



December 14th, 2018

**Notice Of Meeting**

You are invited to attend the Planning Committee Meeting to be held on **Wednesday, 19th December 2018 at 10:00 am** in the **Boardroom, Monaghan Row, Newry.**

The Members of the Planning Committee are:-

<b>Chair:</b>	<b>Councillor M Larkin</b>
<b>Deputy Chair:</b>	<b>Councillor D McAteer</b>
<b>Members:</b>	
<b>Councillor C Casey</b>	<b>Councillor W Clarke</b>
<b>Councillor G Craig</b>	<b>Councillor L Devlin</b>
<b>Councillor G Hanna</b>	<b>Councillor V Harte</b>
<b>Councillor K Loughran</b>	<b>Councillor J Macauley</b>
<b>Councillor M Murnin</b>	<b>Councillor M Ruane</b>

# Agenda

## 1.0 Apologies.

- Councillor Harte

## 2.0 Declarations of Interest.

## 3.0 Declarations of Interest in relation to Paragraph 19 of Planning Operating Protocol - Members to be present for entire item.

- **Item 9** - LA07/2018/0698/0 - dwelling house (infill) - adjacent to and west of No. 4 Ballykeel Road, Mullaghbawn, Newry - Members who were present for the entire item and who can take part in the discussion/decision on this application are **Councillors Larkin, Casey, Clarke, Craig, Hanna, Loughran, Macauley, Murnin and Ruane.**
- **Item 10** - LA07/2018/0401/0 - proposed site for infill dwelling and domestic garage (amended address) 60m south of No. 24 School Road, Ballymartin, Kilkeel - Members who were present for the entire item and who can take part in the discussion/decision on this application are **Councillors Larkin, Casey, Clarke, Craig, Hanna, Loughran, Macauley, and Murnin.**
- **Item 11** - LA07/2015/1088/F - proposed anaerobic digestion plant - 100m W. of No 133 Carrigagh Road, Finnis Dromara - Members who were present for the entire item and who can take part in the discussion/decision on this application are **Councillors Craig, Loughran, Clarke, Devlin, Macauley, Murnin, Ruane, Hanna, Larkin, McAteer.**
- **Item 12** - P/2013/0242/F - proposed residential housing development of 200 no. units (some with garages) - lands at Watson's Road/Dorans Hill, Newry including lands to the east of Watsons Road - Members who were present for the entire item and who can take part in the discussion/decision on this application are **Councillors Larkin, McAteer, Hanna, Loughran, Craig, Macauley, Murnin and Ruane**

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### *Minutes for Confirmation*

## 4.0 Minutes of Planning Committee Meeting held on Wednesday 21 November 2018. (Attached).

 [Planning Committee Minutes - 21 November 2018.pdf](#)

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### *For Discussion/Decision*

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

 [Addendum list - 19-12-2018.pdf](#)

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**6.0 LA07/2018/0085/0 - single dwelling under CTY6 - land opposite and to the south of 18 Ringdufferin Road, Rathcuuvingham, Toye, Downpatrick. (Case Officer report attached).**

Rec: REFUSAL

- A request for speaking rights has been received from Clifford McClenaghan, agent, in support of the application. **(Submission to follow under separate cover).**

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

 *CO LA07-2018-0085\_Ringdufferin\_Lindsay.pdf*

*Page 11*


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*Pre-Determination Hearing Applications and to be Determined*

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**7.0 LA07/2016/0925/F - erection of glasshouse and cafeteria/shop within the walled garden at Killeavy Castle, Clonlum, Meigh (amended plans and description). (Case Officer report attached).**


Rec: APPROVAL

 *CO LA07-2016-0925-F Killeavy Castle.pdf*

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**8.0 LA07/2017/0301/LBC - erection of glasshouse and cafeteria/shop within the walled garden at Killeavy Castle, Clonlum, Meigh (amended plans and description). (Case Officer report attached).**

Rec: APPROVAL

 *CO LA07-2017-0301-LBC Killeavy Castle.pdf*

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

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**9.0 LA07/2018/0698/0 - dwelling house (infill) - adjacent to and west of No. 4 Ballykeel Road, Mullaghbawn, Newry. (Case Officer report attached).**

Rec: REFUSAL

- A request for speaking rights has been received from Niamh D'Arcy, applicant,

and Seamus Malone, agent, in support of the application. **(Submission attached).**

 *CO Ballykeel Road la07.2018.0698.O.pdf*

*Page 44*


 *Item 9 - submission of support (LA07-2018-0698-0).pdf*

*Page 48*

## **10.0 LA07/2018/0401/0 - proposed site for infill dwelling and domestic garage (amended address) 60m south of No. 24 School Road, Ballymartin, Kilkeel. (Case Officer report attached).**

Rec: REFUSAL

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

 *CO LA07\_2018\_0401\_O- School Road Report V2.pdf*

*Page 51*

 *Item 10 - submission of support (Cunningham).pdf*

*Page 56*

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

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## **11.0 LA07/2015/1088/F - proposed anaerobic digestion plant - 100m W. of No 133 Carrigagh Road, Finnis Dromara. (Case Officer report attached).**

Rec: REFUSAL

- A request for speaking rights has been received from Edward Patterson, on behalf of objectors (speaker will be Mr Carson Harte). **(Submission attached).**
- A request for speaking rights has been received from Sarah McDowell, agent; Simon Warke and Thomas Cromie in support of the application. **(Submission attached).**

 *CO LA07\_2015\_1088\_F\_Carrigagh\_Road\_Anaerobic\_Digestor.pdf*

*Page 64*

 *Item 11 - submission from objectors Carson Harte(aneorbic digestion plant).pdf*

*Page 80*

 *Item 11 - submission of support (Sarah McDowell).pdf*


*Page 81*

## **12.0 P/2013/0242/F - proposed residential housing development of 200 no. units (some with garages) - lands at Watson's Road/Dorans Hill, Newry including lands to the east of Watsons Road. (Case Officer report attached).**

Rec: APPROVAL

- A request for speaking rights has been received from Mr Richard O'Toole; Mr Grant McBurney and Mr Stewart Beattie QC in objection to this planning application. **(Submission attached)**.
- A request for speaking rights has been received from Deborah Loughran MJM and Colin O'Callaghan, in support of the application. **(Submission attached)**.

 *CO P-2013-0242-F - Watsons Road-Dorans Hill Newry.pdf* *Page 124*

 *Item 12 - submission of objection (Watsons Road).pdf* *Page 159*

 *Item 12 - statement of support (Watsons Road).pdf* *Page 164*

### **13.0 LA07/2018/0489/F - proposed conversion of garage and shed to holiday accommodation - 76 Drumnaconagher Road, Crossgar, Downpatrick. (Case Officer report attached).**

Rec: REFUSAL

- A request for speaking rights has been received from Denis Piggot, applicant, in support of the application. **(Submission attached)**.

 *CO LA07-2018-0489-F Drumnaconagher Road conversion (reconsideration).pdf* *Page 165*

 *Item 13 - submission of support (Denis Piggot).pdf* *Page 173*

### **14.0 LA07/2018/0634/0 - relocation and substitution of previously approved farm dwelling (R/2014/0610/0) from outlying farm group to main farm group on lands approx 100m SW of 116 Drumnaquoile Road, Ballynahinch. (Case Officer report attached).**

Rec: APPROVAL

- Addendum list

 *CO LA07-2018-0634-Drumnaquoile Rd.pdf* *Page 175*

### **15.0 LA07/2018/1402/BC - internal alterations - Dan Rice Memorial Hall, Drumaness. (Case Officer report attached).**

Rec: APPROVAL

- Addendum list

 *CO LA07-2018-1402-LBC-Dan\_Rice\_Hall.pdf* *Page 179*

**16.0 LA07/2018/0378/0 - erection of dwelling and garage on a farm - 200m south of 112 Monlough Road, Sainfield. (Case Officer report attached).**

Rec: REFUSAL

- Addendum list

 *CO LA07\_2018\_0378\_O\_200m South of 122 Monlough Road, Saintfield.pdf*

*Page 184*

**17.0 LA07/2018/0377/O - replacement dwelling and garage - 20m east of 53 Beechview Road (Case Officer report attached).**

Rec: REFUSAL

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

 *CO LA07-2018-0377-O- 20m East of 53 Beechview Road.pdf*

*Page 190*


 *Item 17 - submission of support (McBlain).pdf*

*Page 196*

**18.0 LA07/2017/0932/0 - 4 no. holiday cottages including fully inclusive design (amended proposal and site address) - Land immediately adj. to S.W. of 32 Dougan's Road, Kilkeel, Newry. (Case Officer report attached).**

Rec: REFUSAL

- A request for speaking rights has been received from Ian Crockard, agent, in support of the application. **(Submission attached).**
- A request for speaking rights has been received from DEA Councillor H Reilly, in support of the application. **(Submission attached).**

 *CO LA0720170932 Dougans Road.pdf*

*Page 204*

 *Item 18 - submission of support (holiday cottages).pdf*

*Page 216*


 *Item 18 - support from DEA Councillor Reilly.pdf*

*Page 218*

**19.0 LA07/2017/1624/0 - replacement dwelling - Site 50m N.W. of 18 Turloughs Hill, Annalong & 80m N.W. of the dwelling which is to be replaced at 20 Turloughs Hill. (Case Officer report attached).**

Rec: REFUSAL

- Addendum list


 *CO Case Officer Report LA07201716240, 50m nw of 18 Turlough's Hill, Annalong.pdf*

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## **20.0 LA07/2018/0504/F - proposed dwelling and garage (in substitution of that approved under P/2007/0405/RM) - adjacent and north of 21 Aghadavoyle Road, Jonesborough. (Case Officer report attached).**

Rec: REFUSAL

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

 *CO LA07-2018-0504-F.pdf*

Page 227

 *Item 20 - submission of support (Sean Hughes).pdf*

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### *For Noting*

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## **21.0 Historic Tracking Sheet. (Attached).**

 *Planning HISTORIC TRACKING SHEET - UPDATED 04-12-2018.pdf*

Page 238

## **22.0 November 2018 Planning Committee Performance Report. (Attached).**

 *NOVEMBER 2018 Planning Committee Performance Report.pdf*

Page 246

## **23.0 Record of Meetings between Planning Officers and Public Representatives. (Attached).**

 *Record of Meetings report.pdf*

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## **24.0 November 2018 Appeals and Decisions. (Attached).**

 *November 2018 Appeals and Decisions.pdf*

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# Invitees

Cllr Terry Andrews	<a href="mailto:terry.andrews@nmandd.org">terry.andrews@nmandd.org</a>
Cllr Naomi Bailie	<a href="mailto:naomi.bailie@nmandd.org">naomi.bailie@nmandd.org</a>
Cllr Robert Burgess	<a href="mailto:robert.burgess@nmandd.org">robert.burgess@nmandd.org</a>
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Cllr William Walker	<a href="mailto:william.walker@nmandd.org">william.walker@nmandd.org</a>
Mrs Marie Ward	<a href="mailto:marie.ward@nmandd.org">marie.ward@nmandd.org</a>

**NEWRY, MOURNE & DOWN DISTRICT COUNCIL**


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**Minutes of the Planning Committee Meeting of Newry, Mourne and Down District Council held on Wednesday 21 November 2018 at 10.00am in the Boardroom, District Council Offices, Monaghan Row, Newry**

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**Chairperson:** Councillor M Larkin

**Deputy Chairperson:** Councillor D McAteer

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

Councillor C Casey  
 Councillor W Clarke  
 Councillor G Craig  
 Councillor L Devlin  
 Councillor G Hanna  
 Councillor K Loughran  
 Councillor J Macauley  
 Councillor M Ruane

**(Officials)**

Ms M Ward	Director, Enterprise, Regeneration & Tourism
Mr A McKay	Chief Planning Officer
Ms A McAlarney	Senior Planning Officer
Ms J McParland	Senior Planning Officer
Mr C McLoughlin	Legal Advisor
Ms E McParland	Democratic Services Manager
Ms P McKeever	Democratic Services Officer
Ms C McAteer	Democratic Services Officer

**P/106/2018: APOLOGIES AND CHAIRPERSON'S REMARKS**

Apologies were received Councillors Harte and Murnin.

**P/107/2018: DECLARATIONS OF INTEREST**

Declarations of Interest received in respect of Item 9 - Planning Application LA07/2017/1455/F- Newry, Mourne and Down District Council - from Councillors Clarke and Devlin.

**P/108/2018: DECLARATIONS IN ACCORDANCE WITH PLANNING COMMITTEE PROTOCOL PARA. 19 – MEMBER TO BE PRESENT FOR ENTIRE ITEM**

- **Item 7- LA07/2017/0603/O** - Christopher Smith - Members present for the entire item and who could take part in the discussion/decision on this application were **Councillors Casey, Craig, Larkin, Loughran, McAteer, Macauley, Murnin and Ruane**
- **Item 8 - LA07/2017/1704/O** - Ms Claire Ferris - Members present for the entire item and who could take part in the discussion/decision on this application were **Councillors Casey, Craig, Larkin, Loughran, Macauley, McAteer and Ruane**

### **MINUTES FOR CONFIRMATION**

#### **P/109/2018: MINUTES OF PLANNING COMMITTEE MEETING HELD ON WEDNESDAY 24 OCTOBER 2018**

Read: Minutes of Planning Committee Meeting held on Wednesday 24 October 2018. **(Copy circulated)**

**AGREED:** On the proposal of Councillor Ruane, seconded by Councillor McAteer, it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 24 October 2018 as a true and accurate record.

### **FOR DISCUSSION/DECISION**

#### **P/110/2018: ADDENDUM LIST**

Read: Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 21 November 2018. **(Copy circulated)**

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

- **Item 6 – LA07/2018/0085/0** – William Lindsay – single dwelling under CTY6 – lands opposite and to the south of 18 Ringdufferin Road, Rathcuingham, Toye, Downpatrick.  
**REFUSAL**  
**Removed at the request of Councillor Craig for full presentation at next Planning Committee Meeting.**
- **Item 12 – LA07/2018/0378/0** – Judith Boyle – erection of a dwelling and garage on a farm -200m south of 112 Monlough Road, Saintfield.  
**REFUSAL**  
**Removed at the request of Councillor Clarke for full presentation at the next Planning Committee Meeting.**
- **Item 13 – LA07/2018/0593/0** – Dr. Winston and Betty Shaw – erection of

dwelling – 24m behind 22 Mountview Road, Ballynahinch.

**REFUSAL**

**Agent requested this application be removed from the entire planning process.**

**AGREED:** On the proposal of Councillor Craig, 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 21 November 2018:-

- **Item 9 - LA07/2017/1455/F** - Newry, Mourne and Down DC - proposed new bowling club pavilion to include main hall, toilets and changing facilities - adjacent to existing pavilion at Castle Park, Newcastle.

**APPROVAL**

- **Item 10 – LA07/2017/1485/F** – Mr J McCabe – amendments to the previous approval R/2014/0654/F for the conversion and extension of the existing barn to form a dwelling, with an additional extension now also proposed on lands approx. 250m SE of 60 Killyleagh Road, Downpatrick

**REFUSAL**

Councillor Devlin thanked Planning Officials for the work carried out on Planning Application LA07/2017/1455/F – NMDDC proposed new bowling club pavilion in Newcastle, saying that it would bring great benefit to the area.

**DEVELOPMENT MANAGEMENT –  
PLANNING APPLICATIONS FOR DETERMINATION**

**P/111/2018: PLANNING APPLICATIONS FOR DETERMINATION**

(Councillors Clarke, Devlin and Hanna withdrew from the Meeting)

- (1) LA07/2017/0603/O - Christopher Smith  
(Audio recorded – YES)**

**Location:**

Site adjacent to No. 1 John Mitchel Street, Newry

**Proposal:**

Proposed 2 storey dwelling

**Conclusion and Recommendation from Planning Official:**

**REFUSAL**

**Speaking rights:**

Speaking rights not requested.

**Power-point presentation:**

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

Councillor Craig proposed and Councillor Macauley seconded to accept the officer's recommendation to refuse the application.

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

FOR:	6
AGAINST:	1
ABSTENTIONS:	0

**AGREED: On the proposal of Councillor Craig seconded by Councillor Macauley it was agreed to refuse planning application LA07/2017/0603/O – Mr Christopher Smith – as per the information and recommendation contained in the Case Officer report presented to Committee.**

**(2) LA07/2017/1704/O - Ms Clair Ferris  
(Audio recorded - YES)**

**Location:**

Between 16 & 20 Lough Road, Crossgar.

**Proposal:**

Proposed 2 no. dwellings on in-fill site under Policy CTY8

**Conclusion and Recommendation from Planning Official:**

**REFUSAL**

**Speaking rights:**

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

**Power-point presentation:**

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

Ms McAlarney said this was the second time a planning application for this site had been before Committee. The first application had been for one dwelling which Committee had refused. However permission had subsequently been granted by the Planning Appeal Commission. The application now before Committee was for the erection of two dwellings on the site. Ms McAlarney continued, saying planning application LA07/2017/1704/O failed to meet the policy requirements of CTY8.

Discussion took place regarding the measurement of the frontage of the site and whether or not it would accommodate two dwellings. Ms McAlarney said the measurement from building to building was 66m which would allow 33m per proposed dwelling, which when compared to the existing neighbouring plots, one of which measured 40m and the other 90m was substantially smaller.

Mr Tumelty said this was an indicative plan to show that two dwellings could in fact be presented on the site. He said it was important to note that the garden of the dwelling in front, did not run the whole way to the road.

Mr McKay said Members should be mindful that the policy referred not only to frontage measurement but also related to the character of the existing frontages of neighbouring houses and although he accepted the proposed site could accommodate two dwellings in terms of measurement, it would still be contrary to policy in that it failed to take into account the overall character of the existing frontages of the neighbouring houses.

**AGREED: On the proposal of Councillor Ruane seconded by Councillor Larkin it was unanimously agreed to refuse planning application LA07/2017/1704/O – Ms Claire Ferris – as per the information and recommendation contained in the Case Officer report presented to Committee.**

(Councillors Clarke, Devlin and Hanna re-joined the Meeting)

(Mr C McLoughlin, Legal Advisor, Belfast City Council joined the Meeting)

**(3) LA07/2018/0250/F - Mr G Morgan  
(Audio recorded – YES)**

**Location:**

Lands 50m south of 30 Fofanny School Road, Fofannybane, Newry.

**Proposal:**

Dwelling and garage on a farm

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

**Speaking rights:**

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

**Power-point presentation:**

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

Discussion took place regarding the dwelling located at No. 30 Fofanny School Road, Ms McAlarney said to comply with policy CTY 10 a new dwelling should be visually linked or sited with an established group of buildings on the farm and that No. 30 was not part of the farm business.

Mr Hawthorne said an alternative location on the site could not be identified and he disputed the decision arrived at by Planning Officials that the proposed dwelling did not visually link with existing farm dwellings. He made reference to a photographic depiction he had provided as part of his submission which, he said provided evidence that demonstrated the proposed dwelling would visually link with the existing farm buildings.

Councillor Clarke proposed deferring the application to allow for a site visit to explore potential alternative sites.

Mr McKay said it had not been demonstrated by the agent that the proposed dwelling would visually link with the farm buildings or that it formed part of the farm holding.

Councillor Hanna seconded Councillor Clarke's proposal to defer the application to allow for a site visit.

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

FOR:	9
AGAINST:	1
ABSTENTIONS:	0

**AGREED:** On the proposal of Councillor Clarke seconded by Councillor Hanna it was agreed to defer Planning Application LA07/2018/0250/F to allow for a site visit to take place in order to explore potential alternative sites.

**(4) LA07/2017/1299/F - Patrick Small  
(Audio recorded – YES)**

**Location:**

58m SE of 43 Upper Burren Road, Warrenpoint

**Proposal:**

Erection of dwelling on a farm

**Conclusion and Recommendation from Planning Official:**

**REFUSAL**

**Speaking rights:**

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

**Power-point presentation:**

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

Discussion took place regarding what constituted an active farming business. Ms McAlarney said policy stated a farm must be currently active and been established for a minimum of six years.

Mr Cole said although the farm had originally been let out in conacre, it was currently an active farm producing silage, and he said evidence provided substantiated that claim.

Ms McAlarney said while the farm had been let out in conacre, the applicant would have taken on the role of landlord and therefore this would contravene the policy.

Councillor McAteer asked the agent if he could provide a reason as to why the farm had not been active for the past six years.

Mr Cole replied that the applicant's father had passed away and his wife had made the decision to let the land out in conacre.

Councillor McAteer then asked for legal clarification on the issue of proving a farm had been active for six years.

Mr McLoughlin, Legal Advisor said he would have to revert back to the Committee on this.

Some discussion then took place on whether or not development opportunities had been sold off or transferred from the farm holding within ten years of the date of application. Mr Cole replied this was not the case and the applicant's mother was resident in the dwelling.

In response to a query from Councillor McAteer as to whether or not it was necessary to know who was resident in all farm dwelling applications, Mr McKay replied that the Committee must be guided by policy and it had been established that the farm business had not been active for the required six years so any other reasons for consideration were immaterial.

Councillor McAteer proposed and Councillor Devlin seconded to defer Planning Application LA07/2017/1299/F to await legal advice to ascertain whether the policy would allow for certain exceptions if a farm was not active for the required six years.

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

FOR:	3
AGAINST:	7
ABSTENTIONS:	0

The proposal was declared 'lost'.

Councillor Hanna then proposed to accept the Planning Officer's recommendation to issue a refusal in respect of Planning Application LA07/2017/1299/F, Councillor Macauley seconded this proposal.

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

FOR:	7
AGAINST:	3
ABSTENTIONS:	0

The proposal was declared 'carried'.

**AGREED: On the proposal of Councillor Hanna seconded by Councillor Macauley it was agreed to refuse planning application LA07/2017/1299/F – Mr Patrick Small – as per the information and recommendation contained in the Case Officer report presented to Committee.**

**(5) LA07/2018/0537/F - James Donaldson and Roberta Heaney  
(Audio recorded – NO)**

**Location:**

35m east of 63 Ballinran Road (between No. 63 Ballinran Road and 4 Ballinran New Road)  
Kilkeel

**Proposal:**

proposed site for infill dwelling and domestic garage



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

### **Speaking rights:**

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

### **Power-point presentation:**

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

Ms McParland referred to a log cabin located at No. 4 Ballinran New Road saying this was an unauthorised building that was currently subject to active enforcement and as there was no evidence of a CLUD in the planning system, it could not be considered when assessing Planning Application LA07/2018/0537/F.

Mr Mitchell said No. 4 Ballinran New Road had been occupied since 2008 and a CLUD had recently been submitted to Planning Department and he had been notified of the reference number the day before the meeting.

Councillor Hanna proposed to defer Planning Application LA07/2018/0537/F for a period of three months to await the outcome of the CLUD.

Councillor Clarke seconded the proposal saying the applicant had acted in good faith and would not have been aware there was no planning permission on the log cabin at No. 4 Ballinran New Road and asked if Planning Officials could fast track the CLUD.

**AGREED: On the proposal of Councillor Hanna seconded by Councillor Clarke it was unanimously agreed to defer Planning Application LA07/2018/0537/F for a period of three months and to fast track the CLUD submission in respect of the log cabin at No. 4 Ballinran New Road.**

**It was also agreed that officers be delegated authority to impose any relevant conditions and issue the decision.**

### **FOR NOTING**

**P/112/2018: HISTORIC ACTION SHEET**

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

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

**P/113/2018: PLANNING COMMITTEE MEETING PERFORMANCE REPORT  
OCTOBER 2018**

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

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

**P/114/2018:** MEETINGS BETWEEN PLANNING OFFICERS AND PUBLIC REPRESENTATIVES

Read: Record of Meetings between Planning Officers and Public Representatives 2018-2019. **(Copy circulated)**

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

**P/115/2018:** APPEALS & DECISIONS

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

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

The Meeting concluded at 11.40am

For confirmation at the Planning Committee Meeting to be held on Wednesday 19 December 2018.

**Signed:** \_\_\_\_\_ **Chairperson**

**Signed:** \_\_\_\_\_ **Chief Executive**

## Item 5 – Addendum List

### Addendum list - planning applications with no representations received or requests for speaking rights – Planning Committee Meeting on Wednesday 18 December 2018

The following planning applications listed on the agenda, have received no representations or requests for speaking rights. Unless a Member wishes to have these applications presented and discussed, the Planning Committee will be asked to approve the officer's recommendation and the applications will be taken as "read" without the need for a presentation. If a Member would like to have a presentation and discussion on any of the applications listed below they will be deferred to the next Committee Meeting for a full presentation:-

- **Item 14** - LA07/2018/0634/0 – re-location and substitution of previously approved farm dwelling (R/2014/0610/0) from outlying farm group to main farm group on lands approx 100m SW of 116 Drumnaquoile Road, Ballynahinch. **APPROVAL**
- **Item 15** - LA07/2018/1402/BC - internal alterations - Dan Rice Memorial Hall, Drumaness **APPROVAL**
- **Item 16** - LA07/2018/0378/0 - erection of dwelling and garage on a farm - 200m south of 112 Monlough Road, Sainfield. **REFUSAL**
- **Item 19** - LA07/2017/1624/0 - replacement dwelling - Site 50m N.W. of 18 Turloughs Hill, Annalong & 80m N.W. of the dwelling which is to be replaced at 20 Turloughs Hill. **REFUSAL**

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



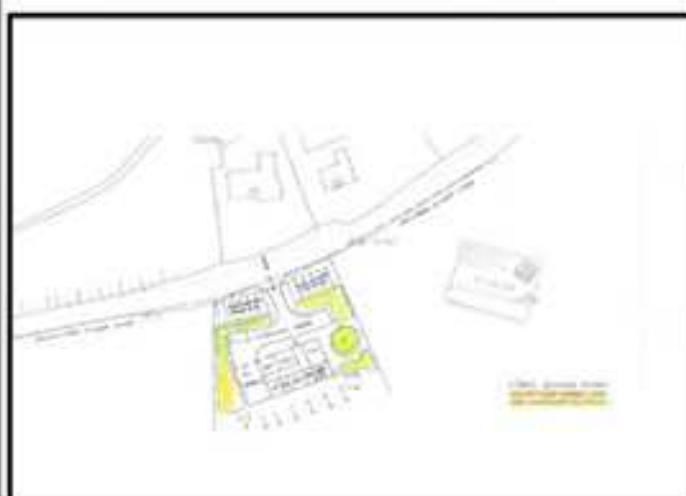
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and Down**  
District Council

<b>Application Reference:</b>	<b>LA07/2018/0085/O</b>
<b>Date Received:</b>	<b>20.09.2017</b>
<b>Proposal:</b>	<b>Single dwelling under CTY 6</b>
<b>Location:</b>	<b>Land opposite and to the south of 18 Ringdufferin Road Rathcuuvingham Toye Downpatrick</b>

#### Site Characteristics & Area Characteristics:

The site is located off the main Comber Road outside the settlement limit of Killyleagh. The site is situated on an open roadside plot opposite No 18 Ringdufferin road. Ringdufferin Road is a rural road. The general character of the area is one rural in nature with a dispersed development pattern. Part of the site is currently used for the informal parking of vehicles/machinery for the Agri Sales Business adjacent to No 18.





**Site History:**  
R/1976/0467 FARM BUNGALOW PERMISSION GRANTED

**Planning Policies & Material Considerations:**  
The proposal has been assessed against the following relevant policies:

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

Ards & Down 2015 – the site is located within the open countryside outside any defined settlement.

#### **Consultations:**

Transport NI – No objections

#### **Objections & Representations**

2 neighbouring properties were notified on 22.01.2018, Nos 18a and 20 Ringdufferin Road

1 no letter of representation was received (Anon) raising issues of

- appropriateness in AoNB,
- proliferation of commercial developments on the Ringdufferin road and querying have they permission
- Car parking proposed for business

The application was advertised in the local press on 31.01.2018

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

The applicant wishes to apply for a dwelling under CTY 6 of PPS 21 as specified in his P1 Form and reflected in the proposal description.

The relevant policy consideration is provided by PPS21 CTY6 which states

***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.***

The applicant Mr William Lyndsay currently resides at No.18 Ringdufferin Road. A medical case has been given and has been confirmed by Doctors letter dated Nov 2017. The

Planning office 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, with the applicant's wife and son carrying out any assistance required by the applicant.

Applicant wishes that his son move into No.18 whilst the new dwelling be built for the needs of himself and his wife. The applicant's son lives 2km from the application site.

It is stated that alternative solutions have been considered namely that modifications to the existing dwelling are not feasible given the elevated nature of the existing dwelling to facilitate disabled access also the internal configuration does not lend itself to disabled access. It is stated the family needs are dedicated living accommodation and accessibility to the business.



**No.18 Applicants current residence**



### **Proposed site**

Reference has been made to the Agricultural Business on site, there is no planning history attached to this business nor does a Certificate of Lawfulness exist for the premises.

It is stated that modifications and adaptations cannot be made to the existing split level bungalow to accommodate the needs of the applicant. I do not accept that the dwelling cannot be modified so that a level of ancillary accommodation cannot be provided to serve the needs of the applicant.

### **CTY13**

The site is located on an open roadside field and would require definition of at least one new boundary. Given the open nature of the site at the roadside it fails to achieve a suitable degree of integration. It is noted the field in which the site is situated does rise gradually towards the rear but this would fail to provide any degree of backdrop to accommodate a dwelling. There is no other development along this side of the road, therefore the current proposal would sit uncomfortably in the landscape.

A considerable area of parking is proposed to the front of the site, the purpose of which is to service the Agri Business. The proposed dwelling and area of parking to the front would fail to integrate into the countryside and is not appropriate.





#### CTY14

The proposed dwelling sits on an open roadside site. The proposal with the large expanse of car parking to the front introduces a non rural formalised feature to the detriment of rural character.

#### CTY16

A septic tank and soakaways are proposed. As this is an outline application there are no details on the drawings of the septic tank and soakaways. There is however adequate blue lands to accommodate such subject of course to the necessary permissions forthcoming from NIEA Water Management Unit and NI Water. The proposal is not considered to be contrary to CTY16.

#### **Recommendation: REFUSAL**

#### **Reasons**

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 and it has not been demonstrated that there are no alternative solutions to meet the particular circumstances of this case.**
3. **The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that**

- the proposed site lacks long established natural boundaries to provide a suitable degree of enclosure for the building to integrate into the landscape, and
  - the ancillary works do not integrate with their surroundings and therefore would not visually integrate into the surrounding landscape.
4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the impact of ancillary works would damage rural character.

Signed: .....

Date: .....

Signed: .....

Date: .....



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**Newry, Mourne  
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**Pre-Determination Hearing Report for LA07/2016/0925/F and  
LA07/2017/0301/LBC**

**Application Reference: LA07/2016/0925/F and LA07/2017/0301/LBC**

**Date Received: 11<sup>th</sup> July 2016 and 1<sup>st</sup> February 2017**

**Proposal: Erection of glasshouse and cafeteria/shop within the walled garden at Killeavy Castle, Clonlum, Meigh (Amended plans and description)**

**Location: Killeavy Castle, Ballintemple Road, Clonlum, Meigh.**

Both these linked planning applications were previously recommended for approval by the Planning Authority and were scheduled for the Planning Committee meeting on 24<sup>th</sup> of May 2017. No speaking rights or representations were received and so both applications were placed on the addendum list and the Planning Committee accepted the recommendations of approval.

Since both applications were previously at Committee in May 2017, it should be noted that the additional information requested by Transportni was received by the agent for the Full application and TransportNI confirmed on 31<sup>st</sup> July 2017 that they were content subject to the imposition of conditions.

Under the Planning (Northern Ireland) Act 2011 Section 89, the Council then notified the Department for Infrastructure (DFI) Planning Section of the intention to grant consent for the LBC application. This notification procedure must take place before the LBC consent has been granted but after the Planning Committee has been held. Following the notification, DFI then requested further time to consider whether a call in of the application by the Department under Section 88 of the Planning (NI) Act was required. DFI also sought clarity in terms of contradictions between the LBC and Full application proposals, a full list of conditions for both applications as well as a copy of the Design and Access Statement.

Following an exchange of correspondence/ planning drawings, DFI e-mailed the Planning Authority on 17<sup>th</sup> of April 2018 with regards to LA07/2016/0925/F under Article 17 of the Planning (General Development Procedure) Order (Northern Ireland) 2015, directing the Council do not grant planning permission for the application. Then on 18<sup>th</sup> of April 2018, with regard to LA07/2017/0301/LBC, DFI advised that they did not consider it necessary for this consent to be referred to it instead of being dealt with by the Council and the Council should continue to process the application.

Following an exchange of additional correspondence, DFI then wrote to the Planning Authority on 26<sup>th</sup> of April 2018, with regards to the full application. DFI stated that following their direction issued on 17<sup>th</sup> of April 2018 that DFI hereby notifies the Council that it does not intend to determine the above application under Section 29 (1) of the 2011 Planning Act and the Council should continue to process the application. DFI also stated that Section 30 of the 2011 Planning Act (Pre-Determination Hearings) and Regulation 7 of the Planning (Development Management) Regulations (NI) 2015, as amended, are now applicable to this application. DFI also made a number of observations in this letter which will be dealt with in the below Addendum to the original report that appeared in the Planning Committee agenda on 24<sup>th</sup> of May 2017.



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**Newry, Mourne  
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District Council

Application Reference: LA07/2016/0925/F

Date Received: July 11<sup>th</sup> 2016

**Proposal:** Erection of glasshouse and cafeteria/shop with ancillary accommodation within the walled garden.

**Location:** Killeavy Castle, Ballintemple Road, Clonlum, Meigh

**Site Characteristics & Area Characteristics:**

The site is a former walled garden area within the grounds of Killeavy Castle, located to the south east of the main complex; the garden is on a hill side and slopes down to the east and to the south. It is of a rhomboid shape with the northern boundary longer than the southern and the eastern and western walls sloping inwards. Part of the centre of the northern wall has been demolished at some point in the past to permit vehicular access; the interior of the garden contains grass and reeds evidence of extensive water logging.



On the southern wall is a small structure resembling a store that is likely associated with its previous use as a garden; there are mature trees growing just outside of the eastern and southern walls.



The garden is associated with Killeavy Castle, a former country house that is a listed building.

**Site History:**

Killeavy Castle was the subject of an approval for a hotel complex involving it and the adjacent former farm buildings. P/2014/0216/F and its associated listed building consent. The landscaping proposals, included the restoration of the original walled garden, including a market garden to grow produce for use in the hotel, the main car park for the scheme is to be constructed just beyond the eastern wall of the garden.

There is an associated application for Listed Building Consent LA07/2017/0301/LBC that is currently being assessed by the Planning Authority.

**Planning Policies & Material Considerations:**

Strategic Planning Policy Statement

Banbridge/Newry and Mourne Area Plan 2015

Planning Policy Statement 3: Access, movement and parking

Planning Policy Statement 6: Planning Archaeology and the Built Heritage

**Consultations:**

**Historic Environments Division** HED has identified a number of concerns with the proposal, including to opening of new entrances in the southern and eastern walls to facilitate access from the new car park and the associated access ramp, as they would impact on the historic fabric of the wall and are contrary to the original concept for the walled garden. It also highlights concerns over the design of the glasshouse, especially the velux rooflights and requests details of the colour of the aluminium windows. The design of this structure is different from that in the associated application for Full Permission, LA07/2016/0925/F. It also requests full details of the proposed planting and a revised landscape management plan.

Transportni have requested further information before making comments.

**Objections & Representations**

No representations have been received in relation to this application.

**Consideration and Assessment:****Strategic Planning Policy Statement**

The SPPS provides strategic guidance for the preparation of new Local Development Plans by Councils, a cafe is effectively retail in nature and such proposals are traditionally assessed under retail policy. Paragraph 6.279 of the Statement states that retailing proposals will be directed towards town centres, however in rural areas an exception is permitted for shops serving tourist or recreational facilities, as the Killeavy Castle Development is a tourist/recreation facility the cafe element meets the exception set out in the policy.

**Banbridge/Newry and Mourne Area Plan 2015.**

The site is located in the rural area, Killeavy Castle is designated as a Historic Park, Garden or Demesne, detailed policy for which is contained within Policy BH6 of PPS6.

**PPS 3: Access, movement and parking**

Transportni have requested further information before making comment. However, the Planning Department consider that the principle regarding access, movement and parking within the site has already been established under the approval for the hotel development which also included the restoration of the walled garden area. The Planning Department consider that this proposal will not result in any parking or traffic issues and feel the proposal is acceptable under PPS 3 subject to the imposition of an appropriate condition. This condition to be applied to any approval will be a duplicate of the condition applied under the previous hotel permission which required that prior to the development hereby approved becoming operational, a scheme of road improvements between the site access and Forkhill Road (including Ballintemple Road and Wood Road) and a timescale for their implementation must be submitted to and agreed in writing by the Planning Authority in order to ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

**PPS6 Planning Archaeology and the Built Heritage Policy BH6**

The policy states that permission will not be granted for any development which would lead to the loss of or cause harm to the character, principal components or setting of parks, gardens or demesnes of special historical interest. The justification of the policy states that one of the features which will be assessed carefully including the boundary walls of a

garden. The policy states further that in the event of permission being granted the developer will be required to record all details of any structures that are to be demolished.

HED states that it considers that the proposed breaches of the wall, with the associated loss of original wall fabric will have an adverse physical impact upon the wall itself and this scheme is contrary to the original design concept for the walled garden which did not have any new openings. It further states that a number of measures should be addressed such as conservation management for the treatment of the garden wall including preservation of the 19<sup>th</sup> century ironmongery on the wall, full details of all planting and a landscape management plan.

### **Policies BH8 and 11**

The policy allows for the granting of permission for an extension on a listed building if the proposal retains the essential character of the building and its special features remain intact and unimpaired. HED's response states that it considers that the proposal is contrary to this policy in particular it refers to the concrete hard-landscaping products and paviers are not traditional or sympathetic building materials as required by the policy, and requests that they are specified in natural stone, natural timber and/or timber.

The restoration of the walled garden has already been approved under the previous application P/2014/0216/F. The current applications introduce a new element in terms of the cafe and the glasshouse as well as changing several of the details of the restoration and providing new entrances in the eastern and southern boundaries of the wall. HED appears to accept the principle of the cafe and glasshouse although it has some reservations about certain aspects of their design, particularly the cafe. It states that the cafe unit proposed under the Full Application LA07/2016/0925/F is preferable and it is this scheme submitted under the full application which the Planning Department has considered in its assessment, and not the conflicting scheme which has been submitted under the listed building consent.

In relation to the other issues identified by HED, Policy BH6 does contain a provision that where permission is granted for an application that involves demolition of the features of a historic park, garden or demesne the Planning Authority can insist on the imposition of conditions that all features to be demolished can be recorded so that their details are not lost and the Planning Department will condition this as appropriate.

Having considered all of the relevant matters, including the comments and issues raised by HED, it is the opinion of the Planning Department that the application for listed building consent and the full planning application can be recommended for approvals with the opportunity to appropriately restore the historic walled garden which appears to have been neglected for some years as well as the significant employment opportunities which could be brought to the area if the proposed scheme is approved and subsequently implemented. The proposal is acceptable in principle, and the positives associated with an implemented approval substantially outweigh any potential negative impact.

### **Recommendation:**

On balance, having considered all relevant matters, recommendation to approve subject to appropriate conditions and informatives.



**Conditions:**

1. As required by Article 61 of the Planning (Northern Ireland) Act 2011, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: Time Limit.

2. Prior to the development hereby approved becoming operational, a scheme of road improvements between the site access and Forkhill Road (including Ballintemple Road and Wood Road) and a timescale for their implementation must be submitted to and agreed in writing by the Newry, Mourne and Down District Council.

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

3. Within one year of the opening of the hotel hereby approved, a landscape management plan detailing the management and maintenance of the walled garden shall be submitted to and agreed in writing by the Planning Department.

Reason: To ensure the preservation of the historic designed landscape.

4. 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 Practise. The works shall be completed within a 5 year period from the opening of the hotel and maintained on an ongoing basis in accordance with the agreed landscape management plan.

Reason: To protect the setting of the Listed Building.

5. 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 local planning authority, 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 protect the setting of the Listed Building.

6. If any retained tree is removed, uprooted or destroyed or dies within 3 years from the date of the occupation of the building for its permitted use another tree or trees shall be planted at the same place and those trees shall be of such size and species and shall be planted at such time as may be specified by the Planning Department.

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

7. 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 Department.  
Reason: To ensure the continuity of amenity afforded by existing trees.
8. In advance of any development on the site, a report recording all features to be demolished shall be submitted to and agreed in writing by the Planning Department.  
Reason: To ensure the recording of any historic features of interest.

**Case Officer**

**Authorised Officer**

### Addendum to Report

In the letter to the Planning Authority on the 26<sup>th</sup> of April 2018, DFI highlighted that Historic Environment Division (HED) required additional information in order to make a full assessment of the proposal and to consider any potential impact on the listed building. DFI felt that the concerns of HED could not be addressed via conditions and procedurally it was recommended that HED issues be resolved and that only when the full information is received can a final decision be made by the Council or likewise can a full assessment be made by HED. It was further identified that the full impacts on the listed building must be fully detailed. DFI also noted that there were other issues in terms of missing details regarding the site access and café and differences between the layout for the LBC and full application drawings which needed to correspond to avoid confusion.

In response to the concerns of DFI, the Planning Authority deemed it appropriate to review both applications, conduct an additional site visit and actively seek amendments and additional information in order to address both the concerns of DFI and HED. Following various amended plans/additional information including statements as well as meetings with the planning agent/developer and HED, HED (Historic Buildings) confirmed on 15<sup>th</sup> of October 2018, that they had reconsidered the application on the basis of the amended plans published on 12<sup>th</sup> of September and 10<sup>th</sup> of October 2018 and that subject to conditions, it satisfies the policy requirements of BH8 and BH11 as well as PPS 6 and SPPS. In total they requested 6 conditions be attached to any approval. Additionally, on 30<sup>th</sup> of October 2018, HED (Historic Monuments) confirmed that they were content that the proposal complies with PPS 6, subject to conditions for the agreement and implementation of a developer-funded programme of archaeological works (two conditions attached). The main concerns of HED related to the breach in the southern boundary wall of the walled garden, however HED have accepted the justification for this breach as outlined by the agent in a statement dated 18<sup>th</sup> of October 2018.

On 2<sup>nd</sup> of November 2018, the Planning Authority contacted DFI to provide an update on both applications and confirmation of the intention to bring both applications to the next available Planning Committee. DFI responded to the Planning Authority on the 6<sup>th</sup> of November 2018, outlining the requirement for pre-determination hearing on both applications as well as informing that they do not feel it is necessary to attend any specific pre-determination hearing as the Department for Communities HED no longer object to the proposal.

In light of the above, both applications are now recommended for approval and the Planning Authority recommend that in line with the relevant legislation as well as the guidance contained within the Development Management Procedure note on pre-determination hearings that both applications are presented at a pre-determination hearing at the Planning Committee. If they are content with the pre-determination

hearing, the Planning Committee should then formally consider and decide both applications at the same Planning Committee meeting.

### Conditions

LA07/2016/0925/F

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. Prior to the development hereby permitted becoming operational, a scheme of road improvements between the site and Forkhill Road (including Ballintemple and Wood Road) and a timescale for their implementation must be submitted to and agreed in writing with Newry, Mourne and Down District Council.

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

3. The vehicular access, including visibility splays and forward sight distance shall be provided in accordance with Drawing No 1528-70 amended plan bearing the date stamped 20-06-17 prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

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

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

5. Within one year of the development hereby approved opening, a landscape management plan detailing the management and maintenance of the walled garden shall be submitted to and agreed in writing with Newry, Mourne and Down District Council.

Reason: To ensure the preservation of the historic designed landscape.

6. The premises shall not be open for business prior to 09:00 hours or after 18:00 hours.

Reason: To protect the amenity of nearby residents

7. All plant and materials used in connection with the premises shall be situated, operated and maintained to prevent the transmission of noise, vibration and odours to nearby dwellings.

Reason: To protect the amenity of nearby residents.

8. This permission shall be implemented in conjunction with the provisions of decision reference LA07/0301/LBC.

Reason: To ensure that the development is implemented in a way that respects the character and setting of the associated listed building and its surroundings.

9. All hard and soft landscape works shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out prior to the occupation of any part of the development.

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

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

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

11. If any retained tree is removed, uprooted or destroyed or dies within 5 years from the date of the occupation of the building for its permitted use, another tree or trees shall be planted at the same place and those trees shall be of such size and species and shall be planted at such time as may be specified by Newry, Mourne and Down District Council.

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

12. 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 Newry, Mourne and Down District Council.

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

13. The roof of the Café roof shall be no higher than 1m above height of existing stone wall between the fenced off area to its east side.

Reason: To ensure compliance with prevailing planning policy.

14. Existing stone head at NW entrance to walled garden shall be retained.

Reason: To ensure compliance with prevailing planning policy.

15. The new gates to walled garden to be metal, painted black.

Reason: To ensure compliance with prevailing planning policy.

16. The Hard landscaping materials within walled garden shall be as follows:

Paths: natural stone hoggin with metal edge kerb;

Circular centre-piece: nature stone hoggin with natural stone setts (concrete is not appropriate in this context);

Future raised beds: timber surrounds, natural finish.

Reason: To ensure compliance with prevailing planning policy.

17. The external material to glass house shall be as follows:

Windows and glazed doors: aluminum framed- exact colour to be submitted to council for approval by HED;

Walls: timber cladding, natural finish with base detail to be submitted to council for approval by HED (natural stone or clay brick recommended);

Fenced enclosure to composter/store: timber boarding, natural finish;

Arbour: timber, painted to match glass house frame.

Reason: To ensure compliance with prevailing planning policy.

18. The external material to café shall be as follows:

Roof: zinc, standing seam;

Rainwater goods: metal – colour to match zinc fascia and soffit.

Walls: timber cladding, natural finish, e.g. cedar boarding allowed to weather "grey"; & render, painted;

Windows and glazed doors: aluminum framed – colour to match roof.

Reason: To ensure compliance with prevailing planning policy

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

Reason: To ensure that archaeological remains with the application site are properly identified, and protected and appropriately recorded.

20. Access shall be afforded to the site at all reasonable times to any archaeologist nominated by the Department for Communities – Historic Environment Division to observe the operations and to monitor the implementation of archaeological requirements.

