having considered the content of the D&A and the applicants proposal description, the Planning Department must consider the principle of development under both CTY 3- replacement dwellings and CTY 8- ribbon development.

Policy CTY 3 states planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact.

Upon site inspection the building has all four walls substantially intact with 2 doorway openings; one in the front roadside elevation and one to the rear. The building has no roof covering but can be seen to have been single storey with a pitched roof. Internally the building is one single room in size. From external and internal inspection although all 4 external walls are substantially intact the building does not exhibit any of the essential characteristics of a dwelling.

I am not persuaded that the building to be replaced was ever a dwelling given its lack of characteristics as a dwelling.

The proposal principle of a replacement dwelling within the application is therefore not accepted.

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

A substantial and built up frontage includes a line of three or more buildings along a road frontage without accompanying development to the rear.

In assessing proposals against policy CTY8, the PAC has set out four steps to be undertaken in order (e.g. in appeal decision 2016/A0040):

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

This approach will be followed below.



The application site lies between the residential dwelling no. 10 Hillhead Road to its northwest and outbuildings/yard to its southeast. No. 10 and the outbuildings both front onto the Hillhead Road. No's 12 and 14 all provide frontages onto the Hillhead Road. I am content that the this constitutes a substantial and continuously built up frontage and the first test is met.

The second question is whether this is a small gap also relates to the issue of plot size under the third test. As stated in the report above, there is an existing building positioned within the application site as shown on the site location plan above. As referenced within the proposal description and the D&A the applicant seeks to propose a replacement dwelling to create an infill.

As the proposal requires the demolition of this building to create a gap, it is considered that there is no existing gap. Policy CTY8 is clearly aimed at gap sites and the proposal does not qualify in the first instance. The gap must exist and not be artificially created. This has been previously ruled by the PAC as unacceptable (Appeal Re: 2014/A0076 and 2016/A0226).

The third test the proposed site also meets the development pattern criteria:

- **SIZE & SCALE** – The existing buildings in this frontage in terms of size are a mix of single and two storey. It is considered that a two storey dwelling could be accommodated on the site without detriment to the character of the area.
- **SITING** – The layout above indicates the dwelling sited facing onto the Hillhead Road. The siting is broadly in line with the existing development along the frontage.
- **PLOT SIZE** – The plot width of 17 metres each is in keeping with the established development pattern being between the lowest and highest plot widths. The depth of the plot is also similar to no. 10 Hillhead Road.

Policy CTY8 also requires that infill dwellings meet other planning and environmental requirements. Paragraph 6.70 of the SPPS confirms that *"All development in the countryside must integrate into its setting, respect rural character and be appropriately designed."* These considerations must be assessed under policies CTY13 and CTY14 of PPS21.

As this is an outline application full details of the proposal have not been supplied. The site concept plan illustrates a dwelling to be positioned broadly in line with the building line of no. 10 Hillhead Road.

The site is relatively enclosed by the surrounding development and existing boundaries. It is considered that a dwelling appropriately conditioned and sited between the existing built development would not be a prominent feature in the landscape.

The development of this site will not result in a further build-up of the area or add/create a ribbon type of development given the existing building on the site. Development on this site will not cause the erosion of the rural character of the surrounding area.

The proposal must be considered against Planning Policy Statement 3, Access, Movement and Parking.

Policy AMP 2 Access to Public Roads states that planning permission will only be granted for a development proposal involving direct access or the intensification of the use of an existing access, onto a public road where:

- a) such access will not prejudice road safety or significantly inconvenience the flow of traffic;
and
- b) the proposal does not conflict with Policy AMP 3 Access to Protected Routes.

The Planning system has an important role to play in promoting road safety and ensuring the efficient use of the public road network. New development will often affect the public road network surrounding it, and it is part of the function of planning control to seek to avoid or mitigate adverse impacts. In assessing development proposals, the Planning Authority will therefore seek to ensure that access arrangements for development proposals are safe and will not unduly interfere with the movement of traffic.

The application site is to be served by a shared access as indicated in the D&A. The P1 form refers to the applicants' intention to alter the existing access arrangements to No.10 Hillhead Road.

DfI Roads in response to our consultation on amended plans have returned with the following:

Previous response as of 01/06/2021 still applies, DfI Roads considers the application unacceptable as submitted. Insufficient detail is available on transportation issues. Should Planning Service be minded to progress the application towards an approval DfI Roads require the following points to be addressed:

1. An amended 1:1250 scale location plan clearly showing all lands required to construct the required sight visibility splays of 2.0m x 33m within the red line taken to the edge of the public road

The proposal is considered contrary to Policy AMP 2 as the applicant has not demonstrated to the Planning Department of the Council that the proposed access will not prejudice road safety or significantly inconvenience the flow of traffic along the Hillhead Road despite opportunity to address this.

The proposal does not conflict with Policy AMP 3 Access to Protected Routes.

Rivers Agency has confirmed that there are no watercourses which are designated under the terms of the Drainage (Northern Ireland) Order 1973 within this site.

The site is not within a fluvial or coastal floodplain. Policies FLD 1-5 are not considered applicable to this case.

Recommendation:

The application fails to meet planning policy requirements for the reasons set out above and for this reason it is recommended to refuse the application.

Reasons for Refusal:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the building does not exhibit the essential characteristics of a dwelling.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that, there is no small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage.
4. The proposal is contrary to the Strategic Planning Policy Statement for NI and Policy AMP 2 of Planning Policy Statement 3, Access, Movement and Parking in that it has not demonstrated to the Planning Department of the Council that the proposed access will not prejudice road safety or significantly inconvenience the flow of traffic along the Hillhead Road.

Case Officer:

Authorised Officer:

Re: Planning Reference: LA07/2021/0816/O

Proposal: dwelling Adjacent to no.10 Hillhead Road Newry BT35 8TN

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the building does not exhibit the essential characteristics of a dwelling.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that, there is no small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage.
4. The proposal is contrary to the Strategic Planning Policy Statement for NI and Policy AMP 2 of Planning Policy Statement 3, Access, Movement and Parking in that it has not demonstrated to the Planning Department of the Council that the proposed access will not prejudice road safety or significantly inconvenience the flow of traffic along the Hillhead Road.

We approached this application on 2 fronts in the hope that we could get accepted for a new dwelling.

Based on the Planning report and under ctY8, the Department feel that the only reason for refusal under policy ctY8, is that the gap must exist and not be artificially created.

The department went on to quote 2 PAC rulings, ref no 2014/A0076 and 2016/A0226.

Having looked at appeal ref 2014 / A0076, the Commissioner states, *"If the building was removed it would result in the formation of a gap large enough to accommodate a maximum of one dwelling within the existing and continuously built up frontage. As the gap is to be created by the demolition of the existing building on the appeal site I would agree with the Planning Authority that there is, in fact, no existing gap."*

In our case we already have an existing gap between buildings and do not need to replace a building in order to create a gap or in order to site our dwelling. In the appeal case 2016/A0226 mentioned, by the Planning Department, see location map attached Drg no 1 and Block Plan Drg no 2, showing no existing gap, which makes the case incomparable.

I have attached a copy of the map showing the existing gap and where we propose to position the Dwelling. This will fall in line with the existing pattern of development, whereby existing dwellings with ancillary buildings to the front / road side exist. See attached Drg no 4.

Whilst we envisaged this building at our road side being replaced or removed, it is not a pre requisite to demolish this building in order to create the gap as can be seen on Drg no 4, the gap already exists.

We believed that this was once a dwelling however its contested status as a former dwelling should not remove the Applicants ability to obtain Planning Permission on this site under ctY 8.

The department have called up a second appeal 2014/A0076. This appeal had a Planning reference number I/20212/0336/F. This Planning reference number could not be found on the Planning Portal. However a different planning reference number was attached to this site. Planning reference LA09/2016/1488/O. This was the same site that was refused at appeal ref. 2014/A0076. In this application an infill was approved and in the Planning Officers report they stated *"that in addition*

with a siting restriction imposed on the suggested area by the agent the proposal will involve the removal on (of) one of the agricultural sheds”.

This application was an outline application and at reserved matters stage a block plan was submitted and approved showing all the buildings to be removed. See attached block plan drg no 3.

This approval somewhat contradicts the Appeal Commissioners report for a previous application on the same site but however as already stated that actual Planning Application could not be found on the Planning portal.

With regards point 4, reason for refusal: The Planning Department did contact the roads department and received comments back. They received comments back on 1st June 2021. The Planning Department however did not request the information until 26.07.2021 (8 weeks later). The requested information was returned and the department sent the information back to Roads.

Roads department responded to Planners on 02.09.2021. The Planning department did not contact me with regards requesting any further information; however I did receive a phone call from the Roads Department advising that they still needed some additional information. At this stage I started to liaise with the roads department on what exactly they required.

I emailed the department on 3rd Sept 2021 to try and determine exactly what they required. We had email communications back and forward with the roads department together with several phone calls. Roads department advised in an email on 20th Sept 2021, that they would be visiting the site to assess.

On the same day I had picked up on the Council website that the application had been refused and one of the reason for refusal was that **it had not demonstrated to the Planning Department of the Council that the proposed access will not prejudice road safety or significantly inconvenience the flow of traffic along the Hillhead Road.**

To reiterate, the Planning Department did not request any additional information from me regards the Roads department's comments. They went to refusal before this was fully assessed. During my liaising with the roads department and after a subsequent phone call to me from the Roads department, they had advised how they wished for me to respond to their request. They advised that this would satisfy their request.

It is normal that the Planning department formally request information from the agent if a consultant agency requires any further information or clarification and they usually allow 21 days to respond. This did not happen and in fact refused the application before 21 days were up from when they received the roads comments.

Under Policy CTY 13 – Integration and Design of Buildings in the Countryside

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

A new building will be unacceptable where:

- (a) it is a prominent feature in the landscape; or
- (b) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or
- (c) it relies primarily on the use of new landscaping for integration; or
- (d) ancillary works do not integrate with their surroundings; or
- (e) the design of the building is inappropriate for the site and its locality; or
- (f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; or
- (g) in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.

Under Policy CTY14-Rural Character

Planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.

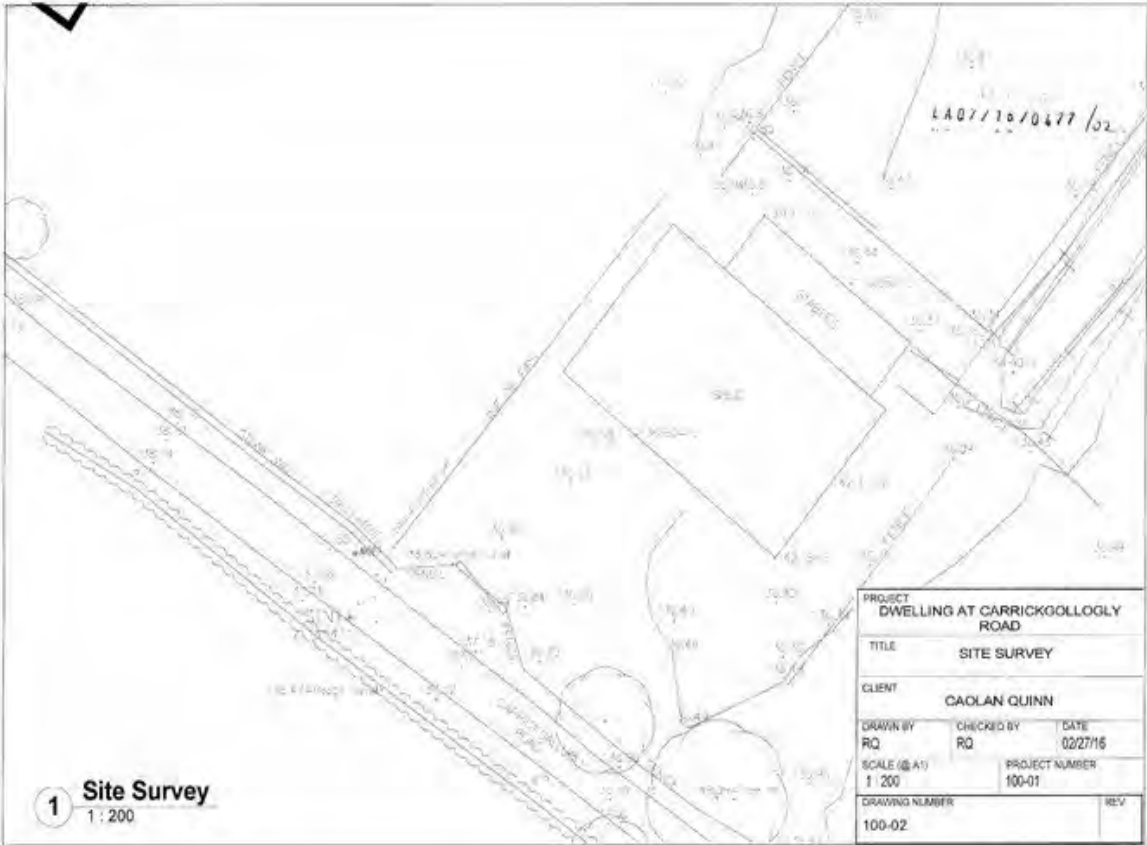
A new building will be unacceptable where:

- (a) it is unduly prominent in the landscape; or
- (b) it results in a suburban style build-up of development when viewed with existing and approved buildings; or
- (c) it does not respect the traditional pattern of settlement exhibited in that area; or
- (d) it creates or adds to a ribbon of development (see Policy CTY 8); or
- (e) the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character

Based on the 2 policies CTY13 & CTY14 mentioned above, I believe we also fulfil these policies and this should warrant an approval.

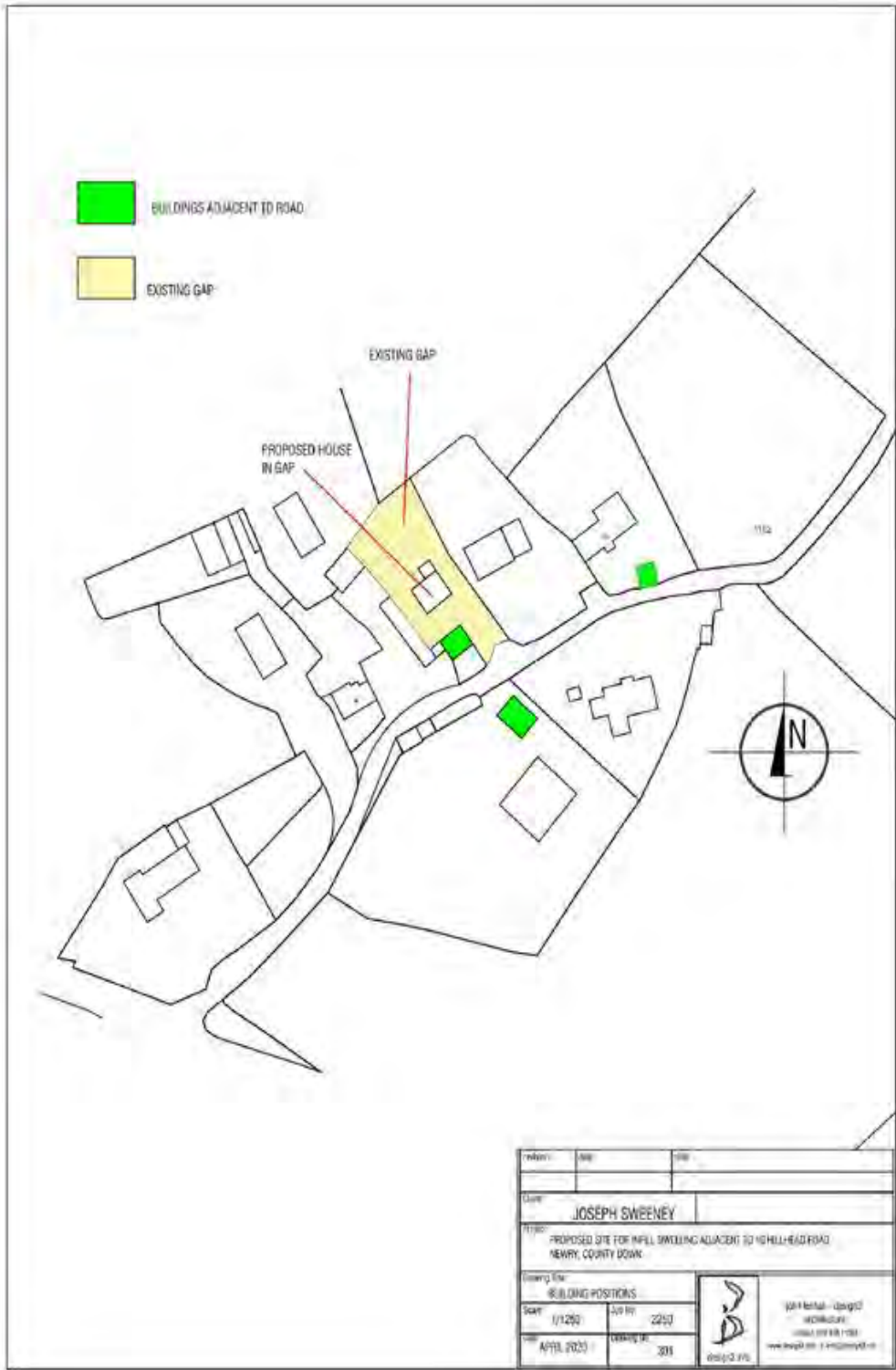


LOCATION MAPDRG NO 1



BLOCK PLAN.....DRG NO 2





Drg no 4

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	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
	between 54 and 58 Edenappa Road, Jonesborough				
		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	Permission Granted	Y
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	Application on hold to allow a Bat survey to be carried out by applicant. Survey season is May – August.	N
LA07/2019/1134/0	Replacement dwelling - 90 Manse Road, Darraghcross, Crossgar	Removed from the agenda as agent unable to attend	A McAlarney	To be returned to next Planning Committee	N
PLANNING COMMITTEE MEETING					

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
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	Under consideration by Planning Office	N
PLANNING COMMITTEE MEETING – 05 MAY 2021					
LA07/2017/1779/F	Lands Approx. 370m North East Of 32 Ballykilbeg Road Downpatrick Amendment to planning approval LA07/2015/0782/F. - change from Vestas 27 225kw wind turbine with rotor diameter of 27m to Vestas 52 250kw with rotor diameter of 52m	Removed from the addendum list at the request of Planning Officers	A McAlarney	Under consideration by planning office	N
PLANNING COMMITTEE MEETING 25 AUGUST 2021					
LA07/2020/1355/F	90 metres North of 14 Upper Clontigora Road, Killeen, Newry - Erection of replacement dwelling with detached garage	Defer	Andrew Davidson	Amended plans under consideration by Planning Office.	

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
PLANNING COMMITTEE MEETING 22 SEPTEMBER 2021					
LA07/2020/1854/O	Infill dwelling 40m NW of 169 Bryansford Road Kilcoo	Site visit to be held	Annette McAlarney		
PLANNING COMMITTEE MEETING – 20 OCTOBER 2021					
LA07/2021/0358/O	Proposed erection of outline rural detached infill dwelling house and detached domestic garage Located approximately 50 metres south east of no. 91 Maphoner Latbirget Mullaghbawn	Site visit to be held	Andrew Davidson		
LA07/2021/0108/F	Dwelling – 50m sw of 31a Ballydrumman Road Castlewellan	Site visit to be held	Annette McAlarney		
END					

Newry, Mourne & Down District Council – October 2021

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1. Live Applications

MONTH 2021/22	NEW APPLICATIONS	LIVE APPLICATIONS	LIVE APPLICATIONS OVER 12 MONTHS
April 2021	206	1,195	232
May 2021	204	1,238	228
June 2021	172	1,219	236
July 2021	176	1,190	224
August 2021	152	1,174	226
September 2021	182	1,175	226
October 2021	188	1,188	232

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
April 2021	770	193	81	54	97	1,195
May 2021	818	192	76	53	99	1,238
June 2021	777	206	82	43	111	1,219
July 2021	787	179	79	44	101	1,190
August 2021	754	194	84	49	93	1,174
September 2021	737	212	87	44	95	1,175
October 2021	724	232	85	46	101	1,188

3. Live applications per Case Officer

Month 2021/22	Average number of Applications per Case Officer
April	83
May	85
June	89
July	83
August	75
September	67
October	64

Newry, Mourne & Down District Council – October 2021

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4. Decisions issued per month

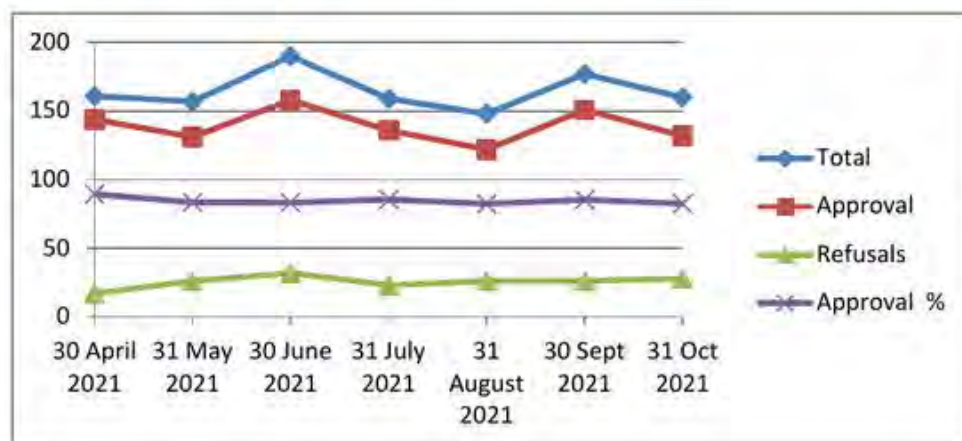
Month 2021/22	Number of Decisions Issued	Number of Decisions Issued under delegated authority
April	161	155
May	157	146
June	190	184
July	159	150
August	148	145
September	177	166
October	160	155

5. Decisions Issued YTD

Month 2021/22	Number of Decisions Issued	Breakdown of Decisions	
April	161	Approvals (144)	89%
		Refusals (17)	11%
May	318	Approvals (275)	86%
		Refusals (43)	14%
June	508	Approvals (433)	85%
		Refusals (75)	15%
July	667	Approvals (569)	85%
		Refusals (98)	15%
August	815	Approvals (691)	85%
		Refusals (124)	15%
September	992	Approvals (842)	85%
		Refusals (150)	15%
October	1,152	Approvals (974)	85%
		Refusals (178)	15%

Newry, Mourne & Down District Council – October 2021

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6. Enforcement Live cases

Month 2021/2022	<=1yr	1-2 yrs	2-3 yrs	3-4 yrs	4-5 yrs	5+ yrs	Total
April	285	133	127	122	62	101	830
May	291	134	122	128	64	104	843
June	267	132	121	136	60	102	818
July	269	134	114	137	68	102	824
August	266	132	107	133	71	103	812
September	279	136	103	129	71	102	820
October	269	121	99	126	65	101	781

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
8 April 2021	14	11	3	3
5 May 2021	16	8	8	3
2 & 30 June 2021 (Meetings cancelled)	-	-	-	-
28 July 2021	15	7	8	2
25 August 2021	15	9	6	6
22 September 2021	13	10	3	5
20 October 2021	25	22	3	6
Totals	98	67	31	25

Newry, Mourne & Down District Council – October 2021

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8. Appeals

Planning Appeal Commission Decisions issued during period 1 July 2021 to 31 October 2021

Area	Number of current appeals	Number of decisions issued	Number of decisions Allowed	Number of decisions Dismissed	Withdrawn
Newry & Mourne	16	3	0	3	0
Down	27	3	0	2	1
TOTAL	43	6	0	5	1

Newry, Mourne & Down District Council – October 2021

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Statutory targets monthly update - August 2021 (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	2	-	0.0	0.0%	172	143	16.6	43.4%	44	19	69.8	52.6%
May	2	1	35.4	0.0%	161	137	17.2	41.6%	31	30	57.0	66.7%
June	1	1	49.8	0.0%	183	173	16.8	42.8%	38	41	85.8	46.3%
July	0	-	0.0	0.0%	127	136	17.0	41.2%	38	27	85.2	51.9%
August	0	-	0.0	0.0%	137	140	17.1	38.6%	35	67	0.0	53.7%
September	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
October	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
November	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
December	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
January	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
February	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
March	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
Year to date	5	2	42.6	0.0%	780	729	17.0	41.6%	186	184	76.0	53.8%

Source: NI Planning Portal

Notes:**1.** CLUDS, TPOS, NMCS and PADS/PANs have been excluded from all applications figures

Newry, Mourne & Down District Council – October 2021

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- 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 media have the potential to inflate the mean, leading to a result that may not be considered as "typical".*
- 3. The time taken to conclude an enforcement case is calculated from the date on which the complaint is received to the earliest date of the following: a notice is issued; proceedings commence; a planning 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

236

AUTHORITY	Newry, Mourne and Down		
ITEM NO	1		
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	2		
Planning Ref:	LA07/2019/1130/	PAC Ref:	2019 /A0248
APPELLANT	Mr James Rogan	DEA	The Mournes
LOCATION	Site Adjacent To 33 Dunwellan Park Newcastle		
PROPOSAL	New end terrace Dwelling with associated site works		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	10/03/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals**237**

ITEM NO	3		
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			

ITEM NO	4		
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			

Current Appeals

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ITEM NO	5		
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	6		
Planning Ref:	LA07/2019/1119/	PAC Ref:	2020/A0124
APPELLANT	John McKay	DEA	Slieve Croob
LOCATION	75 Mill Hill Castlewellan		
PROPOSAL	2 semi-detached dwellings and 1 detached dwelling		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	25/01/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

239

ITEM NO	7	PAC Ref:	2020/A0126
Planning Ref:	LA07/2020/0027/	DEA	Downpatrick
APPELLANT	Judy Meharg		
LOCATION	7 Rocks Road Ballyhornan Downpatrick		
PROPOSAL	Wooden hut on a raised deck (retrospective)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	22/01/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	8	PAC Ref:	2020//A0130
Planning Ref:	LA07/2020/0802/	DEA	Rowallane
APPELLANT	Greg Kirkpatrick Esq		
LOCATION	Approx. 50m S E Of No 80 Monlough Road Saintfield		
PROPOSAL	Farm Dwelling and Garage		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	02/02/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	9		
Planning Ref:	LA07/2020/1072/	PAC Ref:	2020/A0142
APPELLANT	Chris Ball	DEA	Downpatrick
LOCATION	67 St Patricks Avenue Downpatrick		
PROPOSAL	Change of use from commercial/office to a 2 bedroom dwelling		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	15/02/2021
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:	LA07/2020/1485/	PAC Ref:	2020/A0145
APPELLANT	Leo McGrenaghan	DEA	Slieve Croob
LOCATION	Land Adjacent To 32 Teconnaught Road Downpatrick		
PROPOSAL	Dwelling House		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	12/02/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

241

ITEM NO	11	PAC Ref:	2020/A0155
Planning Ref:	LA07/2020/0939/	DEA	Slieve Gullion
APPELLANT	John Markey		
LOCATION	110msouth Of 11a Ballintemple Road Meigh Newry		
PROPOSAL	Farm Dwelling with Garage		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	15/03/2021
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/A0156
Planning Ref:	LA07/2018/0293/	DEA	Rowallane
APPELLANT	Paul McEvoy		
LOCATION	Opposite 49 And Adjacent To 56 Darragh Road Darraghcross		
PROPOSAL	Crossbar Erection of housing development consisting of 3 pairs of semi-detached dwellings, 1 detached chalet dwelling and 1 detached bungalow fronting Darragh Road.		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	15/03/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

242

ITEM NO	13		
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 BT34 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			

ITEM NO	14		
Planning Ref:	LA07/2020/0258/	PAC Ref:	2021/A0008
APPELLANT	Johnny Farrell	DEA	Crotlieve
LOCATION	49a Greenan Road Newry Co Down		
PROPOSAL	Retention of construction access with new improved sight lines- previously approved under P/2011/0702/F		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	20/08/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	15		
Planning Ref:	LA07/2020/1568/	PAC Ref:	2021/A0009
APPELLANT	Mr & Mrs Pat Hayes	DEA	Slieve Croob
LOCATION	To The Rear And Immediately South West Of 62 Crawfordstown Road		
PROPOSAL	Driveway extension to domestic curtilage, construction of garden feature and greenhouse along with all associated hard and soft landscaping.		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	18/05/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	16		
Planning Ref:	LA07/2020/1187/	PAC Ref:	2021/A0013
APPELLANT	Norman Harvey	DEA	Rowallane
LOCATION	Approx. 25m South Of 32 Kilmore Road Crossgar		
PROPOSAL	Dwelling		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	19/05/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	17	PAC Ref:	2021/A0022
Planning Ref:	LA07/2020/1360/	DEA	The Mournes
APPELLANT	Charlie Magennis		
LOCATION	Base And Morelli's 71-73 Central Promenade Newcastle		
PROPOSAL	Proposed erection of temporary retractable awning and lightweight structure		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	09/06/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	18	PAC Ref:	2021/A0028
Planning Ref:	LA07/2020/0920/	DEA	Crotlieve
APPELLANT	Michael McCarthy & Jarleth McCart		
LOCATION	North East And Adjoining No 9 Rock Road Newry		
PROPOSAL	Dwelling on a Farm with Domestic Garage		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	08/06/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

245

ITEM NO	19		
Planning Ref:	LA07/2020/1077/	PAC Ref:	2021/A0031
APPELLANT	Mr Eammon McAteer	DEA	Crotlieve
LOCATION	12 Cullion Road Mayobridge BT34 2HJ		
PROPOSAL	Improvements to existing lorry parking area, erection of a building for the maintenance of lorries and collection and compacting of cardboard, polystyrene for transfer to re cycling centers		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	25/05/2021
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:	LA07/2021/0146/	PAC Ref:	2021/A0032
APPELLANT	Paul Wilson	DEA	Slieve Croob
LOCATION	75 Dromore Road Ballykine Upper Ballynahinch		
PROPOSAL	Erection of replacement dwelling, detached garage and conversion of existing dwelling to stables		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	25/05/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

246

ITEM NO	21		
Planning Ref:	LA07/2021/0096/	PAC Ref:	2021/A0033
APPELLANT	Mr Bailey	DEA	Rowallane
LOCATION	18a Drumgivan Road Drumgivan Ballvnahinch		
PROPOSAL	Extension and renovation of Schoolhouse to domestic dwelling		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	25/05/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	22		
Planning Ref:	LA07/2020/0770/	PAC Ref:	2021/A0034
APPELLANT	Jamie McDonald	DEA	Newry
LOCATION	Lands Approx. 40m NE Of 29 Clontigora Hill Newry		
PROPOSAL	Infill dwelling and garage, associated landscaping and site works		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	25/05/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