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

21. The development hereby approved shall not become operational until arrangements for the discharge of storm water have been submitted to and agreed in writing by the Planning Authority.

Reason: To ensure the adequate discharge of storm water on the site

22. The development hereby approved shall not become operational until works for the disposal of sewage have been provided on the site to serve the development, in accordance with details to be submitted to and approved in writing by the Planning Authority.

Reason: In the interests of Public Health.

LA07/2017/0301/LBC

1. The works hereby permitted shall be begun not later than the expiration of 5 years beginning with the date on which this consent is granted.

Reason: As required by Section 94 of the Planning Act (Northern Ireland) 2011.

2. This permission shall be implemented in conjunction with decision reference LA07/2016/0925/F.

Reason: To ensure that the development respects the adjacent listed building and its setting.





Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Pre-Determination Hearing Report for LA07/2016/0925/F and  
LA07/2017/0301/LBC**

**Application Reference: LA07/2016/0925/F and LA07/2017/0301/LBC**

**Date Received: 11<sup>th</sup> July 2016 and 1<sup>st</sup> February 2017**

**Proposal: Erection of glasshouse and cafeteria/shop within the walled garden at Killeavy Castle, Clonlum, Meigh (Amended plans and description)**

**Location: Killeavy Castle, Ballintemple Road, Clonlum, Meigh.**

Both these linked planning applications were previously recommended for approval by the Planning Authority and were scheduled for the Planning Committee meeting on 24<sup>th</sup> of May 2017. No speaking rights or representations were received and so both applications were placed on the addendum list and the Planning Committee accepted the recommendations of approval.

Since both applications were previously at Committee in May 2017, it should be noted that the additional information requested by Transportni was received by the agent for the Full application and TransportNI confirmed on 31<sup>st</sup> July 2017 that they were content subject to the imposition of conditions.

Under the Planning (Northern Ireland) Act 2011 Section 89, the Council then notified the Department for Infrastructure (DFI) Planning Section of the intention to grant consent for the LBC application. This notification procedure must take place before the LBC consent has been granted but after the Planning Committee has been held. Following the notification, DFI then requested further time to consider whether a call in of the application by the Department under Section 88 of the Planning (NI) Act was required. DFI also sought clarity in terms of contradictions between the LBC and Full application proposals, a full list of conditions for both applications as well as a copy of the Design and Access Statement.

Following an exchange of correspondence/ planning drawings, DFI e-mailed the Planning Authority on 17<sup>th</sup> of April 2018 with regards to LA07/2016/0925/F under Article 17 of the Planning (General Development Procedure) Order (Northern Ireland) 2015, directing the Council do not grant planning permission for the application. Then on 18<sup>th</sup> of April 2018, with regard to LA07/2017/0301/LBC, DFI advised that they did not consider it necessary for this consent to be referred to it instead of being dealt with by the Council and the Council should continue to process the application.

Following an exchange of additional correspondence, DFI then wrote to the Planning Authority on 26<sup>th</sup> of April 2018, with regards to the full application. DFI stated that following their direction issued on 17<sup>th</sup> of April 2018 that DFI hereby notifies the Council that it does not intend to determine the above application under Section 29 (1) of the 2011 Planning Act and the Council should continue to process the application. DFI also stated that Section 30 of the 2011 Planning Act (Pre-Determination Hearings) and Regulation 7 of the Planning (Development Management) Regulations (NI) 2015, as amended, are now applicable to this application. DFI also made a number of observations in this letter which will be dealt with in the below Addendum to the original report that appeared in the Planning Committee agenda on 24<sup>th</sup> of May 2017.



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**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2017/0301/LBC

**Date Received:** February 1<sup>st</sup> 2017

**Proposal:** Erection of glasshouse and cafeteria/shop with ancillary accommodation within the walled garden.

**Location:** Killeavy Castle, Ballintemple Road, Clonlum, Meigh

**Site Characteristics & Area Characteristics:**

The site is a former walled garden area within the grounds of Killeavy Castle, located to the south east of the main complex; the garden is on a hill side and slopes down to the east and to the south. It is of a rhomboid shape with the northern boundary longer than the southern and the eastern and western walls sloping inwards. Part of the centre of the northern wall has been demolished at some point in the past to permit vehicular access; the interior of the garden contains grass and reeds evidence of extensive water logging.



On the southern wall is a small structure resembling a store that is likely associated with its previous use as a garden; there are mature trees growing just outside of the eastern and southern walls.



The garden is associated with Killeavy Castle, a former country house that is a listed building.

#### Site History:

Killeavy Castle was the subject of an approval for a hotel complex involving it and the adjacent former farm buildings, P/2014/0216/F and its associated listed building consent. The landscaping proposals, included the restoration of the original walled garden, including a market garden to grow produce for use in the hotel, the main car park for the scheme is to be constructed just beyond the eastern wall of the garden.

#### Planning Policies & Material Considerations:

Strategic Planning Policy Statement

Banbridge/Newry and Mourne Area Plan 2015

Planning Policy Statement 3: Access, movement and parking

Planning Policy Statement 6 Planning, Archaeology and the Built Heritage.

#### Consultations:

Historic Environments Division (HED) has identified a number of concerns with the proposal, including to opening of new entrances in the southern and eastern walls to facilitate access from the new car park and the associated access ramp, as they would

impact on the historic fabric of the wall and are contrary to the original concept for the walled garden. It also highlights concerns over the design of the glasshouse, especially the velux rooflights and requests details of the colour of the aluminium windows. The design of this structure is different from that in the associated application for Full Permission, LA07/2016/0925/F. It also requests full details of the proposed planting and a revised landscape management plan.

Transportni have requested further information before making comments.

### **Objections & Representations**

No representations have been received in relation to this application.

### **Consideration and Assessment:**

#### **Strategic Planning Policy Statement**

The SPPS provides strategic guidance for the preparation of new Local Development Plans by Councils, in relation to listed buildings the Statement largely restates the provisions of the retained policy.

#### **Banbridge/Newry and Mourne Area Plan 2015.**

The site is located in the rural area, Killeavy Castle is designated as a Historic Park, Garden or Demesne, detailed policy for which is contained within Policy BH6 of PPS6.

#### **PPS 3: Access, movement and parking**

Transportni have requested further information before making comment. However, the Planning Department consider that the principle regarding access, movement and parking within the site has already been established under the approval for the hotel development which also included the restoration of the walled garden area. The Planning Department consider that this proposal will not result in any parking or traffic issues and feel the proposal is acceptable under PPS 3 subject to the imposition of an appropriate condition. This condition to be applied to any approval will be a duplicate of the condition applied under the previous hotel permission which required that prior to the development hereby approved becoming operational, a scheme of road improvements between the site access and Forkhill Road (including Ballintemple Road and Wood Road) and a timescale for their implementation must be submitted to and agreed in writing by the Planning Authority in order to ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

#### **PPS6 Planning Archaeology and the Built Heritage Policy BH6**

The policy states that permission will not be granted for any development which would lead to the loss of or cause harm to the character, principal components or setting of parks, gardens or demesnes of special historical interest. The justification of the policy states that one of the features which will be assessed carefully including the boundary walls of a garden. The policy states further that in the event of permission being granted the developer will be required to record all details of any structures that are to be demolished.

HED states that it considers that the proposed breaches of the wall, with the associated loss of original wall fabric will have an adverse physical impact upon the wall itself and this scheme is contrary to the original design concept for the walled garden which did not have any new openings. It further states that a number of measures should be addressed such as conservation management for the treatment of the garden wall including preservation of the

19<sup>th</sup> century ironmongery on the wall, full details of all planting and a landscape management plan.

#### **Policies BH8 and 11**

The policy allows for the granting of permission for an extension on a listed building if the proposal retains the essential character of the building and its special features remain intact and unimpaired. HED's response states that it considers that the proposal is contrary to this policy in particular it refers to the concrete hard-landscaping products and paviors are not traditional or sympathetic building materials as required by the policy, and requests that they are specified in natural stone, natural timber and/or timber

The restoration of the walled garden has already been approved under the previous application P/2014/0216/F. The current applications introduce a new element in terms of the cafe and the glasshouse as well as changing several of the details of the restoration and providing new entrances in the eastern and southern boundaries of the wall. HED appears to accept the principle of the cafe and glasshouse although it has some reservations about certain aspects of their design, particularly the cafe. It states that the cafe unit proposed under the Full Application LA07/2016/0925/F is preferable and it is this scheme submitted under the full application which the Planning Department has considered in its assessment, and not the conflicting scheme which has been submitted under the listed building consent.

In relation to the other issues identified by HED, Policy BH6 does contain a provision that where permission is granted for an application that involves demolition of the features of a historic park, garden or demesne the Planning Authority can insist on the imposition of conditions that all features to be demolished can be recorded so that their details are not lost and the Planning Department will condition this as appropriate.

Having considered all of the relevant matters, including the comments and issues raised by HED, it is the opinion of the Planning Department that the application for listed building consent and the full planning application can be recommended for approvals with the opportunity to appropriately restore the historic walled garden which appears to have been neglected for some years as well as the significant employment opportunities which could be brought to the area if the proposed scheme is approved and subsequently implemented. The proposal is acceptable in principle, and the positives associated with an implemented approval substantially outweigh any potential negative impact.

#### **Recommendation:**

On balance, having considered all relevant matters, recommendation to approve subject to appropriate conditions and informatives.

#### **Conditions:**

1. The works hereby permitted shall be begun not later than the expiration of 5 years beginning with the date on which this consent is granted.

Reason: As required by Section 94 of the Planning Act (Northern Ireland) 2011

**Case Officer**

**Authorised Officer**

### **Addendum to Report**

In the letter to the Planning Authority on the 26<sup>th</sup> of April 2018, DFI highlighted that Historic Environment Division (HED) required additional information in order to make a full assessment of the proposal and to consider any potential impact on the listed building. DFI felt that the concerns of HED could not be addressed via conditions and procedurally it was recommended that HED issues be resolved and that only when the full information is received can a final decision be made by the Council or likewise can a full assessment be made by HED. It was further identified that the full impacts on the listed building must be fully detailed. DFI also noted that there were other issues in terms of missing details regarding the site access and café and differences between the layout for the LBC and full application drawings which needed to correspond to avoid confusion.

In response to the concerns of DFI, the Planning Authority deemed it appropriate to review both applications, conduct an additional site visit and actively seek amendments and additional information in order to address both the concerns of DFI and HED. Following various amended plans/additional information including statements as well as meetings with the planning agent/developer and HED, HED (Historic Buildings) confirmed on 15<sup>th</sup> of October 2018, that they had reconsidered the application on the basis of the amended plans published on 12<sup>th</sup> of September and 10<sup>th</sup> of October 2018 and that subject to conditions, it satisfies the policy requirements of BH8 and BH11 as well as PPS 6 and SPPS. In total they requested 6 conditions be attached to any approval. Additionally, on 30<sup>th</sup> of October 2018, HED (Historic Monuments) confirmed that they were content that the proposal complies with PPS 6, subject to conditions for the agreement and implementation of a developer-funded programme of archaeological works (two conditions attached). The main concerns of HED related to the breach in the southern boundary wall of the walled garden, however HED have accepted the justification for this breach as outlined by the agent in a statement dated 18<sup>th</sup> of October 2018.

On 2<sup>nd</sup> of November 2018, the Planning Authority contacted DFI to provide an update on both applications and confirmation of the intention to bring both applications to the next available Planning Committee. DFI responded to the Planning Authority on the 6<sup>th</sup> of November 2018, outlining the requirement for pre-determination hearing on both applications as well as informing that they do not feel it is necessary to attend any specific pre-determination hearing as the Department for Communities HED no longer object to the proposal.

In light of the above, both applications are now recommended for approval and the Planning Authority recommend that in line with the relevant legislation as well as the guidance contained within the Development Management Procedure note on pre-determination hearings that both applications are presented at a pre-determination hearing at the Planning Committee. If they are content with the pre-determination

hearing, the Planning Committee should then formally consider and decide both applications at the same Planning Committee meeting.

### Conditions

LA07/2016/0925/F

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. Prior to the development hereby permitted becoming operational, a scheme of road improvements between the site and Forkhill Road (including Ballintemple and Wood Road) and a timescale for their implementation must be submitted to and agreed in writing with Newry, Mourne and Down District Council.

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

3. The vehicular access, including visibility splays and forward sight distance shall be provided in accordance with Drawing No 1528-70 amended plan bearing the date stamped 20-06-17 prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

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

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

5. Within one year of the development hereby approved opening, a landscape management plan detailing the management and maintenance of the walled garden shall be submitted to and agreed in writing with Newry, Mourne and Down District Council.

Reason: To ensure the preservation of the historic designed landscape.



6. The premises shall not be open for business prior to 09:00 hours or after 18:00 hours.

Reason: To protect the amenity of nearby residents

7. All plant and materials used in connection with the premises shall be situated, operated and maintained to prevent the transmission of noise, vibration and odours to nearby dwellings.

Reason: To protect the amenity of nearby residents.

8. This permission shall be implemented in conjunction with the provisions of decision reference LA07/0301/LBC.

Reason: To ensure that the development is implemented in a way that respects the character and setting of the associated listed building and its surroundings.

9. 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 Practise. The works shall be carried out prior to the occupation of any part of the development.

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

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

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

11. If any retained tree is removed, uprooted or destroyed or dies within 5 years from the date of the occupation of the building for its permitted use, another tree or trees shall be planted at the same place and those trees shall be of such size and species and shall be planted at such time as may be specified by Newry, Mourne and Down District Council.

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

12. 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 Newry, Mourne and Down District Council.

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

13. The roof of the Café roof shall be no higher than 1m above height of existing stone wall between the fenced off area to its east side.

Reason: To ensure compliance with prevailing planning policy.

14. Existing stone head at NW entrance to walled garden shall be retained.

Reason: To ensure compliance with prevailing planning policy.

15. The new gates to walled garden to be metal, painted black.

Reason: To ensure compliance with prevailing planning policy.

16. The Hard landscaping materials within walled garden shall be as follows:

Paths: natural stone hoggin with metal edge kerb;

Circular centre-piece: nature stone hoggin with natural stone setts (concrete is not appropriate in this context);

Future raised beds: timber surrounds, natural finish.

Reason: To ensure compliance with prevailing planning policy.

17. The external material to glass house shall be as follows:

Windows and glazed doors: aluminum framed- exact colour to be submitted to council for approval by HED;

Walls: timber cladding, natural finish with base detail to be submitted to council for approval by HED (natural stone or clay brick recommended);

Fenced enclosure to composter/store: timber boarding, natural finish;

Arbour: timber, painted to match glass house frame.

Reason: To ensure compliance with prevailing planning policy.

18. The external material to café shall be as follows:

Roof: zinc, standing seam;

Rainwater goods: metal – colour to match zinc fascia and soffit;

Walls: timber cladding, natural finish, e.g. cedar boarding allowed to weather "grey": & render, painted;

Windows and glazed doors: aluminum framed – colour to match roof.

Reason: To ensure compliance with prevailing planning policy.

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

Reason: To ensure that archaeological remains with the application site are properly identified, and protected and appropriately recorded.

20. Access shall be afforded to the site at all reasonable times to any archaeologist nominated by the Department for Communities – Historic Environment Division to observe the operations and to monitor the implementation of archaeological requirements.

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

21. The development hereby approved shall not become operational until arrangements for the discharge of storm water have been submitted to and agreed in writing by the Planning Authority.

Reason: To ensure the adequate discharge of storm water on the site

22. The development hereby approved shall not become operational until works for the disposal of sewage have been provided on the site to serve the development, in accordance with details to be submitted to and approved in writing by the Planning Authority.

Reason: In the interests of Public Health.

LA07/2017/0301/LBC

1. The works hereby permitted shall be begun not later than the expiration of 5 years beginning with the date on which this consent is granted.

Reason: As required by Section 94 of the Planning Act (Northern Ireland) 2011.

2. This permission shall be implemented in conjunction with decision reference LA07/2016/0925/F.

Reason: To ensure that the development respects the adjacent listed building and its setting.



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

**Application Reference:** LA07/2018/0698/O

**Date Received:** 11.05.2018

**Proposal:** The proposal seeks Outline permission for an infill dwelling.

**Location:** Adjacent and to West of No. 4 Ballykeel Road, Mullaghbawn, Newry, BT35 9UA

**Site Characteristics & Area Characteristics:**

The site includes a rectangular roadside portion of a larger agricultural field. The land rises to the NE where a single storey dwelling and garage (no.4) is situated adjacent the site with a larger shed located immediately East of the site. The area is rural in character however development pressure is increasing within the vicinity of the site. The site lies within the rural area / AONB as depicted in the Banbridge Newry and Mourne Area Plan 2015.

**Site History:**

N/A

**Consultations:**

Transport NI – no objections subject to compliance with RS1 form.  
NI Water – Generic response, no objections.  
Historic Environment Division – No objections.

**Objections & Representations**

2 Neighbours notified on 12.06.2018 and the application was advertised on 30.05.2018. No objections or representations received.

**Planning Policies & Material Considerations:**

Banbridge Newry and Mourne Area Plan 2015.  
Strategic Planning Policy Statement for Northern Ireland  
Planning Policy Statement 21  
Planning Policy Statement 2  
Planning Policy Statement 3 / DCAN 15.  
Planning Policy Statement 6  
Building on Tradition

**Consideration and Assessment:**

The site is located in the countryside/AONB as depicted in the Banbridge Newry and Mourne Area Plan 2015. There are no objections with regard to the area plan to the proposed development.

**Planning Policy Statement 21 – Sustainable Development in the Countryside**

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

The gap between No.4 Ballykeel Rd and the large shed close to the junction of the Mill Rd is considered of a size that would accommodate a maximum of two dwellings while remaining respectful to the surrounding plot sizes. The proposed site therefore meets the definition of a small gap site according to the exception in policy CTY 8.

The policy requires the proposed development to be within an otherwise substantial and continuously built up frontage. This is defined by a line of 3 or more buildings along a road frontage without accompanying development to the rear.

Whilst the large shed close to the junction of the Mill Rd/Ballykeel Rd and No.4 Ballykeel Rd both have a frontage to the Ballykeel Rd along with the proposed site, this only represents 2 buildings and not the requisite 3 as defined by the exception to policy. The garage to No.4 Ballykeel Rd is set back and is clear of the rear building line of the dwelling. Given the spatial relationship of the dwelling and garage, the garage does not constitute a building along the frontage and instead reads subordinate to and part of No.4 Ballykeel Rd. This position is consistent with PAC statements 2017/A0204 and 2016/A0005.

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

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

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

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

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

Historic Environment Division has confirmed it has no objections to the proposal with regard to Archaeological Site and Monument designation. They do however require consultation at RM stage, if applicable. The proposal is in compliance with Planning Policy Statement 6: Planning, Archaeology and the Built Heritage.

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

### **Addendum**

Application previously appeared at committee on Wednesday 26<sup>th</sup> September 2018. It was agreed on the proposal of Councillor Clarke seconded by Councillor Hanna it was unanimously agreed to defer planning application LA07/2018/0698/0 – Niamh D'Arcy, for a site visit.

At the site visit by the planning committee it was agreed that the Planning Dept would arrange for access into the building at the junction of Mill Road/Ballykeel Road and report back to the committee.

The site visit took place on 30<sup>th</sup> November where the applicant, the applicant's father and Seamus Malone were in attendance. Access was gained to the building, and it was noted that the building had one wall partitioning the left and right – with no internal link. A loft area was also noted which was accessible from only the right hand side of the shed. At the time of our visit the shed appeared to be used for domestic storage purposes.

The Planning Dept have re-assessed the merits of the application are of the opinion the building, reads as one building albeit with an internal dividing wall. On this basis, whilst the building does benefit from a frontage to the Ballykeel Road, it is this Departments recommendation that it does not represent an infill dwelling as there are not 3 buildings with a common frontage to meet the exception to ribbon development in policy CTY 8 of PPS21.

### **Recommendation:**

Refusal

### **Reasons:**

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this

development is essential in this rural location and could not be located within a settlement.

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

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

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

**Case Officer**

**Authorised Officer**



### Rebuttal of Recommendation for Refusal of Planning Application Reference LA07/2018/0698/O

This is an Infill Application for a Dwelling Adjacent and west of No 4 Ballykeel Road, Mullaghbawn, Newry, BT35 9UA.

There are 4 reasons for refusal as detailed on the Schedule. The main issue is Refusal reason 2, which states, "The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposal would, if permitted, result in the addition of ribbon development along Ballykeel Road and is not considered an exception to the Policy." If this proposal were to be considered an exception then the other refusal reasons are null and void.

It is noted that the applicant was advised that this was refused on Precedent and two Planning Appeals were quoted. These are as follows, Planning Appeals Commission References 2016/A0005 and 2017/A0204. The Case Officer has stated that because of the set back of the garage, adjacent and to the East of No 4; the garage does not constitute a building along the frontage. Photographs taken, by the Applicant, from Ballykeel Road before the application was made would refute this.

In the case of Planning Appeal 2017/A0204 Commissioner Watson has stated "Despite there being no requirement in policy that all buildings have to lie on the same specific building line, the garages and outbuildings to Nos. 67 and 69 do not lie on the frontage as they are set behind or largely behind the host dwellings, thus do not lie on or contribute to being part of the frontage. The Garage at No 4 Ballykeel road does not lie behind or largely behind the dwelling, but adjacent and to the side, and to use this Appeal Precedent in this case is incorrect as it is not a similar situation.

In relation to Planning Appeal 2016/A0005 the main issue, as pointed out by Commissioner Watson, was the absence of a third building as the applicant was using a site approved, and built to sub floor level, as a third building and the Planning Appeals Commission did not sustain this. Notwithstanding that he has made reference to an outbuilding at 36 being subordinate to and part of No 36 the main issue was the use of foundations and sub floor as a dwelling. As per our previous contention we feel that the Appeal Precedent in this case is incorrect as it is not a similar situation.

If read correctly the garage, adjacent and to the side of No 4, does constitute part of the frontage. We also consider the two sheds on the lower end of Ballykeel Road form a further two buildings which would then allow an infill between either 4 or 3 buildings

POLICY CTY8 STATES, 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.

Further to the above and after a visit, by the Council Planning Committee, we facilitated a visit to the sheds at the lower end of Ballykeel Road by two Planning Officers. We were advised this was requested by the Planning Committee and access to the sheds was given and internal photographs taken.







Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2018/0401/O

**Date Received:** 23.02.2018

**Proposal:** Proposed site for infill dwelling and domestic garage

**Location:** 60m south of No 24 School Road, Ballymartin, Kilkeel

**Site Characteristics & Area Characteristics:**

The application site is an existing agricultural field located within the country side, c. 350m north of the settlement limit of Ballymartin. The site is accessed via an existing agricultural gate and is bound to the west by an agricultural field which fronts onto a private laneway leading to further fields. The site is adjoined to the north east by No. 24 School Road and the red line area of this application extends into the garden area and access of No. 24. Field boundaries consist of traditional dry stone walls. The site is located within an Area of Outstanding Natural Beauty and within a Site of Local Nature Conservation Importance 156 (Ballymartin Moraine).



*Photomontage of frontage along School Road*

**Planning Policies & Material Considerations:**

This application will be assessed under the following policy considerations:

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

**Site History:**

*P/2005/2194/O*- Site for dwelling and garage. Permission Refused 19/04/2006

**Consultations:**

*Transport NI*- No objection in principle. Condition recommended.

*NI Water*- Generic response provided.

**Objections & Representations:**

Four neighbours were notified on 23/03/2018 plus an additional neighbour on 03/05/2018 and the application was advertised on 28/03/2018. No objections or representations have been received.

**Assessment**

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is currently within the remit of 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 unzoned. It is within a Site of Local Nature Conservation Importance 156 (Ballymartin Moraine) and the Mournes and Slieve Croob Area of Outstanding Natural Beauty. Appendix 1D of the Plan's Countryside Assessment states that the SLNCl is designated for its geological features as a glacial landform. The erection of a house on the site is unlikely to have a significant effect on the underlying geology so no further consultation with regard to the SLNCl is required. 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.

Policy CTY 1 of PPS 21 lists a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. A number of instances when planning permission will be granted for an individual dwelling house are outlined. The Agent for this application

argues that the proposal represents an infill opportunity in accordance with Policy CTY 8.

Policy CTY8 states that planning permission will be refused for a building which creates or adds to a ribbon of development, policy goes on to explain 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. The amplification text at paragraph 5.34 is clear that the gap is between houses or other buildings and that an exception will be permitted, even where the gap provides relief and a visual break in the developed appearance of the locality that helps maintain rural character.

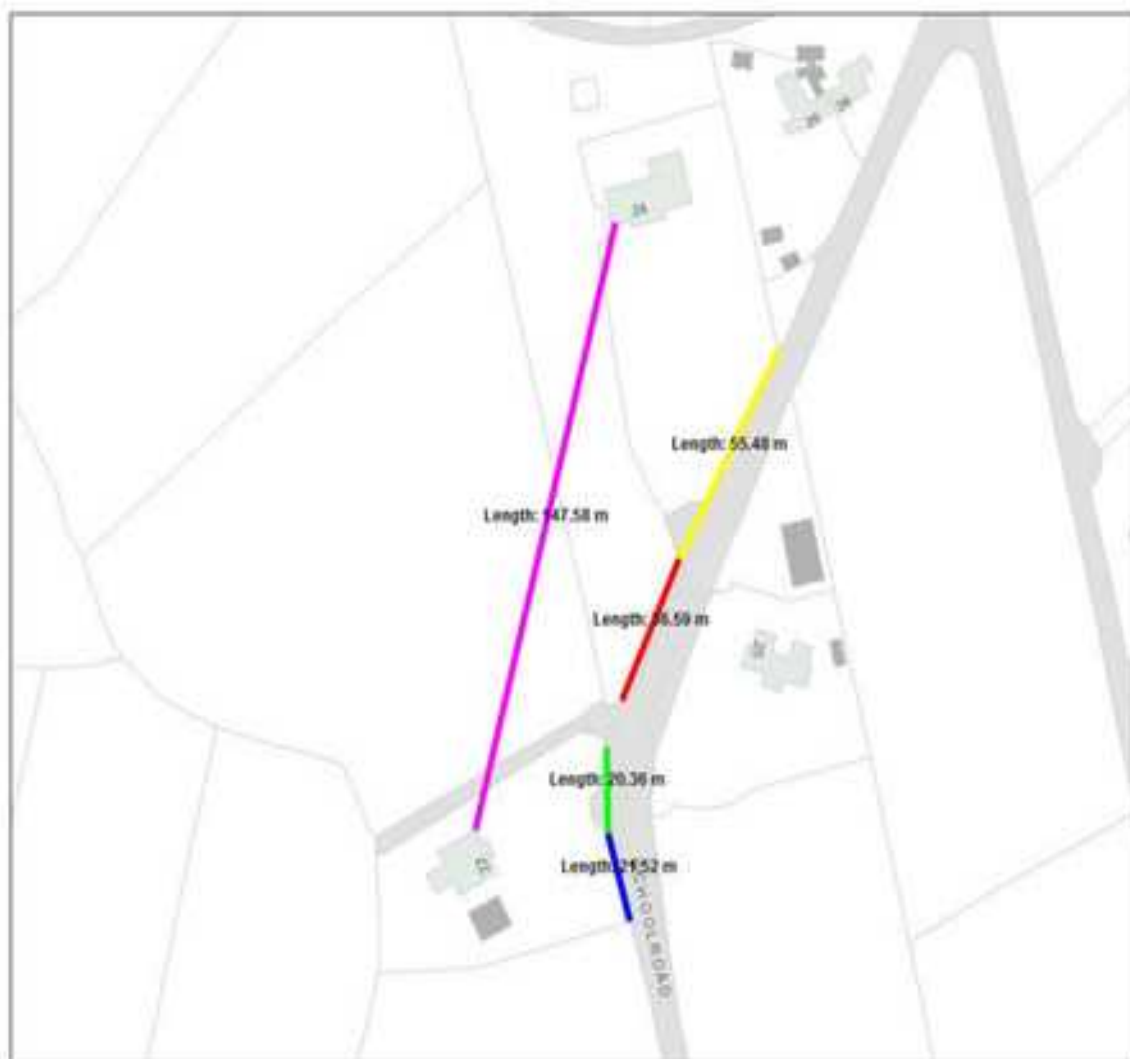
In assessing proposals against policy CTY8, the PAC has set out four steps to be undertaken (Reference 2016/A0040):

- a) Identify if there is a substantial and continuously built up frontage
- b) Establish if the gap site is small sufficient only to accommodate a maximum of two houses
- c) Determine if 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.

The application is located along School Road, to the south west there is a dwelling and garage and to the north east of the site there is a detached dwelling. Travelling further to the north east, there is an enclosed paddock area with a road frontage and a further two dwellings. It is considered that the dwelling and associated garage at 20 School Road read as one frontage and the paddock area between 24 and 26 School Road provides a break in the road frontage. Therefore, there are only two buildings with a frontage onto School Road which does not represent a substantial and continuously built up frontage. The field to the west of the application site is unsuitable for development and will always leave a gap and represent a visual break between the application site, the private laneway and No. 20. This was the approach taken to determine a substantial and built up frontage under PAC Reference 2011/A0235

In the event the dwelling and garage at No. 20 are considered to have two separate frontages, the gap between buildings is not small enough to only accommodate a maximum of two houses as detailed below.

The frontage of the site measures approximately 36.6m; however in policy terms the critical issue is the size of the gap between the buildings. The distance between the dwelling to the south west and that to the north east is approximately 147.58m. The average frontage for buildings along School Road measures approximately 32.45m. Given the distance between buildings and the average frontage it is clear the gap site is not small and could accommodate three dwellings. Consequently, the application site does not constitute a gap site and fails to meet the first two tests of Policy CTY8.



*Calculation of Gap Between Buildings*

Policy CTY 13 requires new buildings in the countryside to be visually integrated into the surrounding landscape. A new building will be unacceptable where it will be a prominent feature in the landscape, where it lacks long established natural boundaries or is unable to provide a suitable degree of enclosure or where it relies primarily on the use of new landscaping for integration. The application site only has two defined boundaries which consist of a traditional dry stone wall, there are no existing rear or north eastern boundaries. A new building would rely on new landscaping for integration and would appear as a prominent feature along this roadside, flat site. The proposal fails to comply with Policy CTY 13.

Policy CTY 14 states that 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. A new building will be unacceptable where it is unduly prominent in the landscape and where it creates or adds to a ribbon of development. As previously states, the site lacks established natural boundaries and a new dwelling would appear as a prominent feature in the landscape. A new dwelling would also add to the ribbon of development along School Road. The proposal fails to comply with criterion (a) and (d) of Policy CTY14.

**Recommendation:** The proposal is contrary to Policy CTY1, CTY8, CTY13 and CTY 14 of PPS 21 and recommended for refusal.

**Reasons for Refusal:**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent a small gap site sufficient only to accommodate a maximum of two houses within an otherwise substantial and continuously built up frontage and would, if permitted, add to a ribbon of development along School Road.
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:
  - If permitted, the proposed building would be a prominent feature in the landscape;
  - The proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the proposal to integrate into the landscape
  - The proposed dwelling would rely primarily on the use of new landscaping for integration
4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:
  - the dwelling would, if permitted, be unduly prominent in the landscape;
  - the dwelling would, if permitted create or add to a ribbon of development

and would therefore further erode the rural character of the countryside.

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date:**



Our Ref: 18/04

Your Ref: LA07/2018/0401/O

Newry, Mourne and Down District Council  
Planning Office  
O'Hagan House  
Monaghan Row  
Newry  
BT35 8DL



139 ballinran road, kilkeel, co down  
t: 02841 769748 m: 07803177197

18<sup>th</sup> September 2018

Dear Sir/Madam,

Further to the above-referenced application and the Planning Authority's recommendation of refusal on four grounds, I am writing in full support of Mr. and Mrs. Colm Cunningham's proposal and rebutting, in turn, each of the Department's reasons for refusal.

The first recommended reason for refusal states:

*"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."*

With regards to the above-quoted recommended reason for refusal, please note that if the second reason for refusal can be overcome then the first recommended reason for refusal will also consequently be overcome; therefore, I will now deal with the second recommended reason for refusal, which states:

*"The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent a small gap site sufficient only to accommodate a maximum of two houses and would, if permitted, result in the addition of ribbon development along School Road."*

The prevailing policy under consideration for this particular application is Policy CTY 8 - Ribbon Development, of Planning Policy Statement (PPS) 21: Sustainable Development in the Countryside.

Policy CTY 8 states,

“Planning permission will be refused for a building which creates or adds to a ribbon of development.

“An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of 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 application site occupies a position between two dwellings, namely 20 School Road, including its immediately adjacent detached domestic garage, and 24 School Road. Given the presence of the aforementioned dwellings and garage, in addition to two further dwellings located to the site’s north-east, namely 26 School Road, and its associated domestic buildings, and 28 School Road, and the location and overall plot size of the application site, the proposal occupies a small gap sufficient only to accommodate two dwellings within an otherwise substantial and continuously built up frontage.

Specifically, in terms of the “substantial and built up frontage”, travelling in a south-westerly direction along School Road, there is a line of buildings, namely 28 School Road, 26 School Road and its associated domestic outbuildings, and 24 School Road, which is immediately followed by the small gap site which comprises the application site and a subsequent slender portion of neighbouring field, adjacent to which is 20 School Road and its detached garage. Each of these dwellings and associated buildings share a common frontage and are also visually linked.

Please refer to the image below which displays the frontage widths of the dwellings referred to, in addition to the frontage width of the small gap site:



*Frontage A is 28 School Road; frontage B is 26 School Road; frontage C is 24 School Road; frontage D is the small gap site, within which the application site is located; frontage E is 20 School Road. The average road frontage along this particular stretch of substantially built up road frontage is 49.79 metres.*

The Case Officer has stated in their report that "the critical issue is the size of the gap between the buildings" (i.e. between 20 School Road and 24 School Road); in this regard, please refer to the two indicative site layout plans displayed below this paragraph, which show the approximate location of a dwelling on the application site, in addition to the distance it is located from the adjacent dwelling at 20 School Road (*the left-hand image*), and a second dwelling in the adjacent space (*the right-hand image*). As displayed on the aforementioned right-hand image below, the gap is such that it would be possible to accommodate only one further dwelling between the application site and the existing dwelling at 20 School Road, in a location which would respect the existing building line and pattern of development along this particular stretch of School Road.



*The left-hand image displayed above shows the approximate location of a dwelling on the application site and its distance from the adjacent dwelling at 20 School Road; the right-hand image displayed above shows the approximate location of a dwelling within the remaining gap. It is clearly displayed that the gap between 20 School Road and 24 School Road is such that could accommodate only two dwellings, while respecting the existing pattern of development.*

Given the above-detailed facts, the submitted proposal meets the requirements of Policy CTY 8 in that the proposed dwelling would be located within a small gap site, between two existing dwellings, sufficient only to accommodate up to a maximum of two dwellings, while respecting the existing pattern of development, and therefore overcomes the Department's second, and consequently first, recommended reasons for refusal.

The third recommended reason for refusal states:

*"The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:*

- If permitted, the proposed building would be a prominent feature in the landscape;*

- *The proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the proposal to integrate into the landscape*
- *The proposed dwelling would rely primarily on the use of new landscaping for integration”.*

Given that the submitted proposal is an Outline planning application, the specific considerations of size, scale and overall design would only be thoroughly addressed in the formulation of a subsequent Reserved Matters application, and it is therefore entirely premature to state that “the proposed building would be a prominent feature in the landscape”.

In addition, the existing character of the area is made up of a number of large dwellings and associated buildings located within close proximity of School Road and the application site, including the adjacent 20 School Road, which is a relatively recently constructed large two-storey dwelling and garage, and 25 School Road, which is located immediately opposite the application site, and is a large two-storey dwelling still under construction, adjacent to an associated outbuilding. The proposed dwelling would be conscientiously positioned and designed, and would integrate more successfully than the two dwellings and associated buildings referred to.

With regards to the application site’s boundaries please note that, rather than lacking “long established natural boundaries” as erroneously stated within the third recommended reason for refusal, the site possesses two existing and long-established boundary definitions (namely, it’s roadside and west-south-western side boundaries), which consist of indigenous dry stone walling, and also possesses a third existing long-established boundary which is shared with the adjacent dwelling at 24 School Road. In this regard, please note that the boundary definition of fields and the curtilage of dwellings, located within both the immediate and the wider area surrounding the application site, consists of indigenous dry stone walling. Therefore, the site’s boundary definitions are entirely in keeping with the character of the immediate and the wider area surrounding the application site. In addition, given that dry stone walling is the predominant boundary definition throughout the Mournes, it would only take approximately one working day in order to provide the application site with a rear boundary definition, which would entirely respect the character of the surrounding area.

Furthermore, the existing and long-established side boundaries can be retained and the roadside boundary can be replaced behind the required visibility splays. Rather than relying on new landscaping, as erroneously stated within the third recommended reason for refusal, the proposed dwelling would enjoy the presence of existing boundary definitions entirely in keeping with the character of boundary definitions located throughout the Mournes.

Given the above-detailed facts, the submitted proposal meets the requirements of Policy CTY 13 in that the proposed dwelling would be conscientiously positioned and designed so as to

integrate successfully into this area, and the application site possesses two boundary definitions of indigenous dry stone walling, a shared party side boundary which can be retained, and it would only take approximately one working day in order to provide the application site with a rear boundary definition of indigenous dry stone walling, which would entirely respect the character of the surrounding area.

The fourth and final recommended reason for refusal states:

*"The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:*

- *the dwelling would, if permitted, be unduly prominent in the landscape;*
- *the dwelling would, if permitted create or add to a ribbon of development and would therefore further erode the rural character of the countryside."*

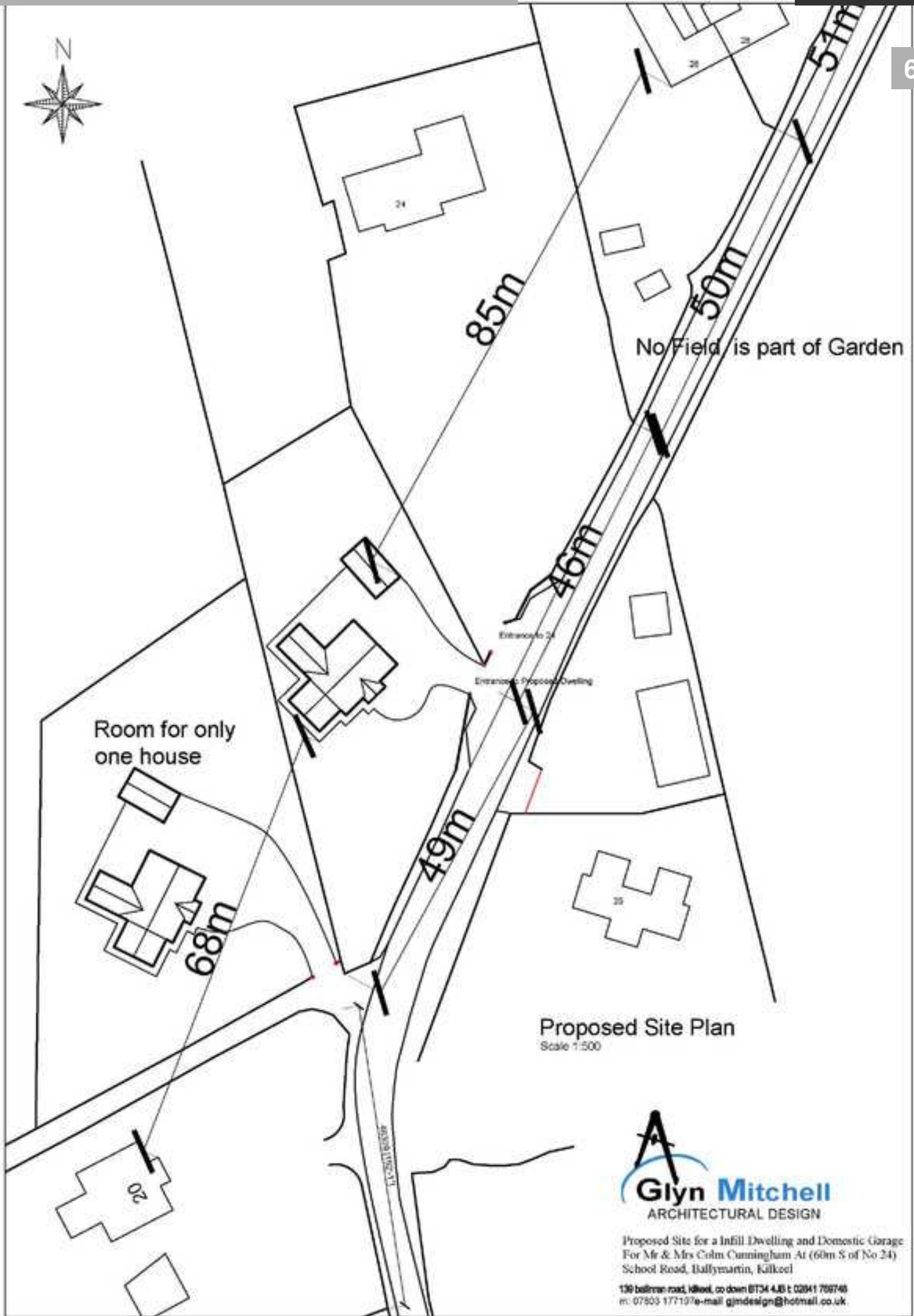
As previously stated, given that the submitted proposal is an Outline planning application, the specific considerations of size, scale and overall design would only be thoroughly addressed in the formulation of a subsequent Reserved Matters application, and it is therefore entirely premature to state that "the dwelling would, if permitted, be unduly prominent in the landscape".

In addition, the considerations and potential concerns regarding ribbon development expressed within the second bullet point, quoted above, have been thoroughly addressed within this letter, under the second recommended reason for refusal. Rather than creating or adding to a ribbon of development, the submitted proposal entirely meets the requirements of Policy CTY 8, being located within a small gap site sufficient only to accommodate up to a maximum of two dwellings, while respecting the existing pattern of development.

In conclusion, for the great many reasons stated above, Mr. and Mrs. Cunningham's application meets the criteria of all relevant planning policies, and we therefore request that the Department looks favourably upon this policy-compliant proposal and recommends for approval.

Yours faithfully,

John Law BSc (Hons.) Dip. TP

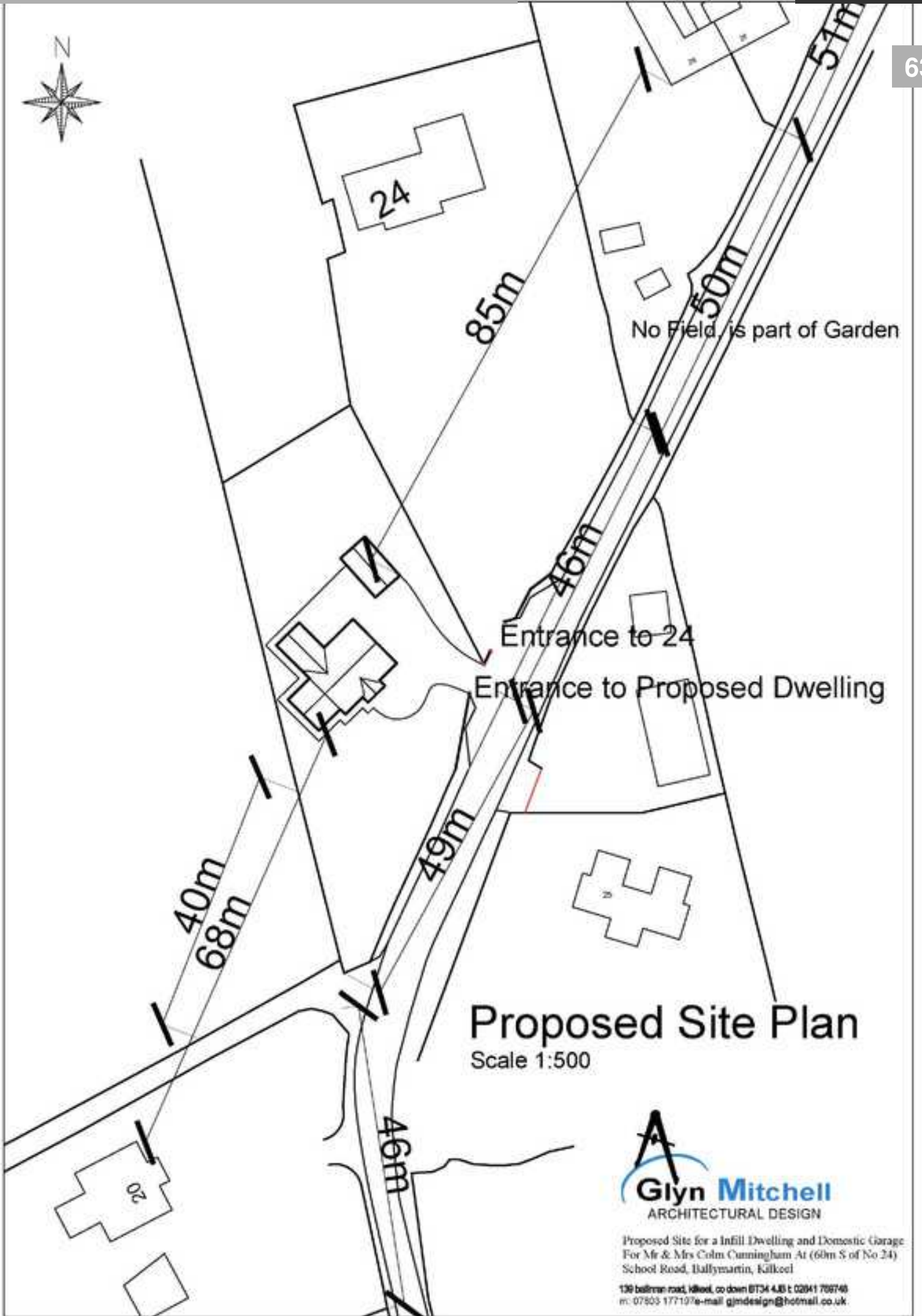


Proposed Site Plan  
Scale 1:500



Proposed Site for a Infill Dwelling and Domestic Garage  
For Mr & Mrs Colm Cunningham At (60m S of No 24)  
School Road, Ballymartin, Kilkree

139 ballinacorney road, Kilkree, co down BT34 4JB t 02941 709746  
m: 07803 177197 e-mail gjm@design@hotmail.co.uk



Proposed Site for a Infill Dwelling and Domestic Garage  
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Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2015/1088/F

**Date Received:** 22.10.2015

**Proposal:** The application is for full planning permission for Proposed anaerobic digestion plant that includes a CHP unit, gas flare stack, three silos, 3 digestion tanks and associated site works including NIE sub-station

**Location:** The application site is located outside the settlements in the open countryside within the Mourne AONB as designated in the Banbridge/Newry and Mourne Area Plan 2015. It is approx. 2 miles from the settlement of Finnis and approx. 3.5miles south of the village of Dromara.



site location plan





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

The site is located off the Carrigagh Road, Finnis. The site itself is approx. less than 1 hectare and is accessed via an existing laneway which serves an existing farm holding (Dairy Farm). The existing farmyard where the site is located is set back 220m from the Carrigagh Road. The farm holding consists of a number of large agricultural buildings, a large slurry tank, a two storey currently vacant dwelling within the farm complex at No 133 and just to the south of the farm buildings is a single storey bungalow at No 135, the owner of the farm holding but not the applicant.