247

ITEM NO	23	PAC Ref:	2021/A0046
Planning Ref:	LA07/2020/0115/	DEA	Slieve Croob
APPELLANT	Brendan Ferris		
LOCATION	110 Southwest Of 50 Crawfordstown Road Downpatrick		
PROPOSAL	Retrospective change of use of agricultural building to gym		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	28/06/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	24	PAC Ref:	2021/A0049
Planning Ref:	LA07/2020/0079/	DEA	Newry
APPELLANT	M Farrell		
LOCATION	Lands Approximately 50m North West Of No. 53 Ayalogue Road Newry		
PROPOSAL	Dwelling and garage on gap site		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	14/06/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

248

ITEM NO	25		
Planning Ref:	LA07/2020/1828/	PAC Ref:	2021/A0051
APPELLANT	Richard Hall	DEA	Slieve Croob
LOCATION	Adjacent And Immediately North Of 42 Old Belfast Road Dundrum Newcastle		
PROPOSAL	Infill site for dwelling with domestic garage		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	16/06/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	26		
Planning Ref:	LA07/2021/0616/	PAC Ref:	2021/A0052
APPELLANT	Andrew Davis	DEA	Downpatrick
LOCATION	East And Adjacent To 4 Turmennan Road Crossgar		
PROPOSAL	Dwelling at a crossroads/cluster in compliance with PPS21 CTY2a		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	21/06/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

249

ITEM NO	27	PAC Ref:	2021/A0058
Planning Ref:	LA07/2021/0302/	DEA	Rowallane
APPELLANT	Anne Mullan		
LOCATION	20 Darragh Road Crossgar		
PROPOSAL	Retention of dwelling as annexe to 20 Darragh Road, Crossgar, with construction of new garage link (Retrospective)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	28/06/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	28	PAC Ref:	2021/A0074
Planning Ref:	LA07/2020/0387/	DEA	Slieve Croob
APPELLANT	Mr C O'Connor		
LOCATION	69 Drumnaquoile Road Castlewellan		
PROPOSAL	Change of house type and siting in substitution to Planning permission LA07/2018/1590/F		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	21/07/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

250

ITEM NO	29		
Planning Ref:	LA07/2021/0450/	PAC Ref:	2021/A0075
APPELLANT	Paul Smith	DEA	The Mournes
LOCATION	57 Castlewellan Road Newcastle		
PROPOSAL	Artist studio and study to existing dwelling, for domestic use associated with the dwelling		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	28/07/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	30		
Planning Ref:	LA07/2020/1830/	PAC Ref:	2021/A0083
APPELLANT	Briege McComiskey	DEA	Crotlieve
LOCATION	Approx 160m North West Of No.26 Leode Road Hilltown Newry		
PROPOSAL	Erection of dwelling and domestic garage on a farm		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	03/08/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

251

ITEM NO	31	PAC Ref:	2021/A0088
Planning Ref:	LA07/2020/1702/	DEA	Rowallane
APPELLANT	Mr Hewitt		
LOCATION	North West And Adjacent To 59 Glasswater Road Creevycarnon		
PROPOSAL	Crossbar Erection of Sheltered Accommodation for the Elderly		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	11/08/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	32	PAC Ref:	2021/A0092
Planning Ref:	LA07/2020/0936/	DEA	Crotlieve
APPELLANT	Mr James Hughes		
LOCATION	Mountview Business Park Rathfriland Road		
PROPOSAL	Newry Replacement free standing vertical sign with logos to both faces		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	17/08/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals**252**

ITEM NO	33		
Planning Ref:	LA07/2021/0055/	PAC Ref:	2021/A0105
APPELLANT	Heather & Stephen Verner	DEA	Rowallane
LOCATION	Adjacent & 40m North Of 22 Tullyveery Road Killyleagh		
PROPOSAL	Dwelling and garage		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	17/09/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	34		
Planning Ref:	LA07/2021/0790/	PAC Ref:	2021/A0107
APPELLANT	Mr & Mrs Wayne Garrett	DEA	Rowallane
LOCATION	135m South Of 58 Carsonstown Road Saintfield		
PROPOSAL	Single dwelling and garage		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	14/09/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals**253**

ITEM NO	35	PAC Ref:	2021/A0109
Planning Ref:	LA07/2021/0473/	DEA	The Mournes
APPELLANT	Rhys Dowsall		
LOCATION	5 Killowen Road Rostrevor		
PROPOSAL	Retention of mobile home on concrete hardstanding		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	16/09/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	36	PAC Ref:	2021/A0112
Planning Ref:	LA07/2020/1834/	DEA	Slieve Croob
APPELLANT	Mr & Mrs Christopher Kelly		
LOCATION	Approx. 200m SE Of No. 36 Mountain Road Ballynahinch		
PROPOSAL	Dwelling on a Farm		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	28/09/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

254

ITEM NO	37		
Planning Ref:	LA07/2018/0932/	PAC Ref:	2021/A0116
APPELLANT	Dynes Bros	DEA	Downpatrick
LOCATION	No's 12 And 14 St Patrick's Way And Lands Between 12 And 14 St Patrick's Way Ballyhorman Road Ballyalton Downpatrick (amended Address)		
PROPOSAL	Detached dwelling on lands between 12 and 14 St Patrick's Way and amendments to existing dwellings 12 and 14 to provide additional lands, landscaping and amendments to previously approved parking arrangements. (Amended Proposal)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	13/10/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	38		
Planning Ref:	LA07/2019/1206/	PAC Ref:	2021/A0118
APPELLANT	Kilbroney Timberframe Limited	DEA	Newry
LOCATION	Land At 76 Canal Street Newry And Lands 15 Metres North Of 31-43 Catherine Street		
PROPOSAL	Proposed 8 dwellings (2 blocks of four terrace dwellings)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	13/10/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals**255**

ITEM NO	39	PAC Ref:	2021/A0120
Planning Ref:	LA07/2021/0762/	DEA	Rowallane
APPELLANT	Mr B McCallister		
LOCATION	70 Old Belfast Road Saintfield		
PROPOSAL	Extension to curtilage of dwelling to provide additional access to rear of dwelling, double garage/garden store with games room over,		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	15/10/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	40	PAC Ref:	2021/A0122
Planning Ref:	LA07/2020/0921/	DEA	Downpatrick
APPELLANT	Alan Humphries		
LOCATION	Adjacent To 127a Shore Road Kilclief		
PROPOSAL	Dwelling and garage		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	18/10/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

256

ITEM NO	41		
Planning Ref:	LA07/2020/1906/	PAC Ref:	2021/E0010
APPELLANT	Eamonn McAteer McAteer Recyclin	DEA	Crotlieve
LOCATION	Lands At And To The Rear Of No. 12 Cullion Road Mayobridge		
PROPOSAL	Newrv Existing area, yard and access, for storage, parking and circulation of vehicles associated with McAteer Recycling Ltd, and all associated site works and infrastructure		
APPEAL TYPE	DC- Refusal of CLUD		
Appeal Procedure		Date Appeal Lodged	10/06/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	42		
Planning Ref:	LA07/2020/0622/	PAC Ref:	2021/E0013 LDC
APPELLANT	Mr Robert Hollywood	DEA	Slieve Gullion
LOCATION	Located Upon Lands Approximately 100 Meters North West Of No.34 Church Road		
PROPOSAL	Shean The use of the building is agricultural and used for agricultural storage purposes associated with the existing farm enterprise		
APPEAL TYPE	DC- Refusal of CLUD		
Appeal Procedure	Written Reps with Site Visit	Date Appeal Lodged	09/06/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

257

ITEM NO	43		
Planning Ref:	LA07/2020/1532/	PAC Ref:	2021/E0014 LDC
APPELLANT	Ms Colleen McGinnis	DEA	Crotlieve
LOCATION	Lands At No.33B Ballyvally Road Ballyvally Mavohridge		
PROPOSAL	The applicant is seeking a Certificate of Lawfulness (COLEUD) for an existing use or development in relation to an existing access arrangement, hardcore access laneway, 2 No ancillary oil tanks and boiler enclosure, ancillary 1 No detached timber garage, ancillary hard		
APPEAL TYPE	DC- Refusal of CLUD		
Appeal Procedure	Written Reps	Date Appeal Lodged	09/06/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			



Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
F: 028 9031 2536
E: info@pacni.gov.uk

Appeal reference:	2021/ A0006
Appeal by:	Kenneth O'Hagan
Appeal against:	The refusal of reserved matters
Proposed development:	Proposed demolition of existing building and construction of 2 no apartments
Location:	55 Stream Street, Newry
Planning authority:	Newry, Mourne and Down District Council
Application reference:	LA07/2018/1601/RM
Procedure:	Written representations and Commissioner's site visit on 18 October 2021
Decision by:	Commissioner Mandy Jones, dated 26 October 2021

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether:
 - the proposal respects its physical context and pattern of development and is of an appropriate design;
 - the proposal would adversely affect the character of the Area of Townscape Character;
 - the proposal would adversely affect the important views into and out of the Conservation Area ; and
 - whether there would be detrimental impact on the residential amenity of adjacent dwellings.
3. Section 45(1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the Local Development Plan, so far as material to the application and to any other material considerations. Section 6 (4) states that where regard is to be had to the Local Development Plan, the determination must be made in accordance with the Plan unless material considerations indicate otherwise. The Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) is the statutory development plan for the area until replaced by a Local Development Plan. The appeal site is located within the settlement limit for Newry, within the High Street Area of Townscape Character (Designation NY 107) and Area of Archaeological Potential as set out in BNMAP. The Plan does not contain any specific policy in respect of the appeal proposal.

4. The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) outlines the transitional arrangements that will operate until such times as the local Council adopts a Plan Strategy for the whole of the Council area. During the transitional period, both the SPPS and retained Planning Policy Statements (PPSs) will apply. As no Plan Strategy has been adopted in Newry, Mourne and Down District Council, the retained policies applicable to this appeal are Planning Policy Statement 7 (PPS 7) Quality Residential Environments, Planning Policy Statement 7, Addendum (PPS 7 Addendum), Planning Policy Statement 12 (PPS 12) Housing in Settlements, Planning Policy Statement 6 (PPS 6) Planning Archaeology and the Built Heritage and Planning Policy Statement 6 Addendum (PPS 6 Addendum) Areas of Townscape Character. There is no conflict or change in policy direction between the provisions of the SPPS and the above mentioned retained policies in so far as they relate to the appeal proposal. Accordingly, these provide the policy context for assessing this appeal.
5. The appeal site is located on Stream Street, on a steep hill within Newry City Centre. Currently there is a single storey vacant property on the site which appears to have been last used as an office. The appeal site has a frontage of approximately 9m and a depth of approximately 35m. The western side of Stream Street is primarily two storey residential buildings with stepped ridge and eaves lines following the gradient of the road. Opposite the site is the extensive grounds of St Patricks Church – which forms part of Newry Conservation Area and is a Grade B listed building. To the rear is Heather Park – which is also part of the Newry Conservation Area.
6. Outline Planning permission was granted on 22 December 2016 for the demolition of the existing building on the site and construction of two apartments (LA07/2016/1200/O). Six conditions were attached and six informatives. Informative 1 stated ' The redevelopment of the site shall be based on the detailed proposals indicated on Drawing nos 02 (Rev1), 03 (Rev1), 04 and 05 date stamped 28 October 2016 and submitted to the Council for information.' (my emphasis)
7. The applicant has submitted the same drawings referenced above for consideration under the reserved matters application. Condition 2 of the outline approval states,

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

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

Informative notes are for guidance and do not carry any legal weight. They are not conditions and in this case only note that the redevelopment of the site should be based on the drawings submitted for information. (my emphasis) Condition 2 requires approval of reserved matters to be obtained by the Council.

8. The appeal proposal is for 2 apartments across 3 floors. Apartment 1 is on two levels - ground floor and lower ground floor at basement level and will require considerable excavation of the site. Apartment 2 is on the first floor. In terms of massing, fronting Stream Street is a 2 storey element with a 3 storey return element to the rear. The depth of the development on the site is approximately 20 m. The principle of apartment development on this site is not in dispute.
9. PPS 7, Policy QD1 1 Quality in New Residential Developments states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. The design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area. In established residential areas proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas. In Conservation Areas and Areas of Townscape Character housing proposals will be required to maintain or enhance their distinctive character and appearance. In the primarily residential parts of these designated areas proposals involving intensification of site usage or site coverage will only be permitted in exceptional circumstances.
10. Proposals are expected to conform to all nine criteria. The Council object to criteria (a), (g) and (h). Criterion (a) requires that the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas.
11. Criterion (g) requires that the design of the development draws upon the best local traditions of form, materials and detailing and criterion (h) requires that the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance.
12. PPS 7 (Addendum) Safeguarding the Character of Established Residential Areas, Policy LC1 Protecting Local Character, Environmental Quality and Residential Amenity states that in established residential areas planning permission will only be granted for the redevelopment of existing buildings, or the infilling of vacant sites to accommodate new housing, where all the criteria set out in Policy QD1 of PPS 7, and all of 3 the additional criteria set are met. The Council have stated that the proposal does not meet Criterion (b) which requires that the pattern of development is in keeping with the overall character and environmental quality of the established residential area.
13. PPS 12, Housing in Settlements sets out a number of planning control principles which reiterate those in the RDS and are amplified through development control policies. They support and should be applied in conjunction with PPS 7. It states that when considering an increase in housing density care should be taken to ensure that local character, environmental quality and amenity are not significantly eroded. The Council states that the scale, massing, design and layout of the proposal does not respect adjacent dwellings and local character and would detract from the privacy of local residents.