The site itself is bounded to the north by existing planted trees, however, these are at a lower level than the site. The agricultural sheds and existing farm buildings and a cluster of mature trees which are all outside the boundary of the site are located to the east of the site. The Eastern boundary itself consists only of a post and wire fence with no vegetation, as does the western boundary. The surrounding land is predominantly agricultural and is characterised by undulating land.

#### **Site History:**

Q/1984/0001 135 Carrigagh Road, Finnis, Dromara Extension To Dwelling Permission Granted

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

The application site is located outside the settlements in the open countryside within the Mourne AONB as designated in the Banbridge/Newry and Mourne Area Plan 2015 and as such the following policies are relevant

Regional Development Strategy,

Strategic Planning Policy Statement (SPPS) which are read in conjunction with:-

Planning Policy Statement 3 - Access, Movement and Parking

Planning Policy Statement 11 – Planning and Waste Management

Planning Policy Statement 18 – Renewable Energy

Planning Policy Statement 21 - Sustainable Development in the Countryside

Best Practice Guidance to PPS 18 – Renewable Energy.

Draft Supplementary Planning Guidance to PPS18 "renewable Energy" Anaerobic Digestion  
June 2013

### **Consultations:**

NI water – Statutory response

DARD Veterinary Service Animal By-Products – no objections subject to adherence to all relevant guidelines

DARD vet – No objections subject to conditions

NIEA – Water management Unit – no objections

NIEA - Waste Management advises should the proposal receive planning approval, a waste authorisation Licence from NIEA, however, they have no objection to the scheme in general.

DFI Roads – insufficient information submitted to determine the application and the impact on the existing road network.

Rivers Agency – No objections

Environmental Health – No objections subject to conditions

### **Objections & Representations**

In line with statutory requirements six neighbours were consulted have been notified on 25.11.2015 and again with amended plans on 09.03.2016 and 22.07.2016 and 15.10.2018. To date 48 letters of objection have been received in relation to the proposal. The application was advertised in the Mourne Observer and the Down Recorder on 11.11.2015. Update requested by Margaret Richie MP and how the application would be assessed against policy.

The objections raised in the letters of objection vary from each objection but the following is a general analysis of the issues involved and the concerns highlighted by the objectors.

- Road safety – local infrastructure not sufficient to deal with the traffic associated with this proposal.

- Health issues – hazardous to human health. Consideration should be given to adequate management of waste products, poultry litter being brought in site, causing infection etc

- Odour – impact on air quality and odour and pollutants, risk of explosions.

- Commercial size of AD plant, not agricultural

- Noise – including traffic generated, HGV's, deliveries of feed stuff
- Residential Amenity – proposal would have significant adverse effects on the residential amenity of neighbouring properties in terms of dust, odour, noise and vermin/pest disturbances
- Visual Impact – large scale proposal which is out of keeping with the local rural landscape. Proposal in AONB, Mourne Scenic Loop, and overall scale, mass and design fails to respect the area. Unduly prominent, does not respect traditional pattern of settlement in the area, impact of ancillary works would damage rural character.
- Environmental Concerns - impact on loss of habitat, red kites in area impacted, close to watercourse.
- No overriding reasons why this development is essential at this rural location.
- Lack of Community input and engagement
- Impact on Tourism
- Viability of proposal – there is insufficient acreage needed to power the AD.
- Devaluation of resident's properties
- land ownership issues

Please see file for all individual letters of objection.

## **Background**

AD is the process by which plant and animal material (biomass) is converted into useful products (biogas and digestive) by micro-organisms in the absence of air. Biomass is placed inside sealed tanks and naturally occurring microorganisms digest it, releasing biogas (a mixture of methane and CO<sub>2</sub>) that can be used to provide renewable energy and produce gig estate that can be used as fertiliser and soil conditioner.

An objective of the RDS 2035 is to emphasise the importance of cutting environmental costs generally, by reducing the consumption of natural resources and energy from non-renewable sources.

SPG-ENV5 of the RDS promotes a number of actions to respond to the implications of climate change and promote more prudent and efficient use of energy and resources, and effective waste management.

Within this Strategic Planning Guideline, ENV 5.3 specifically promotes the use of cleaner and more efficient fossil fuels and exploitation of renewable energy resources as well as the promotion of energy saving and energy efficiency measures in households, businesses, construction/industry and the public sector.

The SPPS states in paragraph 6.224 that Development that generates energy from renewable resources will be permitted where the proposal and any associated buildings and

infrastructure, will not result in an unacceptable adverse impact on the following planning considerations:

- public safety, human health, or residential amenity;
- visual amenity and landscape character;
- biodiversity, nature conservation or built heritage interests;
- local natural resources, such as air quality, water quality or quantity; and,
- public access to the countryside.

Para 6.225 goes on to state that the wider environmental, economic and social benefits of all proposals for renewable energy projects are material considerations that will be given appropriate weight in determining whether planning permission should be granted.

Policy RE1 of PPS 18 is supportive of projects for generating renewable energy providing they will not result in A-E

### **Technology**

1. This CAD plant comprises two digester (primary and secondary) tanks, digestate storage tank and a CHP plant power generator
2. The digester tank is 26 metres in diameter and 6 metres in total height.
3. The secondary digester tank is 26 metres in height and 6 metres in diameter (excluding biogas storage membrane of a further 4metres).
4. The digestate storage tank is 32m in height and 6m in diameter. Digesters and storage tanks are to be finished in green corrugated metal cladding with dark grey rubber membrane cover
5. The CHP unit, which houses the plant room, control room, kitchen, WC & Changing and an office) is to be finished in green metal cladding with the back up flare to have a galvanised steel finish.

### **Feedstock / Throughput**

The agent has advised that the throughput for the 500kW AD plant will be approximately 16000 tonnes of feedstock. This breaks down to: 7000 tonnes of grass silage (land owned); and 5000 tonnes of slurry/manure (contracted 3<sup>rd</sup> party) and 4000 tonnes of poultry litter (contracted from nearby poultry unit). The proposed plant will only accept plant tissue waste (EWC Code 02 01 03) and animal faeces and manure (grass silage, cattle slurry).

### **Consideration and Assessment:**

Since the application falls within Category 11 (B) of Schedule 2 of the Planning (Environmental Impact) Regulations (Northern Ireland) 2015, the proposal involves the installation for the disposal of waste where the area of the development exceeds 0.5

hectare. A nil determination was made that the application could be determined using the normal consultation process.

### **PPS 21 – Sustainable Development in the Countryside**

CTY 1 – Development in the Countryside – 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. Refers to assessment under PPS 18 Renewable Energy

### **Planning Policy Statement 18 - Renewable Energy**

Policy RE1 seeks to ensure that the proposed development will not result in an unacceptable adverse impact on:

- public safety,
- human health, or residential amenity;
- visual amenity and landscape character;
- biodiversity, nature conservation or built heritage interests;
- local natural resources, such as air quality or water quality; and public access to the countryside

The application is assessed against the five PPS18 RE1 headline criteria (a to e) is as follows:

- a. public safety, human health, or residential amenity;

A significant amount of letters of objection have been received in relation to the effects of the AD on human health as outlined. The agent in the Design and Access statement clarifies that in relation to odour the plant comprises sealed tanks and since the digesters are airtight the smell stays within these vessels.

Having considered the content of the objection letters and having consulted Environmental Health as part of the process, Environmental Health have listed a number of conditions which they feel would adequately address concerns in respect of unacceptable impacts on residential amenity. The biogas produced as a result of the AD process is odorous if allowed to vent directly to the atmosphere, however, under normal operating conditions this is prevented by the gas holder which acts to regulate the flow of biogas to the CHP engine. Therefore flue gases from the normal operation of a CHP engine are unlikely to give rise to significant odour emissions provided the equipment meets relevant design specifications and is properly serviced. Hence the conditions advised by Environmental Health should ensure that this is controlled. Similarly, emissions from the gas flare stack (operative during the plant commissioning, testing or under abnormal operating conditions) will also not normally give rise to significant environmental problems or unacceptable odour emissions. In this case a waste management authorisation for the site will be required. The waste authorisation for the site will place conditions on the site to ensure there are no unacceptable environmental impacts. Should they occur the design of the authorisation will be that it

removes the impact; this may include cessation of the waste activity generating the impacts. In this case there will be a specific condition in relation to the flare, which is specifically mentioned in the supporting information.

Given the distance of the tanks and reception building to the nearest residential property (which is outside the control of the farmer) which is more than 400m away, along with the responses from both NIEA and Environmental Health who offer no objections, it is contended that if the anaerobic digester is run correctly under the appropriate regulations, there should be no adverse impacts on the human health and safety of neighbouring residential properties.

Therefore in relation to point (a) it is contended that the setback of the AD from the public road and the distance from sensitive receptors will ensure that 'public safety, human health, or residential amenity will not be prejudiced;

#### b. Visual amenity and landscape character

There is a fairly sizeable farm complex at the site at present which includes agricultural sheds, a large slurry tank and two dwellings, all accessed off an existing laneway. The proposed silos, digestors & CHP unit would all be clustered with the existing farm complex. The nature of the farm at present is that due to the topography of the land, the farm complex does already have a visual impact on the landscape and there would be long distance views of the farm particularly from the Slievenaboley Road to the west and SW and NW. The site would be described as having a visual linkage to the existing farm complex and these buildings would form a backdrop to a certain extent for the proposed buildings. The 3 digester units are large in size and measure approx. 6m in height. However, because of the topography of the land, the proposed digestors are to be partially buried below finish ground level and will have a green sheet metal cladding finish this will help to aid the integration on the site. There is a belt of existing trees to the north of the proposed site, but these are at a lower level than the site at present. The main western boundary is currently undefined, however, it is proposed to plant along this boundary. There are a significant copse of trees along the existing laneway. The silo tanks are to be positioned to the SW of these trees and will act as a good backdrop for the silos which are long in length but are not of high profile in terms of height. The materials of the silos are shuttered concrete. While the AD plant is sizeable in nature and given the output which would be 500kw, it would be more akin to a commercial AD plant, given that the applicant is not the farmer himself. This however, does not preclude its development in the countryside, it does however, need to be considered carefully given the scale of the operation and based on its own individual merits. On balance, given the site setting which is adjacent to an existing large farm complex, the context and nature of the adjacent land topography, the long distance views from the existing road network, the set back of the current farm, the planting scheme proposed by the agent (to aid integration) and the lowering of the digestors on land that is lower than the existing farm complex will ensure that it is not visually prominent.

It is considered that the proposal will visually integrate into the landscape to a satisfactory extent. The AD plant would not have an impact on visual amenity and landscape character that would be so detrimental that it would warrant refusal of the application.

c. The NIEA Built Heritage Map does not identify the site as having any special 'biodiversity or nature conservation interests'; and



d. The plant and building design (sealed tanks, impermeable ground/covered tanks) would be compliant with the requests from consultees and should ensure that there will be no impact on local natural resources, such as air quality or water quality'.

e. While the site is located in a sensitive landscape (Mourne AONB) at an existing farm holding, in terms of providing 'public access to the countryside', here will be no impact on the ability of the public to access the countryside.

### **Access – PPS 3 Policy AMP 2**

Access to public Roads states that planning permission will only be granted for a development proposal involving the direct access, or the intensification of the use of an existing access, onto the 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 the Policy AMP3 Access to Protected Routes. DFI Roads were consulted as part of the consultation process.

The Draft Supplementary Planning Guidance to PPS18 "renewable Energy" Anaerobic Digestion states that in general on-farm AD is only likely to be sustained by large farms which can produce enough feedstock year round from within the farm unit for the economic operation of the plant. In practice most proposals for farm-based AD in Northern Ireland will involve the import of a proportion of feedstock material onto the farm to complement the feedstock originating from within the unit. Where this is the case it is important that the type, volume (in tonnes per annum) and source(s) of feedstock are clearly identified as part of the planning application. This is required in order to fully assess the transport/traffic implications of this movement and also consider other aspects such as the amenity impacts and the adequacy of existing or proposed feedstock storage provision.

The Guidance goes on to advise that there is a need to ensure that the local road network is capable of accommodating the type and number of vehicle movements that the proposal is expected to generate. In order to avoid or mitigate against any adverse impacts, the Department may specify the use of a particular route or routes or require routes to be improved. Where the road network cannot accommodate the predicted number of vehicle movements without adverse traffic or road safety impacts, it is likely that planning permission will not be granted.

As part of the P1 form completed by the agent Q25 indicated that this proposal would generate 2 staff vehicles per day with no visitors or goods vehicles. However, within the design and access statement submitted section 2.10 refers to 5000t of slurry being contracted local 3<sup>rd</sup> party slurry along with 4000t of poultry litter being delivered from a local poultry unit. Thus there appeared to be conflicting information and in order for TNI to determine the impact of this proposal on the existing road network it is essential that accurate details of vehicle frequency, type, size and weight were required, thus further clarification was sought from the agent.

Transport NI responded on the 9 December 2015 requesting the completion of a Transport Assessment. This was received on the 9 February 2016 by TNI. This form indicated on Part B Section 1 that 3 journeys will be made to the site each day by agricultural vehicles over the summer peak periods. The agent has also indicated within the supplementary sheet that

there will not be any additional traffic impact on the surrounding road network if this application is approved; this statement required further clarification as they had indicated previously that 9000t will come from outside the farm holding.

Following further clarification from the agent, it was indicated that the proposal will attract 1 daily movement per day for slurry and 1 movement per every other day for poultry litter. However, it was stated that until the project receives planning approval the project promoters are not in a position to enter into the commercial contracting of poultry litter and slurry. This statement raises concerns for TNI as it appears that there will be a commercial element to the proposal that in itself could attract a level of traffic that would be considered unsuitable for the existing road network.

The main issue at this stage from a TNI perspective is to determine the level of traffic movements that the commercial element would generate over and above that that would normally be involved with the operation of the current farm business as this will be required in order to ensure that the existing road infrastructure can sustain the proposal. Following clarification on this matter the applicant needed to address the following points:

- Drawings detailing the proposed access arrangements onto the public road including visibility splays and width of access.
- Detailed drawings indicating the internal arrangement of the site to include service, employee and visitor parking areas; turning and manoeuvring areas.
- Details of the proposed haul routes from other land or farms to the proposed site.

The agent has had difficulty providing this information given that land required for the access arrangements is not under the control of the applicant. In addition details of the haul routes have not been provided to date. Given then the type of vehicles and frequency required to bring silage/manure/slurry/poultry litter to the site in conjunction with the operation of the AD plant, the critical issue which needs to be considered is whether the infrastructure and road network can accommodate the additional traffic movements generated by the proposed plant.

A meeting was thus held with the agent, Declan Brady and Thomas Cromie on 19<sup>th</sup> May 2018, the agent was asked to provide the Council with details on where off farm material would be sourced from and which network routes would be used to run the AD plant. The agent has quoted PAC examples where various Councils have conditioned similar AD approvals to restrict source materials from the associated farm holding only, and further land taken on a lease agreement. However, the main purpose of asking where the haulage routes and which network routes are to be used is to establish whether the road infrastructure can accommodate additional trips which will be generated by this 500KW AD plant. The Council are aware of advice from DAERA that a 500kw facility would require some 600 acres of land to service it (on a ratio of 1.2acres to produce 1 kw of power) whereas the agent has stated in the design and access statement that the total area of all farm lands is 280acres which would indicate that more feedstock would have to be imported to service the AD plant. The agent insists that provision of the haulage routes to this proposal is not possible at this time, and maintain the position that the majority of the energy crop (83%) is coming from the lands Mr McIlroy currently farms. The remaining crop and poultry litter (17%) will be sourced locally from as yet, unconfirmed lands and poultry farms. They have stated that the source and network routes of this remaining input material can

only be identified and confirmed after the applicant has secured planning permission, completed negotiations and entered agreements with other landowners. Transport NI still maintain the opinion that the roads infrastructure is not available to support this type of development.

### **Planning Policy Statement 11 - Planning and Waste management**

As AD proposals are regarded as waste treatment facilities, where the feedstock is classified as a waste under the relevant legislation, the provisions of PPS 11 'Planning and Waste Management' will therefore be a material consideration. Particular regard will be given to policy WM1 'Environmental Impact of a Waste Management Facility' and WM 2 'Waste Collection and Treatment Facilities'.

Proposals for the development of a waste management facility will be subject to a thorough examination of environmental effects will only be permitted where it can be demonstrated that all of the following criteria are met:

- the proposal will not cause demonstrable harm to human health or result in an unacceptable adverse impact on the environment; *this has been discussed previously in the report*
- the proposal is designed to be compatible with the character of the surrounding area and adjacent land uses; *AD plants are becoming more prevalent in the countryside Policy RE1 of PPS 18 is supportive of projects for generating renewable energy providing they will not result in A-E. In terms of the promotion of a more sustainable energy para 3.1.3 of Best Practice Guidance to PPS 18 states that the process of anaerobic digestion has the benefit of using waste substances that are otherwise difficult to dispose of in an environmentally acceptable manner while producing energy which is effectively carbon neutral.*
- the visual impact of the waste management facility, including the final landform of landfilling or land raising operations, is acceptable in the landscape and the development will not have an unacceptable visual impact on any area designated for its landscape quality; *the visual impact is also discussed under point B of PPS 18 consideration*
- the access to the site and the nature and frequency of associated traffic movements will not prejudice the safety and convenience of road users or constitute a nuisance to neighbouring residents by virtue of noise, dirt and dust;
- Transport NI are of the opinion that the roads infrastructure is not available to support this type of development.
- Detailed drawings indicating the internal arrangement of the site to include service, employee and visitor parking areas; turning and manoeuvring areas have not been provided.

*These points that relate to access, movement and transport have all been discussed above and it is concluded that there is insufficient information presented and it has not been demonstrated that the existing road infrastructure could sustain the proposal.*

- the development will not have an unacceptable adverse impact on nature conservation or archaeological/built heritage interests. The NIEA Built Heritage Map does not identify the site as having any special 'biodiversity or nature conservation interests

- the types of waste to be deposited or treated and the proposed method of disposal or treatment will not pose a serious environmental risk to air, water or soil resources that cannot be prevented or appropriately controlled by mitigating measures;

*The plant and building design (sealed tanks, impermeable ground/covered tanks) would be compliant with the requests from consultees and should ensure that there will be no impact on local natural resources, such as air quality or water quality*

- the proposed site is not at risk from flooding and the proposal will not cause or exacerbate flooding elsewhere; Rivers Agency who are competent authority on these issues were consulted as part of the process and have no objections to the proposal.

- the proposal avoids (as far as is practicable) the permanent loss of the best and most versatile agricultural land; *the site is less than a hectare in size so the loss would be negligible.*

- in the case of landfilling the proposal includes suitable, detailed and practical restoration and aftercare proposals for the site .N/A

### **Policy WM 2 Waste Collection and Treatment facilities.**

Proposals for the development of a waste collection or treatment facility will be permitted

where:

(a) there is a need for the facility as established through the WMS and the relevant WMP, except in the case of Waste Water Treatment Works (WWTWs) where the need must be demonstrated to the Department's satisfaction; and

(b) the proposed facility is the BPEO; and

(c) the proposed facility complies with one or more of the following locational criteria:-

- it is located within an industrial or port area of a character appropriate to the development;

or

- it is suitably located within an active or worked out hard rock quarry or on the site of an existing or former waste management facility including a landfill site; or

- it brings previously developed, derelict or contaminated land back into productive use or makes use of existing or redundant buildings; or

- in the case of a civic amenity and similar neighbourhood facilities the site is conveniently located in terms of access to service a neighbourhood or settlement whilst avoiding unacceptable adverse impact on the character, environmental quality and amenities of the

local area; or

- where the proposal is in the countryside, it involves the reuse of existing buildings or is on land within or adjacent to existing building groups. Alternatively where it is demonstrated that new buildings/plant are needed these must have an acceptable visual and environmental impact; and

(d) the following criteria are also met:

- in the case of a regional scale waste collection or treatment facility, its location relates closely to and benefits from easy access to key transport corridors and, where practicable makes use of the alternative transport modes of rail and water;
- proposals involving the sorting and processing of waste, are carried out within a purpose built or appropriately modified existing building, unless it can be demonstrated that part or all of the proposed operation can only be carried out in the open;
- the built development associated with the proposed methods of handling, storage, treatment and processing of waste is appropriate to the nature and hazards of the waste(s) concerned;
- proposals for the incineration of waste and other thermal processes, shall incorporate measures to maximise energy recovery both in the form of heat and electricity, taking account of prevailing technology, economics and characteristics of the waste stream involved; and
- it will not result in an unacceptable adverse environmental impact that cannot be prevented or appropriately controlled by mitigating measures

(see Policy WM 1).

## **PPS 21 – Sustainable Development in the Countryside**

### **Policy CTY 13 – Integration and Design of Buildings in the Countryside**

Planning permission will be granted for a building where it can be visually integrated into the surrounding landscape and is of an appropriate design. *Integration has been discussed as part of the response within Visual amenity and landscape character section of PPS 18.* The design of the buildings is in keeping with the existing agricultural buildings adjacent to the site. The digester, storage and reception tanks will have a concrete finish while the CHP building will have green corrugated cladding. It is deemed that on balance the site has the potential to visually integrate to a satisfactory extent. The AD plant would not have an impact so detrimental that it would warrant refusal of the application.

### **Policy 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 application proposes to introduce new structures including tanks and CHP building onto a site adjacent to an existing farm unit. The proposed new structures are to be located adjacent to the existing farm buildings. Given the previous discussions it is deemed that on balance the site has the capacity to absorb the new building and structures due to the topography of the lands, set back from the road, screening and the location adjacent to existing agricultural buildings. Thus the rural character would not be further eroded to such an extent that it would deem refusal of the application.

### **Updated Position**

The application was due to be presented at the Council Committee 11.10.2017 with an opinion to refuse. The Chief Planner at this stage withdrew it from the Schedule in order to allow the applicant/agent to submit more information. Further information was submitted by way of transport and traffic assessments written by SW Consultancy dated 26<sup>th</sup> September 2017 and 24<sup>th</sup> January 2018, which the agents argued rebutted the reasons for refusal.

The Chief Planning Officer subsequently met with the agent on site on 24<sup>th</sup> September 2018 and following submission of further supporting information on the above dates, the following was put to the agent whereby further clarification was sought including:

1. It is noted that the farmer involved in this proposal has access to 280 acres of land. Therefore there is a requirement for a further 320 acres of land (or feedstock equivalent) to service the plant, given that advice from DAERA would suggest that a 500KW AD Plant requires 600 acres of land to service it. This additional feedstock will have to come off farm and the traffic generation of this requires scrutiny. It is noted that 7000 tonnes will be from on farm Silage, 5000 tonnes will be off farm slurry and 4000 tonnes will be off farm Poultry Litter.

The agent was asked to clarify the anticipated output per acre of silage for the 280 acres available and whether the farm lands included within Mr McElroys holding are to continue being used as part of his Dairy business or are the lands to be solely used for the production of silage to service the AD Plant.

2. The evidence provided to the Chief Planning Officer onsite and from the agent's previous email on 22 March 2018 would suggest that the silage from onfarm would be brought in directly from fields surrounding the AD via internal routes across the farmer's farmlands. Following an inspection of the locational spread of the fields comprising the farm holding, the agent was asked to clarify how all movements would take place to the main farm holding at Carrigagh Road, solely across fields and without utilising the road network. Similarly in terms of the digestate produced, the agent was asked to indicate how and where this will be disposed of.

The agent responded with the following information by way of an email 22/10/2018:

1. The anticipated output per acre of silage for the available 280 acres (113 ha) is 25 tonnes to the acre. This takes into account the updated efficiency of the AD technology proposed. The advised 600 acres for a 500 kw plant is in relation to just grass silage and slurry for feedstock. However this proposal includes poultry litter which generates similar biogas yields as a tonne of grass silage therefore reducing the acreage required for grass silage;

2. The Dairy Farm will cease operating should this AD proposal be approved. The farm lands within Mr McElroys holding will be solely used for the production of silage to service the AD plant;

3. The silage required will be harvested from all of Mr McElrory's existing farm land base including the outlying farm lands. This farmland is currently being used to produce grass silage for his dairy cows. The cessation of dairy farming and switching to AD will free up Mr McElrory lands for feedstock for the AD plant. The same agricultural roads and routes

(across internal fields) will be facilitated to bring in the 7,000 tonnes per year of silage required;

4. Similarly, in terms of the digestate produced 8,000 tonnes per year will be spread across the Mr McIlroys existing farmlands in point 3 above. The remaining 5,000 tonnes will be distributed across 3rd party land which can only be agreed with third parties on receipt of an approval.

DFI Roads (formerly Transport NI) were reconsulted with the transport and traffic assessments dated 26<sup>th</sup> September 2017 and 24<sup>th</sup> January 2018 and again with information submitted by the agent on 03 October 2018. DFI Roads have responded on 04 December 2018 reiterating their previous concerns and recommending refusal

***On review of the latest submission dated 11 October 2018 DFI Roads would make the following comments:***

***The Comment made in the Traffic and Transport report of 26 September 2017 that haulage routes will be 'located within the vicinity of the AD plant' but, on the basis of being construed as sensitive information are as yet unidentified, precludes any definitive assessment of the extent of any impact on the surrounding public road network which compromises minor rural roads. In the absence of a full Traffic Assessment more detailed specific information on the affected routes would be required including any within the applicant's own agricultural land. It appears from the submission of 24 January 2018 that such details are available but will only be forthcoming on issue of planning approval.***

***In the absence of such detail DFI Roads would be of the opinion that there will be potential intensification of traffic on the surrounding Road Network in relation to this proposal.***

***It should be noted that provision of passing bays in relation to this proposal need to be inter-visible and designed to DMRB standard. The natural passing referred to in the correspondence dated 26 September 2017 would not be acceptable as many proposed bays fall within third party land comprising entrances and verges which have been subject to over riding. To note Any proposed passing bay would need to be included within the red-line of the application site.***

***On the basis of the limited information available for a complete assessment to be carried out DFI Roads would be of the opinion that this application should be refused.***

**Recommendation:**

Refusal

**Brief summary for Recommendation**

Following consultation with the relevant statutory consultees concerns have been raised with DFI Roads. Therefore it is considered that the road network and infrastructure is not available to support the proposed development.

**Refusal Reasons:**

1. The proposal is contrary to the SPPS and Policy RE1 of Planning Policy Statement 18, Renewable Energy in that it has not been demonstrated that the proposal would not prejudice the safety and convenience of road users as it would cause an unacceptable increase in traffic movements on Carrigagh Road, and that the public road network cannot satisfactorily accommodate the traffic generated.
2. The proposal is contrary to Policy WM 1 of Planning Policy Statement 11, Planning and Waste Management in that it has not been demonstrated that the proposal would not prejudice the safety and convenience of road users as it would cause an unacceptable increase in traffic movements on Carrigagh Road, and that the public road network cannot satisfactorily accommodate the traffic generated.
3. The proposal is contrary to Policy AMP2 'Access to Public Road' of Planning Policy Statement 3, Access, Movement and parking in that it has not been demonstrated that the proposal would not prejudice the safety and convenience of road users since the roads infrastructure to sustain this type of development is not available and cannot be provided within the scope of this application.

Case Officer Signature

Date

Appointed Officer Signature

Date



Ladies and Gentlemen of the Planning Committee.

On behalf of Slievenaboley/Finnis Community Group, I would like to thank the Committee for the opportunity to speak on the matter of the development of the Anaerobic Digester at Carrigagh Road, Dromara.

We believe that this process has ensured that every aspect of this application has been thoroughly examined with all parties having had sufficient time to promote their views and responses.

It was clear from the outset, that there were many serious flaws in this application. The application contained such blatantly inaccurate and inconsistent facts and figures that, when reviewed by individuals actually resulted in the formation of our community group. This group has ensured maximum inclusion in the consultation process and assurance that all objections accurately reflected facts. It also gave a voice to the many people in our community who might otherwise feel intimidated by the process and unable to contribute to constructively objecting to this application. With that, I want to take the opportunity to commend the many people in our group who made the effort to submit objections, review reports and publications related to renewable energy and anaerobic digesters to make sure that we were making fair and accurate comments. Honestly and integrity in all of our dealings were the order of the day.

In particular, we welcome the final communication from Transport NI (dated 4<sup>th</sup> December, 2018) where they recommend refusal on the basis of the intensification of traffic and inadequacy of passing bays on Carrigagh Road. The prospect of a significant increase in heavy vehicles on the roads leading to the site had created considerable stress and worry in the community at large. It is enormously encouraging that our research into this matter – and subsequent objections - have been completely vindicated by Transport NI and resulted in this conclusion.

The Slievenaboley / Finnis Community Group are very supportive of the concept of renewable energy in general. However, we believe this application highlights the key concerns around the development of anaerobic digesters on small farms. With concerns ranging from logistics related to sourcing and transporting large quantities of grass, slurry and chicken litter, the negative impact upon the local community and, finally, the end product – disposal of the high-nitrate digestate that presents the next layer of problems facing our farmers and environmental organizations today.

In conclusion, the Slievenaboley / Finnis Community Group recognize the efforts of all the departments involved in this matter and are grateful for the opportunity to have contributed to the process. We are satisfied that, on the basis of all the evidence and representations, the Planning Department have recommended 'Refusal' and heartily support that recommendation. It is our hope that the Planning Committee will also support this recommendation and conclude with refusing this application.

Thank you

### Reasons for Refusal

1. The proposal is contrary to the SPPS and Policy RE1 of Planning Policy Statement 18, Renewable Energy in that it has not been demonstrated that the proposal would not prejudice the safety and convenience of road users as it would cause an unacceptable increase in traffic movements on Carrigagh Road, and that the public road network cannot satisfactorily accommodate the traffic generated.
2. The proposal is contrary to Policy WM 1 of Planning Policy Statement 11, Planning and Waste Management in that it has not been demonstrated that the proposal would not prejudice the safety and convenience of road users as it would cause an unacceptable increase in traffic movements on Carrigagh Road, and that the public road network cannot satisfactorily accommodate the traffic generated.
3. The proposal is contrary to Policy AMP2 'Access to Public Road' of Planning Policy Statement 3, Access, Movement and parking in that it has not been demonstrated that the proposal would not prejudice the safety and convenience of road users since the roads infrastructure to sustain this type of development is not available and cannot be provided within the scope of this application.

### Attachments

- Appendix 1** TNI response dated 4<sup>th</sup> December
- Appendix 2** AD approval LA05/2015/0716 (condition 4)
- Appendix 2** SW Consulting Report (January 2018) showing existing traffic journeys

Good morning,

My name is Sarah McDowell and with me are and Simon Warke, traffic consultant and Thomas Cromie from AgriAD. The three reasons for refusal against this proposal are roads related.

On receipt of TNI response dated 4<sup>th</sup> December found at appendix 2, the planners recommended the refusal reasons above to Council committee the next day. There are no other planning issues with regards to the proposal. Going through the response, I would address points raised as follows:

#### **DFI point no. 1**

We have furnished the Council with all information requested; a full Traffic Assessment would only be required if the proposal were to generate additional traffic i.e. over 5% intensification. When the AD plant is operating, Mr McIlroy can take deserved retirement as a farmer and cease dairy farming. We have proven that the current farm generates between 13-20 farm related journeys a day. The proposal will generate a total of 3 agricultural vehicle journeys a day. The proposal significantly reduces the journeys by at least 76%.

**DFI point.2**

To be clear, at its maximum capacity:

- 1 Journey accounts for 3<sup>rd</sup> party poultry litter required, per day;
- 1 journey accounts for 3<sup>rd</sup> party slurry required, per day; and
- 1 journey accounts for 3<sup>rd</sup> party lands for the digestate to be transported to, per day.

The silage required will be harvested from all of Mr McIlroys existing farm land base. The cessation of dairy farming and switching to AD will free up Mr McIlroys land for feedstock for the AD. The same agricultural roads and routes (across internal fields) will be facilitated to bring in the silage required for the plant.

The exact source location of digestate, poultry litter and slurry can only be agreed and confirmed to planners once an approval is granted. This well established practice and been used on numerous other AD proposals and can be conditioned to be submitted and agreed prior to commencement of development. This point has been tested and accepted by Lisburn and Castlereagh Council planning legal advisors. Please see condition 4 of recently approved AD plant appendix 2.

**DFI point No.3**

With the reduction in traffic, existing natural passing bays along the Carrigagh Road would be used less frequently. As we are not intensifying, there is no requirement for the applicant to improve these.

Refusal reasons 1 and 2 are erroneous. The current site operating as a dairy farm can generate between **13 and 20 return journeys** a day, this is proven in SW consulting report submitted in January 2018. Regardless of routes we are proposing an average of **3 return journeys** a day, the calculation of which has been given to planning and TNI on numerous occasions. The assertion that the proposal intensifies traffic on the approach roads is plainly erroneous. We have very clearly shown that the proposal will generate at least a 76% **reduction** of farm related trips to and from the site. There will be no increase of traffic and therefore the public road network can safely and satisfactorily accommodate the new reduced levels of traffic. Refusal reasons 1 -3 are therefore incorrect and are without basis.

The number of journeys will have less than a 5% impact on nearby junctions regardless of where traffic arrives/departs from. A full traffic assessment is not required if 5% threshold is not breached (5% is for sensitive location- the norm is 10%). Where there is no intensification, no improvements

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are required. The existing road network, including passing bays along the Carrigagh Road has the capacity to accommodate this proposal. Refusal Reason 3 is therefore unsustainable.

In conclusion, the proposal is consistent with government policy on both renewable energy and farm diversification. We strongly refute all of the refusal reasons and given that this application meets all other planning policy, ask that Council members to approve this application. We would welcome any questions you may have at this time.

LA07/2015/1088 PLANNING COMMITTEE 19<sup>TH</sup> DECEMBER 2018

## **APPENDIX 1**

**transportni**

Southern Division  
 Rathkeltair House  
 Market Street  
 DOWNPATRICK  
 BT30 6AJ

Planning Application Reference Number:	LA07/2015/1088/F
Date Plans/Documents received by Planning:	15 October 2018
Date Plans/Documents received by DFI Roads:	17 October 2018
Drawing/Document Reference:	02

On review of the latest submission dated 11 October 2018 DFI Roads would make the following comments:

The Comment made in the Traffic and Transport report of 26 September 2017 that haulage routes will be 'located within the vicinity of the AD plant' but, on the basis of being construed as sensitive information are as yet unidentified, precludes any definitive assessment of the extent of any impact on the surrounding public road network which compromises minor rural roads. In the absence of a full Traffic Assessment more detailed specific information on the affected routes would be required including any within the applicant's own agricultural land. It appears from the submission of 24 January 2018 that such details are available but will only be forthcoming on issue of planning approval.

In the absence of such detail DFI Roads would be of the opinion that there will be potential intensification of traffic on the surrounding Road Network in relation to this proposal.

It should be noted that provision of passing bays in relation to this proposal need to be inter-visible and designed to DMRB standard. The natural passing referred to in the correspondence dated 26 September 2017 would not be acceptable as many proposed bays fall within third party land comprising entrances and verges which have been subject to over riding. To note Any proposed passing bay would need to be included within the red-line of the application site.

On the basis of the limited information available for a complete assessment to be carried out DFI Roads would be of the opinion that this application should be refused.

Senior DFI Officer: WNR Laughlin  
 04 December 2018

LA07/2015/1088 PLANNING COMMITTEE 19<sup>TH</sup> DECEMBER 2018

## **APPENDIX 2**

## APPROVAL OF PLANNING PERMISSION

### Planning Act (Northern Ireland) 2011

Application No: **LA05/2015/0716/F**

Date of Application: **22nd October 2015**

Site of Proposed  
Development:

**150 mts South West of No 5 Hannahstown Road  
Slievenacloy  
Lisburn**

Description of Proposal:

**Proposed anaerobic digestion plant (Output of 500kw per hour) that includes a chp Unit, Gas flare stack, three silos, 3 digestion tanks & associated site works including NIE sub-station**

Applicant: **United Renewables Ltd**  
Address: **Ballachrink House  
Glen Mooar-Loop Road, St Johns  
Isle Of Man  
IM4 3AG**

Agent: **Brendan Monaghan**  
Address: **1/a Lissan Design  
45 Lettran Road  
Moneymore  
Co Derry  
BT45 7UB**

Drawing Ref: 01B, 02B, 03, 04, 05 and Attachment 1 & 2 received 7<sup>th</sup> March 2016.

The Council in pursuance of its powers under the above-mentioned Act hereby

### GRANTS PLANNING PERMISSION

for the above-mentioned development in accordance with your application subject to compliance with the following conditions which are imposed for the reasons stated:

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 waste materials accepted at the facility hereby approved shall be restricted to European Waste Catalogue Code 02 01 06 animal faeces, urine and manure (including spoiled straw) effluent collected separately and treated off-site. Other feedstock accepted at the facility will be restricted to grass silage, straw, beet and maize silage.

Reason: In the interests of environmental protection.

3. The CHP building as indicated on stamped approved Drawing No 02B dated 31st March 2017 shall be used only in conjunction with the anaerobic digestion facility hereby approved and for no other purpose.

Reason: In the interests of character and amenity within this rural location.

4. No development shall be commenced until a Nutrient Management Plan has been submitted to and approved in writing by the Council. This shall identify the land parcels on which the digestate will be spread confirming that no digestate will be spread within 7.5 km of a European designated site.

Reason: To prevent adverse impacts on the integrity of European sites from deposition of ammonia.

5. The facility hereby approved shall operate in accordance with the agreed Nutrient Management Plan as requested under Condition 4.

Reason: To prevent adverse impacts on the integrity of European sites from deposition of ammonia.

6. Any alterations to this Nutrient Management Plan shall be submitted to and agreed with the Council at least 28 days before any changes are enacted.

Reason: To prevent adverse impacts on the integrity of European sites from deposition of ammonia.

7. Method of Works Statement, for works in, near or liable to affect any waterway as defined by the Water (Northern Ireland) Order 1999, must be submitted to NIEA Water Management Unit, at least 8 weeks prior to the commencement of the works or phase of works.

Reason: To ensure effective avoidance and mitigation measures have been planned for the protection of the water environment.

8. The development shall not be commenced until the 11kv overhead lines as indicated in yellow on the Site Layout Plan Drawing 02B date stamped 31st March 2017 have been altered to the satisfaction of the Council in consultation with NIE.

Reason: To ensure that the development does not infringe on the safety

distances of existing 11kv overhead lines located within the site.

9. Development shall be undertaken in strict accordance with Attachment No 1 and No 2 date stamped 7th March 2016.

Reason: To protect the amenity of neighbouring dwellings with respect to noise and odour.

10. Chicken litter shall be transported to site in a covered trailer to minimise odour.

Reason: To protect the amenity of neighbouring dwellings with respect to odour.

11. Chicken litter shall be unloaded into the feedstock bunker and covered with a vermin and fly proof cover to minimise odour.

Reason: To protect the amenity of neighbouring dwellings with respect to odour.

12. Underground slurry tanks must be provided with level indicators and automatic closure of actuated valves to prevent overfilling.

Reason: To protect the amenity of neighbouring dwellings with respect to odour.

13. All hard and soft landscaping works shall be carried out in accordance with approved Drawing 02B date received 31st March 2017 and the appropriate British Standard or other recognized Codes of Practice. The works shall be carried out within the first available planting season after the commencement of works.

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

14. 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.

15. If any retained tree is removed, uprooted or destroyed or dies within 3 years from the date of the occupation of the building for its permitted use another tree or trees shall be planted at the same time and those trees shall be of

such size and species and shall be planted at such time as may be specified by the Council.

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

#### Informatives

1. 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.
2. 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.
3. This decision relates to planning control only. The Council would advise that if the proposed works require Building Regulations approval this should be obtained from the relevant Council before the works commence. The Council would also advise that this planning decision does not cover any other approval which may be necessary under other legislation.
4. No digestate shall be spread on land within 7.5km of any European site as identified in the Nutrient Management Plan to be submitted in accordance with Condition 4.
5. Recommended conditions and informatives are set out in DOE Standing Advice Note No. 23 – Commercial and Industrial (September 2015).
6. Water Management Unite notes from the application that foul sewage will be disposed of to the 'end storage reception tank'. This would not be considered as a suitable means of foul sewage disposal and would refer the applicant to the options detailed in Pollution Prevention Guidance (PPG) 4 – Treatment and disposal of sewage where no foul sewer is available. These options should be considered in addition to the guidance and conditions detailed in DOE Standing Advice Note No. 23 – Commercial and Industrial (September 2015), which must be strictly adhered to.
7. Discharge consent under the terms of the Water (Northern Ireland) Order 1999 would be required for the discharge of sewage effluent from the proposed development if it was to be directed to on-site treatment such as a septic tank or biodisc.
8. All handling of silage or feedstock should be over impermeable surfaces and will require an engineered site containment and drainage system diagram with the associated effluents collected in a suitable tank.
9. Dirty water or slurry is likely to be created by the daily movement of

silage/feedstock across yard areas. These areas should not have a diverter system due to the frequency of use and potential for spillage of silage, but have the effluent produced collected in a suitable tank.

10. Water Management Unit would encourage the use of SuDS (Sustainable Drainage System) techniques during the construction phase to deal with site drainage. The applicant should refer to DOE Standing Advice Note No. 5 – Sustainable Drainage Systems (April 2015) for advice on the use of Sustainable Drainage Systems. If it is not possible to adequately manage construction phase site drainage using SuDS features, consent to discharge under the terms of the Water (Northern Ireland) Order 1999 may then be required.
11. Care will need to be taken to ensure that polluting discharges do not occur, particularly during the works phase.
12. The applicant must refer and adhere to all the relevant precepts contained in DOE Standing Advice Note No. 12 – Agricultural Developments (April 2015). Standing Advice Notes are available at:  
[http://www.planningni.gov.uk/index/advice/northern\\_ireland\\_environment\\_agency\\_guidance/standing\\_advice.htm](http://www.planningni.gov.uk/index/advice/northern_ireland_environment_agency_guidance/standing_advice.htm)
13. Standing Advice Notes are available on the NI Planning Portal under Advice / NIEA Guidance / Standing Advice. The above address can also be copied and pasted to a web browser.
14. Please also note the guidance detailed in Pollution Prevention Guidance (PPG) 4 – Treatment and disposal of sewage where no foul sewer is available, available at: <http://www.sepa.org.uk/media/60099/ppg-4-treatment-and-disposal-of-sewage-where-nofoul-sewer-is-available.pdf>
15. Due to the close proximity of the site to a watercourse care will need to be taken to ensure that polluting discharges do not occur during the works phase. The applicant should refer and adhere to the precepts contained in DOE Standing Advice Note No. 4 – Pollution Prevention Guidelines (April 2015).
16. Water Management Unit notes that there appears to be an intension to culvert a watercourse. Water Management Unit recommends that the applicant adheres to the advice detailed in DOE Standing Advice Note No. 22 – Culverting (September 2015).
17. Water Management Unit notes the development includes excavation of underground structures (e.g. tanks), depending on the geological setting, the potential exists for the water table to be encountered during these works. The applicant should refer to and adhere to the precepts contained in DOE Standing Advice Note No. 18 – Abstractions and Impoundments (June 2015).

18. The discharge of water from a dewatering operation will require consent to discharge, under the Water (Northern Ireland) Order 1999. The applicant should refer to DOE Standing Advice Note No. 11 – Discharges to the Water Environment (April 2015).
19. Effective mitigation measures must be in place to protect the water environment and surrounding water bodies from any discharge into them that may damage ecological status and to ensure that the Water Framework Directive (WFD) objectives for the water body are not compromised nor the WFD objectives in other downstream water bodies in the same and other catchments.
20. 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.
21. 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.
22. Under the terms of Schedule 6 of the Drainage (NI) Order 1973 any proposal either temporary or permanent, in connection with the development which involves interference with any watercourse such as culverting, bridging, diversion, building adjacent to or discharge of storm water etc requires the written consent of Rivers Agency. This should be obtained from our Eastern Regional Office, Ravarnet House, Altona Road, Largymore, Lisburn. BT27 5QB.
23. Developers should acquaint themselves of their statutory obligations in respect of watercourses as prescribed in the Drainage (Northern Ireland) Order 1973, and consult Rivers Agency accordingly on any related matters.
24. Any proposals in connection with the development, either temporary or permanent which involve interference with any watercourse at the site:- such as diversion, culverting, bridging; or placing any form of structure in any watercourse, require the written consent of the Rivers Agency. Failure to obtain such consent prior to carrying out such proposals is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.
25. Any proposals in connection with the development, either temporary or permanent which involve additional discharge of storm water to any watercourse require the written consent of the Rivers Agency. Failure to obtain such consent prior to permitting such discharge is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.

26. If, during the course of developing the site, the developer uncovers a watercourse not previously evident, he should advise the local Rivers Agency office immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the watercourse.
27. Visual inspection of the site indicated areas which appear liable to waterlogging. The developer is advised to obtain advice from suitably qualified, competent persons in respect of internal drainage requirements, site levels, finished floor levels etc.
28. Where an undesignated watercourse flows through or adjacent to a development site, it is strongly advised that a working strip of appropriate width is retained to, in future, enable riparian landowners to fulfil their statutory obligations/responsibilities.
29. There will be a general presumption against the erection of buildings or other structures over the line of culverted watercourses. Any proposal for such requires the written consent/approval of the Rivers Agency. Failure to obtain such approval is an offence under the Drainage Order which may lead to prosecution or other statutory action as provided for.
30. The undesignated watercourse which lies within the development site, requires improvement works to (facilitate increased storm runoff / to enhance protection against flooding) and such works will be undertaken at the developer's expense.
31. Waste Management advises if waste materials are processed at this facility, a waste management licence or PPC permit will be required. The applicant should contact NIEA Waste Management to discuss.
32. The developer should note that it is his responsibility to ensure adequate access is available to and from the site during the construction phase and any damage caused to the public road network as a result of the works will be made good to the satisfaction of DfI Roads by the developer at his own expense.
33. The applicant is advised that under Article 11 of the Roads Order (Northern Ireland) Order 1993, the Department of Infrastructure is empowered to take measures to recover any reasonably incurred expenses in consequence of any damage caused to the public road as a result of extraordinary traffic generated by the proposed development.
34. The Motor Vehicles (Authorisation of Special Types) Order (NI) 1997 requires that any abnormal loads using the public road network are notified to DfI Roads. The application form can be obtained from [http://www.drzni.gov.uk/abnormal\\_loads\\_pdf.pdf](http://www.drzni.gov.uk/abnormal_loads_pdf.pdf).

35. The standard of visibility at the existing access onto the public road is poor. Since some intensification of use of the access is expected particularly during construction and potentially in the operation of the facility DfI Roads would encourage the applicant to consider the potential for incorporating improvements to the access in the interests of road safety in accordance with Planning Policy Statement 3 (PPS 3 Revised Feb 2005), Access, Movement and Parking, Policy AMP 2, Access to Public Roads by removing any obstacles within the visibility splay and maximising the visibility from the access to the right hand side exiting.
36. Public water supply within 20m of your proposal, consultation with NIW is required to determine how your proposals can be served. Application to NIW is required to obtain approval to connect.
37. Under our current policy guidelines it is unlikely that ABPR approval will be required for such a project provided that normal biosecurity protocols have been adhered to. Should the feedstocks change at any point in the future then DARD should be consulted as ABPR approval may be required.
38. Poultry litter carries risk of spread of avian viral and bacterial diseases. Vehicles transporting poultry litter on site should be cleansed and disinfected after use and facilities provided for this purposes. It is recommended that heaps of poultry litter should be covered during storage to prevent access by birds and vermin.
39. The movement of slurry off the farm and the movement of digestate back to the farm will need to be recorded in accordance with the Nitrates Action Programme Regulations. The nutrient content of the digestate should also be recorded.
40. AD operators and those contributing to AD plants should be aware that there may be animal health controls imposed on them in the event of a notifiable disease outbreak on the AD premises or on a contributing farm.
41. If there are disease breakdowns in any of the supplying herds/flocks to the anaerobic digester, DARD may issue instructions restricting the acceptance of material for the digester and the disposal of any end digestate. Apart from this we have considered this proposal and, on the basis of the information available to us, do not know of any other animal health or welfare implications that would affect this proposal provided:
  - The boundary fences with surrounding fields, which contain livestock, remain stock proof during construction
  - Livestock do not have access to the material being stored and processed
  - Materials for processing are not stored where vermin could have access to them, and there is adequate vermin control on site

- The construction and operation of these premises does not result in contamination of surrounding agricultural land and/or waterways by building materials, their by-products, or leachate from the site
  - Livestock do not have access to electricity cables or other live components
  - The proposal does not compromise any of the five essential welfare freedoms of livestock in the vicinity i.e. freedom from hunger, thirst or malnutrition, provision of shelter, freedom from injury or disease, freedom from fear, and freedom to express their normal behaviour.
42. The applicant should also be reminded of their responsibilities under the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations (SSAFO) (Northern Ireland) 2003 and The Nitrates Action Programme (NAP) Regulations (Northern Ireland) 2014. The applicant should refer and adhere to the precepts contained in DOE Standing Advice Note No. 4. Pollution Prevention Guidance, 5. Sustainable Drainage Systems, 11. Discharges to the Water Environment, 12. Agricultural Developments and 19. Livestock Installations and Ammonia. Standing advice notes are available at:
- [http://www.planningni.gov.uk/index/advice/northern\\_ireland\\_environment\\_agency\\_guidance/standing\\_advice.htm](http://www.planningni.gov.uk/index/advice/northern_ireland_environment_agency_guidance/standing_advice.htm).
43. 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.
44. 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. 028 905 69605.
45. 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. It is also an offence to intentionally or recklessly: take, damage or destroy the nest of any wild bird while that nest is in use or being built; or take or destroy an egg of any wild bird. If any person intentionally or recklessly disturbs any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or disturbs dependent young of such a bird they shall be guilty of an offence. 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 tree and hedge loss should be kept to a minimum and removal should not be carried out during the bird breeding season between 1st March and 31st August.

Dated: 13th November 2018

Authorised Officer \_\_\_\_\_

LA07/2015/1088 PLANNING COMMITTEE 19<sup>TH</sup> DECEMBER 2018

## **APPENDIX 3**

24<sup>th</sup> January 2018

Mr Sean Millican  
TransportNI  
Rathkeltair House  
Market Street  
Downpatrick  
BT30 6AJ

Dear Sean



11a Commons Hall Road  
Newry  
BT34 2PL

T: +44 (0) 2830 633 454  
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E: [simon@swconsultancy.net](mailto:simon@swconsultancy.net)

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**Re: LA07/2015/1088/F Proposed Anaerobic Digester Plant, Carrigagh Rd, Dromara**

We have been asked to further consider the traffic and transport issues pertaining to an anaerobic digester (AD) proposal located at McIlroy Farm, Carrigagh Road, Dromara. The issues raised at this time by Newry, Mourne and Down District Council are;

- 1. The proposal is contrary to Policy WM 1 of Planning Policy Statement 11, Planning and Waste Management in that it has not been demonstrated that the proposal would not prejudice the safety and convenience of road users as it would cause an unacceptable increase in traffic movements on Carrigagh Road, and that the public road network cannot satisfactorily accommodate the traffic generated.*
- 2. The proposal is contrary to Policy AMP2 'Access to Public Road' of Planning Policy Statement 3, Access, Movement and parking in that it would, if permitted, prejudice the safety and convenience of road users since the roads infrastructure to sustain this type of development is not available and cannot be provided within the scope of this application.*

## **1 Intensification**

Further to ongoing discussions regarding points 1 and 2 we have considered farm activity on 3 separate days during a given week to ascertain farm related trip movement and to identify the level of reduction if farm activity ceases and AD trips are introduced.

Classified surveys were undertaken on Monday 14<sup>th</sup> of January, Wednesday 16<sup>th</sup> of January and Thursday 17<sup>th</sup> of January 2018. Tuesday 15<sup>th</sup> of January was not used as there was heavy snow on that day. **Appendix 1** shows the proposed layout of the AD Plant. The video cameras used for analysis were positioned on the telegraph pole marked on the layout as EXISTING FARM ENTRANCE/LANE.

The survey data and photographs of each vehicle are included as **Appendix 2**. Tables 1, 2 and 3 summarise the results of the classified count.

Table 1 Monday 15<sup>th</sup> of January 2018

Arrival		Departure	
1 0605.55 Car	Farm	1 0638.33 Car	Farm
2 0609.35 Car	Farm	2 0907.03 Car	Farm
3 0611.49 Car	Farm	3 0914.43 Car	Farm
4 0623.17 Car	Farm	4 0914.49 Car	Farm
5 1018.35 Tractor/Trailer	Farm	5 1015.19 Tractor/Trailer	Farm
6 1052.25 van	Post Delivery	6 1051.31 Tractor/Trailer	Farm
7 1054.39 Tractor/Trailer	Farm	7 1053.11 van	Post delivery
8 1225.46 Car	Farm	8 1326.54 Car	Farm
9 12.34.00 Car	Farm	9 14.19.14 Tractor & Slurry	Farm
10 13.22.16 Car	Farm	10 15.10.24 Tractor & Slurry	Farm
11 14.48.52 Tractor & Slurry	Farm	11 15.15.10 Car	Farm
12 15.11.24 Car	Farm	12 16.34.36 Car	Farm
13 16.09.46 Tractor & Slurry	Farm	13 16.34.38 Car	Farm
14 16.31.28 White Van	Farm	14 16.47.12 White Van	Farm
<b>14 total arrivals, 13 farm</b>		<b>14 total departures, 13 farm</b>	
	28 2-way movements		

Table 2 Wednesday 17<sup>th</sup> January 2018

Arrival		Departure	
1 06.16.11 Tractor	Farm	1 07.41.19 Tractor	Farm
2 06.16.21 Car	Farm	2 09.17.01 Tractor	Farm
3 09.27.05 Feed Lorry	Farm	3 10.09.31 Feed Lorry	Farm
4 09.50.47 Tractor	Farm	4 11.22.37 Jeep	Farm
5 10.12.01 Jeep	Farm	5 13.06.22 Van	Farm
6 12.13.46 Car	Farm	6 13.15.12 Van	Post Delivery
7 12.28.14 Van	Farm	7 13.52.34 Jeep	Farm
8 13.12.14 Van	Post Delivery	8 14.56.12 Tractor & Slurry	Farm
9 14.47.14 Jeep	Farm	9 15.07.16 Tractor & Slurry	Farm
10 15.02.26 Tractor & Slurry	Farm	10 15.29.22 Tractor & Slurry	Farm
11 15.19.04 Tractor & Slurry	Farm	11 15.45.48 Tractor & Slurry	Farm
12 15.42.56 Tractor & Slurry	Farm	12 16.08.26 Tractor & Slurry	Farm
13 16.00.18 Tractor & Slurry	Farm	13 16.11.00 Car	Farm
14 16.33.22 Tractor	Farm	14 16.30.00 Tractor	Farm
15 16.41.46 Tractor & Slurry	Farm	15 16.50.56 Tractor & Slurry	Farm
16 16.53.54 Tractor & Slurry	Farm	16 17.06.04 Tractor	Farm
17 17.09.34 Car	Farm	17 17.52.04 Car	Farm
18 19.00.12 Milk Tanker	Farm	18 18.42.50 Car	Farm
19 20.07.04 Car	Farm	19 19.14.02 Milk Tanker	Farm
20 20.11.44 Car	Farm	20 22.18.32 Car	Farm
21 21.51.34 Car	Farm	21 23.35.00 Car	Farm

<b>21 total arrivals, 20 farm</b>	42 2-way movements	<b>21 total departures, 20 farm</b>	
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### Classified Traffic Count Thursday 16th January 2017

Arrival		Departure	
1 05.41.51 Car	Farm	1 05.54.49 Car	Farm
2 05.42.03 Car	Farm	2 09.51.29 Milk Tanker	Farm
3 07.14.25 Car	Farm	3 10.01.53 Car	Farm
4 07.55.31 Car	Farm	4 10.10.39 Jeep	Farm
5 09.37.03 Milk Tanker	Farm	5 10.38.47 Van	Farm
6 10.45.45 van	Farm	6 11.19.09 Car	Farm
7 10.47.05 Jeep	Farm	7 12.25.14 Van	Post delivery
8 11.56.120 Jeep	Farm	8 12.43.58 Jeep	Farm
9 12.18.16 Car	Farm	9 14.22.00 Jeep	Farm
10 12.24.12 Van	Post Delivery	10 14.40.00 Lorry	Farm
11 12.47.22 Car	Farm	11 14.45.44 Van	Parcel Force
12 13.55.02 Jeep	Farm	12 16.33.08 Tractor & Slurry	Farm
13 14.14.16 Lorry	Farm	13 16.39.06 Car	Farm
14 14.42.18 Van	Parcel Force	14 16.51.16 Car	Farm
15 17.08.30 Tractor & Slurry	Farm	15 17.19.38 Tractor & Slurry	Farm
16 17.55.38 Tractor & Slurry	Farm	16 18.08.32 Car	Farm
17 19.30.00 Car	Farm	17 22.57.26 Car	Farm
<b>17 total arrivals, 15 farm</b>		<b>17 total departures, 15 farm</b>	
	34 2-way movements		

Tables 1-2 show a total vehicular movement of 14 arrivals and 14 departures during the Monday, 21 arrivals and 21 departures during the Wednesday survey and 17 arrivals and 17 departures during the Thursday survey.

As per the Transport Assessment Form (TAF) there will be a maximum of 3 No. agricultural tractor/trailer arrival and 3 No. agricultural tractor/trailer departure trips generated as part of this application and 1 car trip arrival and 1 car trip departure.

During the survey period Monday 15<sup>th</sup> of January was the quietest day at the McIlroy farm where there were 14 arrivals and departures 13 of which were farm/home related and 1 was the post delivery and can be discounted. Of these 26-way farm/home related trips we can assume that the family may generate non-farm related trips and have assumed that 2 arrivals and 2 departures are non-farm related.

All other trips are generated either by part-time farm workers arriving and departing by car, tractor trailer trips or tractor/slurry trips. 3 out of 7 days there are also milk tanker trips (not Monday), again they will be eliminated if the AD plant is introduced. The net traffic impact of eliminating farm trips and introducing peak AD trips is set-out Table 4 below, based on the assessment.

**Table 4 Impact of development trips Monday 15<sup>th</sup> January Comparison**

Arrival		Departure	
Existing Total Trips	14 arrivals	Existing Total Trips	14 departures
House Related Trips retained (car)	2	House Related Trips retained (car)	2
Post Related Trips retained (van)	1	Post Related Trips retained (van)	1
<b>Less REDUCTION in Farm Related Trips</b>		<b>Less REDUCTION in Farm Related Trips</b>	
Car Trips	-6	Car Trips	-6
Tractor/Trailer	-2	Tractor/Trailer	-2
Tractor/Slurry	-2	Tractor/Slurry	-2
Van	-1	Van	-1
	arrivals		arrivals
<b>Revised Base Trips</b>	3	<b>Revised Base Trips</b>	3
Plus <i>maximum</i> 3 Agricultural Tractor/Trailer Trip	3	Plus <i>maximum</i> 3 Agricultural Tractor/Trailer Tri	3
AD Car	1	AD Car	1
<b>Summary of revised base + new 14-11 = 3 + 3+1</b>	<b>7 arrivals</b>	<b>Summary of revised base + new 14-11 = 3 + 3+1</b>	<b>7 departures</b>
Net reduction in farm trips 14-7= 7 trips		Net reduction in farm trips 14-7= 7 trips	

The findings of the Monday survey, summarised in Table 4 show the number of vehicular trips will reduce from *14 daily arrivals and 14 daily departures* to (base of 3 arrivals + 3 departures + AD agricultural of 3 arrivals and 3 departure plus 1 car trip) *7 arrivals and 7 departures*. Half the number of existing farm related trips.

Over a given day therefore when the farm activity is compared with the AD activity there will be typically *at least 7 less daily arrivals and 7 less daily departures*. If we were to consider busier farm operation days this difference would be greater. In terms of Table 4 there will also be a reduction in tractor related trips and the elimination of tanker related trips (currently 3 arrivals and departures per week).

This robust assessment of 3 typical farm days demonstrates that the AD plant will significantly reduce vehicle trips arriving from the Carrigagh Road and a reduction in operational trips. There will be **no intensification** of use,

## 2 Safety

As set-out in Table 4 there will be a net reduction in overall trips to the site improving safety. There will be less traffic on the Carrigagh Road and an overall reduction in tractor related trips and elimination of tanker related trips to the site.

## AD Plant Information

For the purposes of clarity I have set-out more traffic and transport information in relation to the AD Plant.

### Proposed types of vehicles

Based on the figures provided by technology suppliers and verified by agriAD Ltd, the anticipated maximum annual feedstock requirements for this size of AD plant (generating 500kw of electrical power) is as follows:

- Silage (7,000 tonnes per year) required for the facility will be brought in directly from fields surrounding the AD via internal routes across Mr McIlroys farmlands;
- Slurry (5,000 tonnes per year) will be transported by tractor and slurry tanker. Tankers have a 21-tonne payload, therefore  $5,000t/21t/250$  working days a year equates to 0.95 i.e. 1 daily vehicle trip.
- Poultry Litter (4,000 tonnes per year) will be delivered to the AD using tractors and trailers. Trailers have a 21-tonne payload, therefore  $4,000t/21t/250$  working days per year equates to 0.76 i.e. 1 daily vehicle trip;
- The AD plant will produce 13,000 tonnes per year. 8,000 tonnes of this will be spread as fertiliser by umbilical pipe or tractor and tractor/trailer across Mr McIlroys lands via internal routes and will not require the roads infrastructure for spreading. The remaining 5,000 tonnes of digestate will be transported off the site back to the 3rd party lands providing slurry by tractor/tanker. These tankers have a 21-tonne payload therefore  $5,000t$  digestate/  $21t$  trailer/250 working days per year equates to 0.95 i.e. 1 daily vehicle trip;
- The proposal will generate 1 car trip per day.

### Location of the supply of slurry and poultry litter

- Outwith Mr McIlrory's silage, the remaining feedstock sources (slurry and poultry litter) that require public roads will be within 5.7km radius of the site using major and minor roads with no weight restrictions. The locations of these roads and approach routes have been previously identified in the SW Consultancy Report submitted in October 2017. Exact locations of these can be provided to the Council when they have been agreed after an approval is issued.

If you require any further information please do not hesitate to contact this office.

Yours faithfully



Simon Warke  
MSc, Ceng, MCIHT

Enc.

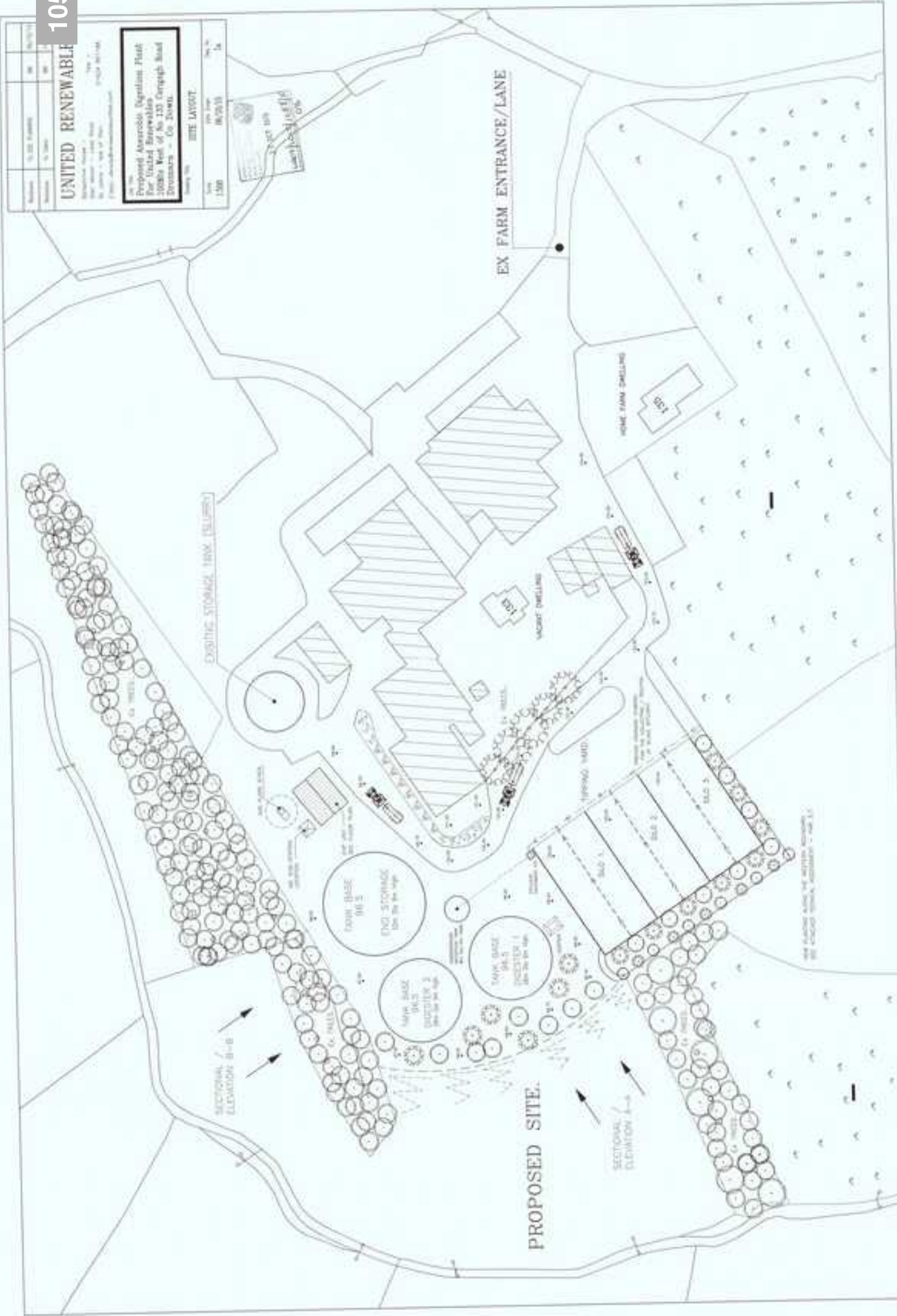






## **Appendix 1**

### **AD Site Layout Plan**



Author	J. M. Williams	Rev	06/15/11
Checked	J. M. Williams	Rev	06/15/11
<p><b>UNITED RENEWABLE</b></p> <p>Proposed Anaerobic Digester Plant For United Biorewables 20826 West of So 123 Carnegie Road Dumas - Co. Iowa.</p> <p>Project No. 1105 Date: 06/15/11</p>			

SEE PLANS FOR THE EXISTING ANAEROBIC DIGESTER TANKS, UTILITIES AND TANKS.



## **Appendix 2**

### **Classified Survey Data**

- Monday 15<sup>th</sup> January 2018
- Wednesday 17<sup>th</sup> January 2018
- Thursday 18<sup>th</sup> January 2018

Classified Traffic Count Monday 15<sup>th</sup> January 2017

Arrival		Departure	
1 0605.55 Car	Farm	1 0638.33 Car	Farm
2 0609.35 Car	Farm	2 0907.03 Car	Farm
3 0611.49 Car	Farm	3 0914.43 Car	Farm
4 0623.17 Car	Farm	4 0914.49 Car	Farm
5 1018.35 Tractor/Trailer	Farm	5 1015.19 Tractor/Trailer	Farm
6 1052.25 van	Post Delivery	6 1051.31 Tractor/Trailer	Farm
7 1054.39 Tractor/Trailer	Farm	7 1053.11 van	Post delivery
8 1225.46 Car	Farm	8 1326.54 Car	Farm
9 12.34.00 Car	Farm	9 14.19.14 Tractor & Slurry	Farm
10 13.22.16 Car	Farm	10 15.10.24 Tractor & Slurry	Farm
11 14.48.52 Tractor & Slurry	Farm	11 15.15.10 Car	Farm
12 15.11.24 Car	Farm	12 16.34.36 Car	Farm
13 16.09.46 Tractor & Slurry	Farm	13 16.34.38 Car	Farm
14 16.31.28 White Van	Farm	14 16.47.12 White Van	Farm
<b>14 total arrivals, 13 farm</b>		<b>14 total departures, 13 farm</b>	
28 2-way movements			

Arrivals





Departures





Classified Traffic Count Wednesday 17<sup>th</sup> January 2017

Arrival		Departure	
1 06.16.11 Tractor	Farm	1 07.41.19 Tractor	Farm
2 06.16.21 Car	Farm	2 09.17.01 Tractor	Farm
3 09.27.05 Feed Lorry	Farm	3 10.09.31 Feed Lorry	Farm
4 09.50.47 Tractor	Farm	4 11.22.37 Jeep	Farm
5 10.12.01 Jeep	Farm	5 13.06.22 Van	Farm
6 12.13.46 Car	Farm	6 13.15.12 Van	Post Delivery
7 12.28.14 Van	Farm	7 13.52.34 Jeep	Farm
8 13.12.14 Van	Post Delivery	8 14.56.12 Tractor & Slurry	Farm
9 14.47.14 Jeep	Farm	9 15.07.16 Tractor & Slurry	Farm
10 15.02.26 Tractor & Slurry	Farm	10 15.29.22 Tractor & Slurry	Farm
11 15.19.04 Tractor & Slurry	Farm	11 15.45.48 Tractor & Slurry	Farm
12 15.42.56 Tractor & Slurry	Farm	12 16.08.26 Tractor & Slurry	Farm
13 16.00.18 Tractor & Slurry	Farm	13 16.11.00 Car	Farm
14 16.33.22 Tractor	Farm	14 16.30.00 Tractor	Farm
15 16.41.46 Tractor & Slurry	Farm	15 16.50.56 Tractor & Slurry	Farm
16 16.53.54 Tractor & Slurry	Farm	16 17.06.04 Tractor	Farm
17 17.09.34 Car	Farm	17 17.52.04 Car	Farm
18 19.00.12 Milk Tanker	Farm	18 18.42.50 Car	Farm
19 20.07.04 Car	Farm	19 19.14.02 Milk Tanker	Farm
20 20.11.44 Car	Farm	20 22.18.32 Car	Farm
21 21.51.34 Car	Farm	21 23.35.00 Car	Farm
<b>21 total arrivals, 20 farm</b>	42 2-way movements	<b>21 total departures, 20 farm</b>	

Arrivals











Departures







Classified Traffic Count Thursday 16th January 2017

Arrival		Departure	
1 05.41.51 Car	Farm	1 05.54.49 Car	Farm
2 05.42.03 Car	Farm	2 09.51.29 Milk Tanker	Farm
3 07.14.25 Car	Farm	3 10.01.53 Car	Farm
4 07.55.31 Car	Farm	4 10.10.39 Jeep	Farm
5 09.37.03 Milk Tanker	Farm	5 10.38.47 Van	Farm
6 10.45.45 van	Farm	6 11.19.09 Car	Farm
7 10.47.05 Jeep	Farm	7 12.25.14 Van	Post delivery
8 11.56.120 Jeep	Farm	8 12.43.58 Jeep	Farm
9 12.18.16 Car	Farm	9 14.22.00 Jeep	Farm
10 12.24.12 Van	Post Delivery	10 14.40.00 Lorry	Farm
11 12.47.22 Car	Farm	11 14.45.44 Van	Parcel Force
12 13.55.02 Jeep	Farm	12 16.33.08 Tractor & Slurry	Farm
13 14.14.16 Lorry	Farm	13 16.39.06 Car	Farm
14 14.42.18 Van	Parcel Force	14 16.51.16 Car	Farm
15 17.08.30 Tractor & Slurry	Farm	15 17.19.38 Tractor & Slurry	Farm
16 17.55.38 Tractor & Slurry	Farm	16 18.08.32 Car	Farm
17 19.30.00 Car	Farm	17 22.57.26 Car	Farm
<b>17 total arrivals, 15farm</b>		<b>17 total departures, 15farm</b>	
34 2-way movements			

Arrivals









Departures









Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference: P/2013/0242/F**

**Date Received: March 27<sup>th</sup> 2013**

- 1.0. Proposal Description: Proposed residential housing development of 200 no. units (some with garages), improvements to existing road infrastructure and associated works (Additional Plan/ Amended Description.**
- 2.0. Location:**
  - 2.1 Lands at Watsons Road/Dorans Hill Newry, including lands to the east of Watsons Road.
- 3.0. Site Characteristics & Area Characteristics:**
  - 3.1. The application site is composed of 2 main sections, one section to the east of Watsons Road and one section to the west of Watsons Road.
  - 3.2. The smaller section of the site is located to the east side of Watsons Road. This eastern section of the site has an approximate area of 16053m<sup>2</sup>. A modest detached bungalow once existed along the roadside on the eastern side of Watson's Road but has now been demolished. This east section of the site is composed of 4 no. fields. Overall its topography falls from the roadside towards the rear boundary in an eastern direction. It also falls from the south boundary towards the north boundary.
  - 3.3. The boundaries of the roadside field are defined by mature trees and hedging. A small post and wire fence runs through this field in a central position from east to west. The boundaries of the adjoining field to the east are similarly defined by trees and hedging. The east, north and south boundaries of the field to the east of this again are also similarly defined. The east boundary of this field is defined by sparse hedge cover and a post and wire fence. Hawthorn Hill housing development is located immediately to the east of the site adjacent to this field. The dwellings of Hawthorn Hill are located at a lower level than the site.
  - 3.4. The site also includes the adjoining field to the south of this. The boundaries of this field are defined by mature trees. This field is surrounded by residential development to the east, south and west. No. 24 Hawthorn Hill and No. 16 Watsons Road are located to the south of this field, nos. 10 and 12 Watsons

Road are located to the west and Nos. 28 and 30 Hawthorn Hill are located to the east.

- 3.5. The west section of the site comprises a much larger area of approximately 111915m<sup>2</sup>. It incorporates 8 no. fields. Watsons Fort, a Rath or defended farmstead dating from the Early Christian Period 600-1100AD is located in this west section of the site. With the presence of the fort, the topography of these fields rises steeply towards a central position of the site.
- 3.6. A number of derelict farm buildings formerly stood a short distance west of the junction of Glen Hill and Watsons Road. The site includes 3 no. fields to the north of these former buildings which adjoin Watsons Road. Brannock Heights housing development is located to the east of these fields on the opposite side of Watsons Road. The site also incorporates 2 large fields set to the rear/west of these roadside fields. It also incorporates one roadside field set to the south of the former derelict farm buildings and the 2 adjoining large fields to the west of this roadside field.
- 3.7. The boundaries of these fields are defined by native hedgerows and trees. The roadside boundary along Watsons Road is defined by trees and the north roadside boundary along Doran's Hill is mainly defined by hedgerow.
- 3.8. The site is located within the development limit of Newry in accordance with the Banbridge/Newry and Mourne Area Plan 2015. The section of the site which lies to the east of Watsons Road is zoned for housing development (NY53). The south-west section of the site has been designated as a Local Landscape Policy Area (NY133). The area of the site to the east and north of this LLPA on the west side of Watsons Road has also been zoned for housing development. (NY 19). The site was first zoned for housing development in the previous Newry Area Plan 1986-1999.
- 3.9. The development limit of Newry runs along the site's west boundary. The land to the west of the site is undeveloped green fields. A playing field and tennis court is located immediately north of the east section of the site. The area to the north of this is characterised by residential development. Housing developments located in this area include Brannock Heights, Glen Court and Brannock Close. The area to the south of the east section of the site is also characterised by residential development. 7 no. detached dwellings which front onto Watsons Road are located along a 215m stretch of Watsons Road to the south of the east section of the site. Other residential development further south of this includes Lisdrum Court and Liska Manor. Hawthorn Hill housing development is located to the east of the site.
- 3.10. Planning permission has been approved for a playing field a short distance north-west of the site under P/2009/1135/F. Full planning permission was also approved here for the erection of a community sports facility under P/2010/0678/F. Two football pitches were approved at the same location under P/2012/0676/F.

#### **4.0. Nature of Proposal**

- 4.1.** This application seeks full planning permission for the erection of a housing development incorporating 200 no. units comprising 61 detached, 126 semi-detached, 13 townhouses (some with garages) improvements. The application also includes some major roadworks including the provision of a new roundabout at the junction of Watson's Road and Doran's Hill with a new distributor road running through the development with side roads branching off this to serve residential estates, this road will connect with Watson's Road near the southern end of the main site, the existing Watsons Road will be severed at this point, and will instead connect to the distributor road. The existing Watsons Road will be widened and will also be used to serve new residential estates, as will Doran's Hill to the west of the proposed roundabout, there will also be the provision of a footpath on Glen Hill. The proposal also includes the retention of the rath as an area of open space within a protected zone, there will be another area of open space along the side of the distributor road.

#### **5.0. Site History:**

- **Section of site to east of Watsons Road:**

P/2009/0078/F: An application seeking full planning permission for a Housing Development consisting of 28 dwellings (13no. detached dwellings, 6 blocks of semi-detached dwellings, and 1 townhouse block with 3no. dwellings) with associated site works was withdrawn on 15.11.2012.

P/2007/0329/O: An application seeking outline planning permission for a housing development was withdrawn on 10.09.2012.

P/2006/1590/F: An application seeking full planning permission for the erection of a housing development (4 No. Houses) was withdrawn on 02.06.2008.

- **Section of the site to west of Watsons Road:**

P/2006/1624/F: An application seeking full planning permission for the erection of residential development comprising 32 No. dwellings and 13 No. apartments (Phase 2) was refused by the Department on 06.01.2009. An appeal was subsequently lodged with the Planning Appeals Commission (PAC). The appeal was allowed on 28.07.2009.

P/2004/2131/F: An application seeking full planning permission for the erection of a housing development comprising 161 dwellings was allowed by the Planning Appeals Commission on 16.11.2005.

P/2001/0821/F: An application seeking full planning permission for the erection of housing development (amended proposal for 161 dwellings) was withdrawn on 30.08.2006.

- **Adjacent to Application Site**

Full planning permission was approved for the erection of 77 dwellings and associated access roads, parking and landscaping on 08.05.2013 in the land immediately south of the west section of the site.

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

Regional Development Strategy 2035: Building a Better Future

The Strategic Planning Policy Statement for Northern Ireland (SPPS)

Banbridge/Newry and Mourne Area Plan 2015

Planning Policy Statement 2: Natural Heritage

Planning Policy Statement 3: Access, Movement and Parking

DCAN 15- Vehicular Access Standards

Parking Standards

Planning Policy Statement 6: Planning, Archaeology and the Built Heritage

Planning Policy Statement 7 Quality Residential Environments – Policy QD 1

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

Planning Policy Statement 8: Open Space, Sport and Outdoor Recreation

Planning Policy Statement 12: Housing in Settlements

Planning Policy Statement 15: (Revised) Planning and Flood Risk

A Planning Strategy for Rural Northern Ireland (Policies DES2 & SP 18)

Creating Places

Living Places Urban Stewardship and Design Guide

#### 7.0. **Consultations:**

7.1. **Transport NI:** 26<sup>th</sup> of November 2018-While DFI roads have no objection in principle to the amended plan. DFI Roads require the applicant to submit full PSD drawings for the proposal prior to planning approval.

7.2. **Environmental Health Department of Newry and Mourne District Council:** No objections to this proposal provided the development is connected to the public sewerage system.

7.3. **Northern Ireland Housing Executive** No objection, subject to the provision of 12 social housing units in line with key site requirement for Housing Zoning NY53.

It confirmed the need for family housing and requested the housing mix should be as follows:

- 7 units should be 2 bed, 4 person houses



- 5 units should be 3 bed, 5 person houses

It requested an amended plan identifying the location of the social housing units. It also recommended the developer should discuss the layout and design of the dwellings with a housing association.

- 7.4. Rivers Agency** Advised the site is in close proximity to the Glen River which is at capacity for existing flows, due to the inadequacy of culverts downstream. It also advised the site is affected by an undesignated watercourse which flows along the northwest boundary. The site is not located within a flood plain and there is no record of flooding at the site. In line with annex d15 of PPS15 it requested the applicant to submit a drainage assessment. Following consideration of the submitted drainage assessment, Rivers Agency confirmed no objections to this proposal from a drainage and flood risk perspective.
- 7.5. Protecting Historic Monuments of Northern Ireland Environment Agency** Advised that the application site contains the above and below ground archaeological remains of 2 recorded archaeological sites. One of these is Watsons Fort, a Rath or defended farmstead dating from the Early Christian Period 600-1100 AD. The other is the site of an enclosure which may have functioned as a Rath. The applicant submitted an archaeological impact assessment with this application. It was agreed that archaeological mitigation will be required prior to development. The nature and scale of this mitigation should be addressed at licensing stage.
- 7.6** Protecting Historic Monuments raised concerns regarding the high density of housing in close proximity to Watsons Fort in particular the housing to the south-west of the Rath. They advised the ridge height or the ground level of the dwellings here should be reduced to ensure the monument is integrated within the proposed development. The Planning Department has assessed these comments but consider that limited weight can be attached to them in view of the previous planning history on the site. However, in order to provide clarity and certainty with regards to the former comment of the Monuments section, the Planning Department contacted this Department on 12<sup>th</sup> October 2018 and asked whether the comments dated June 2013 were an objection from Monuments or are they content subject to conditions. On 6<sup>th</sup> November 2018 HED Monuments confirmed that they were content with the scheme (including ridge heights of dwellings adjacent to rath), subject to the imposition of three archaeological conditions being attached to any future planning approval.
- 7.7. Natural Heritage of Northern Ireland Environment Agency** Advised there is evidence is substantial badger activity throughout the site and several active sett entrances are located along field boundaries. It also advised highly suitable smooth newt habitat is located in the west of the site. The site provides good bat foraging habitat and a number of species were present in initial bat activity surveys. The badger setts have been identified on the detailed housing layout plan. NIEA has also proposed the imposition of a number of negative planning conditions intended to protect 'protected species', including the submission of a detailed Wildlife Management Plan for

agreement by the Planning Authority prior to commencement of development at each stage in the implementation of the proposal.

- 7.8. Water Management Unit of Northern Ireland Environment Agency** Initially raised concerns that the sewage loading associated with the proposed development would cause Newry Waste Water Treatment Works (WWTW) to operate above its capacity. It recommended the Department consult NI Water to determine if the WWTW would be able to cope with the additional load or whether the capacity would have to be increased.
- 7.9. NI Water** They did not raise any objections to the proposed development and in response to WMU's comments specifically stated that there is sufficient capacity in the local sewage infrastructure to cater for this development.

### **8.0. Objections & Representations**

- 8.1.** 216 addresses were notified under the neighbour notification scheme, to date a total of 211 representations have been received, 209 of these were objections and 2 were letters of support. These have been fully considered as part of the Planning Department's assessment of the application, as detailed below.
- 8.2.** Many of the objections are of a pro forma type and raise concerns on the inadequacy of the local infrastructure, road safety, lack of provision of footpaths, street lighting, green spaces and community facilities, impact on the rath and on badger setts and other flora and fauna, the proposed scheme not respecting the context of the surrounding area.
- 8.3.** Objections have also been received from the landowner of a development that is to be constructed adjacent to the southern boundary of the site; the issues of concern relate to a "tie-in" between the footpaths to be provided along Watson's Road in accordance with Roads Service's requirements, the objector also raises issues of procedural fairness.
- 8.4.** There are a number of individual objections which raise more specific issues regarding the arrangement of the provision of social housing across the development, the possibility of persons using the development to gain access to the playing fields to its north, the difficulties experienced by residents in Ballinlare Cottages, which are situated to the north east of the site, in obtaining parking to and safely entering and exiting their properties. However, this estate is situated outside of the boundary of the application site and therefore this area does not form any part of the application site and road improvements in this area cannot be required by the current application. More recently a number of objections have been received stating that as the application has been under consideration for over three years, the archaeological and flora and fauna impact assessments that were submitted with it are now outdated and that fresh assessments should be carried out.
- 8.5.** Subsequent Objections and representations received will be further considered under Section 11 (Addendum).

## 9.0. Consideration and Assessment:

### Regional Development Strategy 2035 (RDS)

- 9.1 Under the Society section of the RDS, Policy RG 8 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. This proposal complies with this given the proposed high quality mix of housing within the settlement development limit of Newry in an accessible position and it does not cause unacceptable damage to the local character and environmental quality or residential amenity of these areas.

### Strategic Planning Policy Statement (SPPS)

- 9.2. The provision of the SPPS apply to the whole of Northern Ireland. They must be taken into account in the preparation of Local Development Plans and are material to all decisions on individual planning applications and appeals. The SPPS sets out core planning principles to be employed in the quest to achieve development which is sustainable. Its sets out the aim of supporting good design and positive place making while preserving and improving the built and natural environment and also highlights the importance of sustainable economic growth. Under the SPPS, the policy provisions of the planning policies listed above in section 6 are retained. The SPPS addresses PPS 12 Housing in Settlements and repeats the planning control principles listed in PPS 12 which will be considered below in this report. Overall, this proposal complies with the provisions of the SPPS and complies with the overarching strategic planning framework which it provides.

### Banbridge/Newry and Mourne Area Plan 2015.

- 9.3. 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 within the development limit of Newry. The section of the site which lies to the east of Watsons Road is zoned for housing development (NY53). The key site requirements of this are:

-A minimum of 12 dwellings shall be provided for social housing.

-Housing development shall be a minimum gross density of 20 dwellings per hectare.

-Access shall be onto Watsons Road, which shall be realigned and widened to agreed standards.

-A footway provided along the entire site frontage onto Watsons Road.

- 9.4. The proposal complies with all of these key site requirements and appropriate planning conditions shall be applied as and when necessary.

9.5. The south-west section of the site has been designated as a Local Landscape Policy Area (NY133).

9.6. Those features or combination of features that contribute to the environmental quality, integrity or character of these areas are:

-Watsons Rath on a localised hill, including its setting and views.

-Area of local amenity importance including mature vegetation and attractive vistas.

The plan states the rath is a distinctive feature in the wider landscape of this part of Newry.

9.7. The area of the site to the east and north of this LLPA on the west side of Watsons Road has also been zoned for housing development (NY19). This is a committed housing zoning (Proposal NY19 Dorans Hill/ Watsons Road) within the Banbridge, Newry and Mourne Area Plan 2015. According to the Plan, committed sites include approved housing sites developed in full or in part since the commencement of the Plan period and sites with planning permission for housing. The Plan does not stipulate key site requirements for committed sites because future development will be subject to the conditions attached to planning permission. However, in the event that such permissions may lapse, the Department may alter existing conditions or attach new conditions to any subsequent approval to take account of prevailing regional planning policy and the Plan proposals. The proposal is in accordance with the extant Development Plan and the housing/ LLPA designations as outlined above.

### **PPS 2: Natural Heritage**

9.8. Policy NH 5 contains policy provisions for habitats, species or features of Natural Heritage Importance and planning permission will only be granted for a development proposal which is not likely to result in the unacceptable adverse impact on, or damage to known priority habitats and species. This site contains such features, namely badgers. As a consequence, the Natural Heritage section were consulted and following a series of amendments, they confirmed that they were content with the scheme subject to the imposition of conditions relating to badger setts and a Wildlife Management Plan (see conditions 2 to 8 attached). This proposal, fully complies with this policy and appropriate mitigation measures will be provided by the applicant through the attached conditions and the Planning Department are content that there will be no unacceptable adverse impact or damage caused as a result of this proposal.

### **PPS 3: Access, Movement and Parking**

9.9. On 20<sup>th</sup> January 2015, it was stated in a consultation response from Transportni (TNI) that "Following recent correspondence from the Minister for Regional Development and his favourable consideration of this current planning application Transportni would now require an office meeting with DOE Planning and the agent to discuss the best way forward in terms of

progressing this application". Furthermore, in November and December of 2015, Transportni raised no objections to the proposal, supplied relevant planning conditions and endorsed the Private Streets Drawings. As mentioned above, in their last consultation response, TNI confirmed that they have no objection in principle to the amended plan received on 15<sup>th</sup> November 2018 and this consultation response supersedes any of the previous consultation responses. TNI have confirmed that there are no issues with the internal road layout of the development and that if the upgrade of the junctions of Watson's Road with Glen Hill and Doran's Hill are implemented in accordance with the relevant guidance then there should not be any issues with road safety. It also requires that the development be constructed in 5 phases with the new infrastructure being fully provided by the completion of Phase 3.

- 9.10. While local residents have expressed concerns about the need for the bridge to be upgraded, TNI has not required this in its final responses and has expressed no objections subject to all works being implemented in accordance with the suggested conditions and all relevant guidance. The Planning Department has also fully considered any objections specific to roads matters and are of the opinion that these do not warrant a refusal of this proposal.
- 9.11. In the light of the previous consultation response from TransportNI in November 2015 and the latest response dated 26<sup>th</sup> November 2018, the Planning Department is satisfied that this application complies with the policies contained within PPS 3 in terms of road safety. The proposal therefore also complies with the strategic objectives for transport as outlined in the Strategic Planning Policy statement. The Planning Department is also satisfied that the proposal complies with the key site requirements of housing zoning NY 53 with access being onto Watsons Road, which is to be realigned and widened to agreed standards and a footway provided along the entire frontage of Watsons Road. Appropriate conditions and informatives shall be attached to any future planning approval in order to ensure the requirements of TNI are met.

#### **PPS6: Policy BH2 The Protection of Archaeological Remains of Local Importance and their Settings**

- 9.12. This policy states development proposals which would adversely affect archaeological sites or monuments which are of local importance or their settings will only be permitted where the Department considers the importance of the proposed development or other material considerations outweigh the value of the remains in question.
- 9.13. The application site contains the above and below ground archaeological remains of 2 recorded archaeological sites. One of these is Watsons Fort, a Rath or defended farmstead dating from the Early Christian Period 600-1100 AD. The other is the site of an enclosure which may have functioned as a Rath.
- 9.14. The applicant submitted an archaeological impact assessment with this application; Historic Environments Division was consulted and raised no objections.

## PPS7 Quality in Residential Developments

**9.15.** Policy QD 1 of PPS 7 states that all proposals for residential development will be expected to conform to all of the following criteria:

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

(b) features of the archaeological and built heritage, and landscaped features are identified and, where appropriate, protected and integrated on a suitable manner into the overall design and layout of the 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 in its integration with the surrounding area.

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

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

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

(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;

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

**9.16.** The principle of a residential development on this site has been accepted by the previous approvals and the zoning of the site for this purpose in successive development plans. The submitted layout of the development acknowledges the protected rath in the centre of the main part of the eastern part of the development. This area will also contain protected badger setts and there will be a tunnel under the main road that will run through the development to enable them to cross the road. The dwellings to the immediate north and south of the rath will be orientated around it, the main road through the development will provide access for a further 3 estate roads, it will be lined with trees and this layout and arrangement complies with Criteria B in that the archaeological and landscape features are protected and integrated in a suitable manner in the overall design and layout of the proposal. The existing Watson's Road will provide access for 4 estate roads

as well as 14 dwellings that will face directly on to it with vehicle access from the rear, another estate road will access off Doran's Hill west of the proposed roundabout, this estate road will join onto one of the estate roads that leads off the main road. The density of the dwellings contained within the proposed development is significantly higher than that of the surrounding developments such as Brannock Heights, Glen Court, Hawthorn Hill and the dwellings along Watsons Road near the southern end of the development, however the proposed density is considered appropriate.