14. In order to make an accurate assessment of the impact of the proposal, it is imperative that I have accurate and detailed plans of this urban infill plot clearly showing relationships to existing adjoining development and the public / private edge. Given the sloping nature of the site, it is also critical to have accurate and consistent sections and elevations within their context.
15. I have been presented with the same drawings which were submitted with the outline application. The bundle of drawings included:
 - Location Plan, scale 1:1250;
 - Ground Floor and Lower Ground Floor plans, scale 1:100. These are not shown in context of adjoining development (there are a few faint lines apparent but they are not continuous, annotated or clear) ;
 - First floor plan, scale 1:100 not shown in context with adjoining development;
 - A Longitudinal Section, scale 1:100 ;
 - Two side elevations scale 1:100 with inconsistent ridge heights and a
 - Rear Elevation.
16. Drawing no 04, Section AA shows the ridge height of the front portion 0.5m below the ridge height of no 56. The ridge height of the front section is required by condition attached to the outline approval to be 500mm lower than the ridge height of no 56. It shows a horizontal line, which I assume to be the ridge height of the rear portion to be 0.5m lower again. The ridge height of the front portion relative to the ridge height of no 56 appears to correlate with the heights indicated on the front elevation – drg no 5 Rev A. In contrast, drawing no 06 side elevation 1 shows the ridge height of the rear return to be the same as no 56 and side elevation 2 shows the ridge height to be the same for no 56 for both the front portion and rear return. The ridge height relationship of the proposal to no 56 is shown differently in the sections and elevations and I cannot be sure which one is correct. Spot heights of the proposed ridge heights are not shown on any of the drawings.
17. The proposal is 20 m depth and extends approximately 8.5m beyond the typical building line of the existing returns of the adjacent buildings. Given the inconsistencies in the sections and elevations it is not clear how high the rear return portion sits on this sloping site. There is no complete site plan showing the relationship of the external amenity space to the proposal and to the existing context. The Council have raised issues regarding the inconsistency and omissions on the drawings and have carried out an analysis based on the worst case scenario in which the ridge height of the front portion and rear return is at the same height as no 56. The Council concluded that the proposed scale, proportions and massing to the rear is not typical of that exhibited within the surrounding area. It was stated that the properties in the surrounding area tend to respect the established rear building line and rear extensions generally lie below the ridge heights along the road frontage.
18. I was told that the Council requested further information on 8 October 2020, which was not received. An extension was granted until 9 November 2020. A further extension was granted, in which the Council requested amended drawings to be forwarded by 12 November 2020 - however no further correspondence was received from the agent. I concur with the Council that the following information is needed:

- Existing and proposed sections through the site in relation to the neighbouring properties including existing and finished floor levels, ground levels and consistent ridge heights;
 - Sections and elevations should provide the existing context with existing rear returns to no 53 and 56 included;
 - Sections to show the proposed relationship between the rear return and the existing side elevation of no 56 and 53;
 - Ground floor and lower ground floor plans should show the neighbouring context (these show some faint lines but are incomplete);
 - Given the proposals to construct a basement, detailed sections are required to show these works in respect of the neighbouring property boundaries and any retaining structure required and
 - A site plan of the entire site showing landscaping proposals including boundary treatments.
19. Such discrepancies and omissions are unhelpful and I would expect proposals to be accurate and detailed for a reserved matters application. The appellant refers to the positive professional planning report with the outline application. However, this is a reserved matters application and requires a more detailed level of design drawings and information to be presented to the Council and / or the Commission at appeal.
20. I note that there is also one objector (no. 56 Stream Street). Concerns were raised of blocking light into a bathroom and overshadowing to the rear of their property. These inconsistent drawings to not present an accurate representation of the proposal for the objectors to fully assess. Although the appellant raised the point that no 52 Stream Street presents 3 storeys to the rear and many of the properties have basements I am unable to make an assessment of the scheme before me within this context.
21. Even though the Council have carried out an analysis based on the worst case scenario I consider that given the inaccuracy and inadequacies of the submitted plans which now form this appeal submission, I am unable to make a meaningful assessment of the proposals and reach a thorough and structured conclusion on the acceptability of the scheme when considered against PPS 7 QD 1 criteria (a), (g) and (h) and PPS 7 (addendum) Policy LC1 criterion (b).
22. Given this I am not persuaded that the proposed development would have no detrimental impact on the visual amenity and character of the area in terms of layout, scale, proportions, massing and appearance and the residential amenities of adjacent properties. I therefore must conclude that the appeal proposal does not comply with PPS 7 QD1, PPS 7 (addendum) and finds no support in PPS 12. Accordingly, the first, second and third reasons for refusal are sustained.
23. Within Planning Strategy for Rural Northern Ireland (PSRNI), Policies SP 18 and DES 2 refer to Design in Towns and Villages promoting high standards of design.

It requires development proposals to make a positive contribution to townscape and be sensitive to the character of the area surrounding the site in terms of design, scale and use of materials.

24. I note that a revised Proposed & Existing Stream Street Elevation, date stamped received on 16 April 2019 and annotated drg 05 Rev A was submitted. This shows the front elevation of the proposal within its immediate context. In order to be helpful to the appellant I will assess this part of the submission in isolation. It shows the ridge height of the front portion of the proposal 0.5m below the ridge height of the adjacent no 56. The massing of the proposal responds to the existing stepped pattern of development which is a key feature of Stream Street on approach to St Patricks Church. I consider that the patterns of fenestration and solid / void ratio are acceptable. A finishes schedule with black/grey roof slates, cream rendered finish, white PVC windows, painted timber hardwood doors, black rainwater goods black are also all acceptable given the use of materials and finishes within Stream Street.
25. However, as set out above given the inconsistencies in the drawings regarding the rear return portion of the proposal I am unable to make a full assessment of the impact of the proposal on the immediate area surrounding the site in terms of design, scale and massing. As such, I am not persuaded that the totality of the scheme would have no detrimental impact on the surrounding character of the area. The appeal proposal does not comply with Policy SP12 and Des 2 of PSRNI and the Council's fourth reason for refusal is sustained.
26. PPS 6 Planning Archaeology and the Built Heritage, Policy BH12 relates to New Development in a Conservation Area. The site is not within a Conservation area. However, the justification and amplification text refers to the 'Setting of a Conservation Area' and states that special care is also needed in the location and design of development proposals close to a Conservation area. Inappropriate development outside a conservation area can have a detrimental effect on the character and setting of the area. In such cases new development will be expected to respect the character and appearance of the adjacent conservation area while the Department will also seek to retain important views in and out of the area. The desirability of preserving or enhancing a conservation area is also considered to be a material consideration in assessing proposals for development beyond its boundaries which would however affect its setting, or views into or out of the area.
27. While the appeal site is not within a Conservation area, it abuts the Conservation Area boundary at the rear with Heather Park. The Conservation Area also surrounds St Patricks Church opposite and south of the appeal site.
28. I accept the appellant's point that there would be extremely limited views of the proposal from the Conservation area to the rear given the mature boundaries and vegetation within Heather Park - which would dependant on the time of year and seasonal variations. Notwithstanding, given the lack of detailing and inconsistencies showing the proposal within the context of adjoining properties to the rear, it is difficult to assess the impact of the proposal on views within, into and out of the Conservation Area. I have not been persuaded that the appeal proposal would preserve or enhance the Conservation Area. The Council's sixth reason for refusal is sustained.

29. The appeal site is also within the High Street Area of Townscape Character designation NY 107 which also includes Stream Street and Talbot Street. The key features of this area, to be taken into account when assessing development proposals are the early 20th century houses built by the Newry Urban Council at High Street, Stream Street and Talbot Street which are two – storey, stepped two bay dwellings, all substantially similar in design and detail, which establishes their unity as a cohesive area of townscape with a modest domestic scale.
30. PPS 6 (Addendum) Areas of Townscape Character, Policy ATC 2 New Development in Areas of Townscape Character states that the Department will only permit development proposals in an ATC where the development maintains or enhances its overall character and respects the built form of the area.
31. Paragraph 2.7 states that designation as an ATC puts an onus on prospective developers to produce a high standard of design which respects and is sympathetic to the particular qualities of the area. Notwithstanding, the acceptability of the proposal in terms of other planning issues, the Department will operate a presumption against development that would detract from or fail to maintain the character of the distinct townscape displayed in an ATC.
32. Paragraph 2.13 of the justification and amplification section states that in view of the potential impact a development proposal may have on an ATC, the Department will generally require detailed drawings to accompany all planning applications.
33. As stated above, given the inconsistencies and omissions in the submissions, I am unable to determine the exact heights of the proposal to the rear and its relationship with the front portion and I am unable to determine the heights of the proposal relative to the existing context. As such, I am unable to make a full assessment of the impact of the proposal within the ATC. I am not persuaded that the proposal maintains or enhances the overall character and respects the built form of this ATC. The fifth reason for refusal based on PPS 6 (addendum) is sustained.
34. A common thread running through these policy documents is the emphasis and promotion of high standards of design. It is clear that the onus is on the prospective developer to provide high quality design schemes responsive to context and place expressed by good quality design submissions to accompany planning applications and appeals. The fact that the existing building on the site is in a poor and depilated state, does not persuade me otherwise. As such, all six reasons for refusal are sustained and the appeal must fail.

This decision is based on the following drawings:-

Pac 1	Site Location Plan @1:12500	Council stamped drg 01	Date received by Council 16.10.18	Date refused 10.12.2020
Pac 2	Apartment 1 – Ground and Lower Ground floors @ 1:100	Council stamped drg 02	Date received by Council 16.10.18	Date refused 10.12.2020

Pac 3	Apartment 2 – First Floor Plan @ 1:100	Council stamped drg 03	Date received by Council 16.10.18	Date refused 10.12.2020
Pac 4	Section AA @ 1:100	Council stamped drg 04	Date received by Council 16.10.18	Date refused 10.12. 2020
Pac 5	Existing and Proposed Stream Street Elevations @1:100	Council stamped drg 05 rev A	Date received by Council 16.4.2019	Date refused 10.12. 2020
Pac 6	Proposed Side Elevations @ 1:100	Council stamped drg 06	Date received by Council 16.10.18	Date refused 10.12. 2020
Pac 7	Proposed rear elevation	Council stamped drg 07	Date received by Council 16.10.18.	Date refused 10.12. 2020

COMMISSIONER MANDY JONES

List of Documents

Planning Authority:-	'A'	Statement of Case
Appellant:-	'B'	Statement of Case
	'C'	Rebuttal



Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
F: 028 9031 2536
E: info@pacni.gov.uk

Appeal Reference:	2020/A0045
Appeal by:	Mr Mills Smyth
Appeal against:	The refusal of outline planning permission
Proposed Development:	Demolition of all existing buildings and replace with dwelling house and garage
Location:	95 Aughnagurgan Road, Altnamackan, Newry
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2019/0573/O
Procedure:	Informal Hearing on 18 th August 2021
Decision by:	Commissioner B Stevenson, dated 27 th September 2021

Decision

1. The appeal is dismissed.

Reasons

2. The main issue in this appeal is whether the proposal is acceptable in principle.
3. Section 45(1) of the Planning Act (NI) 2011 requires that regard must be had to the Local Development Plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) of the Act requires that, where in making any determination, regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
4. The Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) acts as the LDP for the area the appeal site is located in. The appeal site is shown in the BNMAP as falling within Altnamackan/Cortamlet settlement development limit and lying within the Aughnagurgan Road – Altnamackan Local Landscape Policy Area (LLPA) Designation AC 04. The extent of the LLPA is the appeal site.
5. The appeal site comprises an “old shop”. The “old shop” is described as a locally significant building and is identified as the feature that contributes to the environmental quality, integrity or character of the Aughnagurgan Road – Altnamackan LLPA.
6. Policy CVN3 of the LDP states that within designated LLPAs, planning permission will not be granted to development proposals that would be liable to adversely

affect their intrinsic environmental value and character as set out in the plan. The policy also explains that where proposals are within and/or adjoining a designated LLPA, a landscape buffer may be required to protect the environmental quality of the LLPA. There are no other designations, policies or proposals in BNMAP that are material to the determination of the appeal.

7. The Council argued that if the old shop was demolished, then the Aughnagurgan Road – Altnamackan LLPA designation would have no merit as it would no longer have an intrinsic environmental value or character. The appellant considered the LLPA to have no intrinsic environmental value or character because from his perspective the “old shop” is not an asset.
8. The “old shop” is a two-storey vacant building situated on a prominent corner at the junction of Aughnagurgan Road and Blaney Road. The building is constructed in concrete and has an attractive shop front with signage lettering moulded in plaster. This signage is pleasing to the eye. The ground floor of the property is finished in smooth cream render while the first floor is wet dash. There are two chimney stacks and lean-to returns on both sides of the main building that along with the central timber front door give it balance. The building has a significant rear return to create a T-plan. There is a timber garage to the north and a large outbuilding to the rear of the property. The building is one that is locally significant and contributes to the character of the LLPA.
9. There is no dispute between the parties that the “old shop” could be demolished without the need for planning permission and I agree. However, the erection of the new dwelling is dependent upon the demolition of the “old shop” therefore the matter of demolition is material to this appeal.
10. The purpose of the LLPA designation as set out in Policy CVN3 of the plan is to protect it from development proposals that would be liable to adversely affect its intrinsic environmental value and character. Demolition of this locally significant building would therefore be contrary to what the plan seeks to achieve under Policy CVN3 and this in turn would undermine the purpose of this particular LLPA designation. Thus, the appeal proposal would not be in accordance with the LDP and contrary to Policy CVN3 in that it would adversely affect the intrinsic environmental value and character of the LLPA. Thus, the first reason for refusal based on the LDP is sustained.
11. The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will operate until the Council has adopted a Plan Strategy for the whole of their area. During the transitional period, both the SPPS and retained Planning Policy Statements (PPSs) apply. In the absence of an adopted Plan Strategy, the retained policies namely Planning Policy Statement 6 “Planning, Archaeology and the Built Heritage” (PPS6) and Planning Policy Statement 7 “Quality Residential Environments” (PPS7) are relevant. There is no conflict or change in policy direction between the provisions of the SPPS and the above-mentioned retained policies insofar as they relate to the appeal proposal. Accordingly, PPS6 and PPS7 provide the regional policy context for assessing this appeal.

12. Policy QD1 of PPS7 requires all proposals for residential development to conform to certain criteria. Criterion (b) of Policy QD1 states that features of the archaeological and built heritage, and landscape features are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development.
13. Notwithstanding that the "old shop" is not listed, having been identified in the plan as a building of local significance, it is therefore a feature of built heritage which is worthy of protection. The redevelopment of the appeal site to facilitate the proposed new dwelling would require the demolition of the "old shop" and the subsequent loss of the feature of built heritage which would offend criterion (b) of Policy QD1. Therefore, the Council's second reason for refusal is sustained based on Policy QD1 of PPS7.
14. Policy BH15 of PPS6 states that the sympathetic conversion of non-listed vernacular buildings to other appropriate uses will normally be permitted where this would secure their upkeep and retention.
15. The appellant argued that as the proposal is for a replacement dwelling, Policy BH15 should not apply because it relates to conversion of non-listed vernacular buildings. Alternatively, the Council considered that the thrust of the policy is to retain vernacular buildings and Policy BH15 should apply.
16. I agree with the Council insofar as Policy BH15 applies to non-listed vernacular buildings not only in the countryside but also to such properties within settlements. On reading the policy, I consider it to apply to conversion proposals only. I therefore agree with the appellant that Policy BH15 is not applicable to the appeal proposal as this is for a replacement dwelling. Thus, the third reason for refusal is not sustained.
17. Arguments were also advanced that the LDP should have designated the "old shop" within an Area of Village Character (AVC) in order to protect it from demolition. This is a matter that should have been raised during the plan process and it is not for this appeal.
18. As I have concluded that the Council has sustained its objection to the appeal proposal in that it offends Policy CVN3 of the LDP and Policy QD1 of PPS7 insofar as stated, the appeal must fail.

This decision relates to Drawing No.01 to scale 1:2500 @A4 site location plan date stamped received 4th April 2019.