- 9.17.** A total of 12 different house types are proposed in the application, some of which have been submitted in options to either be finished in red brick or render, House Type F has also been proposed in both gable and hipped roof versions. The design of the development draws upon the best local traditions (criteria g) and the design and layout will not create conflict with adjacent land uses and there will be no unacceptable adverse effect in terms of overlooking, loss of light, overshadowing, noise or other disturbance (Criteria h). Furthermore, the proposed development respects the surrounding context and is appropriate to the character and topography of the site in terms of the all the details listed under criteria a of QD 1.
- 9.18** Located between the new main road and the realigned Watson's Road immediately adjacent to the new roundabout will be a pair of dual frontage dwellings of House Type B; these will have vehicle parking spaces immediately to their rear with the result that the gardens immediately adjacent to the roundabout will be the main areas of private open space and will be visible from traffic using the roundabout, this will be mitigated by three trees which it is proposed to plant at the apex of the junction. The other dwellings adjacent to these two roads will be arranged gable end on, trees will be planted at the corners of the sites to help screen the rear areas from view. In several places within the development the dwellings are shown as being within linear rows with no variation in the building lines, this is particularly the case of the dwelling built near to the northern end of the existing Watson's Road.
- 9.19.** The amount of private open space proposed for each unit varies markedly across the development, and with house types, those sites located at corners in the development have larger plots due to their orientation, while those arranged in linear rows have more restricted curtilages, the layout was amended following representations from the Planning Authority and the amended plan complies with the provisions of PPS7. Public and private open space is an integral part of the development and the landscape planting plan is considered to be appropriate and in conformity with Criteria C of QD1 (also see below section on Open space).
- 9.20** Car parking will generally be provided to the sides of the semi-detached dwellings in a one behind the other arrangement; dwellings with this arrangement will also have garages. The Council will always seek to ensure that car parking is provided to the sides of dwellings to minimise the visual impact of hard standing. In this case a small number of terraced dwellings in the development will have parking directly in front of them with trees planted at each end and occasionally with planting in the middle. Together these will

both book-end the parking spaces and break up the expanse of parking so as to limit its visual impact within the wider streetscape. Considering the history of the application and the small numbers involved the proposed arrangements are accepted in this case. Overall, car parking provision is appropriate and adequate and thus the scheme complies with criteria F of QD1.

- 9.21** With regards to Criteria D of QD1, given the location of the proposed development within the settlement limits and in close proximity to local neighbourhood facilities it is considered that the developer does not need to provide further local neighbourhood facilities. Positively though it should be noted that two play areas will be provided as part of the scheme and these will be secured via planning condition and furthermore it is intended to have a bus stop to service the area.
- 9.22** Under Criteria e, the movement pattern is considered to be acceptable with the scheme providing improvements for both pedestrian and vehicular access. There is adequate and convenient access to public transport and the introduction of the new roundabout, improvements and widening to the existing Watsons Road as well as the new distributor road will all significantly improve the existing roads infrastructure and fully comply with criteria e of QD 1.
- 9.23** The design and layout of the proposed housing scheme together with the position of the open spaces assists with surveillance of the area and will deter crime and promote personal safety, conforming to criteria I.

#### **PPS8: Policy OS2 Public Open Space in New Residential Development**

- 9.24** The policy states that the Department will only permit proposals for new residential development of 25 or more units, or on sites of one hectare or more, where public open space is provided as an integral part of the development. This policy refers to a normal expectation of at least 10% of the total site area.
- 9.25** The Planning Department has assessed the amount of proposed open space, an issue raised by objectors. It is satisfied that the scheme incorporates sufficient areas of open space. (This open space excludes the large green areas which will be fenced off to protect badgers.) This equates to 20.5% of the total site area which is well in excess of the 10% required by Policy OS2. The site also benefits from its close proximity to an existing amenity site which incorporates a playing field and tennis court.
- 9.26** Policy OS2 also states 'For residential development of 100 units or more, or development sites of 5 hectares or more, an equipped children's play area will be required as an integral part of the development. The Department will consider an exception to this requirement where an equipped children's play area exists within reasonable walking distance (generally around 400 metres) of the majority of the units within the development'.
- 9.27** The proposed housing development originally incorporated just one play area. The Department raised concerns that children living in the western section of the development would have to negotiate a busy road to access this play



area. Amended plans were submitted showing an additional play area in the west section of the development to address this concern.

- 9.28** In the event planning permission is granted it is recommended a condition should be imposed requiring the developer to submit full details of the 2 play areas and to maintain them thereafter. It is standard practice not to stipulate the types and position of the playground equipment so as to afford the developer flexibility into deciding which are considered appropriate.
- 9.29** In light of the above, the proposal complies with QD 1 of PPS 7 and will create a quality and sustainable residential development and will not result in unacceptable damage to the local character, environmental quality or residential amenity.

### **PPS 12: Housing in Settlements**

- 9.30** PPS 12 is a material consideration for this application and lists planning control principles which must be adhered to. This proposal complies with these principles as it will increase the housing density in this area without causing an erosion of local character, environmental quality or amenity. The proposed housing density is considered acceptable and is in compliance with policy in terms of layout, design and landscaping. The proposal represents a sustainable form of development in line with Planning Control Principle 3 as it is within a defined settlement limit on lands zoned for housing. There are local facilities and services as well as public transport within walking distance of the site. A mix of house types and sizes are proposed to promote a choice and assist in meeting the specific needs of the community. In compliance with Planning Control Principle 4, social housing will be provided and will be appropriately conditioned as part of any future planning approval.

### **PPS15: (Revised) Planning and Flood Risk**

- 9.31** Rivers Agency requested the applicant submit a drainage assessment. Following consideration of the submitted drainage assessment, Rivers Agency has no objections to this proposal from a drainage and flood risk perspective.

## **10.0. Consideration of Other Planning Issues raised by Representations /Objections.**

- 10.1.** The site has an extensive planning history; it is zoned for residential development in the current area plan, the section to the west of Watson's Road first having been zoned in the late 1980's. Given this history it is clear that the principle of residential development on the site has been established, subject to the provision of new road infrastructure and measures being implemented to protect the rath, the badger setts and related features (conditions attached).
- 10.2.** The proposed scheme is of a similar size and general layout to those previously approved, the policy context set out under PPS7 has been in place

during the processing of most of the historic applications on the site therefore they have been determined to be in compliance with this policy. The current scheme retains the protection around the rath and the setts which were included in previous schemes and therefore it complies with the relevant policies of PPS 2 and 6. The Watson's Fort/ Rath will have an expansive 25 metre protection zone as recommended by NIEA and per the previous planning approval on the site and the existing hedging on the rath is to be retained. It is considered that this high level of protection, combined with the site layout and house types will ensure that the distinctive features of this LLPA, including Watsons Rath on a localised hill and its settings and views as well as its mature vegetation and attractive vistas will all be protected and there would be no adverse or detrimental impact on the LLPA. In relation to the recent comments from third parties that these are outdated, no significant changes have occurred to any of the features referred to since the original submission of the application and therefore the objection is not sustained.

- 10.3.** Several objectors have raised the concentration of the social housing required by the development plan in the part of the site east of Watson's Road, stating that it would be better to have this spread out across the entirety of the site. The social housing requirement was introduced by the current Banbridge, Newry & Mourne Area Plan 2015, which post-dated the original approvals granted on the main part of the site to the west of Watson's Road. The Area Plan specified the provision of a minimum of 12 dwellings on the eastern part of the housing site (Zoning NY 53, Key Site Requirements). The remainder of the housing site (Zoning NY 19) was identified as a committed site and had no such requirement for social housing in the Area Plan. In view of this it is considered unreasonable to seek to impose a new requirement which was not specified in the current statutory Area Plan or by the PAC. The provision of social housing, to reflect the statutory plan requirements, can be attached to the formal notice.
- 10.4.** In relation to concerns raised about an access being created into the playing fields and this becoming a site for "anti-social behaviour," the submitted scheme shows no such entrance and it could only be accessed by means of trespassing on to land that is entirely within the boundary of a residential unit. While it has been suggested that the owners of this site may not maintain their property correctly this is purely speculative and the playing fields are in any case owned by the Council which can maintain its side of the boundary and prevent any unauthorised accesses.
- 11.0. Addendum (Period from 7<sup>th</sup> March 2018 to present)**
- 11.1** This application was presented to the Planning Committee on the 7<sup>th</sup> of March 2018 and the Planning committee agreed with the Planning Department recommendation of approval, subject to conditions and informatives. However, on 30<sup>th</sup> of March 2018, prior to the formal issuing of the planning approval by the Planning Department, correspondence was received from Carson McDowell, LLP, based on an instruction from an abutting landowner and owner of part of Zoning NY 55 and raised concerns relating to the

Planning Committee being misdirected as to TransportNI position and the roads conditions being premised upon aged plans as well as concerns regarding what land outside of the red line boundary is required and what development is proposed upon that land. This correspondence was concluded by stating that "we have set out the preliminary grounds of objection which in themselves highlight fundamental flaws in the processing of the application to date".

- 11.2** On the 15<sup>th</sup> of May 2018, the Planning Department responded to this correspondence addressing the transport grounds of objection as well as outlining that they are not aware of an additional land requirement outside of the red line boundary. The Planning Department finished by asking Carson McDowell to indicate whether they might expect "something further from you on behalf of your client".
- 11.3** Carson McDowell responded on the 15<sup>th</sup> of May 2018, by submitting an email which contained an attachment relating to a file note that took planning between the planning applicant, DFI Roads and the Council on 21<sup>st</sup> February 2018 stating that the meeting highlights DFI Roads "were not content with the scheme and recorded as saying it was not standard". It was further stated "that this fresh material consideration only emphasises our clients position that the committee has been misdirected as to the true position of this material issue". It was also pointed out that this reinforces complaints regarding the lawfulness of conditions. The Planning Department responded to this email outlining that no Council representative attended the said meeting and that the note was not part of the subject planning application and was actually relating to land outside of the application site and not connected to the planning application. Carson McDowell were asked to make the Planning Department aware of any further matters and they confirmed on the same date that a further submission would be made.
- 11.4** On the 21<sup>st</sup> of June 2018, the Planning Department received an objection from MBA Planning on behalf of a third party. This objection raised matters such as ownership issues, insufficient planning conditions, policy concerns with regards to PPS 3 and PPS 7, inappropriate wording in the case officer report, a failure to consider the impact of the proposal on the LLPA and the rath, reference to previous consultation concerns raised by TransportNI as well as procedural concerns with regards to the decision making process of TransportNI.
- 11.5** In response to the ownership concerns, the applicant reduced the application site area boundary in size in order to remove any development within third party land and the proposal description was appropriately amended to reflect this change. These amended plans were re-advertised and neighbours were re-notified and TransportNI was re-consulted.
- 11.6** The amended plans received on 24<sup>th</sup> August 2018 overcome any concerns relating to ownership and the reduction in the site boundary does not present any planning policy concerns for the Planning Department. The Planning Department considers the proposal has been fully assessed against all the policies and that appropriate conditions can be attached to the formal

approval notice, if required. Issues raised such as PPS 3 and PPS 7 have been fully assessed as well as PPS 6 with regards to the LLPA and rath (See page 11 of this report) and the proposal complies with all policy requirements. Any inappropriate wording has now been addressed in the case officer report. The objection also makes reference to the previous concerns raised by TransportNI in its earlier consultation responses. These concerns were subsequently addressed by Transport NI in its further response and it subsequently approved the layout on 13<sup>th</sup> November 2015, subject to conditions and informatives. The procedural concerns, referred to by the objector, relating to the decision making process of TransportNI are not a matter for the Planning Department to consider as part of its assessment of this application. In summary, this latest objection has been considered, any issues have been addressed and considered and the objection does not warrant a change of opinion.

- 11.7** On the 24<sup>th</sup> of August 2018, amended plans were received by the Planning Department and these were advertised, neighbours were notified and TransportNI were re-consulted.
- 11.8** On 14<sup>th</sup> of September 2018, a further objection was made by O'Toole and Starkey planning consultants (OTS) on behalf of EDB Construction LTD and Wilson Bros which outlined 4 reasons for objection. Firstly, concerns were raised regarding no PSD drawings showing a tie-in, tie-in lands outside the south boundary as well as on EDB land, and unacceptability in terms of PPS 3 and AMP 2 and PPS 7 QD1 criteria (e) and (i) and no safe road and pedestrian linkages. Secondly, the proposed development requires highway works on lands outside the applicants control. Thirdly, the proposed development it is argued, will have an adverse impact on the setting and views from/of Watsons Rath and the case office report has not considered this. Fourthly, inadequate road width, lack of footway linkages from the site along Dorans Hill towards Martins Lane.
- 11.9** An objection was received on the 14<sup>th</sup> of September 2018 by the owner of No. 16 Watsons Road which outlined issues to be addressed including the access for No 18 accessing directly on to the new distributor road, agreements regarding footway linkages, omissions of acoustic fence detailing, statement required from developer regarding the bottle neck at the existing bridge, request for more sections and the need for mature tree planting.
- 11.10** In response to the application being placed on the Planning Committee agenda on 14<sup>th</sup> September 2018, Carson McDowell, requested that the planning application be removed from the agenda forthwith due to procedural unfairness and the fundamentally flawed approach of the Planning Department reconsideration and they also requested speaking rights on behalf of their clients and consultants. On 25<sup>th</sup> September 2018, the Planning Department informed that in the light of the various issues raised and in the interests of securing sufficient clarification on these matters, it was agreed to take the planning application off the schedule for the Planning Committee to be held on 26<sup>th</sup> September.

- 11.11** At the request of Carson McDowell, a meeting was held between the Planning Department, Carson McDowell, OTS Planning Consultants and their client EDB Construction on 23<sup>rd</sup> October 2018. In the interim period, prior to this meeting, a meeting was held between the Planning Department and the Agent. As a consequence of this meeting, amended plans were received from the Agent on 17<sup>th</sup> of October 2018, and these included an amended site location plan, site layout, site sections, overall phasing plan and phase 5 plan. These plans were re-advertised and neighbours were re-notified and TransportNI were re-consulted.
- 11.12** On 30<sup>th</sup> of October 2018, WSP submitted correspondence relating to highway and other infrastructure aspects of this application on behalf of their clients EDB Construction. WSP summarised their concerns under 7 points which were:
- Red line boundary has been reduced omitting lands that were previously included.
  - Red line boundary omits lands required to facilitate discharge of storm water associated with the schemes drainage layout
  - Adequacy of internal layout should be subject to further scrutiny
  - Misrepresentation of the proposed tie-in
  - No pedestrian connectivity on western side of Watsons Road with the development to the south
  - Proposed northern tie-in and connection to Barcroft Park
  - Need for a road safety audit
- 11.13** On 31<sup>st</sup> of October 2018, a meeting was held between the Planning Department, the Agent and TransportNI. Subsequently on 2<sup>nd</sup> of November 2018, the Planning Department informed TransportNI that the Planning Department had formally requested an additional plan from the Agent illustrating the connection of the proposed road at the South East part of the site showing the relationship of the proposed road under this planning application with the approved road under previously approved planning reference number P/2006/1117/F. As a consequence, new plans are received on 2<sup>nd</sup> of November, and uploaded to the planning portal on the 5<sup>th</sup> of November 2018. On the 7<sup>th</sup> of November 2018, a further meeting was conducted between the Planning Department and TransportNI in order to discuss the most recently received layout and consider the most appropriate way to proceed. It was considered that further clarification was required from the Agent with regards to the proposed tie-in and so a further meeting was held on 14<sup>th</sup> November 2018. An amended site layout/description was then received from the Agent on 16<sup>th</sup> of November and TransportNI were asked to provide comment on the basis of this latest amended drawing (revision J). Neighbours were then re-notified on this amended plan/description on 19<sup>th</sup> November 2018 and the application was also re-advertised on the 19<sup>th</sup> of November and 21<sup>st</sup> of November respectively.
- 11.14** Over the period from 2<sup>nd</sup> of November to 15<sup>th</sup> of November 2018, the Planning Department received further correspondence/objection from Carson McDowell as well as OTS Planning. The email letter dated 2<sup>nd</sup> of November 2018, rebuts a number of points made by the Council at the above mentioned

meeting on 23<sup>rd</sup> of October 2018. Concerns were raised regarding the reduction of the red line, that the PSD drawings must be considered as part of this application, reliance on previous response by a former Minister, a failure to assess the proposal against PPS 3 and recommends the application should be refused as it is incomplete and fails to deliver a safe road network. Additionally on 8<sup>th</sup> of November 2018, OTS Planning informed the Council that the plan on the portal on 5<sup>th</sup> of November 2018 required neighbours to be notified and re-advertisement, that the roadworks under P/2006/1117/F need to be completed to allow the current proposed development to safely link into it. Concerns were also raised regarding the conditions the Planning Department intended to impose to secure works and the need for a pre-commencement condition. On 15<sup>th</sup> November 2018, OTS Planning again wrote to the Planning Department, attaching a ministerial briefing paper. In this correspondence it is stated that the tie-in to Watsons Road, at the southern end of the application site is a crucial part of this road improvement and that it is "both necessary and appropriate to attach pre-commencement conditions to any approval requiring the tie-in roadworks as per LA07/2017/0967/F". It is requested in the objection that the Council properly consider PPS 3, require PSD drawings and ensure these works via a pre-commencement condition.

- 11.15** Before considering the objections above, it is important to note that on 26<sup>th</sup> of November 2018, TransportNI confirmed they have no objections in principle to the amended scheme and require the applicant to submit full PSD drawings for this proposal prior to approval.
- 11.16** This report will now consider the objections above outlined in paragraphs 11.8, 11.9, 11.12 and 11.14.
- 11.17** With regards to paragraph 11.8 and the objection from OTS Planning dated 14<sup>th</sup> of September 2018, the first concerns regarding no PSD drawings showing the tie-in to lands has now been fully dealt with via the submission of the most recent layout plan dated 15<sup>th</sup> November 2018. This plan shows the connection of the proposed new distributor road at the south east part of the site and shows the relationship of the proposed road under consideration with the approved development to the south. This plan shows that the proposed road will appropriately tie-in and successfully merge with the approved road to the south and TransportNI have confirmed they have no objections to this amended plan. PSD drawings will be negatively conditioned on any future planning approval. Concerns regarding PPS 3 and QD1 have been addressed above within this report and the proposed road and pedestrian linkages are considered to be appropriate. The 200 units and associated curtilages proposed are all contained within the site location boundary and within the control of the applicant and are not contained within the third party lands of the objector. There will be no adverse impact on the setting and views from/of Watsons Rath as outlined above. The Planning Department considers that the road width and footway linkages are acceptable and TransportNI are content. Footway linkages from the site along Dorans Hill towards Martins Lane have never formed part of this proposal, have not been required by the Planning Department or TransportNI and would be beyond the remit of this site location boundary.

- 11.18** In terms of the objection received from the owner of No.16 Watsons Road, the plan dated 15<sup>th</sup> of November 2018 shows that No.18 Watsons Road does not access directly onto the new distributor road, it is unclear what agreement was reached regarding footway linkages and such agreements were not within the remit of this application, the acoustic fencing detailing is now shown on the plan. The Planning Department consider that a statement from the developer regarding the "bottle neck" at the existing bridge on Dorans Hill is not required as part of this application and works to the bridge have never formed part of this application nor any part of previously approved applications on the site and it would be unreasonable to place the burden for such works on the applicant in this case. The Planning Department consider that sufficient/adequate sections of this site have been presented and the landscaping plan is sufficient and appropriate conditions shall be attached to any planning approval.
- 11.19** The Planning Department has also fully considered the concerns/objections raised by WSP highlighted under Paragraph 11.12 above. It must be noted that this objection is primarily based upon former PSD drawings. Such PSD drawings no longer form part of this application and shall be negatively conditioned as part of any planning approval and so in essence this objection is irrelevant/outdated. In terms of the reduction in the red line boundary of the site, this was modified by the applicant by their own will and reverts back towards the original red line boundary submitted with this application. There appears to be no evidence that lands outside the red line boundary are required to facilitate the discharge of storm water and this drainage layout no longer forms part of this application and will be negatively conditioned as appropriate. Furthermore, the internal layout is considered adequate as discussed above, the Department are content with the earthworks as required to facilitate the scheme, the tie-in has not been misrepresented and has indeed been accurately presented in the latest layout and to the satisfaction of TransportNI. Contrary to the objection, the latest plans submitted demonstrates that there is pedestrian connectivity on the Western side of Watsons Road. Pedestrian connections to Barcroft Park have never formed part of this application and this is not a requirement of the Planning Department or TransportNI and is outside the red line boundary of this site. The Northern tie-in arrangement is considered acceptable by the Planning Department and TransportNI. The final concern of WSP relates to a road safety audit and this will be dealt with via a planning condition on any approval.
- 11.20** Paragraph 11.14 above, outlines objections received by the Planning Department on 2<sup>nd</sup>, 8<sup>th</sup> and 15<sup>th</sup> of November respectively. All of these objections have been fully considered and do not warrant a change of opinion. With regards to the 2<sup>nd</sup> of November objection from Carson McDowell, the reduction in the red line boundary was at the request of the Agent/Applicant, there is no requirement to consider PSD drawings as part of this application and the Planning Department is entitled to deal with these through a negative condition if deemed appropriate. The Planning Department is not relying on the response of a former Minister but on the latest response from TransportNI on the 26<sup>th</sup> of November, 2018 in which they confirmed no objection to the

amended plan. The proposal has been fully assessed against PPS 3 and complies with this policy

- 11.21** The objection on the 8<sup>th</sup> of November 2018 was received from OTS Planning as outlined in Paragraph 11.14 above and it must be noted that the Planning Department has re-notified and re-advertised the latest plans dated 15<sup>th</sup> of November 2018. In terms of the concerns raised on the intended conditions to be imposed to secure works as well as the need for pre commencement conditions, it is considered that the imposition of conditions on any approval is a matter for the Planning Department and the Department is content that all the conditions attached to this report are appropriate and soundly based and are necessary, relevant to planning, relevant to the development being permitted, precise, enforceable and reasonable.
- 11.22** The objection received from OTS Planning on the 15<sup>th</sup> of November attached a Ministerial briefing paper with the emphasis placed on the tie-in to Watsons Road. As previously mentioned, the latest drawing shows how this tie-in will be successfully achieved and TransportNI have confirmed that they are content. Furthermore, the Planning Department are content that the suggested pre-commencement conditions of OTS Planning are not required and are content with the attached roads conditions with particular relevance to the road phasing conditions which have all been previously verified by TransportNI. The negative PSD condition attached is also considered appropriate. It is important to note that improvement required to the public road under P/2006/1117/F to the south of the site was required to be completed prior to the occupation of the approved housing and in line with this a similar pre-occupation condition is also intended to be applied to any future approval on this proposed site. In summary, in response to this objection, the Planning Department have fully assessed the proposal against PPS 3, PSD drawings will be negatively conditioned and the Planning Department are satisfied with the attached conditions on this report.
- 11.23** It is also important to note that the Planning Department have fully considered the objections raised from 7<sup>th</sup> of March 2018 to the 15<sup>th</sup> of May 2018. All the issues raised in these objections have been considered and clarified. The Planning Committee have not been misdirected in this assessment, TransportNI have confirmed that they are content on 26<sup>th</sup> of November 2018, there are no transport grounds for objection and there are no flaws in this assessment which is procedurally sound, robust and well founded.
- 11.24** The latest plan dated 15<sup>th</sup> of November 2018 was neighbour notified on the 19<sup>th</sup> of November 2018 and no objections were received by the expiry date of 3<sup>rd</sup> of December 2018. The latest plan was also re-advertised on the 19<sup>th</sup> and 21<sup>st</sup> of November 2018 and no objections were received by the expiry date of 5<sup>th</sup> of December 2018.



**12.0 Recommendation**

Having had regard to the Development Plan and following an assessment of all the material considerations including: the previous history and Area Plan context; all relevant planning policies; and the content of the objections and consultations, it is considered that the proposal complies with all relevant planning policies and approval is recommended, subject to conditions and informatives.

**Case Officer**

**Authorised Officer**

## Conditions

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

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

2. No development activity shall commence until a Wildlife Management Plan (WMP) has been submitted to, and agreed in writing by, the Planning Authority. The WMP shall be updated prior to each subsequent phase of the development and no development activity shall commence on each subsequent phase until an updated WMP is submitted to the Planning Authority and agreed in writing. All works on site shall conform to the WMP and any amendments to the WMP must be agreed in writing with the Planning Department. The WMP shall include (but not be limited to) the following:
  - a) Aims and objectives of the WMP.
  - b) The role and responsibilities of the Ecological Clerk of Works.
  - c) Results of updated badger surveys to inform the WMP for the imminent phase of the development, including details of available setts within and adjacent to the site and any changes in sett distribution or activity since the previous survey.
  - d) Details of all badger management, mitigation and protection measures carried out during the preceding phase of the development and the results of the monitoring of the effectiveness of such measures.
  - e) Setts proposed for permanent closure during the imminent phase.
  - f) Setts proposed for temporary closure during the imminent phase.
  - g) Timing and scheduling of all sett closures.
  - h) Details of the setts which will be available to badgers within and adjacent to the site during and after the imminent phase of the development.
  - i) Details of all badger management, mitigation and protection measures to be implemented during the imminent phase of the development, including fencing and planting schedule for badger protection areas.
  - j) Proposed monitoring of badger management, mitigation and protection measures and scheduling of further surveys to inform the next update of the WMP.

k) Details of any tree or hedgerow removal proposed for the imminent phase of the development.

l) Any mitigation measures proposed for the imminent phase of the development for other protected species such as bats and breeding birds.

m) Any emerging issues and proposals for the next plan update.

Reason: To protect badgers and other wildlife on the site.

3. The development shall be phased as shown on Drawing No. 94 (Rev 2), date stamped 17 October 2018 by the Area Planning Office. All construction activity shall be restricted to one phase of the development at a time. There shall be no works, vegetation clearance, disturbance by machinery, dumping or storage of materials within any subsequent phase of the development except as stipulated in the Wildlife Management Plan.

Reason: To allow badgers and other wildlife to adapt to the development over time.

4. No development activity shall commence until a person recognised by the Planning Department as a suitably qualified and experienced person has been appointed as an Ecological Clerk of Works (ECoW) and the role and responsibilities of the ECoW agreed in writing with the Planning Authority. The ECoW shall be responsible for the production of the WMP and shall supervise all construction activities at regular intervals.

Reason: To protect badgers and other wildlife on the site.

5. There shall be no development activity, vegetation clearance, disturbance by machinery, dumping or storage of materials (except for the hand planting of trees and shrubs) within the badger protection areas or wildlife corridors without the consent of the Planning Authority.

Reason: To protect badgers and other wildlife on the site.

6. No works, including any archaeological excavations, shall take place within 25 metres of a badger sett without the presence of an NIEA Protected Species Licence holder.

Reason: To protect badgers and their setts.

7. No development activity shall commence until a Lighting Plan has been submitted to, and agreed in writing by, the Planning Authority. The Lighting Plan shall include details of all external lighting on the site and measures to mitigate for impacts of artificial lighting on bats and other wildlife. In particular the Lighting Plan shall include:
  - a) Specifications of lighting to be used across the site.

- b) Lighting levels to be as low as possible across the site.
- c) A map showing predicted light spillage across the site (isolux drawing).
- d) Badger protection areas, wildlife corridors and retained hedgerows to be kept free from any artificial lighting.

Reason: To protect bats and other wildlife.

8. There shall be no tree, scrub or hedgerow removal during the bird breeding season (1 March to 31 August inclusive).

Reason: To protect breeding birds.

9. Prior to the commencement of the development hereby approved, the developer shall submit a plan to the Planning Authority identifying a minimum of 12 units within Housing Zoning 53, to the east of Watsons Road within the development hereby approved which will be provided for social rented housing. These units shall be managed and maintained by a Housing Association which is registered and regulated by the Department for Communities as a social housing provider and shall consist of at least:
  - 60% should be 2 bed, 4 person houses, and
  - 40% should be 3 bed, 5 person houses.

Reason: To meet an identified social housing need in the area and to comply with the requirements of the Area Plan.

10. All areas of public open space and communal landscaping as shown on the approve drawings shall be maintained in accordance with a Landscape Management and Maintenance Plan to be submitted to and agreed in writing with the Planning Authority prior to the occupation of any of the dwellings hereby approved. The Plan shall cover a minimum period of 25 years. Should the Management Company dissolve at any stage, then a new Management Company shall be appointed and an new Management and Maintenance Plan shall be submitted to and agreed in writing with the Planning Authority.

Reason: To ensure the successful establishment and long term maintenance of public open space and landscaping in the interests of visual and residential amenity.

11. Prior to any dwelling hereby approved becoming occupied, the developer shall submit to and agree with the Planning Authority, details of the two play areas as indicated on stamped approved drawing No. 17 (Rev 3) date received on August 24<sup>th</sup> 2018 as well as an appropriate timetable for their completion. These play areas shall be maintained for a period of 30 years from the date of this decision at the developer's expense.

Reason: To ensure that the play area is provided in accordance with all

relevant standards.

12. No development shall commence until the developer has obtained from Transport NI and all relevant landowners, agreement for works relating to the connection of footpaths and roads approved by this decision with similar structures, either existing or proposed, in the surrounding area.

Reason: To ensure that a satisfactory network of footpaths and roads, including any boundary walls and vehicle restraint systems, are provided to service the development.

13. No more than those dwellings indicated within Phase 1 of the development hereby permitted, as indicated on stamped approved drawing, shall be occupied prior to the completion of all road works associated with Phase 1 on Doran's Hill, Watsons Road and internal housing roads.

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 prior to the completion of this part of the development.

14. No more than those dwellings indicated within Phase 2 of the development hereby permitted, as indicated on stamped approved drawing, shall be occupied prior to the completion of all road works associated with Phase 2 on the new distributor road, Glen Hill, Watsons Road and internal housing roads.

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 prior to the completion of this part of the development.

15. No more than those dwellings indicated within Phase 1, 2 and 3 of the development hereby permitted, as indicated on stamped approved drawings, shall be occupied prior to the completion of all road works associated with Phase 3 on the new distributor road, Watsons Road and internal housing roads.

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 prior to the completion of this part of the development.

16. Prior to the commencement of any works of the development hereby permitted the proposed roundabout and any associated works will require to be designed in accordance with the relevant section of the Design Manual for Road and Bridges and will be subject to separate agreement by Transport NI.

Reason: In the interests of Road Safety and Traffic Progression.

17. Prior to the commencement of any works hereby permitted, the developer will be required to comply with the legislative process to stop-up and abandon

relevant parts identified by Transport NI of the existing Watsons Road. These works will require the developer to contact Transport NI Lands Branch to provide the necessary plans for this procedure to commence. The developer will also be liable for any costs associated with the processing of this Order and no works hereby permitted will be commenced until this process has been fully completed to the satisfaction of Transport NI.

Reason: In the interests of Road Safety and Traffic Progression.

18. The developer will be required to ensure that the road works associated with this proposal have been subject to the Safety Audit process in accordance with the relevant Department guidelines.

Reason: In the interest of road safety and traffic progression.

19. 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 roads and footways to be adopted within the development have been determined by DFI Roads and agreed in writing by the Planning Authority and no other development hereby permitted shall be occupied until the works necessary for the improvement to the public road have been completed in accordance with these determined plans. The Council hereby attaches to the determination a requirement under Article 3 (4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

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

20. The visibility splays as indicated at the junctions of the proposed accesses with the public road, shall be provided in accordance with the approved plans, prior to the commencement of any other works of this development.

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

21. No dwellings shall be occupied until that part of the service road which provides access to it has been completed to base course; the final wearing course shall be applied on the completion of each phase of the development.

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

22. No dwellings shall be occupied until provisions has been made and permanently retained within the curtilage of each dwelling for the parking of private cars at the rate of 2 spaces per dwelling or otherwise specified.

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

23. The development hereby permitted shall not be occupied until any highway structure/retaining wall/ vehicle restraint system requiring Technical Approval, as specified in the Roads (NI) Order 1993, has been approved and constructed in accordance with BD2 Technical Approval of Highways Structures: Volume 1: Design Manual for Roads and Bridges.

Reason: To ensure that the structure is designed and constructed in accordance with BD2 Technical Approval of Highways Structures: Volume 1: Design Manual for Roads and Bridges.

24. Any telegraph poles/street furniture will require to be re-sited to the rear of sight visibility splays.

Reason: In the interests of road safety and traffic progression.

25. The gradient of any side slopes proposed will be a maximum of 1 metre in 2 metres.

Reason: In the interests of road safety and traffic progression.

26. The development hereby permitted shall not be commenced until a street lighting scheme design has been submitted to and approved by the Department for Infrastructure's Street Lighting Section.

Reason: Road safety and convenience of traffic and pedestrians.

27. The Street Lightning 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.

28. All appropriate road markings and associated signage within the development and on the public road shall be provided by the developer in accordance with the Department's specification (Design Manual for Roads and Bridges) and as directed by Transport NI Traffic Management Section prior to the development becoming occupied by residents.

Reason: In the interests of road safety and traffic progression.

29. The gradient of a private access shall not exceed 8% for the first 5 metres outside the public road boundary and a maximum gradient of 10% thereafter.

Reason: In the interests of road safety

30. Prior to the commencement of any road works, the developer shall provide a

detailed programme of works and associated traffic management proposals to Transport NI for agreement in writing.

Reason: To facilitate the free movement of road users and the orderly progress of work in the interests of road safety.

- 31.** The developer shall contact Transport NI Traffic Management prior to the commencement of works on the site to agree suitable positions for any existing road signage and traffic calming measures that will require being relocated as a result of this proposal.

Reason: In the interests of road safety and traffic progression.

- 32.** All areas of open space and landscaping shall be completed in accordance with the stamped approved plans prior to the occupation of any of the dwellings hereby approved.

Reason: To ensure the areas of open space/ landscaping are brought to an appropriate standard.

- 33.** All hard and soft landscape works shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised codes of practice. The works shall be carried out prior to the occupation of any part of the development.

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

- 34.** 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 local planning authority, 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.

- 35.** If any retained tree is removed, uprooted or destroyed or dies within 3 years from the date of the occupation of the chalets another tree or trees shall be planted at the same place and those trees shall be of such size and species and shall be planted at such time as may be specified by the Newry, Mourne and Down District Council.

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

- 36.** No development shall take place until the full details of any retaining walls proposed within the site have been submitted to and approved in writing by



the Planning Authority. The retaining walls shall be shall be constructed prior to the occupation of any part of the development hereby approved.

Reason: In the interests of safety and visual amenity.

37. The development hereby approved shall not be occupied until works for the disposal of sewage have been provided on the site to serve the development, in accordance with details to be submitted to and approved in writing by the Planning Authority.

Reason: In the interests of Public Health.

38. The development hereby approved relates only to land contained within the site area boundary as identified in Drawing No. 01 (Rev 2). Any development outside of the identified boundary in Drawing 01 (Rev 2) shall require separate consent from the Planning Authority.

Reason: To ensure the orderly control of development.

39. Prior to the occupation of any part of the development hereby approved, a footway shall be provided along the entire site frontage onto Watsons Road.

Reason: In the interests of safety and to ensure compliance with the Area Plan.

40. The development hereby approved shall not be occupied until drainage works have been carried out in accordance with details to be submitted to and approved in writing by the Planning Authority.

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

41. The development hereby approved shall not be commenced until arrangements for the discharge of storm water have been submitted to and agreed in writing by the Planning Authority.

Reason: To ensure the adequate discharge of storm water on the site

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

Reason: To ensure that archaeological remains with the application site are properly identified, and protected and appropriately recorded.

- 43.** Access shall be afforded to the site at all reasonable times to any archaeologist nominated by the Department for Communities – Historic Environment Division to observe the operations and to monitor the implementation of archaeological requirements.

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

- 44.** No site works of any nature or development shall take place until a fence has been erected around the area specified, on a line to be agreed with the Historic Environment Division: Historic Monuments. No works of any nature or development shall be carried out within the fenced area. No erection of huts or other structures, no storage of building materials, no dumping of spoil or topsoil or rubbish, no bonfires, nor any use, turning or parking of plant or machinery shall take place within the fenced area. The fence shall not be removed until the site works and development have been completed.

Reason: To prevent damage or disturbance of archaeological remains within the application site.

### **Informatives**

1. Private Streets Order (Northern Ireland) 1980 and The Private Streets (Amendment) (Northern Ireland) Order 1992

Under the above Orders the applicant is advised that before any work shall be undertaken for the purpose of erecting a building the person having an estate in the land on which the building is to be erected is legally bound to enter into a bond and an agreement under seal for himself and his successors in title with the Department to make the roads (including road drainage) in accordance with the Private Streets (Construction) Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001. Sewers require a separate bond from Northern Ireland Water to cover foul and storm sewers.

2. Separate approval must be received from Transport NI in respect of detailed standards required for the construction of streets in accordance with the Private Streets Construction Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001.
3. In order to ensure that the laying of ducts and the erection of columns for street lighting is co-ordinated with the construction of the streets, the applicant should contact Transport NI Street Lighting Section at Carn Depot, Portadown before any construction work commences.
4. Under the terms of the Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2015, design for any Street Lighting schemes will require approval from Transport NI, Street Lighting Consultancy, Carn Depot Portadown. The Applicant is advised to contact Transport NI Street Lighting Section at an early stage. The applicant/developer is also responsible for the cost of supervision of all street works determined under the Private Streets (Northern Ireland) Order 1980.
5. Precautions shall be taken to prevent the deposit of mud and other debris on the adjacent road by vehicles travelling to and from the construction site. Any mud, refuse, etc. deposited on the road as a result of the development, must be removed immediately by the operator/contractor.
6. The service strips coloured green with black hatching on the approved plan have been determined as lands to be adopted by the DRD. It is, therefore, essential that vendors inform house purchasers of their limited rights within such strips. It is strongly recommended that the developer does not sell or lease the land from the service strips as parts of housing plots. If land for service strip is to be sold or leased to house purchasers the vendor must

insert in the deeds the following clause or covenant:-

""The purchaser hereby covenants with the vendor that he/she, the purchaser, and his successors in title will not at any time hereafter erect or construct any building wall or fence or plant any tree or shrub on the strip of land shown cross hatched on the plan annexed hereto, nor do or suffer to be done therein or thereon any act, matter or thing whereby the cover of soil over or the support of the pipes, wires and/or cables laid in the said strip of land shall be altered or which may render access thereto more difficult or expensive and shall understand that the road authority and statutory undertakers have unencumbered right of access to the said strip of land."

7. It is a Transport NI requirement that all structures which fall within the scope of the current version of DB2 Technical approval of Highways Structures: Volume 1: Design Manual for Roads and Bridges shall require Technical Approval. Details shall be submitted for the Technical Approval Authority through the relevant division.
8. Geotechnical activities which require Geotechnical Certification shall be submitted to Engineering Policy and Parking Services through the relevant division. Geotechnical Certification shall be in accordance with the Department of Infrastructure's Geotechnical Certification procedures as laid down in the current version of HD22 Managing Geotechnical Risk: Volume 4: Design Manual for Roads and Bridges.
9. Rivers Agency will require to be consulted regarding the discharge of any storm water into an existing water course prior to commencement of building works on site.
10. Developers should acquaint themselves of their statutory obligations in respect of watercourses as prescribed in the Drainage (Northern Ireland) Order 1973, and consult the Rivers Agency of the Department of Agriculture accordingly on any related matters.
11. Any proposals in connection with the development, either temporary or permanent which involve interference with any watercourse at the site:- such as diversion, culverting, bridging; or placing any form of structure in any watercourse, require the written consent of the Rivers Agency. Failure to obtain such consent prior to carrying out such proposals is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.
12. Any proposals in connection with the development, either temporary or permanent which involve additional discharge of storm water to any watercourse require the written consent of the Rivers Agency. Failure to obtain such consent prior to permitting such discharge is an offence under the Drainage Order which may lead to prosecution or statutory action as provided

for.

13. If, during the course of developing the site, the developer uncovers a watercourse not previously evident, he should advise the local Rivers Agency office immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the watercourse.
14. The Rivers Agency has no record of flooding occurring at the site. However, visual inspection indicates that it may be subject to marginal flooding originating from the watercourse(s) which traverse/bound the site, and developers would be advised to obtain advice from competent, suitably qualified persons to assist them in determining appropriate site and finished floor levels.
15. Where an undesignated watercourse flows through or adjacent to a development site, it is strongly advised that a working strip of appropriate width is retained to, in future, enable riparian landowners to fulfil their statutory obligations/responsibilities.
16. 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.

Any works within 25 metres of a badger sett will require a wildlife licence to be obtained from NIEA. Licence applications should be made to the Wildlife Inspector, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 905 69605

17. The applicant's attention is drawn to The Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended), which states that it is an offence to deliberately capture, injure or kill a wild animal of a European protected species included in Schedule II of these Regulations, which includes all species of bat. It is also an offence;

(a) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;

- (b) 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;
- (c) Deliberately to obstruct access to a breeding site or resting place of such an animal; or
- (d) 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 must cease immediately and further advice must be sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT72JA. Tel. 028 905 69605

- 18.** The applicant's attention is drawn to The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), which states that it is an offence to deliberately capture, injure or kill a wild animal of a European protected species included in Schedule II of these Regulations, which includes the otter (*Lutra lutra*). It is also an offence;

- (a) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
- (b) 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;
- (c) Deliberately to obstruct access to a breeding site or resting place of such an animal; or
- (d) To damage or destroy a breeding site or resting place of such an animal.

If there is evidence of otter activity on the site, all works must cease immediately and further advice must be sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT72JA. Tel. 028 905 69605

- 19.** 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 smooth or common newt (*Lissotriton vulgaris*, formerly *Triturus vulgaris*). It is also an offence to intentionally or recklessly: damage or destroy, or obstruct access to, any structure or place which newts use for shelter or protection; damage or destroy anything which conceals or protects any such structure; disturb a newt 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 newts on the site, all works must cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 905 69605

20. 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. It is also an offence to intentionally or recklessly: take, damage or destroy the nest of any wild bird while that nest is in use or being built; or take or destroy an egg of any wild bird. If any person intentionally or recklessly disturbs any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or disturbs dependent young of such a bird they shall be guilty of an offence.

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 tree and hedge loss should be kept to a minimum and removal should not be carried out during the bird breeding season between 1st March and 31st August.

21. The Council considers that Leyland and Lawson Cypress (including the variety Castlewella Gold), are inappropriate in housing plants because their use can cause nuisance to adjoining residents by reason of shade, blocked views and soil damage due to their rapid vertical and horizontal growth and the invasive root system of these trees.
22. This permission authorises only private domestic use of the proposed garages and does not confer approval on the carrying out of trade or business there from.
23. 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.

**COMMITTEE BRIEFING NOTE**

**P/2013/0242/F | Proposed residential housing development of 200 no. units (some with garages), improvements to existing road infrastructure and associated works | Lands at Watsons Road/Dorans Hill Newry including lands to the east of Watsons Road**

This submission accompanies a request for speaking rights on behalf of Eagleville Ltd and EDB Construction Ltd, who own lands to the south of the application site and object to the above planning application.

As a preliminary point, the application should not be presented to the Planning Committee because the Planning Department have failed to take into account the objection lodged on behalf of our client by Carson McDowell LLP on 3<sup>rd</sup> December 2018. Contrary to the claims of the Planning Department, this objection was received by the Planning Department on 3<sup>rd</sup> December 2018 and acknowledged by the Planning Department on 4<sup>th</sup> December 2018 – a copy of the acknowledgement is attached at **Annex A**. However, the Planning Department has misdirected the Planning Committee at its concluding paragraph of its report by stating: *"...and no objections were received by the expiry of the consultation date of 5th December 2018."*

This misdirects the Planning Committee and confirms that the Planning Department has not taken into account objections and material considerations in forming its conclusion.

Eagleville & EDB have the following main points of objection:

- 1. Third Party Land:** The applicant has submitted a site layout drawing that requires road infrastructure works to be completed under separate approval P/2006/1117/F in order to facilitate a tie-in between the spine road of the proposed development and the remainder of Watsons Road. These tie-in works are on two parcels of land owned separately by third parties Eagleville and EDB, who both object to the proposed development. Although the P/2006/1117/F road works are approved, the applicant is unable to deliver them without the agreement of the third party landowners. As such, the claim in the case officer's report that the tie-in is achieved is not correct and thus the land / works required to deliver the roads infrastructure, facilitate the development and achieve a safe road layout is not within the control of the planning applicant nor the remit of the conditions proposed or permission to be granted. Failure to secure a safe roads layout is contrary to PPS3 Policy AMP2.
- 2. The Requirement for a PSD:** Despite requests from DFI Roads, Eagleville and EDB, the Planning Department refuse to request that the applicant submit PSD drawings that correspond with the proposed site layout as part of the planning application process. This approach is unlawful and runs contrary to:
  - The Private Streets (Northern Ireland) Order 1980 as amended;
  - The advice of DFI Strategic Planning as issued in a memorandum to your Mr McKay;
  - The advice of the Departmental Solicitors Office; and
  - The advice of DFI Roads.



Para 11.20 of the case officer report states: "No requirement to consider PSD Drawings as part of the application". This fundamentally misdirects the Planning Committee as to the position regarding the deemed PSD application as legislated for by Article 4 of the Private Streets (Northern Ireland) Order 1980 (as amended). There is a legislative requirement and despite this being brought to the Planning Department's attention, it seeks to misdirected the Planning Committee.

- 3. Condition 19 is not Lawful:** Without prejudice to the fundamental position that a PSD drawing cannot be negatively conditioned the claimed negative condition itself is flawed because it is premised on a determination having occurred prior to the grant of planning permission. It states:

*"19. 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 roads and footways to be adopted within the development have been determined by DFI Roads and agreed in writing by the Planning Authority and no other development hereby permitted shall be occupied until the works necessary for the improvement to the public road have been completed in accordance with these determined plans. The Council 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)."*

The Council cannot lawfully make a determination outside the exercise of street planning functions (the deemed application process), i.e. after the grant of planning permission through condition, as the DFI Roads have no powers to determine same nor do the Council.

The condition itself is flawed as it is premised on the grant of a determination which cannot be granted post permission. The Council's agreement in writing is of no effect. The Council cannot lawfully attach a statutory requirement to a determination that does not exist. The wording predetermines that the PSD application process will be positive yet it is apparent from meetings including one on 31<sup>st</sup> October that DFI Roads are not content with PSD drawings tendered to date.

- 4. Drainage:** The Planning Department in response to an objection point states: *"this drainage layout no longer forms part of this application and will be negatively conditioned as appropriate"*. This omission renders worthless any previous assessments of the proposal under the Conservation (Natural Habitats etc.) Regulations (Northern Ireland) 1995 (as amended). It is clear that the Council does not know of the proposed drainage solution or where it drains to. I would highlight the precautionary principle in this regard and the need for evidence to disprove harm. The Friends of The Earth Ltd, Re Judicial Review [2017] NICA 41 confirms this.

**richard@otsplanning.com**

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**From:** Teresa.ohare@nmandd.org on behalf of planning@nmandd.org  
**Sent:** 04 December 2018 09:44  
**To:** Grant McBurney  
**Subject:** Re: P/2013/0242/F  
**Attachments:** NMDP LT 3rd December 2018.pdf; Kirk Memo.pdf

I acknowledge receipt of your email which has been passed to the relevant Officer.

Regards

Planning Department  
 Newry, Mourne & Down District Council

Council: 0300 013 2233  
 Planning: 0300 200 7830

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**PLEASE REPLY TO: [planning@nmandd.org](mailto:planning@nmandd.org)**

**From:** Grant McBurney  
**To:** "planning@nmandd.org"  
**Date:** 03/12/2018 17:36  
**Subject:** P/2013/0242/F

Dear Sirs,

**Re: Planning Application P/2013/0242/F**

Copy correspondence as attached.

Kind regards

Grant

This email is sent by and on behalf of Carson McDowell LLP. The information contained in this e-mail is confidential and may be legally privileged. It is intended solely for the use of the individual or entity to whom it is addressed and others explicitly authorised to receive it. If you have received this e-mail in error, please notify the sender immediately and delete it from your computer. Any disclosure, copying or distribution of the information is strictly prohibited and may be unlawful. If you have received this email in error please notify the system manager at [postmaster@carson-mcdowell.com](mailto:postmaster@carson-mcdowell.com). E-mail communications may be monitored by the Firm in accordance with the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000.

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The Firm will not accept responsibility for any contractual relationship created via this e-mail communication alone. A contractual relationship with the Firm will not be established until signed confirmation of an agreement is provided by a partner. The term 'partner' is used to refer to a member of Carson McDowell LLP.

Carson McDowell LLP is a limited liability partnership registered in Northern Ireland with registered number NC 908. A list of members can be inspected at the registered office, Murray House, Murray Street, Belfast, BT1 6DN. Partners qualified to practise in the Republic of Ireland: Roger McMillan and Claire Harmer. Service address in the Republic of Ireland: The Merrion Buildings, 18-20 Merrion Street Upper, Dublin D02 XH98.

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Cyber fraud is a real and increasing threat, particularly the risk of criminals intercepting emails and fraudulently changing legitimate bank account details with the objective of stealing your money. Please speak with us before transferring any money to us. Please note that Carson McDowell's bank account details will not change during the course of a transaction and we will not email you a change in bank details, nor should you email your bank details to us or any other organization. Please be vigilant and ensure caution at all times when responding to any request for your bank details. Always verify any request with us by either calling at the office in person or by telephoning the solicitor who has conduct of your matter. Be careful to ensure that you are dialing Carson McDowell's telephone number. Carson McDowell do not accept responsibility for changes to or interception of any email from us after it has been sent or for any damage to the recipient's system or data caused by our message or its attachment. We will also not accept responsibility if you transfer money into an incorrect bank account.

----- Message from Grant McBurney on Fri, 2 Nov 2018 11:08:26 +0000 -----+0000 -----

**To:** "planning@nmandd.org"

**Subject:** Planning Application - P/2013/0242/F

Dear Sirs,

**Re: Planning Application - P/2013/0242/F**

We refer to the above and to the recent meeting facilitated by your Mr McKay and your Mr Davison on 23<sup>rd</sup> October 2018.

We are grateful for the opportunity to discuss matters with you. However, we consider it necessary to rebut a number of the points that were made by the Council during our meeting.

The Council is aware of our client's concerns regarding the unexplained reduction of the planning application red line to exclude land required for key road infrastructure which is in turn required to facilitate delivery of the development in its entirety. The amendment and reduction of the red line appears to be premised on nothing more than seeking to overcome private property law issues faced by the planning applicant. The proposition that the previous owner of the application site and planning applicant at the time of the previous amendment would voluntarily include, without reason, warning or explanation, further land and road infrastructure works by the extension of the planning application boundary onto 3<sup>rd</sup> party land is not accepted. In this regard, we would ask for all correspondence between the Council, DOE and the planning applicant at that time relating to the extension of the red line planning application boundary. If, as the Council appear to suggest, it didn't request the amendment why did it proceed to consult upon and seek to determine the planning application with this red line for a period in excess of 2 years if, as is now claimed, it never wanted the amendment in the first place? Further, we would ask for all correspondence between the Council and the planning applicant or his agents relating to the recent amendment and reduction of the red line planning application boundary.

Reference was made to the fact that a Private Streets Determination Drawing ("PSD") was not required prior to the grant of planning permission and that this was in fact a separate consenting process unrelated to planning. We do not accept this proposition. We would refer you to the DFI's guidance on private streets determinations published on its website, but more importantly and definitively, we would refer you to Article 4 of the Private Streets (Northern Ireland) Order 1980 as amended entitled "Application to the Planning Order [Act]", which states as follows:

*"4(1) Subject to the provisions of this Order, functions exercisable in relation to development under the Planning Act shall be deemed to include street planning functions and an application for planning permission under that Act shall be deemed to include an application for the determination by the Department of any matters set out in Article 3(1) which appear to the Department to require to be determined in accordance with the application for planning permission." [Emphasis added]*

Plainly, contrary to the mistaken belief of the Council, a planning application before the Council is deemed by legislation to include an application for the determination by the DFI of a PSD. PSDs have been previously requested by the DFI in the course of this application and remain outstanding. We note we were informed that the Council erroneously issued a consultation on PSDs to DFI Roads in recent days when in fact no drawings had been received. As such the Council will err in law if it continues on the course it outlined at the meeting regarding PSDs being a separate consenting process.

Further, as you will recall in March 2018, the Council recommended approval premised on DFI Roads consultation responses dating back to 2016/2017. This position was repeated in the Council's recommendation of approval in September 2018. However, with the amendment and reduction of the redline planning application boundary in October 2018, the Council appears to be ignoring all that has gone on since November/December 2015 and reverting back, without rational explanation, to consultation responses in November and December 2015. The most recent DFI Roads consultation responses require PSD drawings including those of all "Tie Ins" roads and footways.

Furthermore, notwithstanding the fundamental lack of understanding of the plans which now form the basis of the application, the consultation responses relied upon by the Council are based entirely on the unexplained and unsubstantiated intervention of the former DFI Roads Minister, Mr Danny Kennedy MLA. At that time DFI Roads, had concerns with the proposal as tendered. However, from the consultation response of 31<sup>st</sup> January 2015 it is apparent that the unexplained intervention of the then Minister caused DFI Roads to reverse its opposition by stating in the response:

*"Following recent correspondence from the Minister for Regional Development and his favourable consideration of this current planning application TransportNI would now require an office meeting with DOE Planning and the agent to*

*discuss the best way forward in terms of progressing this application.*" [Emphasis added]

There is no explanation in roads engineering terms or planning policy to explain how the unacceptable suddenly became acceptable as a result of this intervention.

No explanation of the "favourable consideration" has been forthcoming and we would ask for a copy of the "recent correspondence" to which the now aged consultation response refers. It is our clients submission that there is in fact no rational roads engineering or planning reason for this "favourable consideration". Further still, Minister Kennedy is no longer in office and some 3 years and 9 months have passed since that intervention was sent to the DFI officials. It is also highly material that the scheme has changed on a number of occasions since then. It is incorrect for the Council to seek to rely upon an unsubstantiated intervention by a former Minister, in a context where it has been highlighted that there is no rational explanation for the position adopted. Further, there has been no attempt or confirmation from DFI Roads in relation to the present scheme before the Council that it continues to adopt that unsubstantiated position and if so no detail has been provided as to the basis in which it continues to adopt that position.

The Council cannot abdicate responsibility to consider and assess the proposal against planning policy including PPS3 by simply stating it has a response from DFI Roads from 31<sup>st</sup> January 2015. It is erroneously relying upon outdated information which is flawed for the reasons highlighted above. There is plainly a lack of adequate inquiry by the Council, particularly in a context where we have put you on notice as far back as March 2018 and again at the recent meeting, as to the flawed approach of seeking to rely upon the unexplained intervention of the former Minister. For all of the foregoing the application should be refused as it is incomplete and fails to deliver a safe road network. Finally, we would request a copy of all correspondence between the Council (including the planning department and its officials and the corporate division) the planning applicant and its agents, and DFI Roads since 1<sup>st</sup> February 2018. This should include all email correspondence, telephone attendances, meeting attendance notes and the dates of any meetings, a detail of those people attending and any papers, agendas, submissions or plans tendered before or during meetings or attached to any correspondence between any of the parties. We would remind the Council that were a written note of a meeting is not in existence a detail of what was discussed should be provided by those officials in attendance.

Yours faithfully,

**Carson McDowell LLP**

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To whom it may concern,

Please find below a request for Deborah Loughran and Colin O Callaghan to speak on behalf of MJM Group in support of Planning Application **P/2013/0242/F** on 19<sup>th</sup> December 2018.

We would like to outline the proposal updates since March 2018, if required.

Thanks

Kind Regards

Deborah Loughran

**Deborah Loughran LLB MCIPR**

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Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference: LA07/2018/0489/F**

**Date Received: 16<sup>th</sup> March 2018**

**Proposal: Proposed conversion of garage and shed to holiday accommodation.**

**Location: 76 Drumnaconagher Road, Crossgar, Downpatrick.**



**Site Characteristics & Area Characteristics:**

The structure that is subject to this application is a small out building that sits adjacent to an existing dwelling house which is storey and a half and single storey in design and sits to the front of additional out buildings to the rear. The structure is a single storey building with rough render walls which are painted and a slate roof. PVC windows have been used and also PVC guttering but otherwise the building is quaint with character. The building sits on the boundary of a courtyard type area to the rear of the dwelling known as no 76 Drumnaconagher Road to one side and to the other side is an access lane serving additional buildings to the rear of the site. There are buildings to the rear of this structure used currently for business purposes.

The site is not located within any settlement development limits as defined in the Ards and Down Area Plan 2015. The site has no specific site constraints identified with it. The area is a rural area of drumlin type topography. To the front of the site is a pond, which appears to be man-made.

**Site History:**

R/2011/0481/F - site 20m NW of 76 Drumnaconagher Road, Crossgar – Conversion of existing garage/store to granny flat – refusal – 13-02-2012.

R/2006/0762/F – 76 Drumnaconagher Road – extension to dwelling – granted – 9-11-2006

R/1986/0432 – 76 Drumnaconagher Road – alterations and extension to dwelling – approval – 7-08-1986.

**Planning Policies & Material Considerations:**

The application is considered against Ards and Down Area Plan 2015 and in addition to this is considered against PPS 3, Access, Movement and Parking, PPS 16, Tourism, PPS 21 Sustainable Development in the Countryside and SPPS.

**Consultations:**

NI Water – no objections

Tourism NI – no comment to make

Environmental Health – no objections provided the accommodation is used for holiday let accommodation only.

Transport NI responded initially requesting additional information which was submitted and Transport NI responded with no objections following re consultation with the amended drawings.

**Objections & Representations**

The application was advertised in the local press 11<sup>th</sup> April 2018 which expired 25<sup>th</sup> April 2018, neighbours were notified in relation to the application on 5<sup>th</sup> April 2018 which expired 19<sup>th</sup> April 2018 and to date there have been no objections in relation to the application.

**Consideration and Assessment:**

This proposal for a single conversion to holiday accommodation does not fall comfortably under any of the policy considerations as set out in PPS 16 Tourism.

PPS 21 Sustainable Development in the Countryside CTY 4, The Conversion and Reuse of Existing Buildings states that planning permission will be granted for proposals for

sympathetic conversion with adaptation if necessary, of a suitable building for a variety of alternative uses where this would secure it and upkeep it for a variety of uses. All criteria must be met to include the following:

- **The building is of permanent construction**

The building is of permanent construction of what appears to be a stone building of two sections with a slate roof and various openings. There have been unsympathetic modifications to the building including the inclusion of PVC windows and doors and also the construction of a timber enclosure to house wood and an oil tank. The structure as presented however meets with this section of policy.

- **The reuse or conversion would maintain or enhance the form, character and architectural features, design and setting of the existing building and not have an adverse effect on the character or appearance of the locality.**

The building is such a small structure that it does not lend itself to provide accommodation therefore it has been proposed to extend upwards and provide a 1<sup>st</sup> floor bedroom with balcony which is accessed by a stair case to be housed in a semi-circular side extension. Existing elevations have not been provided however existing sections have been demonstrating that the increase in height is from 4.4m in height to 6m in height with changes and alterations to the façade. The works do not maintain or enhance the form and character of the existing building as the proposed amendments are of a scale and design that the character and form of the existing building are lost, the original structure is no longer recognisable and the quaint scale, massing and design is lost. The structure as it stands sits quite inconspicuously adjacent to the existing dwelling house with its use clearly subordinate however the proposed works would draw ones attention more to the building and the use would not be quite clear given the proximity to an existing dwelling and the scale, massing and design presented. It is not considered this aspect of policy has been met as the proposed works do not maintain or enhance the form, character and the limited architectural features presented and the proposed works would have an adverse impact on the character and appearance of the locality.

- **Any new extensions are sympathetic to the scale, massing and architectural style and finishes of the existing building.**

As discussed above the building is to extend upwards and also the introduction of a side extension to house a stair case is proposed, neither are sympathetic to the scale, massing style and finishes of the building. The proposed extension also introduces a lot of glazing to the front façade which is not in keeping with the building at all and also sees the loss of the barn door opening which would be one of the features that would be preferable to be retained.

- **The reuse or conversion would not unduly affect the amenities of nearby residents or adversely affect the continued agricultural use of adjoining land or buildings.**

The conversion of the building will not unduly affect the amenities of nearby residents that are not associated with the site. The close proximity of the structure to the existing dwelling no 76 would cause issue in some circumstances due to the proximity of the two buildings



however the application is for a holiday let and not one of a permanent residence and on this basis the use is considered acceptable and unlikely to cause any demonstrable harm.

- **The nature and scale of any proposed non-residential use is appropriate to a countryside location.**

The nature and scale of the proposed use is considered appropriate to a countryside location.

- **All necessary services are available or can be provided without significant adverse impact on the environment or character of the locality.**

All necessary services are available and can be provided without adverse impact on the environment or character of the locality.

- **Access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic.**

Access onto the public road can be achieved without prejudice to the flow of traffic.

The Strategic Planning Policy Statement for Northern Ireland (SPPS) is also given consideration and is more prescriptive than CTY 4 and the SPPS states that provision for sympathetic conversion of a locally important building should be made, with the locally important being more prescriptive than the policy requirements set out in CTY 4. The building in question while admittedly does have some interesting features would not be considered locally important, no evidence was submitted to demonstrate local importance and the structure on site does not offer any exceptional characteristics nor is it considered to make an important contribution to the locality and on this basis the application fails to meet with the provisions set out in the SPPS.

Consideration is also given to the application in terms of CTY 13 Design and Integration of Buildings in the Countryside and in general the provisions of CTY 13 have been met, it is noted that for a separate residential dwelling there would be issues in terms of amenity and layout however this is for a conversion to a holiday let. By their nature conversions tend to be in close proximity to other dwellings and generally do have less amenity associated. In general the provisions of CTY 13 have been met.

Policy CTY 14 is also given consideration and policy 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 rural character of an area. The application relates to the conversion of a dwelling but with considerable new build and intervention.

A new building will be unacceptable where:

- **It is unduly prominent in the landscape.**

The resulting building will be more visible in the landscape however it could not be considered to be unduly prominent in the landscape. The building is set back off the road and while the works do make the building more conspicuous it would not be accurate to describe the building as unduly prominent in the landscape.

- **It results in a suburban style build-up of development when viewed with existing and approved buildings.**

The dwelling will not change the appearance to a suburban style build up as a result of the works to an existing building. The height of the building is proposed to increase to 6m approx. and it is considered that the landscape can absorb or accommodate this increase.

- **It does not respect the traditional pattern of settlement exhibited in that area.**

The building as an ancillary structure is in keeping with the settlement pattern, the structure as a separate dwelling unit is not as in keeping with the settlement pattern of development. It is noted the conversion is for holiday let accommodation; such accommodation could operate in an ancillary accommodation to the main dwelling as private amenity etc. can be shared. As an ancillary building operating in conjunction with the main building this development would be considered acceptable when considered with the existing pattern of development.

- **It creates or adds to a ribbon of development.**

The structure is there at present and the alterations will not alter the position of the structure being a building located between other buildings and as such not considered to create or add to ribbon development.

- **The impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.**

There are limited ancillary works required for this development. The building can make use of an existing access and amenity required is limited due to the proposed use. Parking is shown as being located adjacent to the dwelling.

### **Recommendation:**

Refusal

### **Refusal Reasons:**

- The proposal is contrary to SPPS and Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building to be converted is not considered to be locally important.
- The proposal is contrary to SPPS and Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the reuse or conversion would not maintain or enhance the form, character and architectural features and design of the existing building and the new extensions are not sympathetic to the scale, massing, architectural style and finishes of the existing building.

## **Reconsideration following the submission of amended plans.**

As the file indicates a recommendation of refusal was made in relation to the proposal and the agent was made aware in writing on 5<sup>th</sup> July 2018 the reasons for refusal (which are outlined below) and advised of the process the application would now follow.

- The proposal is contrary to SPPS and Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building to be converted is not considered to be locally important.
- The proposal is contrary to SPPS and Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the reuse or conversion would not maintain or enhance the form, character and architectural features and design of the existing building and the new extensions are not sympathetic to the scale, massing, architectural style and finishes of the existing building.

Amended drawings were received from Frederic Moore on the 02 August 2018 along with justification and explanation as to why he feels the building is a *locally important building*.

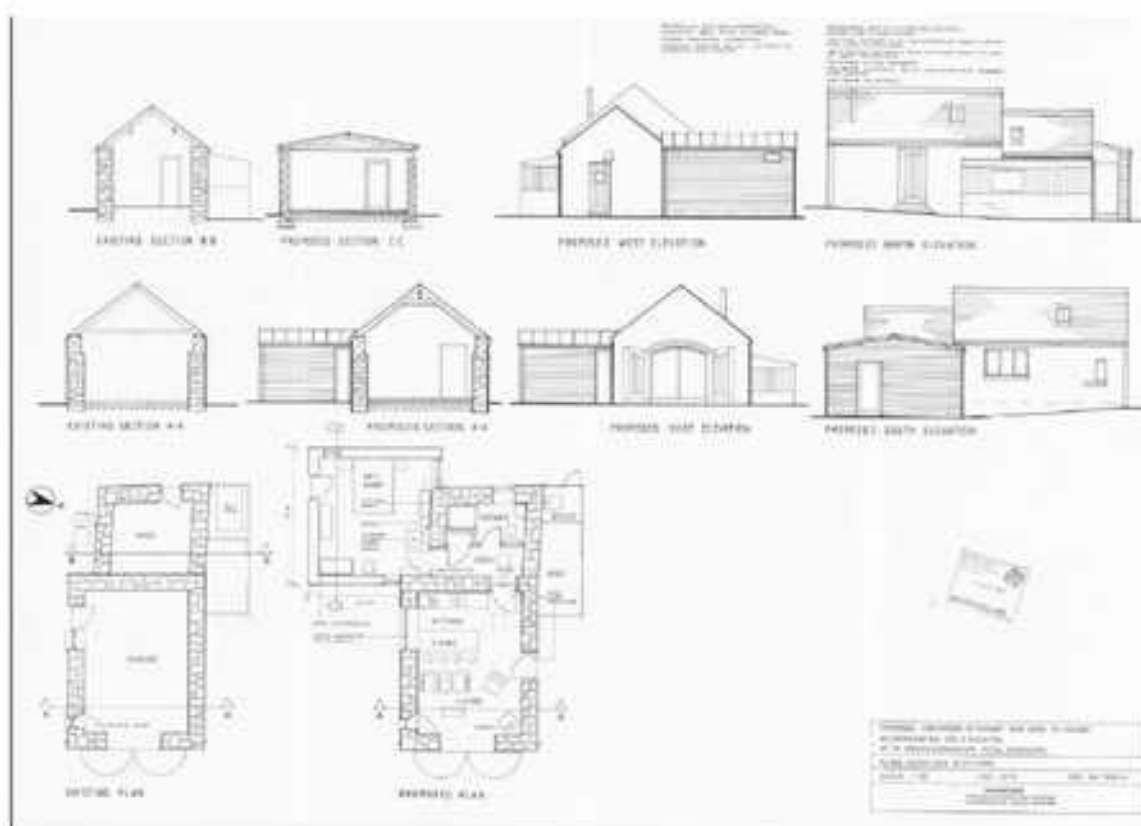
The agent states the age of the building and the characteristics of the building, internally in particular, that the building possess however it is noted that the features have at no time been disputed by the Authority, the features are not however considered of local importance and do not make the building locally important. The structure is not listed and it is noted that it is partly visible from the road but is not a feature of the built landscape and would not draw ones attention for any particular reason or local importance. The submission date stamped received 2<sup>nd</sup> August stated that 'local folklore has it as a smithy or wheelwright' which would imply that local beliefs, myths or tales confirm the use rather than quantifiable facts. It is also unlikely that many know of the use therefore this submission has failed to fully demonstrate that this building is, a locally important building which the SPPS states it *must* be to allow the application to be considered suitable for conversion. There is nothing to set this building apart from numerous other older buildings located throughout the countryside. It is also noted that the building has already been altered to include a wood store of cladged board and also white UPVC windows and doors in part.

The agent also makes reference to an application that was granted by this Authority for what he believes to be something similar (LA07/2016/0645/F) however it is noted that a recommendation of refusal had been advised by the Planning Office for the same reasoning in that the building was not a locally important building however the Planning Committee, in this instance did not agree and decided to overturn the officers recommendation . The Planning office is content that a consistent application of policy was applied to the above referenced applications.

In terms of the second reason for refusal, it is considered that the amendments are an improvement on the original submission in terms of size and scale of the works additional to what is there at present however it is not considered that the proposed works are fully sympathetic to the architectural style and finishes of the existing building. That said the small extension will be to the side of the building facing towards the house and will be largely unseen from the main public view point and does provide a modest extension subordinate to the main structure. On this basis an extension such as this could be considered acceptable.



Original scheme as submitted 16 March 2018



Revised scheme as submitted 02 August 2018

As the proposal is contrary to SPPS and CTY 4 in not being locally important the application remains unacceptable.

The recommendation of refusal remains unchanged.

- The proposal is contrary to SPPS and Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building to be converted is not considered to be locally important.

**Case officer:**

**Authorised by:**

**Date:**

The Case Officer's Report, suggests the applicant relies on '*local beliefs, myths or tales*' to confirm the use rather than, '*quantifiable facts*'.

- o Yes, local knowledge is a valuable source of relevant information.
- o Quantifiable facts ...
  1. The subject building dates from pre - 1830s; early OS base maps confirmed(1830 ed above);
  2. Its provenance -build, form and context - is clearly vernacular;
  3. It is an integral part of a pre-1830s farmstead; and
  4. The principal building of the group valued and published in two Government Documents

Critical COR comments;

*'... it is noted that it is partly visible from the road but is not a feature of the built landscape and would not draw ones attention for any particular reason or local importance.'*(sic)

*'... nothing to set this building apart from numerous other older buildings ...'*

Such unsubstantiated comment reveals the lack of appreciation of local landscape composition and value combined with an absence of understanding of Ireland's built heritage. An artefact does not have to be visible to be important, nor does a building have to stand "apart" to be so, or to contribute positively to a greater group or landscape. This is what the Planners do not grasp ... the vernacular ... It is ordinary, it is the common place but it is the essence of our landscape and cultural heritage, and deserving of the Council's protection and conservation.

I ask the Planning Committee to reassess the application in the light of its earlier decision in July of this year ... and approve the proposal. I am at the Committee's disposal as regards site visit or meeting.

Denis Piggot

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The third surviving building of the Farmstead

*-originally a Herd's House and Byres; now store and stables*

All that is asked of the Planning Committee is that this application be dealt with on the same criteria as LA07/2016/0645 (right) - approved July 2018 on the basis that, as a sole survivor of a vernacular farmyard, it was *'a locally important building'* - speaking as a Conservation Architect, the correct decision, compliant with Policy CTY 4 and SPPS.



Conversion and extension approved

Similarly, Mr Houston's building, a 'Smithy' or 'Wheelwright', at Drumnaconagher Road is clearly a vernacular building, but additionally an integral part of an original surviving vernacular farmyard - House, Stables, Herd's House, and the subject building, a 'Smithy' or 'Wheelwright'.



1830s Map - Farmstead layout recognisable Smithy beside '2'

This is a significant heritage asset. The principal dwelling of the farmstead is held as a design icon in 'A Planning Strategy for Rural NI' and received a commendation in the DOE Design Competition and publication, 'Houses in Harmony with the Countryside.'



**Design**  
The look and tone of the extension and the permanent design considerations. All forms extension should be subordinate in scale to the existing house and should generally match the proportions, roof pitch, depth, and materials of the house. Proposals will also be assessed in terms of their impact on the character and appearance of the surrounding area.

Extract from PSRNI

The value of the smithy/wheelwright is threefold

1. Individually, as a vernacular building of a specific type and use;
2. Contextually as an integral part of a surviving vernacular and historical farmyard, which can with confidence, be dated to pre-1830 - that is in excess of 188 years; and
3. Its 'imperceptible' contribution to landscape character .. with that of many such buildings.

Either way the building possesses significant heritage and cultural value and is worthy of conservation  
The 'Smithy' .....



'Smithy' front elevation



Well (working)



Smithy fire/furnace corner



Rear elevation



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference: LA07/2018/0634/O**

**Date Received: April 2018**

**Proposal:**

Outline permission is sought for the Relocation and substitution of previously approved farm dwelling (R/2014/0610/O) from outlying farm group to main farm group, on lands approx 100m SW of 116 Drumnaquoile Road, Ballynahinch.

(The previously approved dwelling was located along Demesne Rd)

Applicant: Mr P J Morgan



**Location:**

This site is located in the countryside, towards the upper end of Drumnaquoile Rd, in an AONB and Area of Constraint on Mineral Developments, as identified in the Ards and Down Area Plan 2015, whereby this area is pre-dominantly rural in character, close to Slieve Croob Mountain, although also includes several dwellings and holdings.



**Site Characteristics & Area Characteristics:**

The site outlined in red extends to include an access laneway and portion of 2 fields, off the Drumnaquoile Rd. This access laneway is located to the south side of no.112, and provides access to a number of fields. The fields comprising the application site are set back at least 100m from the road, beyond the rear of 2 outbuildings and a yard area, whereby the fields rise from the access laneway. It is noted from the site location plan submitted the adjoining sheds are not within the blue line, i.e land within the control/ownership of the applicant.

**Site history**

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

LA07/16/0660- Farm diversification providing 1 Tourist Accommodation Unit, Full, Pending, Applicant: PJ Morgan.

LA07/2015/1081- 2 Agricultural sheds, Full, Withdrawn, Applicant: Mr Chris Kelly

R/2014/0610/O- Lands North of No.68 Demesne Rd, Seaforde, Farm dwelling, Outline, Approval, 21-05-15, Applicant: PJ Morgan

**Representations**

None received to date (22-10-18).

Having account the nature of this application and extent of red line neighbour notification was undertaken with several properties along Drumnaquoile Rd in May 2018, while the case was also advertised in May 2018.

**Consultations-**

Having account the nature of this proposal and constraints of the site and area, consultation was undertaken with DAERA, Transport NI, NI Water, Environmental Health, Rivers Agency and Shared Environmental Services, whereby it is considered there no objections offered in principle.

**Policy considerations:-****RDS, Ards and Down Area Plan 2015, SPPS, PPS2, PPS3, PPS6, PPS11, PPS15, PPS21 and supplementary guidance.**

As stated above the site is located in the countryside whereby Policy PPS21 and the recently published SPPS apply.

One of the policies retained by the recently published SPPS is PPS21, whereby it is considered there is no conflict or change in policy direction between the provisions of the SPPS and those of PPS21.

As such it is considered PPS21 remains the applicable policy context to consider the proposed development under.

PPS21 sets out the planning policies for development in the countryside (any land lying outside of development limits as identified in development plans), whereby Policy CTY 1 sets out the 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.

Based on the information submitted this application is for the development of a dwelling on a farm to be considered under policy CTY10 of PPS21.

CTY10 (Dwellings on Farms) states that Planning permission will be granted for a dwelling house on a farm where all of the following criteria can be met:

- (a) the farm business is currently active and has been established for at least 6 years;
- (b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and
- (c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:
  - demonstrable health and safety reasons; or
  - verifiable plans to expand the farm business at the existing building group(s).

In such circumstances the proposed site must also meet the requirements of CTY 13(a-f), CTY 14 and CTY 16.

Planning permission granted under this policy will only be forthcoming once every 10 years.

This is an Outline application for a dwelling on a farm, whereby a P1 form, P1C form, farm maps, site location plan, and access details have been submitted.

In respect of CTY10 (a):

This application seeks to substitute the farm dwelling previously approved on the Demesne Rd (R/14/0610/O), which is located some 5-6 mile from the current application site.

The information submitted indicates the applicant (Mr P J Morgan) lives at no.116 Drumnaquoile Road, and owns the application site and adjoining lands.

The P1C form states that the owner of the farm is Mr P J Morgan, the farm business was established over 50yrs ago, a single farm payment is claimed for, and they have a DAERA Agricultural Business Number (621233), although no date of allocation was approx 2005.

DAERA were consulted with this information, who have confirmed the farm business id identified has been in existence for more than 6years, and a single farm payment is claimed for.

A history search has been carried out for the site and surrounds which is outlined above.

The information provided on the P1C form and farm map indicates this holding is approx 11.53 hectares in size.

Taking into account the level of information submitted and comments from DAERA on balance it is considered the farm business, is active and established, and meets the requirements for permitting a farm dwelling.

A Land Registry check was carried out on the existing buildings adjoining the application site which confirmed these are owned by the applicant.

In respect of CTY10 (b)

A history search has been carried out for the site and surrounds including farm maps provided, whereby the only relevant history observed is that outlined above, and the Planning Dept has no information to suggest that any other development opportunities have been sold off.

As advised this application seeks to substitute the previously approved farm dwelling R/14/0610/O, whereby it is required to Revoke this previously approved farm dwelling.

In respect of CTY10(c)

As this is an Outline application no detailed plans have been submitted, however the red line indicates the site is immediately adjacent to existing buildings on the farm.

The red line provided extends to include a portion of 2 fields, whereby a condition shall be placed on the decision notice restricting the siting to the field immediately adjoining the existing buildings to ensure the dwelling visually links and clusters with these existing buildings.

It is also noted the dwelling will be accessed via the existing laneway.

In addition to the provisions of CTY10, an application for a farm dwelling is also required to be considered against the remaining policies of PPS21, whereby policies CTY13-14 and CTY16 are considered key.

Having account existing ground conditions, site levels and topography of the lands, backdrop and proximity to existing buildings, it is considered a well designed and sited dwelling will not offend policies CTY13, CTY14 or CTY16, or this sensitive AONB location.

Taking into account the above Approval is recommended subject to condition.

(Conditions to include: time limit, siting and curtilage restriction, single storey house type and 5.5m ridge height, levels and planting).

**Recommendation: Approval**



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

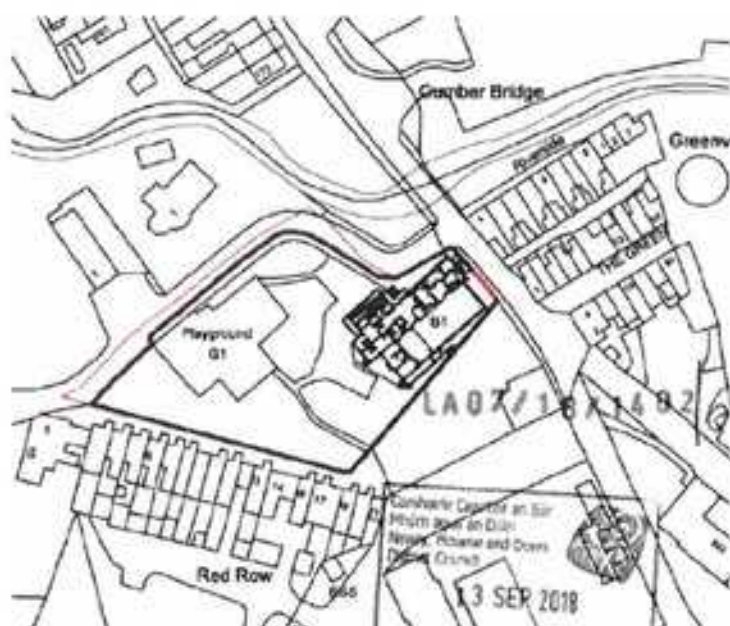
**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2018/1402/LBC

**Date Received:** 13/09/2018

**Proposal:** Internal alterations

**Location:** Dan Rice memorial Hall, Drumaness BT24 8RL



### Site Characteristics & Area Characteristics:

Characteristics of site: The lands outlined in red are irregular in shape, and the building on situ is Daniel Rice Memorial Hall, a Grade B1 Listed Building. The building is finished in red brick, with Bangor Blue slate roofing. The building is located adjacent to the Drumaness Road, with car parking and a playground area to the rear of the building. The building has undergone a rear extension in recent years, with the building now being used for a variety of weekly activities such as snooker club, youth club, flower arranging etc. In terms of site boundary treatment the east

facing boundary is defined by low metal fencing. A section of the northern boundary consists partially of no defined boundary then forms a stone wall approx. 1.2m high. The southern boundary consists a retaining wall of varying height.

Characteristics of area: The site is located within the settlement developments limits of the town of Drumaness as defined in Ards and Down Area Plan 2015. Listed Buildings are sited immediately NE and SW of the site.



Elevations of Dan Rice Memorial Hall, Drumaness

**Site History:**

R/2006/0625/F Dan Rice Memorial Hall, Drumaness Road, Drumaness, Ballynahinch, Co Down. Alterations and 2 storey extension to existing community centre. Permission Granted. 09.02.2007

R/2006/0642/LB Dan Rice Memorial Hall, Drumaness Road, Drumaness, Ballynahinch, Co Down. Alterations and 2 storey extension. Permission granted. 06.02.2007

**Planning Policies & Material Considerations:**

The Ards and Down Area plan 2015

SPPS – Strategic Planning Policy Statement for Northern Ireland

This policy provides overall context under which the Council will determine planning applications.

PPS 6 – Planning, Archaeology and Built Heritage

This policy sets out the Councils planning policies for the protection and conservation of archaeological remains and features of built heritage.

**Consultations:**

Historic Environment Division (HED) - Content

**Objections & Representations:**

As this application is for Listed Building Consent no neighbour notifications were required. The application was advertised in the local press on 03/10/2018.

One letter of objection was received on 01/11/2018 from 'Drumaness Monday Club'.

The planning concerns raised are summarised as follows:

- Removal of hatch
- Obstruction of the existing floor

**Consideration and Assessment:**

The submitted application is for a number of internal alterations to the Dan Rice Memorial Hall, namely to enlarge the kitchen and fit new appliances. It is stated in the accompanying Design and Access Statement the reason for this works is to

modernise and accommodate the increase in footfall using the hall on a regular basis.

To facilitate the proposed internal extension to the kitchen, the existing hatch located between the kitchen and lobby will be relocated 1.9m to the west. The hatch door will be located on this new section of wall, and a partition wall will be erected squaring off an area between the bobby and hatch. The proposal will create an additional 2.2 m<sup>2</sup> of kitchen space. The applicant seeks to fit a new kitchen including new electrics for kitchen appliances, remove the hatch radiator and move to the internal wall of new partition wall.

With regard to policy BH 8 (Extension or Alternation of a Listed Building) as set out in PPS 6 – Planning, Archaeology and Built Heritage case officer is satisfied that the essential character of the building and its setting are retained and its feature of special interest remains intact and unimpaired. The proposal seeks internal alterations; therefore there will be no impact on architectural details, and the building materials. The proposal accords with this policy.

Given that Listed Buildings are located to the immediate NE and SW of the site Policy BH 11 (Development affecting the Setting of a Listed Building) must be considered. The proposal is internal alterations and there is no expected adverse affect on the setting of a listed building.

Historic Environment Division (HED) were consulted in respect of this application on 24/09/2018 due to the proposed internal alternations to a Grade B1 Listed Building. In a response dated 17/10/2018 requesting additional information before making comment. Additional information was provided and in a consultation response dated 20/11/2018, that they content with the proposal.

HED make note that the this advice is on the basis of the lightweight stud partitions specified in the Design & Access Statement, which are a reversible intervention and the retention of the existing terrazzo floor. As a precaution HED recommended Planning Informatives.

#### **Consideration of objection:**

One letter of objection was received on 01/11/2018 from 'Drumaness Monday Club'.

The planning concerns raised are summarised as follows:

- Removal of hatch
- Obstruction of the existing floor

Concerns were raised regarding the removal of the hatch which the objector considers to be an important part of the historic fabric of the building as it hold historic value. Case officer considers this objection, and disagrees with the premise.

The proposal seeks to relocate the hatch approx. 1.9m from the existing position. It will still serve the same function by providing a hatch access between the kitchen and lobby area.

The objector raised concerns regarding the existing terrazzo floor, in that the proposal would obstruct the floor. It is accepted that the proposal will reduce the size of the lobby area that features the flooring, however the surface area lost is considered minor, and the materials used for the partition wall are reversible. The existing terrazzo floor will be retained and not replaced. It is therefore expected that proposal will not change the historic character of the building.

Case officer concludes that after careful consideration of the objectors concerns, the proposal satisfies Policy BH 8 (Extension or Alternation of a Listed Building), therefore must be recommended for approval.

No further objections have been received to date.

**Recommendation:**

Approval

**Conditions:**

1. The works hereby permitted shall be begun not later than the expiration of 5 years beginning with the date on which this consent is granted.

Reason: As required by Section 94 of the Planning Act (Northern Ireland) 2011

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date:**





Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2018/0378/O

**Date Received:** 05/03/2018

**Proposal:** Erection of a dwelling and garage on a farm

**Location:** 200m South of 112, Monlough Road, Saintfield, BT24 7EU



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

Characteristics of site: The lands outlined in red are located approximately 200m South of No. 112 and approximately 50m North of No. 120. The topography of the site is relatively level, gradually sloping to the western boundary. The site runs adjacent to the Monlough Road, resting roughly at the midpoint between a gentle dip in the road. The site consists of open grassland, which has been carved out of a larger field. There is currently no roadside access to the site, with the only access being via a section of the field that is adjacent to the southern boundary of the site, lands which are owned by the applicant.

The boundary treatment along the roadside (eastern boundary) the site is enclosed by a 1.7m high mature hedgerow, that has been well maintained. The western boundary treatment consists of a row of mature trees that vary in species and height. The southern boundary treatment is similar to that of the western, however the boundary at the SE corner of the site has no defined boundary, that opens on to the adjoining field.

Characteristics of area: The application site is located outside any settlement development limits as designated with the Ards and Down Area Plan 2015. The area is of typical rural character and predominately agricultural use. The site is located approximately 130m east of the A7 Belfast Road.



Location of proposed dwelling & garage



View from the Monlough Road

### Site History:

R/1988/0286 Between 110 and 120 Monlough Road, Lessans Saintfield. Dwelling and stables. Permission granted.

R/1988/0892. Between 110 and 120 Monlough Road, Lessans Saintfield. Bungalow, garage, stables and hayshed. Permission granted.

R/1984/0582 120 Monlough Road, Saintfield BT24 7EU Alterations to restaurant and new car park. Permission granted.

### Planning Policies & Material Considerations:

The Ards and Down Area plan 2015

SPPS - Strategic Planning Policy Statement for Northern Ireland

PPS 3 - Access, Movement and Parking

AMP 2 - Access to Public Roads

AMP 7 - Car Parking and Servicing Arrangements

PPS 21 - Sustainable Development in the Countryside  
 CTY 1 - Development in the Countryside  
 CTY 10 - Dwellings on Farms  
 CTY 13 - Integration and Design of Buildings in the Countryside  
 CTY 14 - Rural Character  
 CTY 16 - Development Relying on Non-Mains Sewerage

### **Consultations:**

DAERA – The Business ID number has not been in existence for more than 6 years and subsidies have not been claimed in the last 6 years.

NI Water - Generic response

DFI Roads - No objections subject to the access being in accordance with the RS1 form.

### **Objections & Representations:**

1 Neighbour within close proximity of the site No.120 was notified on 27/03/2018. This application was advertised in the local press on 28/03/2018. No objections or representations have been received.

### **Consideration and Assessment:**

#### PPS 21 - Sustainable Development in the Countryside

Policy CTY1 restricts new development in the countryside, but makes an exception for farm dwellings, which are considered acceptable if in accordance with policy CTY10. Criteria (a) require the farm business to be currently active and to have been established for at least 6 years. DAERA advised in a consultation response dated 20/04/2018 that the associated farm has not been in existence for 6 years, and the farm business has not claimed the Single farm payment (SFP), Less Favoured Area Compensatory Allowances (LFACA) or Agri Environment Schemes within the last 6 years. This information provides the Council with the main means to determine if farm is currently active and established.

Criteria (a) affords a dwelling by those involved in the keeping and breeding of horses for commercial purposes will also be assessed under the criteria set out in this policy. Applicants will have to provide sufficient information to demonstrate a level of involvement commensurate with commercial activity over the requisite period of 6 years. Such information should include:

- a statement of commercial rateable history for the business;
- copies of appropriate Insurances;
- copies of 'Horse Passports' (if applicable); and
- any other information considered relevant to the particular case.

A request for this information was made to the agent on 25/04/18, in which the agent provided additional materials on 03/05/18. The materials submitted included various but quite limited bills and receipts, herd book and three horse passports. Case officer has carefully checked and considered the materials received, and concludes that although there has been some activity, the evidence fails to demonstrate a level of involvement commensurate with commercial activity over the requisite period of 6 years. The application fails to meet the policy requirements of CTY10(a).

**Applicant cannot demonstrate the operation of a business engaged on agricultural activity or equine activity for the requisite 6 years.**

The farmland has been checked for any development opportunities sold off from the holding. After an inspection of the farm maps that provided the full details of land owned by the farm which accompanied the application, the Council are content there has been no development opportunities sold off from the farm holding. The application therefore meets policy requirements of CTY10(b).

Criteria CTY10(c) requires that new building is visually linked or sites to cluster with an established group of buildings on the farm and where practical and access should be obtained through existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm provided there are no other sites available at another group of buildings on the far, or out-farm, and where there are either

- Demonstrable health and safety reasons; or
- Verifiable plans to expand the farm business at the existing building group(s).

The site outlined for the dwelling is located approx. 250m south west of the main farm holdings on the opposite side of the road 112 Monlough road, the registered address for the farm business. The proposed site is an open field that is absent of any buildings. Therefore it cannot be considered that the new building can be visually linked or sited to cluster with an established group of buildings on the farm.

Furthermore from looking at the site location plan, there are more suitable sites within the lands outlined in blue that may offer a possibility to visually link and cluster with an established group of buildings on the farm. Policy requires that where practical access should be obtained through existing lane. This particular site falls short of this requirement as it proposes access directly onto the Monlough Road.

The applicant stated several reasons on the P1C form stating why a dwelling on the main farm is unsuitable for health and safety reasons. After consideration Case officer determines that the reasoning provided fails to affirm appropriate and demonstrable evidence that would make exception to criteria (c).

A dwelling on a farm is required to meet all of the criteria in Policy CTY 10 for planning permission to be granted. Criterion (a) and (c) have failed to be satisfied, therefore the principle of development has not been established and therefore refusal will be recommended.

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 area inside the red line takes in a full agricultural

field, and no specific site has been pin pointed. As this is an outline application the siting and design would be determined at the Reserved Matters stage. However as this application is a road side site, absent of other developments, and being no defined boundary to the north and south east of the site, a dwelling and garage would be considered a prominent feature lacking integration into the landscape. As a result the proposal would rely on new landscaping for integration. Furthermore the proposed dwelling and garage is not sited to visually link or cluster with an established group of buildings on the farm and therefore also fails under CTY13.

Policy CTY 14 – Rural character requires new buildings in the countryside to not cause a detrimental change to, or further erode the character of an area. Case officer concludes that the proposal would not accord to this policy in terms of visual prominence and integration with the landscape.

Policy CTY 16 – Development relying on non-sewage waste. The application would appear to comply with this policy.

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

DFI Roads initially responded that a sightline of 2.4m x 70m would be required at this location, requesting the applicant to amend the site outlined in red. The acting agent amended the lands outlined in red showing revised sightlines dated 30/04/2018. DFI have now confirmed that they have no objections to the proposal with regard to the above policy criteria subject to access being in accordance with the RS1 form.

### **Recommendation:**

Refusal

### **Refusal Reasons:**

1. The proposal is contrary to SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that:
  - The farm business is currently active (and has been established for at least six years);
  - The proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm and access to the dwelling is not obtained from an existing lane;

- Health and safety reasons exist to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm.
3. The proposal is contrary to SPPS and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.
  4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that: the development would, if permitted, be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside.

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date:**



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2018/0377/O

**Date Received:** 26/02/2018

**Proposal:** Replacement Dwelling and Garage

**Location:** 20m East of 53 Beechview Road, BT309DS



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

#### **Characteristics of site:**

The site is located along the Beechview Road, with a total area of approximately 0.25 hectares, which contains a single storey structure that currently lies vacant. The existing structure is located towards the western boundary of the site, sited approximately 6.5m east of No. 53 Beechview Road. Boundary treatment is defined by the western boundary being bordered by a stoned laneway. The front boundary consists of a dwarf wall that encloses a concrete slab surface. The existing structure

has no defined boundary to the east and rear, fronting onto an open field. The structure is accessed via a stoned laneway, which serves as access to a large barrel vaulted shed and 2 additional large sheds.