COMMISSIONER B STEVENSON

Physical Hybrid Hearing Appearances

Planning Authority: -	Mr Ashley Donaldson Newry, Mourne and Down District Council
Appellant: -	Mr Tom Wilson Tom Wilson Planning

List of Documents

Planning Authority: -	"A" Written Statement of Case Newry, Mourne and Down District Council
Appellant: -	"B" Written Statement of Case Tom Wilson Planning



Decision Details

PAC Reference :	2021/A0020
Departmental Reference :	LA07/2019/1390/F
Development :	Proposed Erection of a Shed
Location :	Approx. 78m south of 94 Lisbane Road, Ballynahinch
Appellant :	Mrs Elizabeth Cherry
Appeal Type :	Planning Appeal
Commission Decision Issued :	08/10/2021
Commission Decision :	Withdrawn



Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
F: 028 9031 2536
E: info@pacni.gov.uk

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Appeal Reference:	2020/A0073
Appeal by:	Mr Gerard Rice
Appeal against:	Retrospective application for the extension of curtilage to include retaining wall, in-filling inert material, fencing and associated landscaping. Existing firework containers relocated and form utilisation of car parking.
Location:	8 Corcreechy Road, Newry
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2019/1575/F
Procedure:	Informal Hearing on 30 th July 2021
Decision by:	Commissioner B Stevenson, dated 27 th September 2021

Decision

1. The appeal is dismissed.

Preliminary Matter

2. During the appeal proceedings, the Council contested the admission of a drawing titled 'block plan' to scale 1:500@A1 and economic supporting information. Some of the supporting economic information relates to the business's circumstances having changed in the last 6-12 months due to the pandemic. The Council's witness explained that neither were before the local planning authority during the processing of the planning application and considered that to admit them would be contrary to Section 59 of the Planning Act (Northern Ireland) 2011.
3. Under Section 59(1), a party to the proceedings is not to raise any matter which was not before the Council at the time the decision appealed against was made unless that party can demonstrate that the matter could not have been raised before that time, or that its not being raised before that time was a consequence of exceptional circumstances. Section 59(2) states that nothing in subsection (1) affects any requirement or entitlement to have regard to (a) the provisions of the local development plan, or (b) any other material consideration.
4. The appellant confirmed at the hearing that the block plan accompanying their statement of case was submitted for illustrative purposes only. I will therefore rely on the original block plan in the determination of the appeal.

5. The appellant also explained that the economic information could not have been submitted any earlier due to the pandemic and the timelines involved in the planning application process. Whilst one would have expected economic information to be provided in support of a proposal such as this at application stage, I consider that in the given circumstances, which can be considered exceptional, the economic information is admissible. Given the nature of the proposal, it is also an important material consideration in the appeal. No prejudice arises from admitting this information as all parties involved had an opportunity to comment on it.

Reasons

6. The main issues in this appeal are whether retention of the development is acceptable in principle in the countryside, whether it integrates satisfactorily into the countryside and whether it erodes the rural character of the area.
7. Section 45(1) of the Planning Act (NI) 2011 requires that regard must be had to the Local Development Plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) of the Act requires that, where in making any determination, regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The adopted Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) operates as the LDP for the area wherein the appeal site is located. In the BNMAP, the appeal site lies outside any designated settlement development limit and falls within the countryside north of the city of Newry. As the BNMAP contains no provisions material to the development, other material considerations relevant to this appeal are examined below.
8. The Strategic Planning Policy Statement 'Planning for Sustainable Development' (SPPS) sets out the transitional arrangements that will operate until the Council has adopted a Plan Strategy for the whole of their area. During the transitional period, both the SPPS and retained Planning Policy Statements (PPSs) apply. In the absence of an adopted Plan Strategy, the retained policies namely Planning Policy Statement 4 "Planning and Economic Development" (PPS4) and Planning Policy Statement 21 "Sustainable Development in the Countryside" (PPS21) are relevant. There is no conflict or change in policy direction between the provisions of the SPPS and the above-mentioned retained policies insofar as they relate to the appeal proposal. Accordingly, PPS4 and PPS21 provide the regional policy context for assessing this appeal.
9. The appeal development relates to the extension in the site area of an existing commercial business within the countryside. The 'Around a Pound' business is located in a building north-west of a dwelling at No. 2 Corcreeghy Road. The building is not within the appeal site boundary. The appeal proposal seeks the retention of development works comprising a retaining wall, the in-filling of land, fencing and associated landscaping. It is also proposed to re-locate the existing firework containers within the extended site area and to provide additional vehicle parking spaces.

10. The Council confirmed that a Certificate of Lawfulness of an Existing Use or Development (CLEUD) was granted for the retention of the building as both a commercial store and for the retail sale of fireworks with associated office, customer parking, service area and access (P/2013/0735/LDE). However, the CLEUD relates to only part of the appeal site.
11. In addition to the CLEUD described above, full planning permission was granted in August 2014 for a fireworks storage container for hazard type 4 explosives and the permanent closure of an existing laneway for commercial traffic (P/2014/0305/F). In addition, the Council approved (retrospectively) the storage of 2 tonnes of fireworks hazard type 4 in 1 No. curtain trailer and 5 No. steel containers (P/2014/0931/F). As outlined above, this appeal seeks permission, inter alia, to relocate the storage containers approved under P/2014/0931/F.
12. Policy CTY1 of PPS21 states that there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. One such type of development is industry and business uses that accord with PPS4.
13. Policy PED2 of PPS4 explains that proposals for economic development uses in the countryside will be permitted in accordance with the provisions of certain policies. The expansion of an established economic development use is covered by Policy PED3.
14. Policy PED3 of PPS4 states that "the expansion of an established economic development use in the countryside will be permitted where the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is no major increase in the site area of the enterprise". The policy also explains that a proposal for the major expansion of an existing industrial enterprise that would not meet the above policy provisions will only be permitted in exceptional circumstances. The amplification text emphasises that it is important to weigh carefully the advantages to the rural economy of job creation or an improved industrial/business facility against the potential for an adverse impact on the rural environment. A list of general criteria that all economic development proposals are required to comply with is set out in Policy PED9 of PPS4.
15. For the business to be an established use, it must be lawful. It was common case that part of the appeal site has an established lawful use for Class B4: Storage and Distribution use with Class A1: Retail (for fireworks sales) and ancillary Class B3: Office use. In the evidential context, I am satisfied that the appeal development is associated with an established economic development use in the countryside.
16. With regard to whether there is a major increase in the site area, the Council argued that the appeal development results in a major increase of 73% in the site area from that considered lawful under the CLEUD and from that which benefits from planning permission. The Council explained that their figure took into account additional lands within the red line of the appeal site boundary including the strip beyond the retaining wall. In contrast, the appellant considered there to be a 23% increase which excludes the strip of land beyond the retaining wall. As

the strip of land comprises new planting which is part of the appeal development and based on my own observations and analysis of the planning history, I agree with the Council that the extended site area results in a major increase in the site area of the enterprise.

17. The fourth paragraph of the headnote of Policy PED3 indicates that a proposal for the major expansion of an existing industrial enterprise will only be permitted in exceptional circumstances where it is demonstrated that relocation of the enterprise is not possible for particular operational or employment reasons, that the proposal would make a significant contribution to the local economy and that the development would not undermine rural character. Whilst the fourth paragraph of the headnote of Policy PED3 specifically refers to industrial uses, it is common case that it should apply to the appeal development, and I concur.
18. The policy, when read as a whole, directs that expansion proposals should be explored first in existing buildings either through re-use or extension before considering a new building. It also emphasises that any such extension or new building should respectfully integrate and be of adequate scale. The wording therefore infers that containment of development in the countryside is the fundamental intention of the policy.
19. The appellant explained that 'Around A Pound' is a long-standing enterprise employing 85 staff in total with the appeal site acting as a distribution centre for the businesses' six local shops. The appellant added that upwards of 20 people are employed at the appeal facility and that the relocation of the enterprise would not be possible due to financial reasons. He continued to say that over £1.5 million pounds had been invested in providing the facilities at the site which have been built over the last 25 years. The appellant also said that the business had expanded significantly over the last six years with its online trade growing over the last 18 months especially since the pandemic. The appellant explained that the appeal facility entails the sale of fireworks and that the commercial store and associated office also operate from the premises.
20. In order to justify the extension in the site area, the appellant argued that there were operational reasons for siting the fireworks containers in the far north-western corner of the appeal site. He explained that the Explosives Regulations require Type 4 Explosives to have a separation distance of 19 metres from areas of parking and 30 metres from buildings with the only parking currently available adjacent to the explosives. The Council, however, argued that there was scope to re-locate the firework containers within the north-eastern part of the site and continue to comply with the licence.
21. Having reviewed a copy of the submitted licence granted under Regulation 11 of the Manufacture and Storage of Explosives Regulations (Northern Ireland) 2006 as Amended, it makes reference to a separation distance of 30 metres only from buildings. Therefore, the containers could be located elsewhere within the original yard area while continuing to comply with the Explosives Regulations. Thus, I am not convinced that the fireworks containers must be sited within the proposed location. Their relocation would not therefore justify an extension of this size and scale.

22. During my site visit, I witnessed around half a dozen cars informally parked adjacent to the dwelling while some lorry trailers were parked in the northern portion of the site. A significant amount of the lawful yard area was unutilised. The block plan shows 20 No. car parking spaces as part of the appeal development. There is also space to turn lorries. In my opinion, the extended yard subject of this appeal could accommodate at least double the amount of parking spaces shown on the plan. Considering the scale and nature of the lawful facility, the extended yard area now sought is overly excessive to facilitate the parking and service areas associated with it.
23. Whilst the appellant referred to the business employing up to 20 staff at the premises, the Council advised that no employee details were provided on the application form. Notwithstanding that no details were provided on the form, I accept that a certain number of staff are employed at the appeal facility given my on-site observations. However, even if there are 20 employees, this is a relatively small amount of staff compared with the overall scale of the development subject to this appeal. Limited rationale was provided to demonstrate why so much extra space was required.
24. I was not provided with persuasive evidence to convince me that relocation could be ruled out because of employment reasons and no persuasive evidence was given as to the operational need for such an extensive expansion. The appeal development therefore fails to accord with the first exceptional test set out in Policy PED3.
25. The appellant claimed that the 'Around the Pound' business makes a significant contribution to the local economy with a wage bill of approximately £450,000 annually and a rates bill for all their properties in excess of £150,000 per annum. The appellant also stated that the business sponsors a number of local sports clubs. The Council did not dispute this at the hearing. In the evidential context provided, I find that the appeal development complies with the second exceptional test.
26. The third exceptional test under Policy PED3 requires that the appeal development should not undermine rural character. The "Around the Pound" business is large in scale and it has encroached onto agricultural land which has involved the infilling of said land to significantly change ground levels. It also involves a sizeable retaining wall, an extensive hard-standing area and the relocation of the fireworks containers. Despite the planting of new landscaping, the appeal development contributes unacceptably to a build-up of development detrimental to the rural character of the area. Rather than contain development in the countryside, the appeal development significantly erodes into its countryside setting. The appeal development therefore undermines rural character and thus offends the third exceptional test under Policy PED3. Given that two of the exceptional tests in Policy PED3 are not overcome, the first reason for refusal is sustained.
27. The Council also raised objection based on Policies CTY13 and CTY14 of PPS21. Whilst both said policies refer to new buildings in the countryside, their justification

and amplification text provides the context for the consideration of the policy objectives which relate to preserving the visual amenity and rural character of an area. For reasons given above, I find that the appeal development is detrimental to the rural character of the area in particular the retaining wall. The appeal development therefore offends Policy CTY14 insofar as stated. Thus, the Council's third reason for refusal is sustained.

28. In relation to Policy CTY13, given that the site sits into the hillside on lower topography than the Lissboy Road and has a significant backdrop when viewed from the A1 Belfast-Dublin dual carriageway, I do not consider the appeal development to be prominent in the landscape. However, the appeal development relies primarily on the use of new planting to assist with integrating the sizeable retaining wall, fencing and relocated fireworks containers surrounding the yard area. For these reasons, the appeal development fails to comply with criteria (c) and (d) of Policy CTY13. Accordingly, the Council's second reason for refusal is sustained insofar as stated.
29. The appellant also raised Policy PED9 of PPS4 in their statement of case which relates to general criteria for economic development proposals. Whilst this policy was not referenced by the Council, in the amplification text, it explains that some developments may also require consent under the Planning (Hazardous Substances) Regulations (Northern Ireland) 1993, as amended by the Planning (Control of Major-Accident Hazards) Regulations (Northern Ireland) 2000. This has since been superseded by The Planning (Hazardous Substances) (No. 2) Regulations (Northern Ireland) 2015.
30. Regulation 4(11) of the Hazardous Substances Regulations exempt Hazardous Substances Consent being required for the presence of an explosive within the meaning of Regulation 2(1) of The Manufacture and Storage of Explosives Regulations (Northern Ireland) 2006 in relation to which a licence is required and has been granted by the Department of Justice. Given that a licence has been granted for such explosives, Council's witness advised that no Hazardous Substances consent would be required for this appeal development. Furthermore, considering that I have not found the appeal development to be acceptable in principle which is determining, it is not necessary to expand further on Policy PED9.
31. In light of the above, I conclude that the expansion of the business is not considered acceptable in principle in the countryside contrary to Policy PED3 of PPS4. Furthermore, no persuasive overriding reasons as to why the development is essential and could not be located in a settlement have been advanced. Therefore, as all three reasons for refusal are sustained insofar as stated, the appeal must fail.

This decision is based on:-

- Drawing No. 01-Rev-01: Site Location Plan 1:2500 @A4 date stamped received by Council 15 Jan 2020

- Drawing No. 02-Rev-01: Block Plan 1:500 @A1 date stamped received by Council 15 Jan 2020
- Drawing No. 03: Individual Storage Container Floor Plan and Elevations 1:100 @A4 date stamped received by Council 21 Oct 2019

COMMISSIONER B STEVENSON

Remote Hearing Appearances

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

Appellant: - Mr Chris Cassidy
CMI Ltd

List of Documents

Planning Authority: - "A" Written Statement of Case
Newry, Mourne and Down District Council

"B" Written Rebuttal Statement
Newry, Mourne and Down District Council

Appellant: - "C" Written Statement of Case
Mr Gerard Rice

"D" Written Rebuttal Statement
Mr Gerard Rice



Appeal Decision

Park House
87/91 Great Victoria Street
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BT2 7AG
T: 028 9024 4710
F: 028 9031 2536
E: info@pacni.gov.uk

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Appeal Reference:	202-/E0001
Appeal by:	Mr Paul Cunningham
Appeal against:	The refusal of a Certificate of Lawfulness of Existing Use or Development.
Proposed Development:	An existing dwelling
Location:	5c Teconnaught Road, Downpatrick
Planning Authority:	Newry Mourne and Down District Council
Application Reference:	LA07/2019/1600/LDE
Procedure:	Informal Hearing on 26 th August 2021
Decision by:	The Commission 20 th October 2021

The Commission has considered the report by Commissioner Carrie Mc Donagh and accepts her analysis of the issues and recommendation that;

The appeal is dismissed and the Certificate of Lawfulness of Existing Use or Development is refused.

Helen Fitzsimons
Principal Commissioner

PLANNING APPEALS COMMISSION

**THE PLANNING ACT (NORTHERN IRELAND) 2011
SECTION 173**

Appeal by

Mr Paul Cunningham

against the refusal of an application for a certificate of lawfulness for an existing dwelling at No.5c Teconnaught Road, Downpatrick.

Report

by

Commissioner Carrie McDonagh

Planning Authority Reference: LA07/2019/1600/LDE

Procedure: Informal Hearing on 26th August 2021

Report Date: 21st October 2021

1.0 BACKGROUND

- 1.1 Newry, Mourne and Down District Council received an application seeking a Certificate of Lawfulness of Existing Use or Development (CLEUD) on the 28th October 2019 under Section 169 of the Planning Act (Northern Ireland) 2011. This sought to certify that the existing use of the appeal building is as a dwelling. By notice dated 18th February 2020 the Council refused to certify that the development was lawful for the following reason:-

1. **The Council, having considered the information provided, is not satisfied that sufficient evidence has been submitted to show that the building specified above and shown on the attached drawing number 01, 02 and 03 received on 28th October 2019 has been used for the purposes specified above for more than five years up to and including the date of application.**

- 1.2 An appeal against the notice of refusal was received by the Commission under Section 173 (a) of Planning Act (Northern Ireland) 2011 on the 3rd April 2020. There is no enforcement notice in place that relates to this development.

2.0 SITE AND SURROUNDINGS

- 2.1 The appeal building is located within the northern section of a large rectangular yard. It is accessed from a narrow shared lane that runs eastward from Loughinisland Sports Ground on Teconnaught Road. The lane diverts south before reaching three dwellings at the end of the lane (Nos 1A, 3 and 5 Teconnaught Road). The appeal building is located within a hollow in the landscape with exposed bedrock visible to the northern and western sections. It is well screened due to its location on a lower area of ground with tall trees between it and the detached dwelling at No. 5 Teconnaught Road to the North West.
- 2.2 The rectangular appeal building is agricultural in appearance. A smooth render finish runs around its base, with its upper walls constructed from corrugated metal coloured green. A large agricultural roller door and a small doorway alongside it are in the southern elevation. Two windows are in the eastern elevation. A doorway and two windows are in the western elevation. The appeal building has a pitched roof approximately 5.5m high to its ridge. Opaque skylights are set in either side of the apex. Parking is provided for throughout the yard.
- 2.3 The appeal building is sub divided internally into approximately two halves. The first element is the northern section that is accessed from the yard via the side door in the western elevation. It adopts the northern, north eastern and north western section of the walls of the appeal building. The southern elevation of the subdivided section is constructed from wood and plasterboard. It has its own flat roof inside the larger building.
- 2.4 Inside the northern element there is an open plan kitchen and living area. Natural light is available to this room via the external door to the yard and two windows in the western elevation. Glazed patio doors and two windows look out into the interior of the southern section of the building. A bathroom is located off a hallway and avails of natural light via a window in the eastern elevation off the appeal building. Four internal bedrooms are also located off the hallway.

- 2.5 The second element is the southern section of the building. It is accessed from the yard via a door in the southern elevation in addition to the large agricultural opening. This internal area is used for general storage purposes including children's toys such as bikes.
- 2.6 A second building is located within the yard to the south west of the appeal building and outside of the appeal site boundary. It is agricultural in appearance. The walls comprise of corrugated metal cladding with a concrete base. The building is open to the elements on the North East elevation. Agricultural plant and machinery are stored within it. A floodlight illuminates the yard area.

3.0 APPELLANT'S CASE

- 3.1 The large, industrial type, steel clad building was erected on the appellant's farm holding during 2012. Approved as a farm shed (R/2009/0559/F), the appeal building was constructed a bay smaller than approved (an area of 260sqm compared to 350sqm as approved). A Certificate of Lawfulness of Existing Use or Development (CLEUD) (LA07/2020/1514/LDE) was issued in October 2020 for 'a building as constructed before the 23rd July 2014'. Some of the evidence submitted as part of the CLEUD demonstrated that the construction and fit out of the building had been undertaken more than five years previous to the application. This evidence is not critical to this appeal which relates to the use of the building.
- 3.2 While designed for agriculture, the construction of the building was followed immediately by the erection of an internal section towards the rear of the building. It was occupied during February 2013. It was never used for anything other than residential use. The appellant is a contractor and undertook the construction works himself intending that part of the building would be used as a dwelling as an interim measure, prior to the family building a new home on the farm.
- 3.3 An application for a dwelling on the farm (LA07/2019/0961/O located 40m SE of 5 Teconnaught Road) was submitted in June 2019. During the course of that application it came to light that the appellant's family were already living within the appeal building. Threats of enforcement action resulted in the submission of the application LA07/2019/1600/LDE, which is the subject of this appeal, on the basis that the appeal building had been in use as a dwelling for a period in excess of five years.
- 3.4 It was never intended that this building would be used as a dwelling for more than a temporary period. The appellant did not gather evidence with the intention that it would support a future application. The CLEUD is now critical as the farm dwelling was refused permission on 2nd June 2020. Continuing to live in the appeal building, at least in the medium term, is a necessity for the family. The background to this CLEUD application should be taken into account in weighing up the 'balance of probability' test.
- 3.5 Section 169 of the Planning Act (Northern Ireland) 2011, provides for applications for CLEUD's. In an appeal against the refusal of such an application the test the Commission must apply is whether the refusal to certify that development is well founded.

3.6 A summary of the evidence in respect of the use as an existing dwelling for more than 5 years is set out below:

- Third party evidence relating to the Domestic Electricity Supply comprises a letter from PowerNi dated 15th November 2013. It confirms that an application for a new electricity connection has been accepted. The supply is charged is a 'Home Energy' tariff; the significance of which cannot be set aside as the Home Tariff is a domestic supply available only to residential properties. This is a per unit cost structure with no standing charge. In this case, the dwelling unit does not have the standard appearance of a house and would not qualify for the Home Energy Tariff unless PowerNi were fully satisfied that it was actually in use as a dwelling.
- A letter from PowerNi dated 24th November 2016 which refers to a direct debit review and is addressed to the appellant at No.5c Teconnaught Road.
- Invoices from Balloo Hire for the period August 2013 until 5th December 2013. This covers the seven month period of occupation prior to the electricity supply being connected (when the family depended on a diesel generator for power alongside fuel for a browser and a connection cable). The items were paid for in cash and collected.
- Photographs showing the interior of the dwelling unit (25th February 2013).
- Invoice for an Indesit dishwasher addressed to Anne Marie Cunningham (the appellants wife) at No.5c Teconnaught Road (20th October 2013).
- Separate life insurance confirmation forms from Aviva addressed to the appellant and his wife at the appeal building (22nd April 2014).
- OSNI aerial photograph showing the external domestic arrangements (23rd July 2014).
- A Goods Vehicle Operator Licence from the Transport Regulation Unit addressed to the appellant at No.5c Teconnaught Road (10th October 2014).
- Letter from Patrick McMullan confirming he was a regular visitor to the house of the appellant (No.5c Teconnaught Road). The first time was in July 2013 (on the occasion of the first birthday of the appellant's son) and most recently on 13th October 2019 returning a borrowed trailer.
- Copy of car insurance policy renewal dated 21st October 2015. Addressed to Paul Cunningham at No.5c Teconnaught Road, it records the family car kept overnight on a driveway at this address. While this letter was four years prior to the CLEUD application it refers to 'having written recently about the renewal'. The renewal statement, which, in the absence from any contact from the appellant, must be carried forward from the previous year, uses this address for the overnight keeping of the vehicle. Not conclusive in itself but certainly indicative of an established residential address at this property.

- 3.7 At the hearing, it was confirmed that the services available to the building include a septic tank and a main water supply. Normal arrangements for hot water are in place through the use of a boiler. There is no phone connection or internet. Rates have not been paid and arrangements for bin collections were unknown. At the hearing it was stated that it would be difficult to get buildings or contents insurance cover given the non-standard layout. The appellant also advised there are no copies of household bills available for submission other than those relating to electric as they were not kept by the appellant.
- 3.8 The test for determination of a CLEUD is the lower bar of 'the balance of probability'. The Commission is required to make a fact and degree judgement as to whether the use has been established for a period in excess of five years. The appellant does not have to prove his case beyond reasonable doubt.

4.0 **PLANNING AUTHORITY'S CASE**

- 4.1 The Planning Act (Northern Ireland) 2011, Section 169, Article 11 of the Planning (General Development Procedure) Order (Northern Ireland) 2015 states that 'a *Certificate of Lawfulness of Existing Use or Development is available (1) if any person wishes to ascertain whether;*
- (a) any existing use of buildings or other land is lawful;*
 - (b) any operations which have been carried out in, on, over or under land are lawful; or*
 - (c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful'.*
- 4.2 When submitting an application, the Council must be provided with information satisfying it of the lawfulness at the time of the application of the use, operations or other matter described in the application.
- 4.3 A CLEUD is a point of reference specifying what was lawful at the time of the application, in this case 28th October 2019. The Planning Act (Northern Ireland) 2011, Section 248 states that the time period for taking enforcement action is five years. The main issue in this appeal, therefore, is whether it has been demonstrated that the use as detailed in the description and any operations were completed for a period of 5 years prior to the date of the application. In addition, whether the existing use is immune from enforcement action, having been begun more than 5 years before the date of the application. Immunity would have been achieved by the date of the application if the use was continuous from 28th October 2014.
- 4.4 The onus is on the applicant to provide information to satisfy the Council that the claims made in the application are correct. The relevant test to assessing the evidence is the 'balance of probability' not certainty.
- 4.5 Approval R/2009/0559/F, dated 6th November 2011, was for a farm shed within an established and active farm under PPS 21, Policy CTY 12, Agriculture and Forestry Development. The appeal building does not reflect the stamped approved drawings or internal access from the lane. Aerial images illustrate the appeal building was present on site on 6th September 2013. LA07/2020/1514/LDE for 'a building constructed before the 23rd July 2014' was granted on October 2020. Therefore, the appeal building itself is not the subject of this CLEUD application (or the appeal).

- 4.6 An application for a farm dwelling (LA07/2019/0961/O) was submitted on 12th June 2017. The associated forms recorded the appellant's address as 49 Blackaderry Road rather than the appeal building on Teconnaught Road. The application was not validated until June 2019. When the Council were undertaking their site inspections for that application they observed the appeal building as being lived in.
- 4.7 An enforcement case was opened after an internal inspection on 30th January 2020 for the alleged part change of use of an agricultural building to a dwelling. A CLEUD application was submitted in response to a warning letter. The building was shown divided internally with 80sqm of storage space accessed through the roller shutter and 180sqm of floor space devoted to a separate unit.
- 4.8 The evidence submitted in support of the use as a dwelling has not been demonstrated. It includes invoices addressed to various names and companies and at different addresses. They also cover building materials and hire of appliances as follows:

Date	Detail	Addressed to
30 th June 2012	Invoice from CES Quarry Products	Paul Cunningham, 49 Backaderry Road delivered to 5 Teconnaught Rd
23 rd July 2012	AQ Engineering for steelwork with associated letter of 24 th Oct 2019 referencing that invoice and stating steelwork was fabricated and installed at No.5c Teconnaught Rd.	Paul Cunningham, 49 Backaderry Road with attached letter of 24 th October 2019 referencing invoice & stating that steelwork was installed on No.5c Teconnaught Road
31 st July 2012	Invoice for rock hammer, digger, tractor and dump trailer	Cunningham Contracts, Teconnaught Road
31 st July 2012	CES Quarry products	Paul Cunningham, 49 Backaderry Road delivered to 5 Teconnaught Road
18 th January 2013	Door Store invoice	Cunningham
31 st January 2013	Gordon Electrical supplies	Cunningham Contracts, 31 st January 2013
7 th February 2013	A&D Doors invoice for steel door referring to fitting on 25 th Feb.	
1 st August 2013-5 th December 2013	Baloo Hire Centre invoices for generator, cable & bowser fuel	Cunningham Contracts, 49 Backaderry Road
20 th October 2013	Invoice for Euronics dishwasher	Ann Marie Cunningham, No.5c Teconnaught Road
15 th November 2013	PowerNI letter registration of supply for 5A Teconnaught Road – Tariff Home Energy	P Cunningham, 37 Aghlisnafin Road
22 nd April 2014	Aviva life insurance Letter and Form	Separate policies for Paul & Anne Marie Cunningham, No.5c Teconnaught Road
23 rd July 2014	OSNI aerial photograph	
10 th October 2014	Goods vehicle operator licence for 4 vehicles	Paul & Noel Cunningham, Cunningham Contracts, No.5c Teconnaught Road issued for license for operating centre at 37 Aghlisnafin Road
21 st October 2015	Autoline Insurance Quote, renewal & SOF containing reference to car being held overnight at BT30 8QE	P Cunningham, No.5c Teconnaught Road
24 th Nov 2016	PowerNi direct debit annual review referring to supply address of No.5c	Paul Cunningham, No.5c Teconnaught Road

	Teconnaught Rd	
18 th March 2016, 15 th March 2017 28 th Feb 2019	James glover & Sons invoices for feed	Paul Cunningham, No.5c Teconnaught Road
3 rd Jan 2017 & 22 May 2017	Joseph Walls ltd for animal feed	Paul Cunningham, No.5c Teconnaught Road
No date	Letter from Patrick McMullan, saying he started visiting the appellant in July 2013 for his sons 1st birthday party & on a regular basis with his last visit was 13 th October 2019	Addressed to whom it may concern

- 4.9 The February 2013 images show a unit within a larger building, internal kitchen and hall. They do not demonstrate the use of the appeal building as a dwelling.
- 4.10 The car insurance Statement of Fact refers to a car insured and parked at the appeal site for 1 year commencing 30th October 2015. The appellant and his wife are described as non-home owners. This does not provide proof No.5c Teconnaught Road is used as a dwelling.
- 4.11 The life insurance policy documents (dated 22nd April 2014) relate to a 32 year life insurance policy. The policy is specific to the persons named rather than domestic householder insurance which would illustrate the building insured as a dwelling over the five year period of time necessary to demonstrate consistent domestic use.
- 4.12 The letter from PowerNi dated 15th November 2013 references a supply address at No. 5a Teconnaught Road. That is not the address of the application. The PowerNi annual review refers to billing address and a supply address of No.5c Teconnaught Road. However, the date is November 2016 and refers to a reduction in debit amount commencing 15th December 2016. There are no subsequent PowerNi bills relating to any other year within the last five. This does not demonstrate consistent five years use of the building as a dwelling.
- 4.13 The goods vehicle licence issued to Paul Cunningham Contracts Ltd at No.5c Teconnaught Road relates to the operating premises at 37 Aughlisnafin Road. This is the address of AQ Engineering Ltd which provided the invoice dated June 2012 and covering letter dated October 2019 for steelwork installed at No.5c Teconnaught Road. The issue of a goods vehicle licence refers to an operating centre at Aughlisnafin Road. The business address of Paul Cunningham Contracts is No.5c Teconnaught Road. The plans submitted and images provided with the application are reflective of an office. The Companies House website states that Paul Cunningham Contracts Ltd was incorporated 11th February 2016 and registered at No.5c Teconnaught Road. This indicates that the appeal site is associated with a business known as Paul Cunningham Contracts Ltd rather than a domestic property.
- 4.14 Screenshot images dated August 2012 show the erection of a building. A September 2013 google image shows the roof of an agricultural building, not one associated with a domestic dwelling. Other invoices refer to animal feed. Those relate to farm operations rather than a dwelling.
- 4.15 The evidence submitted does not include domestic bills such as rate bills. There is an absence of consistent evidence including rates or domestic bills or house

insurance demonstrating use of the building as a dwelling, for a five year period commencing from 28th October 2014 to and including 28th October 2019. Therefore, on the balance of probabilities the use of the building as a dwelling is not lawful.

- 4.16 The Council advised that copies of the evidence referred to above were submitted as part of the CLEUD application but in line with the General Data Protection Regulations (GDPR) 2018 they have been returned to the appellant. They were no longer available for forwarding to the Commission as part of the appeal.