Characteristics of area:

The application site is located outside any settlement development limits as designated with the Ards and Down Area Plan 2015. The area is of typical rural character and predominately agricultural use. There are a number of single storey detached dwellings within the immediate area of the site.



Side elevation of Structure



Proposed site for replacement



Views to proposed site from Beechview Road



**Site History:**

LA07/2017/0219/CA. 53 Beechview Road, Crossgar, BT309DS. Alleged U/A change of use agricultural building to boarding kennels and cattery. Case on-going

LA07/2017/0497/F Site. adjacent to 162 Derryboy Road, Crossgar, BT30 9DJ. Change of house type from previous approval R/2013/0526/F to include dwelling, garage and new access. Permission granted.17.11.2017

R/2014/0137/CA 162. Derryboy Road,Ballyaligan,Crossgar,Down,BT30 9DJ, Alleged unauthorised change of use of garage to dwelling. Enforcement case closed. 09.06.2015

R/2013/0526/F Lands adjacent 162. Derryboy Road, Crossgar, BT30 9DJ. Proposed 2no infill building sites for detached dwellings with garages. Permission granted. 21/05/2014

R/2010/0123/F 162. Derryboy Road, Crossgar, BT30 9DJ. Detached Domestic garage & domestic store. Permission granted. 04.10.2010

R/2010/0750/RM. New Dwelling adjacent to 57 Beechview Road, Crossgar BT309DS. Permission granted 17.01.2011

**Planning Policies & Material Considerations:**

The Ards and Down Area Plan 2015

SPPS - Strategic Planning Policy Statement for Northern Ireland

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

AMP 2 - Access to Public Roads

AMP 3 - Access to Protected Routes

AMP 7 - Car Parking and Servicing Arrangements

PPS 21 - Sustainable Development in the Countryside

CTY 1 - Development in the Countryside

CTY 3 - Replacement Dwellings

CTY 13 - Integration and Design of Buildings in the Countryside

CTY 14 -Rural Character

**Consultations:**

NI Water – No objections

DFI Roads – No objections subject to the RM application being in compliance with the attached RS1 form.

**Objections & Representations:**

2 Neighbour within close proximity of the site were notified on 21/03/2018. This application was advertised in the local press on 28/03/2018. No objections or representations have been received.

**Consideration and Assessment:**PPS 21 - Sustainable Development in the Countryside

The policy context is provided by Planning Policy Statement 21 'Sustainable Development in the Countryside' whereby PPS21 sets out the planning policies for development in the countryside. Policy CTY 1 'Development in the Countryside' of PPS21 states 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. 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, or it is otherwise allocated for development in a development plan.

There is no lawful status to the structure the subject of this application. The application is for a replacement dwelling and garage. The structure to be replaced is a prefabricated construction measuring approximately 4m x 13m.

Policy CTY3 allows for the replacement of dwellings and buildings previously used as dwellings. Notwithstanding the supporting evidence submitted for its past use for residential purposes it would not qualify for replacement if the use was unauthorised.

In this case, there is no LDC in respect of the subject building and as such, it cannot be concluded that it represents a valid replacement opportunity. Even if a LDC were in place, paragraph 1 of Policy CTY3 requires that the building to be replaced exhibit the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. I accept that all external walls of the subject building are substantially intact. However, it must be considered whether the building to be replaced exhibits the essential characteristics of a dwelling. The policy reference to the physical state of the building suggests that "essential characteristics" are both functional and physical. In this case, the internal layout of the accommodation is characteristic of the interior layout of a dwelling having a living room, kitchen,

bathroom and bedroom. In visual terms the building does not have the appearance of a dwelling. From all critical viewpoints it reads as a prefab office.

In light of the above, It is considered that the building to be replaced does not exhibit the essential characteristics of a dwelling to comply with Policy CTY3.

The proposal is therefore unacceptable in principle. As such, it is not necessary to consider the criteria for all replacement cases. Accordingly, the proposal is contrary to Policy CTY1 of PPS21.

Policy CTY 13 requires that a new building in the countryside be visually integrated into the surrounding landscape and it is of an appropriate design. The lands outlined in red for the replacement dwelling are carved out of a larger agricultural field. The boundaries are undefined, with the only existing boundary to the site to be removed to provide the required visibility splays. Given the position of the dwelling in the field and the removal of the roadside screening for the required splays the proposal will rely heavily on new landscaping to enable the dwelling to integrate into the landscape. Therefore the proposed development fails to satisfy policy CTY 13.

Policy CTY14 requires that buildings in the countryside not to cause a detrimental change to or further erode the rural character of the area. The proposed dwelling is to be located to the approx. 20m to the east of the structure currently in situ. Given the position of the proposed dwelling along the road frontage and the creation of a new driveway and access to the east of the site and, the development would result in the addition to a ribbon of development along the Beechview Road, when viewed with the existing development. Case Officer considers that the proposal would result in a suburban style build-up of development, as a result it fails to satisfy policy CTY 14.

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

AMP 2 - Access to Public Roads states that planning permission will only be granted for a development proposal involving the intensification of the use of an existing access onto a public road where such access will not prejudice road safety. DFI Roads are content with the proposal, however as part of the reserved matters stage require a scale plan and accurate site survey at 1:500 (minimum) showing the

access to be constructed and other requirements in accordance with the attached form RS1.

**Recommendation:**  
Refusal

**Refusal Reasons**

1. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policies CTY1 and CTY3 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that there is no structure that exhibits the essential characteristics of a dwelling and therefore 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 CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed building is unable to provide a suitable degree of enclosure for the building to integrate into the landscape as the proposed building relies primarily on the use of new landscaping for integration and therefore would not visually integrate into the surrounding landscape.
  
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted add to a ribbon of development and would therefore further erode the rural character of the countryside.

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

**Re: LA07/2018/0377/O – Replacement Dwelling and Garage 20m East of 53, Beechview Road Crossgar**

This application has been scheduled to the 19<sup>th</sup> December 2018 Council meeting as refusal. I would ask Council to reconsider this view on the following grounds:-

- Council's letter of 2<sup>nd</sup> May 2018 ( Copy enclosed) stated the application was fundamentally flawed and contrary to CTY 1, 8, 13 & 14 (**but not CTY 3**)
- An amended layout was submitted 11<sup>th</sup> June 2018 (See acknowledgment 12<sup>th</sup> June 2018 enclosed) This amended layout sited the new dwelling in situ with the garage to the rear. Thus it met the concerns raised under CTY13 & 14.
- Already submitted was Appeal 2016/A0042 concerning a prefabricated flat felt roofed structure constructed on site with living room, kitchen, bathroom and bedrooms, mains water, electricity, oil tank and septic tank. PAC determined it was a prefabricated dwelling and granted approval.
- Already submitted was details of the application building which was erected on site in 1996. It has concrete steps at the front, a hard standing surround and its own curtilage which contains flower planting and apple trees. It comprises a living room, kitchen, bathroom and bedroom. It was connected to electricity, mains water, had a boiler, radiators, septic tank and rayburn heater. The house had a pitched and slated roof and an attic void and internal photos were enclosed.
- In addition full details, including photos and Case Officer's Report, were submitted of a recent approval for replacement of a small mobile home at Killybawn Road.

I trust Council will reconsider this initial view to refuse.

Ewart Davis

12<sup>th</sup> December 2018

**Photos of Interior of dwelling to be replaced**



**Central heating boiler**



**Fireplace**



**Kitchen**



**Bathroom**



**Radiator**



Ewart Davis  
14 Killynure Avenue  
Carrduff  
Belfast  
BT8 8ED

Newry, Mourne and Down District Council  
Planning Office  
Downshire Civic Centre  
Ardglass Road  
Downpatrick  
BT30 6GQ

Date: 2nd May 2018  
Your Ref:  
Our Ref: LA07/2018/0377/O  
(Please quote at all times)  
Please Contact: Sean Maguire  
Contact Number 0300 200 7830

Dear Sir/Madam,

**Location:** 20m east of 53 Beechview Road, Crossgar, BT30 9DS,

**Proposal:** Replacement dwelling and garage

I refer to the above planning application currently with the Planning Office of Newry Mourne and Down Council for determination.

I am writing to advise you that following a detailed consideration of the application as submitted, it is the opinion of the Planning Office that the application is fundamentally flawed and is being recommended for refusal, namely that it is contrary to CTY 1, 8, 13 and 14.

The Planning office is not requesting any amendments on the application and any received may be returned to you.

Please be advised that it is the intention of the Planning Office to recommend the application to the next meeting of Newry Mourne and Down Planning Committee (please check the web site for details). A copy of the case officer's consideration will be available to you upon the issuing of the agenda by the Council 2 weeks prior to the Planning Committee meeting date.

Details of how to avail of your Speaking Rights is contained within the Planning Committee Operating Protocol which can be accessed through the link below. The Councils Scheme of Delegation is also available at <http://www.newrymournedown.org/planning>

I trust that the above clearly sets out the Councils position on the matter.

Yours faithfully

S. Maguire

P.P. Newry, Mourne and Down Planning Manager



20m East of Beechview Road

Tuesday, 12 June 2018 11:55

From: Sean Maguire@nmdc.org

To: evert.davis@btinternet.com

Good afternoon Evert,

I have received your amended drawings in the post today.

However myself and the Planning Department will not be assessing these drawings, as we have made our recommendation of refusal.

I sent you a letter on 2nd May 2018 explaining our reasons for refusal and stating additional material will not be considered.

You may wish to bring the amended drawings to the meeting of Newry Mourne and Down Planning Committee (I will put the amended drawings into your application).

Regards,

Sean Maguire

Planning Assistant

**Newry, Mourne and Down District Council**

Oifig Dhùn Pádraig

Downpatrick Office

Downshire Civic Centre

Downshire Estate, Ardgliss Road

Downpatrick BT30 6GQ

Council: 0300 013 2233

Planning: 0300 200 7830

**EXT : 4430**

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-----Inline Attachment Follows-----



PREPARED BY:  
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SCALE: 1:500  
 DATE: 10/20/10

SHEET NO. 101  
 OF 101

101 - 101



## Appeal Decision

Park House  
87/91 Great Victoria Street  
BELFAST  
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<b>Appeal Reference:</b>	2016/A0042
<b>Appeal by:</b>	Mr S Bailie
<b>Appeal against:</b>	The refusal of full planning permission
<b>Proposed Development:</b>	Replacement dwelling and garage
<b>Location:</b>	No 39a Begney Hill Road, Dromara
<b>Planning Authority:</b>	Lisburn & Castlereagh City Council
<b>Application Reference:</b>	LA05/2015/0782/F
<b>Procedure:</b>	Written representations and accompanied site visit on 13 September 2016.
<b>Decision by:</b>	Commissioner Pamela O'Donnell, dated 23 September 2016

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### Decision

1. The appeal is allowed and full planning permission is granted, subject to the conditions set out below.

### Reasoning

2. The main issue is whether the main structure on the appeal site represents a replacement opportunity.
3. The appeal site lies in the countryside as defined in the Belfast Metropolitan Area Plan 2015. The Area Plan offers no policy material to the consideration of the appeal. There is no conflict or change in policy direction between the provisions of the Strategic Planning Policy Statement for Northern Ireland: 'Planning for Sustainable Development' (SPPS) and those of Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS21) regarding the appeal proposal. Accordingly, the retained PPS21 provides the relevant policy context.
4. Policy CTY1 of PPS21 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development. It goes on to state that planning permission will be granted for an individual dwelling house in six cases. One is a replacement dwelling in accordance with Policy CTY3. It follows that if the development complies with Policy CTY3, it will comply with Policy CTY1 of PPS21.
5. Policy CTY3 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. It goes on to say that buildings designed and used for agricultural purposes, such as sheds or stores, and buildings of a temporary construction will not be eligible for replacement under this policy.

**Conditions**

- (1) The dwelling marked X on the attached Drawing No 672-01 shall be demolished and all resultant rubble removed from the site within one month of the occupation of the approved dwelling.
- (2) All hard and soft landscaping shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The landscaping scheme shall be carried out during the first planting season after the dwelling is occupied.
- (3) Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Planning Authority gives written consent to any variation.
- (4) The development shall be begun before the expiration of five years from the date of this permission.

This decision approves the following drawings:-

Drawing No 672-01, Location map at 1:2500 and Drawing No 672-03, Proposed site plan, floor plans and elevations at 1:100 and 1:500. Both drawings were stamped refused by the Council on 19 January 2016.

**COMMISSIONER PAMELA O'DONNELL**



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2017/0932/O

**Date Received:** 13<sup>th</sup> June 2017

**Proposal:** 4 no. holiday cottages including fully inclusive design

**Location:** Land immediately adjacent to/South-West of 32 Dougan's Road,  
Kilkeel, Newry

**Site Characteristics & Area Characteristics:**

The site is currently vacant with reeds growing throughout site with a raised earthen bank along the small watercourse which runs through site and along the south western boundary. A stone wall bounds the roadside perimeter and along the boundary with no.32 Dougans Road and post and wire fencing along the south eastern border. Mature hedging and tree define the south western site boundary.



View of site from Dougans Road

A large 2-storey dwelling known as 32 Dougans Road exists immediately adjacent to the site to the north east. There are a number of other road side properties opposite

the site and to the north west as well as further along Dougans Road to the north east.



No.32 Dougans Road above



View of site from no.32 Dougans Road

**Site History:**

P/2001/1864/F – 2 –storey dwelling approved on appeal – now 32 Dougans Road, Kilkeel

P/2003/0361/O – 2-storey house 20m south of 35 Dougans Road – Withdrawn after recommendation to refuse on grounds of integration, build up and ribbon development

P/2003/0362/O – 2-storey house 60m south east of 39 Dougans Road – withdrawn following recommendation to refuse on grounds of integration, build up and ribbon development

P/2004/0202/O – Dwelling - Refused (integration, build up and ribbon), appeal (2004/A621) dismissed on grounds of build up and ribbon development.

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

RDS (Regional Development Strategy) 2035

SPPS – Strategic Planning Policy Statement

Planning Policy Statement (PPS) 2 – Natural Heritage

PPS 3 – Access, Movement and Parking

PPS 6 – Planning, Archaeology and the Built Heritage

PPS 15 – Planning and Flood Risk

PPS 16 – Tourism – TSM 5, TSM 6 and TSM 7

PPS 21 – Sustainable Development in the Countryside

Banbridge Newry & Mourne Area Plan 2015

#### **Consultations:**

Transport NI – With regard to PPS 3 and DCAN 15, DFI roads has expressed no objections – subject to RM in accordance with RS1 form

Northern Ireland Water (NIW) – the use of a septic tank (one for each dwelling) subject to written consent being obtained from NIEA (now DAERA) – predevelopment enquiry also required

HED – content that the proposal is satisfactory to SPPS and PPS 6 archaeological requirements

Environmental Health – no objections to the revised number of dwellings subject to the applicant applying for consent to discharge from NIEA.

Rivers Agency – accept the logic of the Drainage Assessment and recommend a service strip of at least 5m is retained for maintenance of watercourse.

Shared Environmental Services (SES) - 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.

#### **Objections & Representations**

9 neighbours were notified of the proposal on 7<sup>th</sup> July 2017. Objection letters were received from 7 different addresses.

#### **Issues raised:**

- Dougans Road is in a poor state physically and due to the high volume of traffic that use this road such as locals, farmer business (2 businesses within close proximity of site) and those who use it as a bypass through Kilkeel, the proposal of 4 further holiday cottages would put added pressure on the stability of the road;
- The area is known to flood even if agent has stated on P1 form that it doesn't;
- No street lights or footpaths along Dougans Road;

- Very little detail provided with application such as material finishes and aesthetics and detail regarding q25 on P1 form – visitors/vehicles attracted to the site;
- Present 10 bedroom guesthouse and 4 holiday homes would substantially overshadow smaller houses in the area;
- Map submitted not reflective of built environment around site;
- Reference to CTY1, 8,13,14 and 15 of PPS 21;
- Proposal when added to existing development would add, compound the effect that cluster/ribbon development has/will have on the area;
- Taking into account previous planning history, when development would add to a suburban style build-up of development;
- Traffic problems further exacerbated, pedestrians and cyclists also put at risk;
- 4 holiday homes only a stepping stone to a greater/larger scheme;
- Existing guesthouse possibly not fully utilised as a guesthouse nor as a permanent residence; if fully utilised and along with 4 holiday homes if approved would increase the direct volume of traffic by at 30/40%;
- Belief that after 2 years holiday homes could be sold as private dwellings – could cause further problems for existing inadequate infrastructure;
- Proposal out of character with locality and AONB;
- Noise pollution and security issues including safety of children;
- Loss of natural countryside;
- Proposal a worry to locals.

Many issues raised are not planning matters but for other Government Departments. The planning matters will be considered through the assessment of this application below.

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

The RDS Policy RG4 promotes a sustainable approach to the provision of tourism infrastructure. It refers to all new or extended infrastructure required to support and enhance the tourist industry needs to be appropriately located and sited with proper regard to tourism benefit and the safeguarding of the natural and built environment on which tourism depends.

Article 45 of the Planning Act (NI) 2011 states that subject to this Part and section 91(2), where an application is made for planning permission, the Council or, as the case may be, the Department, in dealing with application, must have regard to the local development plan, so far as material to the application, and to any other material considerations. As per the current development plan – The Banbridge Newry and Mourne Area Plan 2015, the site lies outside any defined settlement and within the rural countryside outside the largest nearest settlement of Kilkeel. It also lies within a designated Area of Outstanding Natural Beauty (AONB). The proposal is for 4 holiday cottages and a determining material consideration in this case is current planning policy and in particular Planning Policy Statement (PPS) 16 – Tourism and PPS 21 – Sustainable Development in the Countryside which are the determining policies in dealing with holiday accommodation in the countryside. However within policy CTY 1 of PPS 21 it refers the reader to the tourism policies contained within PSRNI (Planning Strategy for Rural Northern Ireland) for non-residential development. The PSRNI has now been replaced by PPS 16 as mentioned above.



The SPPS published September 2015 also refers to Tourism however overall the retained policy PPS 16 provides greater clarification than the SPPS but as per para 1.12 where the SPPS introduces a change in policy direction and/or provides a policy clarification that would be in conflict with the retained policy the SPPS should be accorded greater weight and if it is less prescriptive the retained policy is given greater weight.

The application was originally described as 10 holiday cottages at 32 Dougans Road on the P1 form however the red line of the application site only extended around the site adjacent to/south west of no.32. The agent's original proposal was to apply under TSM 5 – Self Catering Accommodation in the Countryside (PPS 16) and use the existing guesthouse at no.32 Dougans Road (Mourne Country House) to meet criteria (a). Changes were however made and the proposal reduced to 4 holiday cottages and accurately described and re-advertised as land immediately adjacent to/south west of no.32 Dougans Road (red line of site). The agent wishes the application to be assessed under TSM 5 and TSM 6 (New and Extended Holiday Parks in the Countryside).

### **TSM 5**

PPS 16 provides more clarity on this policy, and states that 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:-* the actual application site does not include any of the above. The guest house referred to in the Design and Access Statement (known as Mourne Country House) sits on land immediately adjacent to the site. Therefore as the site does not lie within the grounds of this guesthouse, the proposed holiday cottages fail this criterion.
- (b) *A cluster of 3 or more units are provided at or close to an existing or approved tourist amenity that is/will be a significant visitor attraction in its own right:-* With regard to this criterion the proposed 4 units are not close to an existing or approved tourist amenity that is/will be a significant visitor attraction on its own right. Although the site lies within the AONB and close to the Mourne Mountains, Carlingford Lough, these are vast areas and can be accessed from various locations throughout County Down and Louth (Carlingford Lough) and are therefore not tied to a particular spot. The site/area does not host/ or is beside an attraction that would attract a significant number of visitors in its own right and therefore fails this criterion.
- (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 building and sympathetic treatment of boundaries, Where practicable original materials and finishes should be included:-* There is no existing clachan or close on the site that could be restored/converted/replaced.

The proposed 4 holiday cottages therefore fail to meet any of the criterion from TSM 5.

### TSM 6 – New and Extended Holiday Parks in the Countryside

PPS 16 provides 6 policy provisions for tourism development in the countryside. This proposal is applied for under TSM 6 which lists 7 criterion to comply with. PPS 16 refers to planning permission will be granted for a new holiday park or an extension to an existing facility where it is demonstrated that the proposal will create a high quality sustainable form of tourism development. The SPPS words this slightly differently stressing that the proposal **MUST** create a high quality sustainable form of tourism development and therefore takes precedence in terms of this element (TSM 6 stated will).

The policy further states that the location, siting, sizing, design, layout and landscaping of the holiday park proposal must be based on an overall design concept that respects the surrounding landscape, rural character and site context. The layout and landscaping plan that is submitted with the application is subject to the specific criteria which will be assessed as follows:

- (a) Capacity to absorb - I am not convinced that the site's location is in an area that has the capacity to absorb the holiday park development without adversely impacting on the visual amenity and rural character of the area. The surrounding landscape and in particular along this portion of Dougans Road is heavily built up for a rural location. I believe 1 house let alone 4 holiday cottages would exacerbate the problem as the area has reached saturation point with regard to development. The SPPS states at para 6.254, sustainable tourism development is brought about by balancing the needs of tourists and the tourism industry with *conserving the tourism asset*. The major tourism asset in the locality is the site's location within the AONB and its accessibility to the Mourne Mountains however; this precious asset would be further hindered with the addition of 4 holiday cottages on this site.



- (b) Utilisation of existing natural or built features - the site is bound by a stone wall along the roadside and boundary with no.32, post and wire fencing along the south eastern perimeter and hedging/vegetation along the south western border. Although the proposal involves utilising the existing vegetation and

- planting new trees within the site, the site's location and features lack the ability to fully integrate 4 holiday homes.
- (c) Adequate provision for communal open space – the proposed layout out plan does provide for adequate provision of communal open space as well as less formal space to the rear/side of the proposed cottages.
  - (d) Informal layout – the proposed concept layout plan does show a more informal layout with the grouping clustered towards the north eastern end of the site and a meadow and green area to the south west. Soft landscaping is also proposed.
  - (e) Although only at outline stage, the proposed concept plan indicates both single storey and 2 storey units (2 apiece) within the development. Whilst the mix would add variety to the development, I do not believe overall it is suitable for this site. Communal car parking is proposed however I do not believe the internal access loop in front of the cottages is required. Existing boundary vegetation is to be retained and augmented or in the case of the stone wall set behind the required visibility splays and this is acceptable.
  - (f) Environmental Assets including archaeological features, built heritage, natural habitats, trees and landscape features are identified – natural features including vegetation, the watercourse are being retained.
  - (g) A predevelopment enquiry is needed with NIW however with regard to septic tanks, a separate application to DAERA (formerly NIEA) to gain consent is required. A negative condition would be applied on any approval notice regarding septic tanks that the Planning Authority is furnished with a copy of the consent to discharge prior to the commencement of development.

**TSM 7 of PPS 16 (Tourism) – Criteria for Tourism Development.** In terms of this criterion:

- (a) Although only at outline stage, a concept layout was submitted. It shows 4 self-catering cottages with parking and amenity area and access to the public road. Public transport may not be easily accessible however the site is road side and therefore would support walking and cycling. With regard to supporting people with mobility, the concept plan also shows single storey accommodation however these measures would be provided in more detail at any Reserved Matters (RM) stage.
- (b) Whilst the concept design has an informal layout and a variety of house types, taken as a whole along with the internal road loop, its proposed siting, existing landscape features, the proposal will not assist in the promotion of sustainability as it doesn't comply with other planning policy and therefore will result in further erosion of rural character. In terms of biodiversity, any existing landscape features are to remain and the small watercourse is not to be affected.
- (c) New boundary treatment and landscaping is proposed as mature vegetation is not abundant at present.
- (d) A drainage assessment was provided and Rivers Agency has accepted the logic of its findings. The implementation however rests with the developer and his/her professional advisor. A maintenance strip of minimum 5m is to be retained free of development along the watercourse on site. Further details of sustainable drainage systems and how surface water run-off would be managed would be provided at any RM stage through more detailed plans.

- (e) An appropriately designed scheme at any RM stage to deter crime and promote personal safety is achievable.
- (f) No public art is proposed.
- (g) In general the proposal for 4 self-catering tourist cottages is compatible with the surrounding land use and the AONB in which the site is located. The concern however lies around the built form as the proposed location is unable to satisfactorily absorb these units without detriment to the existing locality and the impact on the landscape quality and character of the area.
- (h) Environmental Health originally requested the submission of noise data to ensure the proposed 10 holiday homes don't cause noise annoyance to anyone. The scheme however was later reduced to 4 holiday cottages on site and the need for noise data was no longer required. Public health has no objection in principle subject to consent from NIEA regarding septic tank. Concerned local residents have raised issues such as the 4 cottages when added to existing guest house would overshadow smaller houses within the area. Given the site's location, the set back and disposition of other properties in the area this will not be the case. With regard to security issues and safety of children, it is up to parents/guardians to look after their kids and know where they are at all times.
- (i) Overall the development as a whole if added to the existing surroundings would impact demonstrably on the natural heritage of the area as an Area of Outstanding Natural Beauty and place further strain on this natural environment.
- (j) With regards to septic tanks, this could be negatively conditioned as this is a process normally carried out after planning permission is granted and by a different governing body. The negative condition imposed on any approval notice would be that prior to the commencement of development, The Planning Authority will be furnished with a copy of the consent to discharge and this shall be agreed in writing by the Council (in line with policy CTY 16 of PPS 21).
- (k) As this is an outline application, DFI Roads has responded with a standard condition requesting that full details in accordance with the RS1 form are provided at the RM stage.
- (l) Access to be provided in accordance with RS1 form at any RM stage.
- (m) The proposed access is onto a main road network which runs through the Mourne to Kilkeel but it is not a protected route. The road network can handle the extra vehicular activity that would be generated by this proposal.
- (n) Dougans Road is not a protected route.
- (o) It does not constrain any access to the coastline or tourism asset.

PPS21 – as the site lies within the rural area, policies from this PPS that are relevant include CTY 8, CTY 13, CTY 14 and CTY 16. There is no conflict between these policies and the SPPS therefore as PPS 21 provides more clarity (in terms of CTY 13 and 14 the current statutory plan does not provide integration or rural character policy therefore, the retained policy will be given more weight).

**CTY 8 (Ribbon Development)** – planning permission will be refused for a building which creates or adds to a ribbon of development and in the case of this application, the proposal of 1 house let alone 4, would cause the creation of ribboning. Previous planning history on the site for 1 dwelling under P/2003/0361, P/2003/0362 (both

withdrawn) and P/2004/0202/O (Appeal 2004/A621 dismissed) were also refused or recommended for refusal on ribboning grounds.

**CTY 13 (Integration and Design of Buildings in the Countryside)** – with regard to this policy, planning permission will only 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 policy lists 7 criterion to comply with. In terms of this application the proposal would:

- (a) Be a prominent feature in the landscape. Although the layout plan shows existing vegetation along the south western part of the site to be retained and augmented, the proposed 4 holiday homes including single storey and 2 storey units with one occupying a plot closer to the road would still be prominent on approach to the site from both directions.
- (b) The site's roadside location and existing screening does not provide a suitable degree of enclosure for the proposed buildings to integrate.
- (c) It would rely heavily on the existing vegetation being augmented and new planting however, this would still not be suitable as the site is fundamentally unsuitable.
- (d) Another new access would be created along this stretch of Dougans Road, however any areas of hard standing proposed are reserved more towards the car parking area and access.
- (e) Although only an outline application, the proposal does indicate both single storey and 2 storey buildings. Given the existing built context, a 2-storey building is not uncommon in the area, however as the site is inappropriate, the introduction of 4 units including 2 2-storey buildings is not acceptable.
- (f) Whilst the site offers little in the way of vegetation cover or a back drop except for the existing no.32, the proposed units would not be prominent from other surrounding roads but on approach to the site.

Integration was a refusal reason also on the withdrawn applications P/2003/0361 & 0362.

**CTY 14 (Rural Character)** – With regard to this policy, the proposed 4 holiday cottages would further erode the rural character of this area as they would:

- (a) Be unduly prominent;
- (b) Result in an suburban style of build-up of development when viewed with existing and approved buildings within the area;
- (c) Not respect the traditional pattern of settlement exhibited in that area; and
- (d) Create ribbon development when added to the existing development of no.30 and 32 Dougans Road.

Again rural character was a reason for refusal on the withdrawn history applications mentioned above and the dismissed appeal.

#### **PPS 2 – NH 6 Areas of Outstanding Natural Beauty (AONB)**

This policy will only grant planning permission where the proposal is of an appropriate design, size and scale for the locality and 3 criterion is met:

- (a) The siting and scale of the proposal is sympathetic to the special character of the AONB in general and of the particular locality:- the proposed siting along with the scale of the development would not be sympathetic with this existing vulnerable area which has already come under heavy development pressure. The proposal would further aggravate the problem and create additional pressure on this asset – the AONB.
- (b) There are no buildings/features within the immediate vicinity of which are important to the character, appearance or heritage of the landscape to respect or conserve.
- (c) As it is an outline application, limited details were supplied regarding materials and actual design only that 2 2-storey and 2 single storey buildings are proposed on the concept layout. The existing stone wall at the road is to be set back behind required visibility splays which would respect existing roadside boundary treatment.

### **CTY 16 – Development Relying on Non-Mains Sewerage**

The indicative site layout plans shows where an existing septic tank exists within the area outlined in blue (no.32 Dougans Road) and the proposed waste water treatment plant within the south western corner of the site. As stated above this could be negatively conditioned as this is a process normally carried out after planning permission is granted and by a different governing body. The negative condition imposed on any approval notice would be that prior to the commencement of development, The Planning Authority will be furnished with a copy of the consent to discharge and this shall be agreed in writing by the Council (in line with CTY 16 of PPS 21).

### **PPS 15 – Planning and Flood Risk**

With regard to the policies contained within this document, the site lies out any fluvial or coastal flood plain (FLD 1); a maintenance strip can be maintained to protect the existing watercourse (FLD 2); a drainage assessment was submitted and its logic deemed acceptable to Rivers Agency (FLD 3); no modification of any watercourse is proposed (FLD 4) and; the proposed site does not fall within the inundation area of any reservoir (FLD 5).

### **PPS 3 – Access, Movement and Parking**

Although no detailed plans were received, the indicative plan was deemed acceptable to DFI Roads in assessing whether a safe access can be achieved. DFI Roads have no objections subject to the submission of a 1:500 scale plan at the RM stage showing the access arrangements in accordance with the RS1 form.

### **PPS 2 – Natural Heritage – Policy NH1**

*HRA – A Habitats Regulation Assessment* was carried out on the site due to a hydrological link to a European site (Carlingford Lough Marine SPA) and the proposal of 4 holiday cottages with a proposed disposal of surface water to adjacent open watercourse and sewage to septic tank/waste water treatment plant. The report concluded 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.

### Recommendation: - Refusal

The proposed development for 4 holiday cottages on land immediately adjacent to/south west of 32 Dougans Road does not represent a sustainable form of tourism development and would actually cause further harm to this vulnerable AONB by way of the reasons stipulated in the above report.

### Refusal Reasons:

- 1) The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
- 2) The proposal is contrary to the SPPS and Policy TSM5 of Planning Policy Statement 16: Tourism, as it is not within the grounds of an existing or approved hotel, self-catering complex, guest house or holiday park; it is not at or close to an existing or approved tourist amenity that is a significant visitor attraction in its own right, and; it does not involve the restoration of an existing clachan or close, through conversion or replacement of existing buildings.
- 3) The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Planning Policy Statement 16: Tourism Policies TSM 6 in that it has not been demonstrated that the proposal would create a high quality and sustainable form of tourism development in that:
  - the proposal is sited in an area that does not have the capacity to absorb a holiday park without adversely impacting on the visual amenity and rural character of this Area of Outstanding Natural Beauty;
  - the proposal is unable to integrate primarily through the utilisation of existing natural vegetation and will rely on substantial landscaping in order to adequately integrate and soften the visual impact of the development;
  - the design, scale and layout of the development is inappropriate for the site and locality and does not respect best local traditions of form and detailing.
- 4) The proposal is contrary to the SPPS and Policy TSM7 of Planning Policy Statement 16: Tourism, in that it has not been demonstrated that:
  - the site layout, building design, associated infrastructure and landscaping arrangements will assist in the promotion of sustainability;
  - the built form will not detract from the landscape quality and character of the surrounding area; and
  - the proposal will not adversely affect features of natural heritage.
- 5) The proposal is contrary to the SPPS and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along Dougan's Road.
- 6) The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:

- the proposed buildings are a prominent feature in the landscape;
- the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape;
- the proposed buildings rely primarily on the use of new landscaping for integration; and
- the design of the proposed buildings are inappropriate for the site and its locality.

- 7) The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:
  - the buildings would, if permitted, be unduly prominent in the landscape;
  - the buildings would, if permitted, result in a suburban style build-up of development when viewed with existing and approved buildings;
  - the buildings would, if permitted, not respect the traditional pattern of settlement exhibited in the area;
  - the buildings would, if permitted, create a ribbon of development; and would therefore further erode the rural character of the countryside.
  
- 8) The proposal is contrary to paragraph 6.187 of the SPPS and Policy NH 6 of PPS 2 Natural Heritage in that the site lies in a designated Area of Outstanding Natural Beauty and the development would, if permitted, be detrimental to the special character of the area by reason of its size, scale and siting.

Case Officer Signature:
Date:
Authorised Officer Signature:
Date:



LA07/2018/0932/0 – 4 No. holiday cottages Dougan's Road, Kilkeel

I therefore include below the points we will be referencing at next Wednesday's planning committee meeting with these reflecting the 8 points raised as reasons for refusal in the planning case officers report:

- 1 Planning policy allows for tourist accommodation development in the countryside
- 2 The application site is within adjoining ground of an established tourist board recognised bed & breakfast business
- 3 The quality of the proposal cannot conceivably be properly assessed at Outline Planning stage based only on an site plan. We are confident that an visually attractive proposal in terms of the buildings and associated hard and soft landscaping design will create an integrated solution with minimal impact on visual amenity and rural character, especially along a stretch of road that has established development.
- 4 See point 3 above
- 5 The proposal would not sit in isolation and is designed to be visually connected to the adjoining bed & breakfast business. The effectiveness of the final site layout in design terms would be fully demonstrated at reserved matters stage with an accurate 3D CAD model representation including the immediate site context.
- 6 The buildings have yet to be designed and it is premature to suppose that a scheme could not be developed, with appropriate planting if required, to ensure their visual integration. A pre-existing granite stone wall bounds the front of the site with this complementary to that immediately in front of the bed & breakfast accommodation and would therefore aid the visual integration as perceived from Dougans Road.
- 7 The original larger proposed scheme was conceived as a clachan layout and the smaller number now proposed could have its layout adapted to reflect this at a smaller scale and should arguably therefore be considered a more rural form. A quality design on this site would arguably improve the overall visual character of Dougans Road as buildings constructed in the recent past, for the most part, display little in the way of rural design characteristics.
- 8 The small scale nature of the proposal, its final site layout together with the design of buildings and landscaping could be readily demonstrated at reserved matters stage as improving the local character and not being detrimental to it as suggested.

It would be my intention to have our planning consultant add more policy detail to the above by the end of play on Friday, but trust the points we wish to address are covered for now in the above.

It would be helpful at this stage if you could confirm today that the written statement as outlined, secures our speaking rights at the committee meeting.

Kind regards,

Ian

Ian Crockard BSc (Hons) Arch MCIAT  
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LA07/2018/0932/0

The application is in keeping with stated council policy to promote tourism and increase overnight stays in the district.

The application does not breach planning policy as it is clustered to the anchor building that is a successful B&B.

The application will not have any adverse residential affect on the amenity of the closest neighbours.

I would be very grateful if I can request speaking rights for planning application LA07-0932-O

Mr Campbell Dougans Road, Kilkeel.

Thanks

Henry Reilly



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2017/1624/O

**Date Received:** 19 October 2017

**Proposal:** Replacement Dwelling

**Location:** 50m NW of 18 Turloughs Hill, Annalong and 80m NW of the dwelling which is to be replaced at 20 Turloughs Hill

**Site Characteristics & Area Characteristics:**

The existing dwelling adjoins number 22 Turlough's Hill and forms part of a group of farm buildings. There are a number of other dwellings in the vicinity. An offsite replacement is proposed approximately 50 metres north west of the existing dwelling. The proposed site is an agricultural field which is relatively open with dry stone wall boundaries.

**Site History:**

No relevant site history.

**Planning Policies & Material Considerations:**

The Banbridge Newry and Mourne Area Plan 2015  
The Strategic Planning Policy Statement (SPSS) for Northern Ireland  
Planning Policy Statement (PPS) 3 – Access, Movement and Parking  
Planning Policy Statement (PPS) 21 – Sustainable Development in the Countryside  
Building on Tradition – Design Guide for Rural Northern Ireland  
Planning Policy Statement (PPS) 2 – Natural Heritage  
DCAN15 – Vehicular Access Standards

**Consultations:**

DfI Roads– queried why the red line does not adjoin the public road.  
NI Water – no objections

**Objections & Representations**

5 neighbour notifications were issued on the 01 November 2017.  
The application was advertised in local papers on 08 November 2017.  
No objections or representations have been received in relation to this proposal.

### 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, is unzoned and is in the Mourne AONB. 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 SPSS and PPS 21. The impact on the AONB will be assessed under PPS 2. The application is for outline approval for an off-site replacement dwelling.

The SPSS and Policy CTY 3 of PPS 21 allow for a replacement dwelling where certain criteria are met. The existing dwelling on the site clearly exhibits the characteristics of a dwelling with walls, windows/doors and the roof all intact and therefore meets the first criteria of the SPSS.

The second criteria set out in the SPSS states that, "Replacement dwellings must be located within the curtilage of the original dwelling where practicable, or at an alternative position nearby where there are demonstrable benefits in doing so." This also reflects the provisions of PPS21, CTY 3. The proposed replacement dwelling is located approximately 50 metres north west of the site. In this instance an off-site replacement is considered acceptable in principle. Given the proximity of the original dwelling house to the farm yard there would be clear benefits in locating away from the farmyard.

The SPSS (and policy CTY 3) goes on to state that "Replacement dwellings must not have a visual impact significantly greater than the existing building." The site proposed by the applicant would in my opinion have a greater visual impact than the existing dwelling. Whilst the existing dwelling groups with other buildings on the farm the proposed site is on an elevated open field. There are no natural boundaries to the site (i.e. trees, hedges etc.) to help soften the impact of any dwelling. Any proposed dwelling on the site could be viewed openly from a number of vantage points and would in my opinion mar the rural character of this location. The SPSS also states that, "All development in the countryside must integrate into its setting, respect rural character, and be appropriately designed." I consider that a dwelling could not be integrated into its setting and would not respect rural character at the proposed location. The proposal also fails to meet the requirements of policies CTY 13 and CT 14 of PPS 21 for these reasons.

A dwelling on the site would fail to meet criteria a, b, c and f of CTY 13 in that, (a) a new building would be a prominent feature in the landscape; (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; (c) a new building would rely primarily on the use of new landscaping for integration; and (f) would fail to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop.

A dwelling on the site would fail to meet criteria a of CTY 14 as it would appear unduly prominent in the landscape.



For the reasons outlined above, the proposed development is likely to have an adverse impact on the AONB. Policy NH 6 of PPS 2, Natural Heritage states that planning permission for new development within an AONB will only be granted where it is of an appropriate design, size and scale for the locality.

As the proposal is unacceptable in principle, further information in relation to the issue raised by DfI Roads has not been sought.

**Recommendation:**

*Refusal*

**Refusal Reasons**

1. The proposal is contrary to paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policies CTY1, CTY3, CTY 13 and CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed replacement dwelling is not sited within the established curtilage of the existing dwelling and the proposed alternative site would have a significantly greater visual impact than the existing dwelling and would appear unduly prominent in the landscape.

- 2. *The proposal is contrary to policy NH 6 of Planning Policy Statement 2 in that the proposal is not of an appropriate design, size and scale for the locality and the scale of the proposal is not sympathetic to the special character of the Area of Outstanding Natural Beauty.*

**Case officer:** \_\_\_\_\_

**Authorised officer:** \_\_\_\_\_



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2017/1624/O

**Date Received:** 19 October 2017

**Proposal:** Replacement Dwelling

**Location:** 50m NW of 18 Turloughs Hill, Annalong and 80m NW of the dwelling which is to be replaced at 20 Turloughs Hill

## Reconsideration

The application appeared before the Planning Committee meeting on 9 May 2018 recommended for refusal. It was subsequently deferred to allow for additional information to be submitted for consideration. The additional information submitted by the applicant is outlined below.

### Letter from the Ulster Farmers Union received 4 June 2018

This letter states that the applicant's son needs to be close to the farmyard for milking and feeding of animals. It sets out a number of reasons in relation to farm safety/health and safety which would make the site of the existing dwelling unsuitable for a replacement dwelling. These include the safety and requirements of a potential future family living in the dwelling and the need for access to the replacement dwelling not to interfere with the working farm yard. They argue that the site proposed under the application would allow the applicant to be close to the farm while at the same time maintain a safe distance from farm activities.

### Letter from Agriculture Health and Safety Advisor received 4 June 2018

Having visited the farm, the Health and Safety Advisor provides a description of the farming activities carried out, access to the farmyard and potential Health and Safety



risks. He concludes by stating that farmers are legally required by the Management of Health and Safety at Work Regulations (NI) 2000 to assess health and safety risks when planning and running their businesses and that this would be seriously compromised by the proximity to known hazards and the density and nature of the farm traffic which must use the existing access, if the site of the existing dwelling was to be reused. He strongly advises against this.

#### Letter from agent received 3 August 2018

This letter states that in addition to the points above, the need for a dwelling close to the farmyard has been given more urgent focus by the recent drought which requires more work in feeding stock rather than grazing and careful management of feed due to shortage.

In his letter received on 4 June 2018, the agent also raises the issue of special circumstances stating that his client has lost an arm and his son has started working on the farm full time this year and that his son needs to live near the yard due to the nature of dairy farming. However, the planning department considers that alternative sites are available within a reasonable distance to the farmyard, these reasons are not sufficient to overcome the refusal reasons in relation to the applicants preferred site.

The Planning Department accepts that this a replacement opportunity under policy CTY 3 and having considered the above further information submitted by the applicant accepts that there are health and safety reasons to locate the replacement away from the farm yard. Consideration must then be given to whether a suitable site is available for an off-site replacement under PPS 21 and the provisions of the SPSS. The SPSS (and policy CTY 3) state that "Replacement dwellings must not have a visual impact significantly greater than the existing building." Any alternative site must also meet the criteria set out in policies CTY 13 and CTY 14 of PPS 21 in terms of integration.

The site proposed under this application is still considered to be unacceptable for the reasons outlined in the original case officer's report as it would have a greater visual impact than the original dwelling and fails to meet the criteria set out in policies CTY 13 and CTY 14 of PPS 21 as a dwelling on the site would not satisfactorily integrate into the countryside. The proposal is also contrary to Policy CTY 8 of PPS 21 in that it would add to a ribbon of development along Turloughs Hill.

The applicant has also provided a full set of farm maps showing all the land forming part of the agricultural holding. The Planning Department has considered these maps and has identified the following potential appropriate alternative sites on the farm holding through a desktop analysis:

Field 17, farm map page 3

The Planning Department has had some discussion with the agent in relation to this site. The Planning Department would consider it to be suitable as it would appear as part of the existing farm grouping and with suitable conditions a dwelling on this site could integrate into the landscape. The agent has stated in his letter received on 4 June 2018 that this site is unsuitable as the lane to this site is also used by dairy cows to enter the milking parlour via the rear yard access and that there would therefore be health and safety risks in using the lane. He also states that the applicant does not own a portion of the lane and the land to either side and therefore could not make improvements to this. A solicitor's letter has been provided confirming that the applicant does not own the section of the laneway coloured red which accesses field 17 and that he does not hold right of way over this lane or express right to resurface or improve this section of laneway.

Field 7, farm map page 4

Field 7, located off Sabbath Hill may be a suitable site for an off-site replacement. A desktop assessment shows that there appear to be limited views of the site from the surrounding area and established natural boundaries. The site could potentially accommodate a modest dwelling. **Recommendation:**

*Refusal*

**Refusal Reasons**

1. *The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed replacement dwelling is not sited within the established curtilage of the existing dwelling and the proposed alternative site would have a significantly greater visual impact than the existing dwelling and would appear unduly prominent in the landscape.*
2. *The proposal is contrary to the SPPS and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along Turloughs Hill.*
3. *The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and therefore would not visually integrate into the surrounding landscape.*
4. *The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if*

*permitted create or add to a ribbon of development and would add to a build-up of development which would erode rural character and would therefore result in a detrimental change to (further erode) the rural character of the countryside.*

- 5. The proposal is contrary to the SPPS and 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.*
- 6. The proposal is contrary to policy NH 6 of Planning Policy Statement 2 in that the proposal is not of an appropriate design, size and scale for the locality and the scale of the proposal is not sympathetic to the special character of the Area of Outstanding Natural Beauty*

**Case officer:**

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**Authorised officer:**

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Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference: LA07/2018/0504/F**

**Date Received: 23/3/2018**

**Proposal: Erection of dwelling and garage (change of house type and garage to that approved under P/2007/0405/RM)**

**Location: Adjacent and north of 21 Aghadavoyle Road, Jonesborough**

At the time of inspection the site had been partially cleared and sight splays in place (to be confirmed by DFI Roads). The site beyond these buildings falls with the natural gradient of the land in an easterly direction. The north and eastern boundaries of the site are currently undefined with the farm and dwelling forming the southern boundary. The roadside boundary is defined by post and wire fencing. The site boundaries are not defined as the site is part of a larger agricultural field.

The site is located within the countryside and An Area of Outstanding Natural Beauty as defined in the Banbridge, Newry and Mourne Area Plan 2015.