5.0 CONSIDERATION

- 5.1 The main issue in this appeal is whether the appeal building has been occupied as a dwelling.
- 5.2 A CLEUD is a statement specifying whether; any operations which have been carried out on land and any existing use of buildings or other land is lawful on the date that the application for the certificate was made to the planning authority. Section 169(2) of the Planning Act (Northern Ireland) 2011 indicates that *"for the purposes of this Act uses and operations are lawful at any time if – (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force"*. There is no current enforcement notice in effect in relation to this development.
- 5.3 Section 169(4) states that *"if, on an application under this section, the Council is provided with information satisfying it of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the council or a description substituted by it, the Council must issue a certificate to that effect; and in any other case it must refuse the application"*.
- 5.4 The Council have not supplied any of the supplementary information referred to within their statement of case other than information related to the planning history of the appeal site. This was in accordance with their GDPR requirements. However, on the basis that the application was for a CLEUD, the onus is on the appellant rather than the Council to provide satisfactory evidence to demonstrate the lawfulness of the use or development.
- 5.5 Planning permission R/2009/0559/F approved a farm shed on 6th January 2011. The parties agree that while the appeal building is not in accordance with that approval a subsequent CLEUD reference LA07/2020/1514/LDE certified it as lawful on October 2020. This appeal relates to the decision LA07/2019/1600/LDE which relates to the use of that building and the surrounding hardstanding.
- 5.6 The refusal reason presented by the Council indicates that they were not satisfied, on the basis of the evidence provided, that the building had been in use as a dwelling for a continuous period of five years from the date of the application on 28th October 2019. Their argument is that the use is not immune from enforcement action and they refer to the five year time limit, working back from 28th October 2019.

- 5.7 Section 132 of the Planning Act (Northern Ireland) 2011 states that;

“(2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwelling house, no enforcement action may be taken after the end of the period of 5 years beginning with the date of the breach” (underlining my emphasis).

Accordingly, and contrary to the approach of the Council in this appeal, the critical five year time period required to establish immunity begins to accumulate from the date of the breach of planning control.

- 5.8 The appellant's earliest evidence relating to use of the appeal building as a dwelling is dated 25th February 2013. Six screenshots show images taken inside the appeal building. At the hearing the appellant accepted this was the date on his computer rather than the date the photograph was taken. However, the date was not disputed by the Council. In this evidential context, I am satisfied that on the 25th February 2013 the operational works had taken place to create a subdivided section within the northern part of the appeal building.
- 5.9 The first three images show the subdivided section as erected from wood and plasterboard. Five windows and a set of patio doors which open into the remainder of the building can be identified. The subdivided section has a flat roof. The opaque sections of the appeal building roof continue to let light into a void above the subdivided element.
- 5.10 Due to the higher standard of finish and furniture evident in the building three further photographs appear to have been taken at a later date. They show a hallway with ceiling lights and radiators visible. The images were taken during a stage when the appellant advised that power was delivered via a generator. A wooden kitchen is fitted including an oven and an extraction fan. The furniture shown comprises of a six seater wooden dining set and small settee. A roll of carpet is sitting on the wooden floor. There are voids in the kitchen for appliances. There are no images of washing facilities, a bathroom or bedrooms. No delivery documentation is provided for any items seen in the images including the furniture. There are no personal possessions in the images and no subsequent images to indicate the space in use as a dwelling. Nevertheless, the photographs show the northern section of the building laid out with a number of rooms that can be described as residential in nature.
- 5.11 The images also show building materials, including pipes, wood and buckets stored inside the remaining southern section of the appeal building. The CLEUD application drawing titled 'layout and maps' show that area marked as 'storage'. At around 120sqm, it is approximately half the total floor space of the appeal building. The images do not assist in providing evidence of residential use within the southern section of the appeal building in February 2013 or thereafter.
- 5.12 The appellant's application seeks to determine the lawfulness of the appeal building as an existing dwelling. Thus, in order to prove that the use is immune from enforcement action the evidence must go beyond the operational works to the appeal building. The appellant must provide adequate evidence to demonstrate that it was in use as a dwelling for a continuous period of five years from the date of the breach.

- 5.13 An undated letter from Patrick McMullan refers to being a visitor in the house of the appellant at No.5c Teconnaught Road in July 2013 on the occasion of his son's first birthday and again on 13th October 2019 to return a trailer. While he adds that he was a visitor in the house on a regular basis no other specific dates are provided to assist in the assessment of continuous use as a dwelling.
- 5.14 Five invoices from Balloo Hire for the period 1st August 2013 until 5th December 2013 include the hire of a generator. I am advised this was the source of power for the seven months before PowerNi provided an electricity supply to the appeal building on 15th November 2013. The invoices from Balloo Hire are not specific to the appeal building. They are in the name of Cunningham Contracts, (a company the appellant runs with his brother) at 49 Backaderry Road. I am advised that was the appellant's parent's address and the business address for the farm. The only explanation offered by the appellant for the use of this address rather than that of the appeal building was that he may not have told everyone he had moved.
- 5.15 The earliest invoice dated 1st August 2013 refers to the continuing hire of a diesel generator (40KV), bowser diesel fuel and a 240V cable. The November and December 2013 invoices are from a different Balloo Hire depot. It was argued the 40KVA generator was exchanged for a 20KVA generator and ordered from a different depot as the larger generator required repair. However, the invoices are addressed to the appellant's commercial business at a different address and also include an additional item, namely a TRANS/3-Transit which has no connection to residential use. The Balloo Hire invoices do not assist in demonstrating that No.5c Teconnaught Road was occupied as a dwelling during the second half of 2013.
- 5.16 An invoice dated 20th October 2013 is addressed to Anne Marie Cunningham at No.5c Teconnaught Road. The invoice confirms a dishwasher was purchased by the appellant's wife. It could mean that a dishwasher was delivered to the appeal building, but it doesn't demonstrate that it was installed there.
- 5.17 The appellant placed significant weight on the PowerNi electricity supply on the basis of its 'Home Tariff'. As the availability of power is one of the facilities required for day-to-day private domestic existence, I agree that this is key information in assessing whether the appeal building was being used for residential purposes.
- 5.18 The PowerNi letter, dated 15th November 2013, is titled 'registration for supply'. It states that 'your application has been accepted and NIE have been asked to connect the supply'. The supply address is No.5a Teconnaught Road rather than the appeal building at No.5c Teconnaught Road. I agree with the appellant that this was a likely typographical error as there is no property identified as No. 5a near the appeal site. Furthermore, the correct supply address is subsequently used in a further letter from PowerNi dated three years later on 24th November 2016. Both letters have the same account number and meter point reference number and I accept the supply address is specific to the appeal building.
- 5.19 Notwithstanding, the supply address differs to that used for posting. While addressed to the appellant, it was sent to an address at 37 Aughlisnafin Road, Castlewellan. No explanation was forthcoming in respect of the appellant's connection to that property. The matter of where he resided at that time is further complicated by the fact that this is a different address to that being used for the hire invoices for Balloo Hire in the

same month. I was not provided with a satisfactory explanation as to why the appellant did not make an application to become a customer of PowerNi from the appeal address given his evidence is that he was living there during that time.

- 5.20 The second letter from PowerNi is dated 24th November 2016. It refers to a reduction in a monthly direct debit payment by around a third to £47. I have not been provided with any domestic electric bills to show a pattern of consistent seasonal supply over the required five year period. I do not consider this single point in time to be a conclusive indicator of continual residential occupation within the appeal building.
- 5.21 Correspondence from Aviva on 22nd April 2014 relates to a life insurance application. While it is addressed to the appellant and his wife at the appeal property, it refers to a single point in time. It offers little assistance in demonstrating the consistent use of the appeal building as a dwelling.
- 5.22 The appellant referred to what was described as 'a dark area' alongside the appeal building between the 2nd and 3rd window on the aerial photograph dated 23rd July 2014. He argued that this indicates an area of tarmac representative of a domestic curtilage. It is difficult to make out from the photograph if this is a tarmacked area. Nevertheless, large areas of hardstanding are in place within the yard if necessary for hanging out washing, bin storage, parking etc. I do not find the use of a different surface treatment in itself to be persuasive evidence of the use of the appeal building as a dwelling.
- 5.23 The aerial image detailed above also shows the appeal building with a large turning area to the south west. Plant and equipment can be seen scattered throughout the appeal site. Numerous commercial vehicles are parked throughout the yard area alongside areas of open storage. The aerial image is more representative of a commercial operation.
- 5.24 A Goods Vehicle Operators Licence was issued by Transport Regulation Unit to the appellant and his brother at Paul Cunningham Contracts, No.5c Teconnaught Road. Dated 10th October 2014, it appears incomplete (the note 1 referred to therein is not provided). The Council refer to this document as relating to operating premises at 37 Aughlisnafin Road however, my evidence comprises only of the Goods Vehicle Licence. Notwithstanding, it covers four business vehicles and is addressed to the business (Paul Cunningham Contracts). Combined with the aerial photograph referred to above, taken around a similar timeframe, it lends more weight to the use of the appeal site as a commercial business. It does not assist in demonstrating residential use within the appeal building at this time.
- 5.25 A renewal letter from Autoline and a Statement of Fact from Allianz relates to a car insurance quote for a Seat Alhambra (people carrier vehicle). Dated 21st October 2015, it is addressed to P Cunningham at No.5c Teconnaught Road. On the Statement of Fact the response to the question 'Where is the vehicle kept overnight?' is recorded as 'Parked drive at BT30 8QE'. That is the same postcode as the appeal site. However, while I accept it could cover the previous 12 month period (as it refers to the renewal of a previous policy), this in itself does not assist in demonstrating the appeal building was used for residential purposes over a five year period.

- 5.26 The Council referred me to the P1 and P1C forms for the application for a farm dwelling reference LA07/2019/0961/O. Originally submitted on 12th June 2017, the appellant's address is listed on that application as 49 Blackaderry Road. This is the same address used on the invoices from Balloo Hire during 2013.
- 5.27 The letter from Patrick McMullan which refers to visiting the home of the appellant has been previously referred to. No detail is provided on the dates of his visits other than July 2013 and 13th October 2019. The October date is just a fortnight prior to the submission of the CLEUD and is broadly consistent with the Council's case that the building was lived in on January 2020 (when first inspected). I also witnessed the appeal building as being lived in at the time of my site visit in August 2021.
- 5.28 Having examined the appellant's evidence in the round, including the February 2013 photographs of the appeal building, the letter from Mr McMullan, the dishwasher purchase invoice of October 2013, and the letters from PowerNi of November 2013 (and November 2016) and the insurance brokers in April 2014 and October 2015, each refer to a single date in time. Individually, there is a lack of continuous chronological evidence from any third party. However, I accept that cumulatively they point towards a residential use post construction of the appeal building. Notwithstanding, this timeframe does not equate to a continuous period of five years. There is also some conflicting evidence provided which casts some doubt on the appellant's assertions that he resided in the appeal building for the requisite time period.
- 5.29 There is also a lack evidence in respect of the activities within the southern section of the appeal building (which is also included within the CLEUD application boundary) or for example household insurance, heating or rates bills until the time of the planning application in October 2019. All in all, I cannot make a reasoned conclusion that the appeal building was occupied as a dwelling for a continuous period of five years from the time of its subdivision and fit out in February 2013. Whilst the information provided suggests some form of residential use took place over time in the past, there is no convincing evidence to demonstrate that this had become lawful in accordance with the legislative requirements.
- 5.30 Insufficient evidence has been submitted to demonstrate that, on the balance of probabilities, the building in question had been used continuously for the use described in the CLEUD application for a five year period. I conclude that the Council's decision to refuse the CLEUD application was well founded.

6.0 RECOMMENDATION

- 6.1 I recommend to the Commission that the appeal be dismissed and the Certificate of Lawfulness of Existing Use or Development is refused.
- 6.2 This recommendation relates to the following drawings:-
 1:2500 Site location map drawing No. 01 dated 28th October 2019;
 1:500 Layout & Maps drawing No. 02 dated 4th November 2019;
 1:100 Existing Elevations dated 4th November 2019.

COMMISSIONER CARRIE MCDONAGH

List of Appearances

Planning Authority:- Catherine Moane - Newry, Mourne and Down District Council.

Appellant:- Tom Wilson Planning – Agent.

List of Documents

Planning Authority:- "C1" Statement of Case on behalf of Newry, Mourne and Down District Council.

"C2" Confirmation that supplementary evidence referred to in Council's Statement of Case is no longer available.

Appellant:- "A1" Statement of Case by Tom Wilson Planning on behalf of Mr Paul Cunningham.



Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
E: info@pacni.gov.uk

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Appeal Reference:	2020/A0066
Appeal by:	Mr William McMaster
Appeal against:	The refusal of outline planning permission
Proposed Development:	A retirement dwelling
Location:	42A Cherryhill Road, Spa, Ballynahinch
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2019/1819/O
Procedure:	Written representations and Commissioner's site visit on 4 May 2021
Decision by:	The Commission, dated 13 October 2021

The Commission has considered the report by Commissioner Carrie McDonagh and accepts her analysis of the issues and recommendation that the appeal should fail. The Commission agrees that the Council has failed to sustain the third reason for refusal based on Policy AMP2 of PPS 3. The Commission agrees that the Council has sustained the first and second reasons for refusal, which are determining.

Decision – the appeal is dismissed and outline planning permission is refused.

This decision is based on the following drawing:-

Drawing 01 LA07/2019/1819/01 based on land registry map at 1:2500 scale date stamped received by the Council on 13th December 2019.

ANDREA KELLS
Chief Commissioner

PLANNING APPEALS COMMISSION

**THE PLANNING ACT (NORTHERN IRELAND) 2011
SECTION 58**

**Appeal by Mr William McMaster
against the refusal of outline planning permission for a retirement dwelling at
42A Cherryhill Road, Spa, Ballynahinch**

**Report
by**

Commissioner Carrie McDonagh

Planning Authority Reference: LA07/2019/1819/O

Procedure: Written representations and Commissioner's site visit on 4th May 2021

Report Date: 13th October 2021

1.0 BACKGROUND

- 1.1 Newry, Mourne and Down District Council received the application on 09th July 2019 and validated it on 13th December 2019. By notice dated 26th May 2020, the Council refused permission giving the following reasons:-
1. The proposal is contrary to the Strategic Planning Policy Statement and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
 2. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the dwelling would, if permitted result in a suburban style build-up of development when viewed with existing buildings.
 3. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, in that it has not been demonstrated that the use of the existing access onto the Cherry Hill Road to serve a new dwelling will not prejudice road safety or significantly inconvenience the flow of traffic in accordance with Policy AMP2 of PPS 3.
- 1.2 The Commission received the appeal on 15th September 2020 and advertised it in the local press on Wednesday, 30th September 2020. No representations were received from third parties.

2.0 SITE AND SURROUNDINGS

- 2.1 The appeal site is located approximately 3.5 miles south east of Ballynahinch between Drumaness and The Spa. It is irregular in shape and cut out of the lower section of a larger agricultural field which rises gradually from East to West and steeply towards the North. The site is approximately 50m deep and 115m long.
- 2.2 The field in which the appeal site is located is accessed via a farm gate on its southern boundary. It adjoins a common access area which allows access to the surrounding dwellings Nos. 38, 40 and 42 Cherryhill Road. The field gate straddles part of the appeal site and a stoned lane extends beyond it rising through the field to allow access to the land behind belonging to No. 42. This stoned access lane separates the majority of the appeal site from the Cherryhill Road and sits at the top of a vegetated embankment approximately 3m above the level of Cherryhill Road.
- 2.3 No. 42 also has an alternative access which it shares with No. 40. This access originates from the common access area and comprises the western boundary of the appeal site. The common access area also affords access to the dwelling at No. 38 and abuts the Cherryhill Road over a distance of 40m.
- 2.4 There are a further two dwellings to the west of Cherryhill Road. No. 36 Cherryhill Road is located 110m to the south of the field entrance. No. 44 and its associated outbuildings are located approximately 200m to the north. East of the Cherryhill Road (opposite the appeal site) are dwellings with associated out buildings in a mix of styles.

3.0 PLANNING AUTHORITY'S CASE

- 3.1 The site is affected by an archaeological site and monument due to the positioning of an ecclesiastical site south east of the site. HED (Historic Monuments) is content that the proposal complies with the SPPS and PPS 6 archaeological policy requirements.
- 3.2 The proposal does not meet any of the policies cited in PPS 21, Policy CTY 1- Development in the Countryside. The following policies were considered and discounted:
- CTY 2 – Doesn't form part of a small group of houses in a designated Dispersed Rural Community, rather a dwelling would sit in an open field.
 - CTY 2a – The site is not within an existing cluster that appears as a visual entity in the local landscape. Nor has it a focal point or bounded by development on two sides.
 - CTY 3 & 4 – There is no dwelling to replace or non-residential building to convert.
 - CTY 5 – The dwelling is not for the provision of social and affordable housing.
 - CTY 6 – No personal or domestic circumstances have been forwarded.
 - CTY 7 – Doesn't meet the essential needs of a non-agricultural business enterprise.
 - CTY 8 – The site cannot be considered as a small gap within an otherwise substantial and continuously built up frontage.
 - CTY 9 – It is not a residential caravan or mobile home.
 - CTY 10 – No evidence was forwarded that this is a proposal for a dwelling on a farm.
- 3.3 As an outline application no design details have been provided to assess design suitability. An indicative drawing demonstrates a new dwelling positioned within the southern section of the appeal site. The site is set back from the road frontage. A backdrop is provided by rising land to the rear. A new building with conditions restricting its siting and size would integrate into the surrounding landscape. While a new building would not be prominent, it would create a sub-urban style build up when viewed with existing development to the west and offend criterion (b) of Policy CTY14.
- 3.4 DFI require an amended plan to include visibility splays in both directions (2m x 33m) however, it was not considered necessary to request an amended drawing to demonstrate the required sight lines given the principle of the development could not be established. It has not been demonstrated that the use of the existing access to serve a new dwelling will not prejudice road safety or significantly inconvenience the flow of traffic in accordance with PPS 3 Policy AMP2 - Access to Public Roads.
- 3.5 The following conditions are suggested on a without prejudice basis:
- Standard time limit for outline approval;
 - Approval of Reserved Matters Details;
 - The dwelling shall be single storey in accordance with Building on Tradition;
 - Depth of underbuilding limited to 0.45m;
 - No development until floor levels and existing and proposed ground levels are submitted to Council;

- The dwelling shall be sited as per drawing ref LA07/2019/1819/01;
- 1:500 access plan to be submitted as part of Reserved Matters.

4.0 APPELLANT'S CASE

- 4.1 Policy CTY 1 allows for an individual dwelling house in the countryside in the case of a small gap within an otherwise substantial and continuously built up frontage in accordance with PPS 21 Policy CTY 8.
- 4.2 CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception will be permitted for the development of a small gap sufficient only to accommodate up to a maximum of two houses within a substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.
- 4.3 For the purposes of this policy the definition of a substantial and continuously built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear. The appeal site sits adjacent to a row of three dwellings situated immediately to the West, with a fourth to the North (with the accompanying plan 5 showing the buildings to the west as Nos 36, 38 and 40 with 42 to the north west accessed via a shared lane for 40&42). The site is not visible from the road and meets the definition of such a gap in the frontage.
- 4.4 The appeal site is a small gap site offering an infill opportunity. Sitting between Nos 38 and 44 Cherryhill Road (a farmers cottage with associated outbuildings), this could be considered a substantial and continuously built up frontage in terms of size, scale, siting and plot size.
- 4.5 In respect of Policy CTY 14, there is no definition of what suburban style build up is in the various policy documents and as such, direction can be taken from the approved development type/style and density of the dwellings approved in the immediate locality. Given the character described, a dwelling on the appeal site would not be out of place. Examples provided show the development pattern acceptable by Council characterised by a mixture of dwellings both adjacent to and set back from the public road with varying levels of visibility.
 - Example 1 (Plan 2) shows a line of 7 dwellings on the south side of Broomhill Road some of which are set back and entirely shielded from view.
 - Example 2 (Plan 3) relates to the north side of Magheratimpany Road. As none of the four recently approved sites were subject to appeals, it can surely be concluded that the District Council is agreeable to the filling of multiple gaps. Indeed the most recent dwellings (Nos 51, 53 and two under construction) seem incongruous with Policy CTY 8, avoiding the creation or adding to ribbon development.
 - Example 3 (Plan 4) identifies 7 clustered dwellings on Cherryhill Road. 3 of the 7 dwellings are clearly visible from the adjoining public road, 1 bungalow

is partially visible and the remaining 3 are not visible at all from the public road.

- 4.6 On approach to the appeal site from the East, the site entrance is approximately 3m above the Cherryhill Road and is not easily seen. The entrance is more exposed and would be seen on approach from the West side. The dwelling could be integrated with a planted earth embankment to screen the entrance and the property.
- 4.7 A suitably sized bungalow could be positioned sympathetically to retain a view to the back drop (rising field to the rear) which will maintain the rural aesthetic of the locus.
- 4.8 In respect of refusal reason 3, DFI Roads has specified the requirement for sight visibility spays of 2m x 33m in both directions of the access, which can be provided.
- 4.9 No evidence is offered that a dwelling at this location is a necessary response to particular ill health circumstances beyond that of old age, but genuine hardship would be caused if planning permission were refused and relocation was required to live somewhere away from friends or family. As occupiers of a two storey dwelling, it is becoming increasingly difficult due to age. While both the appellant and his wife has valid driving licences, it is only the appellant who drives. For persons reaching the latter stages of their life, many day to day activities, both mental and physical, become increasingly challenging. Family members have resided at No. 40 Cherryhill Road since 2005 and are willing to assist as physical well-being reduces. Being close to family, to enable frequent daily visitation, will relieve the anxiety and distress of the feelings of isolation and loneliness.

5.0 CONSIDERATION

- 5.1 The main issues in this appeal are whether the proposed development would be acceptable in principle in the countryside, whether it would cause a detrimental change to the rural character of the area and whether it would prejudice the safety and convenience of road users.
- 5.2 Section 45 (1) of the Planning Act (Northern Ireland) 2011 states that regard must be had to the local development plan (LDP), so far as material to the application, and to any other material considerations. Where regard is to be had to the LDP, Section 6 (4) of the Act requires that the determination must be made in accordance with the plan unless material considerations indicate otherwise. The Ards and Down Area Plan 2015 (ADAP) acts as the LDP for this area as Newry, Mourne and Down Borough Council has not, as yet, adopted a plan strategy for the district as a whole. The site is in the countryside. Whilst the LDP indicates that the appeal site is approximately 300m from an unscheduled monument, HED has raised no objections in this regard. The ADAP contains no other policies pertinent to the appeal proposal or site which is located in the countryside as defined in the LDP.
- 5.3 Regional planning policies of relevance are set out in the SPPS and other retained policies, specifically PPS 21 and PPS3. There is no conflict between the provisions of the SPPS and the retained policies on the issues raised in this appeal. As there is more detail provided in the retained policies and in accordance with the transitional arrangements set out in the SPPS, the appeal proposal should be determined in accordance with the retained policies namely PPS 21 and PPS 3.

- 5.4 Policy CTY 1 of PPS 21 sets out a range of types of development which, in principle, are considered to be acceptable in the countryside. It states that planning permission will be granted for an individual dwelling house in six specified cases. It continues that other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement.
- 5.5 The appellant considers that the proposed development meets the requirements of Policy CTY8 of PPS21 which is entitled 'Ribbon Development'. He argues that the appeal site offers a suitable infill opportunity that would meet the policy requirements. Policy CTY8 states that 'planning permission will be refused for a building which creates or adds to a ribbon of development'. However, the policy permits an exception for the development of a small gap sufficient to accommodate a maximum of two houses within an otherwise substantial and continuously built up frontage provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. The policy indicates that a substantial and continuously built up frontage includes a line of three or more buildings along a road frontage without accompanying development to the rear.
- 5.6 At its most simple level the policy requires that there is a line of three or more buildings along the frontage. The appellant contends that the *'appeal site sits adjacent to a row of three dwellings sited immediately to the west, with a further dwelling to the north not visible from the road'*. I take this to mean that he is relying upon the dwellings at Nos. 36, 38, 40 and 42 Cherryhill Road. He also argues that a substantial and continuously built up frontage exists between Nos. 38 and 44 Cherryhill Road.
- 5.7 A building can be said to have frontage to a road or lane if the plot on which it stands abuts or shares a boundary with that road or lane. The sweeping driveway separates the plot of No 36 from the road so it is not a road frontage building. However, the plot on which the dwelling at No. 38 sits does have frontage to the road (as its front garden adjoins the road). Accordingly, this dwelling does have frontage to the road.
- 5.8 The dwellings at Nos. 40 & 42 are accessed via the common access area onto the road. This merges onto a shared access driveway which has a planted landscape strip running either side of its length. The plots within which the dwellings at Nos. 40 and 42 sit do not abut the road. Rather, they are set back from the road and the dwellings within are only joined to the road by their access arrangements. Accordingly, the dwellings do not have frontage to the road and are not road frontage buildings for the purposes of the policy. The dwelling at No. 44 does sit in a plot that adjoins the Cherryhill Road. Therefore, as there are only two dwellings with frontage onto the road, there is no substantial and continuously built up frontage at this location.
- 5.9 Whilst the buildings at Nos. 38 and 44 are along the road frontage as outlined above, a dwelling on the appeal site would not have frontage to the Cherryhill Road because it would be separated from the road by the second access lane to No. 42. This laneway runs adjacent to the appeal site and parallel to the Cherryhill Road. It's around 3m wide. It is only the common access area (which the appeal site includes) that abuts the Cherryhill Road and an access alone does not constitute frontage for

the purposes of Policy CTY 8. For the reasons given, the appeal site does not have frontage to the road so even if there were a substantial and continuously built up frontage it cannot comprise a gap in same. I conclude that no infill opportunity arises in line with the exception within Policy CTY 8.

- 5.10 The appellant argued in general terms that genuine hardship would arise if the appeal were to be dismissed. Policy CTY 6 of PPS 21 makes provision for personal and domestic circumstances and states that *'planning permission will be granted for a dwelling in the countryside for the long term needs of the applicant, where there are compelling, and site specific reasons for this related to the applicants personal or domestic circumstances and providing that the following two criteria are met:-*
- *The applicant can provide satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused; and*
 - *There are no alternative solutions to meet the particular circumstances of the case, such as: an extension or annex attached to the existing dwelling; the conversion or reuse of another building within the curtilage of the property; or the use of a temporary mobile home for a limited period.*
- 5.11 No persuasive evidence was presented to demonstrate the type and extent of hardship that would arise if the appeal were to be dismissed. No evidence was presented to show that alternative solutions (including an extension or annex to the Appellant's home or that of a family member) had been explored or found to be unsuitable for his retirement. The appellant has not provided compelling and site specific reasons to comply with the provisions of policy and I am not persuaded that dismissal of this appeal would result in genuine hardship.
- 5.12 The Council argued that the proposal is contrary to Policy CTY 14 – Rural Character. This states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of the area. In this instance the Council consider a new building will be unacceptable as it would create a suburban style build-up of development when viewed with existing or approved buildings.
- 5.13 Irrespective of arguments in relation to controlling the siting and height of the dwelling and introducing an embankment as mitigating measures, I consider that the proposed dwelling would visually link with the existing dwellings to the south and with the buildings opposite the appeal site resulting in suburban style build-up detrimental to rural character.
- 5.14 The appellant raised inconsistency in decision making and included three examples of approved development in the vicinity as a response to the Council's objection on build up. Policy CTY 13, Integration and Design of the Buildings is not raised as reason for refusal so I consider the examples below in the context of their contribution to a suburban style build-up and its impact on rural character.
- 5.15 The first example is Broomhill Road, North West of the appeal site. The appellant considers there is a similar pattern of development in the northern side of the road at Nos. 32 & 34 with a third dwelling served by the single access to the public road. I

note that the development pattern appears to be of buildings alongside each other fronting the lane. Notwithstanding the lack of evidence as to the policy context under which these sites was approved, I consider the development pattern to be distinguishable as the appeal site does not have frontage.

- 5.16 The appellant also refers to a cluster of 7 dwellings on the west side of Cherryhill Road some 300m further north of the appeal site. While I acknowledge the development identified around No. 48, I have no evidence regarding the background to their approval and if they were assessed under the same policy context.
- 5.17 The appellant has also referred to examples on Magheratimpany Road to the north east of the appeal site. The site referenced as 'under construction' on the south side opposite No. 47 (between 44a & 46 Broomhill Road) is distinguishable as it has road frontage. Nos. 51 and 53 (which date between 2004 and 2013) appear to have been approved by a different planning authority and under a different policy context in force at that time. The dwelling under construction at the junction of Magheratimpany Road and Cherryhill Road was approved as a farm dwelling. I am satisfied that each case is distinguishable from the appeal proposal for reasons given. In any event each proposal must be assessed on its individual merits in its site specific and evidential context.
- 5.18 I have concluded that the appeal proposal, in conjunction with the existing buildings in the vicinity of the appeal site, would result in unacceptable suburban style build up and cause a detrimental change to the rural character of the countryside. The second reason for refusal based on Policy CTY 14 is therefore sustained.
- 5.19 The appeal proposal is not one of the range of types of development considered acceptable in principle in the countryside. Furthermore, I was given no other arguments regarding any overriding reasons why the development is essential and could not be located in a settlement. The proposal fails to meet the requirements of Policy CTY 1 of PPS 21. The Council's first reason for refusal is sustained.
- 5.20 Policy AMP 2 – Access to Public Roads, of Planning Policy Statement 3 'Access Movement and Parking (PPS 3) states that planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where such access will not prejudice road safety or significantly inconvenience the flow of traffic.
- 5.21 DFI require visibility splays of 2m x 33m in both directions. The appeal proposal is based on the intensified use of an existing access onto Cherryhill Road. It already serves as the common access point for the setback dwellings at Nos 38, 40 and 42 Cherryhill Road. At my site visit I entered and egressed the appeal site safely and I note that there was no firm evidence from the Council that the existing access is substandard. I agree with the appellant's evidence that the requisite sight splays can be accommodated. On this basis, I consider that the imposition of a condition seeking the required splays would overcome the road safety objection. The Council's third reason for refusal based on Policy AMP 2 of PPS 3 is not sustained.

6.0 RECOMMENDATION

6.1 As the Council has sustained its first and second reasons for refusal, which are determining, I recommend to the Commission that the appeal be dismissed and outline permission refused.

6.2 This recommendation relates to the following drawing:-

Drawing 01 LA07/2019/1819/01 based on land registry map at 1:2500 scale date stamped 13th December 2019.

List of Documents

Planning Authority: -

C1 - Statement of Case - Newry, Mourne and Down District Council

Appellant: -

A1 - Written Statement of Case – William McMaster