**Site History:**

**P/2003/0870/O- Site for dwelling & garage- approval- 5/5/2004**

**P/2007/0405/RM- Erection of dwelling and garage- approval- 31/3/2008**

**Objections & Representations**

*No. of neighbours notified=2*

*No representations received= 0*

*Advertise expiry=03/5/2018*

**Consultations**

**DFI roads- no objections subject to conditions**

**Consideration and Assessment:**

*The applicant is seeking an amended house type on a site in which planning permission has expired. The onus is on the agent/applicant to demonstrate that development of the previously approved dwelling had commenced prior to the expiry of that decision, 31st March 2010. There was a pre-commencement condition attached to the RM approval, the onus was also on the agent/applicant to demonstrate compliance with such condition. The condition related to the access and visibility splays to be in place prior to commencement of works on the site.*

*From Google streetview it is not clear that the pre-commencement condition had been complied with within the require timeframe. It is clear that some sightlines had been formed in April 2011 but there is no evidence to show that this had taken place before the expiry date, 31<sup>st</sup> March 2010.*

*There is no evidence to suggest that any works with regards to development had commenced in the form of foundations. Compliance with the pre-commencement condition, if this was to be proved does not constitute development having commenced.*

*As the agent/applicant has not confirmed that the development as approved under P/2007/0405/RM, commenced within the stipulated timeframe, the Planning Department would consider that the permission has lapsed.*

*No justification has been provided for a new dwelling on the site in line with the prevailing policy. The proposal is therefore considered contrary to PPS 21 CTY1.*

*The proposed house is to be 1 1/2 storey with a ridge height of 7.2 metres above FFL with a single storey detached garage to the side and rear. The proposed dwelling will be no more prominent in the landscape than that previously approved. The layout plan is the same as previously approved showing new boundaries to be defined by post and wire fencing with proposed trees and a boundary hedgerow. The site and roadside frontage to be defined by timber post and wire fencing with native species hedgerow and trees to aid integration. There are a number of existing trees along the southern boundary which are to be retained. The design of the dwelling creates a good solid to void ratio with the windows having a vertical emphasis. In terms of size and scale the dwelling is similar to that previously approved. I have some concern with regards to the front porch as it is quite*

*dominant and out of proportion. The porch should be reduced to single storey with a wall dormer to the first floor landing.*

*The proposed access is as previously approved, DFI roads have been consulted with regards to the application and have returned with no objection subject to conditions. The dwelling and associated works including the access will not cause a detrimental change to, or further erode the rural character of the surrounding area.*

**Recommendation:**

**Refusal- CTY 1 and CTY 13- design**

.....	.....
.....	.....

**Statement in Support of**

**Proposed:**     **Erection of a Dwelling and Garage  
(Change of Housetype and Garage to that Approved under  
P/2007/0405/RM)**

**Address:**     **Adjacent to and North of 21 Aghadavoyle Road  
Jonesborough  
Co. Armagh**

**Applicant:**    **Mr. Sean Hughes**

**Ref:**            **LA07/2018/0504**

## Principle Of Development

**REF:**            **LA07/2018/0504/F**    **- Sean Hughes -**

- Outline Approval was granted for a dwelling and garage 5<sup>th</sup> May 2004 under P/2003/0870/O.
- Approval of Reserved Matters was granted for dwelling and garage 31<sup>st</sup> March 2008 under P/2007/0405/RM.
- Access and visibility splays were formed in March 2010 by a local contractor (i.e.) within two years of the approval of Reserved Matters.
- Transport NI have no objections to current proposals.

The Planners Professional Report raises two issues

1. Is the existing Planning Permission preserved?
2. Perceived dominance of two storey porch in submitted proposals.

### **1. Is the existing Planning Permission preserved?**

The applicant is of the firm opinion that it is.

By request the applicant was advised by Planning Services that the formation of the access and visibility splays, provided they were in accordance with the approved plans and constructed before 31<sup>st</sup> March 2010, would be sufficient as a material start to the development. This is in keeping with written planning advice that prevailed at the time.

The applicant duly constructed the access and visibility splays in March 2010. He was satisfied that he had preserved his planning permission by making a material start.

Find attached the following evidence demonstrating evidence of a material start.

1. An invoice for the works from a local Contractor dated 25<sup>th</sup> March 2010.
2. Two letters from Planning Services for similar proposals confirming that the construction of an access, provided that it is in accordance with the approved plans, would be sufficient to indicate that the development had begun, dated 26<sup>th</sup> September 2008 and 20<sup>th</sup> March 2009.
3. Map obtained from DAERA offices, Armagh showing visibility splays already established 2<sup>nd</sup> September 2010 (ortho date added by DAERA mapper. Details available on request)



## 2. Perceived dominance of two storey front porch.

The dwelling proposed is one and a half storey with detached garage. The Planner's Professional Report confirms that the design is generally in keeping with the rural character of the area in terms of size, scale and integration, with the exception of the scale of the porch.

The front elevation faces west toward Slieve Gullion. The applicant wished to avail of this view as much as possible including from the first floor landing. The Planners Professional Report suggest a single storey porch with walled dormer to first floor landing. A sketch proposal of front elevation is attached for consideration.

### Conclusion

The above commentary and evidence demonstrate that the existing approval under P/2007/0405/RM had commenced prior to the expiry of that decision on 31<sup>st</sup> March 2010 and is therefore preserved.

The applicant has amended the front elevation of the proposed change of housetype in line with recommendations within the Planners Professional Report.



Barney Dinsmore RIBA

# Thomas Hughes Contracts

Building Contractor - NHBC Registered

11 Kilnasaggart Road, Jonesborough, Newry, BT35 8HZ

Telephone / Fax 028 30 848075

## INVOICE

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DATE 25/5/2010

FROM Thomas Hughes Contracts

TO Mr S Hughes

Excavation Work Carried out for New House adjacent to 21 Aghadowilly Rd Site Lines formed and hard core entrance. Cotted according to Planning Permission. Digger marks, stores and fencing material supplied and Fence erected, gate supplied and hung into new Site Entrance.			

Zero VAT according to P/2007/0405/RM

*THOMAS HUGHES*

	£ 2500
V.A.T.	0
TOTAL	£ 2500

Date: 20 March 2009  
 Our Ref: P/2007/1090/F (FOI 20278)  
 Being dealt with by : Julie Brown



**Divisional Planning Office**

Marlborough House  
 Central Way  
 Craigavon  
 BT64 1AD

Mr D Mallon  
 3 Ayalogue Road  
 Newry  
 BT35 8QY

Dear Mr Mallon

**Location: Adjacent to No.4 Low Road, Ayalogue, Newry.**

**Proposal: Erection of dwelling and garage in compliance with conditions on approval P/2002/1210/O**

I refer to your correspondence dated 10 February 2009 regarding the above planning application.

I can advise that generally speaking the construction of an access, provided it is in accordance with the approved plans, would be sufficient to indicate that development had begun. Unfortunately Planning Service does not currently have the resources to carry out inspections of works undertaken.

Yours sincerely

for Divisional Planning Manager



An Agency within the Department of the  
**Environment**  
 environment.gov.uk

Tel. (028) 3834 1144 Fax. (028) 3832 0004  
 Email. [divisional.planning.office.craigavon@nics.gov.uk](mailto:divisional.planning.office.craigavon@nics.gov.uk)  
 Web. [www.planningni.gov.uk](http://www.planningni.gov.uk)



LEX30402MW



INVESTOR IN PEOPLE

Your Ref:



Our Ref: FOI 19415

Being dealt with by:

Divisional Planning Office

Date: 26 September 2008

Marlborough House  
Central Way  
Craigavon  
BT64 1AD

Mr Martin J Bailie MCIAT  
Martin Bailie Architectural Services Limited  
92 Newry Street  
Rathfriland  
Newry  
BT34 5PY

LA/2015/0203/F

Dear Mr Bailie

Thank you for your letter of 15 September 2008 requesting information about the commencement of development in relation to planning permission.

Every new planning permission is deemed to be subjected to a condition that development shall be commenced within five years or such other period as the planning authority may expressly impose. An outline planning permission has two timescales and the consent will require the submission of a further planning application for the approval of reserved matters within 3 years. Once the last of the reserved matters has been approved, there is usually a two year period within which the development must commence.

No definitive ruling can be given with regard to when development is commenced, as so much will depend on the facts of each case. However, development shall be taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out. Generally speaking the construction of an access or the layout of foundations, provided they are in accordance with the approved plans, would be sufficient to indicate that development had begun.

You should therefore satisfy yourself that a material start has been made in accordance with the above prior to the expiration of your planning permission.

I hope this is helpful.

Yours sincerely

IAN McALLISTER  
For Divisional Planning Manager



Create View

DATE DATE  
02/09/10

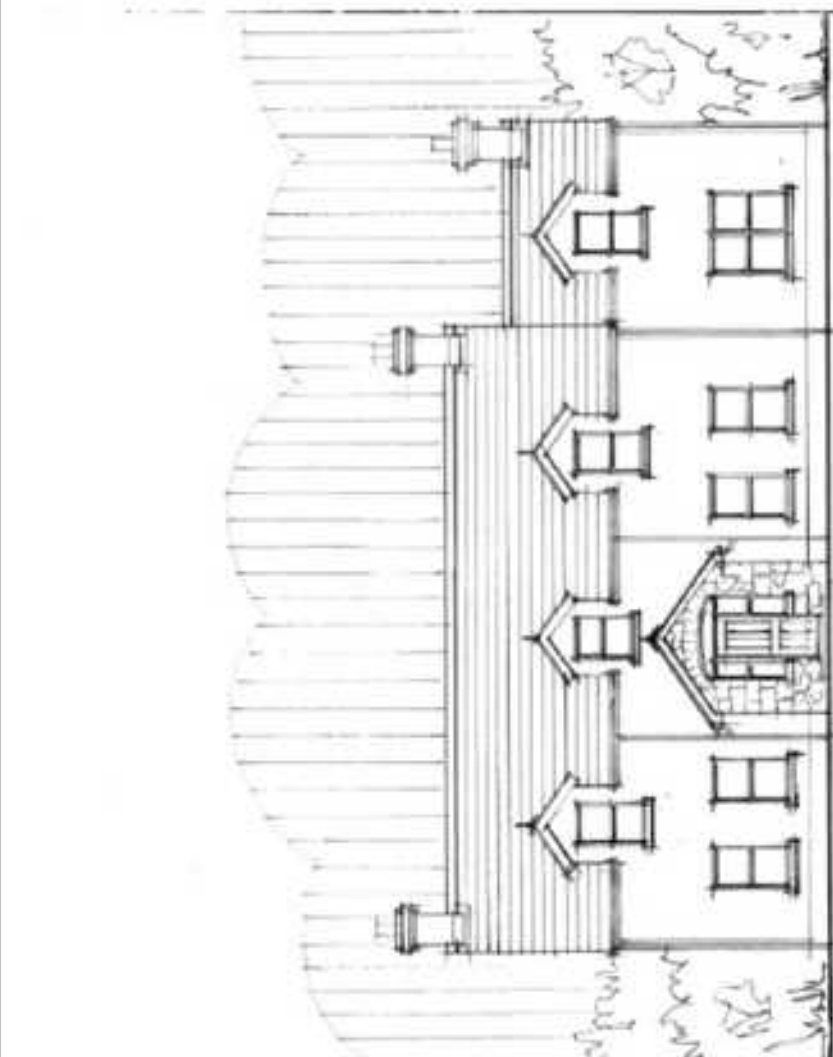
Legend

© 2010 Google Earth™

© 2010 Google Earth™

© 2010 Google Earth™

© 2010 Google Earth™

 <p>SKETCH FRONT ELEVATION (FACING WEST)</p> <p>CLIENT: Sean Hughes</p>	<p><b>Schedule of Finishes</b></p> <p><b>Roof:</b> Flat black concrete tiles</p> <p><b>Rainwater Goods:</b> White UPVC</p> <p><b>Windows:</b> White UPVC double glazed</p> <p><b>Walls:</b> Sand / cement render with banding. Feature stone clad single storey porch</p> <p><b>Fascias, Soffits &amp; Bargeboards:</b> Hardwood painted</p>
<p>24a duke street, warrenpoint , co down , bt34 3jr          telephone (028) 4175 3698 fax (028) 4175 3699          email : info@bdinsmore.co.uk www.bdinsmore.co.uk</p>	

**TRACKING ACTION SHEET ARISING FROM PLANNING COMMITTEE MEETINGS**

<b>Minute Ref</b>	<b>Subject</b>	<b>Decision</b>	<b>Lead Officer</b>	<b>Actions taken/ Progress to date</b>	<b>Remove from Action Sheet Y/N</b>
LA07/2017/1326/F	Peter Morgan – dwelling and garage on a farm – 30m south of 28 Bog Road, Kilcoo	<b>PLANNING MEETING – 09 MAY 2018</b> Agreed at August 2018 meeting to defer planning application for further discussion between agent/applicant and Senior Planning Officers on new information submitted	Annette McAlarney	Application considered at August 2018 meeting – agreed to defer application for further discussion between agent/applicant and Senior Planning Officers on new information submitted. Contact to be made with agent.	N
P/2014/0427/0	Joseph McGivern – site for dwelling to the rear and south of 2 Berkley Grove, Warrenpoint	Remove from the agenda to allow for further discussion with Planning Officers	Jacqui McParland	Agent has submitted additional information to address roads issues Sept 2018 Reconsult TNI.	N
LA07/2017/1624/0	Thomas Stevenson – replacement dwelling -50m NW of 18 Turlough's Hill, Annalong	Defer Planning Application LA07/2017/1624/O to allow time for the agent to provide more documentary evidence	Jacqui McParland	Agent has submitted a H&S Report. No additional case for need submitted.	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
LA07/2017/1721/F	Millvale Services Ltd – proposed parking for neighbouring Millvale Service Station – Millvale Road, Bessbrook	<p>regarding issues raised by Committee Members including the need for a health and safety report on access through the farmyard and also the case of need for the applicant to be living close to the farm.</p> <p>Defer Planning Application LA07/2017/1721/F to allow for a Health and Safety Report / Road Traffic Report to be conducted as soon as possible and report back to Committee for further consideration of the application.</p>	Pat Rooney	<p>Dept has requested this again – 11<sup>th</sup> June 2018. This is still not forthcoming. I have instructed case officer to write up based on information available and bring back as refusal.</p> <p>21 day letter issued to agent requesting the said information. Expiry date for info is 9.7.18.</p> <p>Application deferred at meeting on 29 August 2018 until issues raised by SPO have been considered and Planning Officers are to liaise with the agent/applicant at the earliest possible opportunity</p>	N



Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
LA07/2017/1030/0	Michael Tinnelly - site for 100 bedroom hotel and spa - 200m east of No. 25 Greenpark Road, Rostrevor.	<b>PLANNING MEETING – 6 JUNE 2018</b> Defer application so that the agent/applicant/Planning Consultant can meet with the SPTO to identify what outstanding information has to be submitted to allow Planners and HED to make an informed assessment and opinion on the application. As it is a major application it be brought back to the Committee in due course	Jacqui McParland	Held meeting on the 14 <sup>th</sup> June with agent. Discussed what was required. Allowing 28 days for submission. Information submitted mid-August. Currently out for consultation with HED. Site Meeting with Agent and HED taking Place 31 <sup>st</sup> Oct 2018.	N
LA07/2018/0398/0	Shea McAnulty - proposed infill gap site for a new dwelling and detached garage - lands between No. 5 and 5a Cons Lane, Newry	<b>Application removed from the schedule for further consideration by Planners</b>	Andrew Davidson	Application deferred at Pl. Meeting on 29-08-2018 to allow for further discussions between applicant/agent and planning officers re: potential for other in-fill or agricultural opportunities. Awaiting information	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
				from the agent in terms of sites owned by the applicant so that the Planning Department can assess the potential for any planning approvals on these sites.	
		<b>PLANNING MEETING – 1 AUGUST 2018</b>			
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
LA07/2017/1494/0	John Murnion –proposed one and a half storey dwelling and	Defer application for further discussion between agent/applicant	Annette McAlarney	Agent has submitted supporting info	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
	detached domestic garage – opposite and north of No. 43 Bryansford Road, Stang, Hilltown	and planning officers in relation to concerns expressed that land at 72 Kilkeel Road, Hilltown, which is the main farm holding, can only be accessed by an existing laneway of which the applicant only has right of way and could not therefore provide sight lines which may be required. Clarification to be sought on this to determine if a site could be achieved at this address and also discussions on the proposed off-site location.		which has to be considered. Further discussion required with enforcement regarding approvals on the lane.	
<b>PLANNING MEETING – 29 AUGUST 2018</b>					
LA07/2017/0821/0	Mr C Kane - Proposed off site replacement dwelling and garage - 123 Magherahamlet Road, Moneyabane, Ballynahinch.	Defer application for further discussion between agent/applicant and planning officers re: new information submitted and issues raised at the Planning Committee Meeting	Annette McAlarney	Issues raised at Planning Committee referred to the outcome of an application which has yet to be submitted to planning. In line with Committee wishes we have to await the submission of this	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
				application and its conclusion before returning to consider the current deferred application.	
		<b>PLANNING MEETING – 26 SEPTEMBER 2018</b>			
LA07/2018/0698/0	Niamh D'Arcy – Dwelling house (infill) adjacent to and west of No. 4 Ballykeel Road, Mullaghbawn, Newry	Defer for a site visit	Andrew Davidson	Site visit held on 16-11-2018 – to be considered at Planning meeting on 19-12-2018	N
LA07/2018/0401/0	Mr and Mrs Colm Cunningham - Proposed site for infill dwelling and domestic garage (amended address) 60m south of No. 24 School Road, Ballymartin, Kilkeel	Defer for a site visit	Jacqui McParland	Site visit held on 16-11-2018 – to be considered at Planning meeting on 19-12-2018	N
		<b>PLANNING MEETING – 24 OCTOBER 2018</b>			
LA07/2018/0894/F	Dundrum Cross Community Playgroup - retrospective application for Dundrum Cross Community Play Group Facility (temporary permission) (amended description) - Dundrum Methodist Church 7-9 Manse Road, Dundrum.	Removed from the addendum list at the request of Councillor Murnin to allow objectors to make representations	Annette McAlarney	Requires further consideration on foot of additional information submitted prior to Oct 2018 Committee	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
LA07/2017/1671/F	Mr and Mrs McConnell - farm dwelling - 50m east of No. 77 Ballynahinch Road, Saintfield.	Defer for 6 months to allow for the completion of an agricultural building on site and delegate authority to Planning Officers to issue the decision	Annette McAlarney	Review April 2019 re construction of shed.	N
LA07/2018/0758/0	Mr and Mrs Hickland - new dwelling and garage - lands approximately 50M south of 56 Crawfordstown Road, Drumanness	Defer for a site visit	Annette McAlarney	Proposed date – 09-01-2019	N
LA07/2017/1694/R M	Mr R Hutton - replacement dwelling (off site) - adjacent to junction of Vianstown Road and Bishopsbrae Road, Downpatrick.	Defer to allow the opportunity for the agent/applicant to avail of one more office meeting with Planners and submit one additional set of amended plans for a dwelling in line with what was originally on site. Delegate authority to Planning Officers to issue the decision	Annette McAlarney	Set up meeting with Agent. Meeting date agreed 29/11/2018.	N
LA07/2018/0537/0	James Donaldson and Roberta Hearney – proposed site for infill dwelling and domestic garage – Ballinran Road, Killeel	Removed from the addendum list at the request of Councillor Macauley for full presentation at the next Committee meeting	Jacqui McParland	November 2018 Committee – defer for 3 months to allow the CLUD to be dealt with and delegate authority to officers to issue the	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
LA07/2018/0661/0	Eileen and Dermot O'Hare - erection of dwelling and domestic garage - between 17a and 17b Hilltown Road, Mayobridge.	Defer for a site visit	Jacqui McParland	decision irrespective of the outcome of the CLUD application Proposed date – 09-01-2019	N
<b>PLANNING MEETING – 21 NOVEMBER 2018</b>					
LA07/2018/0085/0	William Lindsay – single dwelling under CTY6 – land opposite and to the south of 18 Ringdufferin Road, Rathcuingham, Toye, Downpatrick	Removed from the addendum list at the request of Councillor Craig for full presentation at the December Committee meeting	A McAlarney	Referred to 19 December 2018 Committee meeting	N
LA07/2018/0378/0	Judith Boyle – erection of dwelling and garage on a farm – site 200m south of 112 Monlough Road, Saintfield	Removed from the addendum list at the request of Councillor Clarke for full presentation at the December Committee meeting	A McAlarney	Referred to 19 December 2018 Committee meeting	N
LA07/2018/0250/F	Mr G Morgan – dwelling and garage on a farm – lands 50m south of 30 Fofanny School Road, Newry	Defer for a site visit	A McAlarney	Proposed date – 09-01-2019	N

## Newry, Mourne & Down District Council – November 2018

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### 1. Live Applications

MONTH 2017/18	NEW APPLICATIONS	LIVE APPLICATIONS	LIVE APPLICATIONS OVER 12 MONTHS
April	129	914	222
May	141	916	217
June	141	909	225
July	150	960	231
August	114	913	244
September	141	958	263
October	168	971	272
November	187	1,002	276

### 2. Live Applications by length of time in system

Month 2017/18	Under 6 months	Between 6 and 12 months	Between 12 and 18 months	Between 18 and 24 months	Over 24 months	Total
April	510	182	79	33	110	<b>914</b>
May	506	193	78	33	106	<b>916</b>
June	483	201	84	33	108	<b>909</b>
July	540	189	90	34	107	<b>960</b>
August	482	187	99	34	111	<b>913</b>
September	511	184	108	45	110	<b>958</b>
October	529	170	114	46	112	<b>971</b>
November	548	178	110	52	114	<b>1,002</b>

## Newry, Mourne & Down District Council – November 2018

247

### 3. Live applications per Case Officer

Month 2017/18	Average number of Applications per Case Officer
April	51
May	49
June	48
July	51
August	48
September	56
October	61
November	62

### 4. Decisions issued per month

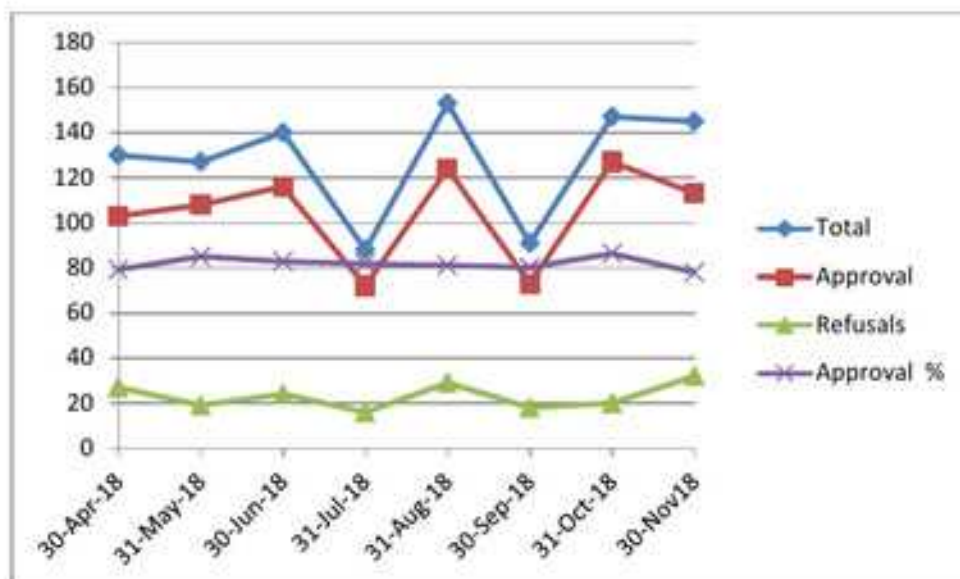
Month 2017/18	Number of Decisions Issued	Number of Decisions Issued under delegated authority
April	130	111
May	127	119
June	140	130
July	88	78
August	153	141
September	91	83
October	147	141
November	145	138



## Newry, Mourne & Down District Council – November 2018

### 5. Decisions Issued YTD

Month 2017/18	Number of Decisions Issued	Breakdown of Decisions	
April	130	Approvals (103)	79%
		Refusals (27)	21%
May	257	Approvals (211)	82%
		Refusals (46)	18%
June	397	Approvals (327)	82%
		Refusals (70)	18%
July	485	Approvals (399)	82%
		Refusals (86)	18%
August	638	Approvals (523)	82%
		Refusals (115)	18%
September	729	Approvals (596)	82%
		Refusals (133)	18%
October	876	Approvals (723)	83%
		Refusals (153)	17%
November	1,021	Approvals (836)	82%
		Refusals (185)	18%



## Newry, Mourne & Down District Council – November 2018

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### 6. Enforcement Live cases

Month 2017/18	<= 1yr	1-2 yrs	2-3 yrs	3-4 yrs	4-5 yrs	5+ yrs	Total
April	305	220	101	77	84	124	911
May	325	208	105	81	84	125	928
June	331	224	106	82	82	130	955
July	332	226	113	82	82	135	970
August	365	246	110	85	73	150	1,029
September	373	250	125	81	76	156	1,061
October	389	239	142	77	80	160	1,067
November	393	232	155	83	71	169	1,103

### 7. Planning Committee

Month	Number of Applications presented to Committee	Number of Applications Determined by Committee	Number of Applications Withdrawn/ Deferred for future meeting
11 April 2018	25	20	5
9 May 2018	17	10	7
6 June 2018	13	5	8
4 July 2018	14	6	8
1 August 2018	12	8	4
29 August 2018	13	4	9
26 September 2018	14	8	6
24 October 2018	13	4	9
21 November 2018	10	4	6
<b>Totals</b>	<b>131</b>	<b>69</b>	<b>62</b>

### 8. Appeals

#### Planning Appeal Commission Decisions issued during November 2018

Area	Number of current appeals	Number of decisions issued	Number of decisions Allowed	Number of decisions Dismissed	Withdrawn
Newry & Mourne	21	3	0	1	2
Down	6	1	1	0	0
<b>TOTAL</b>	<b>26</b>	<b>4</b>	<b>1</b>	<b>1</b>	<b>2</b>

## Newry, Mourne & Down District Council – November 2018

### Statutory targets monthly update - up to September 2018 (un validated management information) Newry, Mourne and Down

	Major applications (target of 30 weeks)				Local applications (target of 15 weeks)				Cases concluded (target of 39 weeks)			
	Number received	Number decided/ withdrawn <sup>1</sup>	Average processing time <sup>2</sup>	% of cases processed within 30 weeks	Number received	Number decided/ withdrawn <sup>1</sup>	Average processing time <sup>2</sup>	% of cases processed within 15 weeks	Number opened	Number brought to conclusion <sup>3</sup>	"70%" conclusion time <sup>3</sup>	% of cases concluded within 39 weeks
April	0	2	110.4	0.0%	100	109	14.0	52.3%	50	6	170.2	66.7%
May	0	2	67.3	0.0%	115	118	16.9	43.2%	51	14	48.3	64.3%
June	1	1	20.2	100.0%	135	132	15.1	50.0%	49	25	49.2	60.0%
July	0	-	0.0	0.0%	109	81	15.2	49.4%	39	6	61.9	66.7%
August	0	-	0.0	0.0%	111	136	15.6	47.8%	39	5	34.6	80.0%
September	0	-	0.0	0.0%	117	82	14.9	50.0%	34	3	105.8	33.3%
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%
<b>Year to date</b>	<b>1</b>	<b>5</b>	<b>48.5</b>	<b>20.0%</b>	<b>687</b>	<b>658</b>	<b>15.4</b>	<b>48.6%</b>	<b>262</b>	<b>59</b>	<b>52.0</b>	<b>62.7%</b>

Source: NI Planning Portal

#### Notes:

1. CLUDS, TPOS, NMCS and PADS/PANs have been excluded from all applications figures

2. The time taken to process a decision/withdrawal is calculated from the date on which an application is deemed valid to the date on which the decision is issued or the application is withdrawn that may not be considered as "typical".

## **Newry, Mourne & Down District Council – November 2018**

*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 values and then taking the data point at the 70th percentile of the sequence.*

## Record of meetings between Planning Officers and Public Representatives 2018-2019

252

DATE OF MEETING	PLANNING OFFICER'S NAME/S	PUBLIC REPRESENTATIVE'S NAME
23/04/2018	A McAlarney	Cllr W Walker Cllr Andrews
27/04/2018	A McAlarney	Cllr Burgess
30/04/2018	A McAlarney	Cllr Walker
30/04/2018	A McAlarney	Cllr Fitzpatrick
10/05/2018	A McAlarney	Colin McGrath MLA
31/05/2018	A McAlarney	Cllr Rice
04/06/2018	A McAlarney	Cllr McMurray
29/06/2018	G Kerr	Cllr B Quinn
10/07/2018	G Kerr / P Smyth	Cllr B Quinn
17/07/2018	A McAlarney	Colin McGrath
09/08/2018	G Kerr / P Smyth	Cllr B Quinn
14/08/2018	A McAlarney	Cllr walker
04/09/2018	G Kerr	Cllr Tinnelly
07/09/2018	A McAlarney	Colin McGrath
12/09/2018	A McAlarney	Cllr walker Cllr Andrews
18/09/2018	A McAlarney	Cllr Walker Cllr Andrews
20/09/2018	A McAlarney	Cllr Rice
03/10/2018	A McAlarney	Cllr W Clarke
18/10/2018	A McAlarney	Cllr Enright
29/10/2018	A McAlarney	Cllr walker Cllr Andrews

## Current Appeals

253

**AUTHORITY**      **Newry, Mourne and Down**

<b>ITEM NO</b>	<b>1</b>	<b>PAC Ref:</b>	<b>2017/A0168</b>
<b>Planning Ref:</b>	LA07/2017/0687/	<b>DEA</b>	<b>The Mournes</b>
<b>APPELLANT LOCATION</b>	Steven And Diane Campbell 30m North Of 94 Greencastle Road Kilkeel		
<b>PROPOSAL</b>	RT34 4(F) Infill site for new dwelling and garage in existing cluster (amended plans)		

**APPEAL TYPE**                      DC- Refusal of Planning Permission

**Appeal Procedure**                **Written Reps with Site Visit**                **Date Appeal Lodged**

**Date of Hearing**

**Date Statement of Case Due for Hearing**

**Date Statement of Case Due - Written Representation**

**Date of Site Visit**

<b>ITEM NO</b>	<b>2</b>	<b>PAC Ref:</b>	<b>2017/A0213</b>
<b>Planning Ref:</b>	LA07/2016/0952/	<b>DEA</b>	<b>Newry</b>
<b>APPELLANT LOCATION</b>	D & M Downey 113-117 Dublin Road Newry		
<b>PROPOSAL</b>	RT35 8(P) Sub-division of part of existing bulky goods retail warehouse (No 115) to provide 3 No. ground floor class A1 retail units with new shopfronts (the 3 No. units to operate without compliance with the bulky goods condition on approval P/1993/0605); and western extension of site area		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	<b>18/01/2018</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

## Current Appeals

254

**ITEM NO** 3  
**Planning Ref:** LA07/2016/1407/ **PAC Ref:** 2018/A0027  
**APPELLANT** Richard Newell **DEA** The Mournes  
**LOCATION** 75A Glassdrumman Road  
 Annalong  
Co. Down  
**PROPOSAL** Proposed extension of curtilage of existing dwelling house and retention of existing Domestic Boat House and Yard  
  
**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** Written Reprs **Date Appeal Lodged** 30/05/2018  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

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**ITEM NO** 4  
**Planning Ref:** LA07/2017/1192/ **PAC Ref:** 2018/A0030  
**APPELLANT** Tranquility Ireland **DEA** Newry  
**LOCATION** 97 Fathom Line  
 Fathom Lower  
(Main Portion)  
**PROPOSAL** Retention of change of use of domestic dwelling and garage to three short term holiday let accommodation with alterations  
  
**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** Written Reprs with Site Visit **Date Appeal Lodged** 01/06/2018  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

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## Current Appeals

255

<b>ITEM NO</b>	<b>5</b>		
<b>Planning Ref:</b>	LA07/2017/0969/	<b>PAC Ref:</b>	2018/A0046
<b>APPELLANT</b>	Mr Peter Clerkin	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	160m South Of 106 Leitrim Road Hilltown		
<b>PROPOSAL</b>	Proposed retention and extension of farm shed (amended address)		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	11/07/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>6</b>		
<b>Planning Ref:</b>	R/2014/0079/F	<b>PAC Ref:</b>	2018/A0054
<b>APPELLANT</b>	Mr Brendan Maginn	<b>DEA</b>	The Mournes
<b>LOCATION</b>	Approx 285m South West Of No 63 Dundrine Road Castlewellan		
<b>PROPOSAL</b>	Retention of as constructed 225 kw wind turbine with a tower height of 39.5m (to supersede previous wind turbine approval ref R/2010/0555/F)		
	(Additional surveys/info received)		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	30/07/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

256

**ITEM NO** 7  
**Planning Ref:** LA07/2017/1802/ **PAC Ref:** 2018/A0064  
**APPELLANT** Mrs Bridget Hasson **DEA** Slieve Gullion  
**LOCATION** 80m North East Of No 50 Malahy Conlon Park  
 Cullaville Road  
**PROPOSAL** <sup>Cullaville</sup> Proposed infill dwelling and domestic garage

**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** **Written Reps** **Date Appeal Lodged** 10/08/2018  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

**ITEM NO** 8  
**Planning Ref:** LA07/2017/1394/ **PAC Ref:** 2018/A0066  
**APPELLANT** Mr B And Mrs A Gibney **DEA** Slieve Croob  
**LOCATION** 80m East Of 89 Demesne Road  
 Edendarriff  
**PROPOSAL** <sup>Rallynahinch</sup> Dwelling and garage on a farm

**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** **Date Appeal Lodged** 10/08/2018  
**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** 9  
**Planning Ref:** LA07/2018/0747/ **PAC Ref:** 2018/A0079  
**APPELLANT** Joan Henderson **DEA** Crotlieve  
**LOCATION** 200m South East 21 Levallyreagh Road  
Rostrevor  
**PROPOSAL** <sup>Newry</sup>  
Proposed replacement dwelling

**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** **Written Reps** **Date Appeal Lodged** 05/09/2018  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

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**ITEM NO** 10  
**Planning Ref:** LA07/2018/0464/ **PAC Ref:** 2018/A0080  
**APPELLANT** Mary Slane **DEA** Newry  
**LOCATION** Between No. 34 And 38 Seafin Road  
Killeavy  
**PROPOSAL** <sup>Maigh</sup>  
Dwelling and garage (amended address)

**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** **Informal Hearing** **Date Appeal Lodged** 05/09/2018  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

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## Current Appeals

258

<b>ITEM NO</b>	<b>11</b>	<b>PAC Ref:</b>	2018/A0085
<b>Planning Ref:</b>	LA07/2018/0220/	<b>DEA</b>	Rowallane
<b>APPELLANT</b>	Mr & Mrs H Coulter		
<b>LOCATION</b>	50m SE Of 7 Old Saintfield Road Creevycarnonan		
<b>PROPOSAL</b>	Creevycarnonan Proposed 2 no infill dwellings, detached garages and site works.		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	17/09/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>12</b>	<b>PAC Ref:</b>	2018/A0086
<b>Planning Ref:</b>	LA07/2017/0701/	<b>DEA</b>	The Mournes
<b>APPELLANT</b>	J&J McKibbin		
<b>LOCATION</b>	Land 60m North East Of No. 181 Moyad Road Kilkeel		
<b>PROPOSAL</b>	RT34 4H1 Erection of self-catering tourist accommodation, light industrial units and associated site works.		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	18/09/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

259

<b>ITEM NO</b>	<b>13</b>	<b>PAC Ref:</b>	2018/A0100
<b>Planning Ref:</b>	LA07/2018/0865/	<b>DEA</b>	The Mournes
<b>APPELLANT LOCATION</b>	Mr And Mrs C Parke 25 Oldtown Lane Annalong RT34 4XF		
<b>PROPOSAL</b>			

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission	<b>Date Appeal Lodged</b>	05/10/2018
<b>Appeal Procedure</b>			
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

<b>ITEM NO</b>	<b>14</b>	<b>PAC Ref:</b>	2018/A0117
<b>Planning Ref:</b>	LA07/2017/0290/	<b>DEA</b>	Rowallane
<b>APPELLANT LOCATION</b>	Mr & Mrs McMurray 110 M South Of No 52 Carsonstown Road Saintfield RT24 7FR		
<b>PROPOSAL</b>	Single Storey 200sqm house with Outbuilding - garage and stores		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission	<b>Date Appeal Lodged</b>	24/10/2018
<b>Appeal Procedure</b>			
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

## Current Appeals

260

<b>ITEM NO</b>	<b>15</b>		
<b>Planning Ref:</b>	LA07/2017/0699/	<b>PAC Ref:</b>	2018/A0122
<b>APPELLANT</b>	Brian & Laura Fealy	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	130m West Of No. 21 Killeel Road Hilltown		
<b>PROPOSAL</b>	Proposed dwelling & detached garage on a farm.		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	25/10/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>16</b>		
<b>Planning Ref:</b>	LA07/2018/0554/	<b>PAC Ref:</b>	2018/A0123
<b>APPELLANT</b>	Mr Craig Baxter	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	No. 5 Ringbane Road Ringbane		
<b>PROPOSAL</b>	Newly Change of use from private swimming pool to commercial swimming pool, retention of extension to same and extension to site curtilage		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	25/10/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

261

**ITEM NO** 17  
**Planning Ref:** LA07/2017/0691/ **PAC Ref:** 2018/A0124  
**APPELLANT** Mr & Mrs G Cunningham **DEA** The Mournes  
**LOCATION** Lands Adjacent To And North East Of 346 Newry Road  
 Kilkeel  
 RT34 4SF  
**PROPOSAL** Proposed detached retirement dwelling and garage (additional plans)

**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** **Date Appeal Lodged** 26/10/2018  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

**ITEM NO** 18  
**Planning Ref:** P/2015/0200/F **PAC Ref:** 2018/A0130  
**APPELLANT** Mr Naill Black **DEA** Newry  
**LOCATION** Approx 150m South East Of No 28 Ferryhill Road  
 Killeen  
 Newry  
**PROPOSAL** Erection of a farm dwelling and garage.

**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** **Date Appeal Lodged** 30/10/2018  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

## Current Appeals

262

<b>ITEM NO</b>	<b>19</b>	<b>PAC Ref:</b>	<b>2018/A0131</b>
<b>Planning Ref:</b>	LA07/2018/0331/	<b>DEA</b>	<b>The Mournes</b>
<b>APPELLANT</b>	David Gordon		
<b>LOCATION</b>	34 Dougans Road Kilkeel		
<b>PROPOSAL</b>	RT34 ΔHN Retention of dwelling and integrated garage, in substitution of Planning Ref: P/2009/1284/F		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	30/10/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>20</b>	<b>PAC Ref:</b>	<b>2018/A0132</b>
<b>Planning Ref:</b>	LA07/2017/1316/	<b>DEA</b>	<b>Newry</b>
<b>APPELLANT</b>	O'Hagan Construction Ltd		
<b>LOCATION</b>	Site Adjacent And North Of 8 Heslips Court Adjacent And West Of 9 Heslips Court And Opposite And 25 M East Of 16 Chancellors Hall		
<b>PROPOSAL</b>	Retention of retaining wall and raised land and erection of dwelling (Amended Proposal)		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	30/10/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

263

**ITEM NO** 21  
**Planning Ref:** LA07/2018/0360/ **PAC Ref:** 2018/A0133  
**APPELLANT** Forest Park Developments **DEA** The Mournes  
**LOCATION** Immediately North West Of 4 Sawmill Road Castlewellaan BT31 9GJ

**PROPOSAL** Infill dwelling

**APPEAL TYPE** DC- Refusal of Planning Permission

**Appeal Procedure** **Date Appeal Lodged** 31/10/2018

**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:** LA07/2017/1151/ **PAC Ref:** 2018/A0134  
**APPELLANT** Clark McCourt **DEA** Slieve Gullion  
**LOCATION** Lands 70 Metres North-East Of 32 Cullentragh Road  
 Jerretspass

**PROPOSAL** Erection of farm building and associated site works to include vehicular access, access lane and hard-standing area

**APPEAL TYPE** DC- Refusal of Planning Permission

**Appeal Procedure** **Date Appeal Lodged** 31/10/2018

**Date of Hearing**

**Date Statement of Case Due for Hearing**

**Date Statement of Case Due - Written Representation**

**Date of Site Visit**



## Current Appeals

264

<b>ITEM NO</b>	<b>23</b>		
<b>Planning Ref:</b>	LA07/2018/0457/	<b>PAC Ref:</b>	2018/A0143
<b>APPELLANT</b>	D Downey	<b>DEA</b>	Newry
<b>LOCATION</b>	Lands To West And South Of Existing Retail Units At Nos 113-117 Dublin Road		
<b>PROPOSAL</b>	Newry Retention of change of use of Agricultural land adjacent to establish retail units to facilitate safe parking of customer and staff vehicles and servicing of retail units, with associated landscaping works.		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	15/11/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>24</b>		
<b>Planning Ref:</b>	LA07/2018/0166/	<b>PAC Ref:</b>	2018/AO021
<b>APPELLANT</b>	Sean Nugent	<b>DEA</b>	Slieve Gullion
<b>LOCATION</b>	60m East Of 66 Slatequarry Road Cullyhanna		
<b>PROPOSAL</b>	Retention of existing farm shed		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	15/05/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

265

<b>ITEM NO</b>	<b>25</b>		
<b>Planning Ref:</b>	LA07/2018/0373/	<b>PAC Ref:</b>	2018/E0022
<b>APPELLANT</b>	James Purdy	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	78b Upper Dromore Road Warrenpoint		
<b>PROPOSAL</b>	Car bodywork repairs and construction sealants distribution.		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	11/07/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>26</b>		
<b>Planning Ref:</b>	LA07/2018/0467/	<b>PAC Ref:</b>	2018/E0027
<b>APPELLANT</b>	Mr James And Kevin Donnelly	<b>DEA</b>	Newry
<b>LOCATION</b>	Lands Approximately 110 Meters West Of No. 240 Dublin Road Killeen Newry		
<b>PROPOSAL</b>	New agricultural building which complies with the Planning (General Permitted Development) Order (Northern Ireland) 2015 in particular respect to Part 7 - Agricultural Buildings and Operations - Class A - Permitted Development and is development that does not require		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	15/06/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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# Costs Decision

Park House  
87/91 Great Victoria Street  
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<b>Appeal Reference:</b>	2018/E0014
<b>Appeal against:</b>	The refusal of an application for a Certificate of Lawfulness of Existing Use or Development
<b>Proposed Development:</b>	Retention of agricultural building
<b>Location:</b>	110 metres north west of 240 Dublin Road, Killeen, Co Down, BT35 8RL
<b>Claim by:</b>	Newry, Mourne and Down District Council for a full award of cost
<b>Claim against:</b>	Mr James K Donnelly
<b>Decision by:</b>	Commissioner Rosemary Daly, dated 23 November 2018

## Decision

1. The claim for a full award of costs is allowed.

## Reasons

2. In accordance with the Commission's publication 'Costs Awards Guidance' costs will normally only be awarded where all four of the following conditions are met:
  - the claim relates to a relevant type of appeal;
  - the claim is timely;
  - the party against whom the award is sought has acted unreasonably; and
  - the unreasonable behaviour has caused the party claiming costs to incur unnecessary or wasted expense.

## *Eligibility*

3. The application relating to the appeal was determined under the Planning Act (Northern Ireland) 2011. An appeal was made in accordance with Section 173 of the Act against the refusal to certify a Certificate of Lawfulness of Existing Use or Development (CLEUD). The Commission therefore has power to make an order as to the costs of parties in accordance with Section 205 of the Act.

## *Timeliness*

4. Paragraph 20 of 'Guidance on Costs Awards in Planning Related Appeals' states that in the case of an appeal is withdrawn any costs claim must be submitted in writing to reach the Commission no later than 10 working days after the date on which the Commission sent notification to the claiming party that the appeal had been withdrawn. In this case the Appellant withdrew the appeal on 15 October 2018. The Claimant was advised by the appellant that the appeal was withdrawn on this

date. The Claimant's submission was received by the Commission on 23 October 2018, some 7 working days after the withdrawal of the appeal, thus the claim is a timely one.

### ***Unreasonable Behaviour***

5. An application for a Certificate of Lawfulness of Existing Use or Development was submitted to the Council on 4 May 2017 (LA07/2017/0665/LDE). On the 14 February 2018 the Council refused to certify that the existing use or development was lawful. This application was the subject of this appeal (2018/E0014) which related to the retention of an agricultural building. A second application for a Certificate of Lawfulness of Existing Use or Development (LA07/2018/0467/LDE) was submitted on 16 March 2018. On the 20 April 2018 the Council also refused to certify that the existing use or development presented in this application was lawful. The application related to the same agricultural building as this subject appeal. This application is now the subject of a separate appeal (2018/A0027).
6. Separate appeals were lodged in respect of each of the Council's decisions. Both were assigned separate reference numbers and different hearing dates were set. The hearing for the subject appeal was to take place on 18 October 2018. A letter from the appellant, dated 9 October 2018, was received by the Commission on 15 October 2018. On a without prejudice basis to the other appeal (2018/A0027) this letter withdrew the subject appeal.
7. The Claimant considered that the appellant acted unreasonably as they had submitted two separate applications for the identical development, with minimal differences, as a means of twin tracking. Looking at the dates above it is evident that the Council had determined the first application (LA07/2017/0665/LDE) before the second application (LA07/2018/0467/LDE) had been submitted. The applications were not twin tracked but came one after another. However, both decisions were appealed at the same time and then one was later withdrawn. The withdrawal of the appeal was at a late stage in the process and it happened after the date when the Council had submitted their statement of case. Even though there is an overlap in many of the issues between both appeals, the claimant was required to prepare an individual statement of case for each appeal.
8. Notwithstanding the provision of Section 173 in respect of appealing the Council's decision, no explanation was provided by the appellant to justify the rationale for undertaking this course of action. The appellant thereby caused an unnecessary appeal that was later withdrawn. This action would appear to have been unprompted by any change in circumstances. Causing an unnecessary appeal is an example of behaviour which the Commission guidance states may be found to be unreasonable. In this instance the appellant had a parallel appeal in the system for the same agricultural building. The appellant did not comment on the cost claim therefore without any justification I am left in the position to conclude that the behaviour of the appellant has caused an unnecessary appeal and this amounts to unreasonable behaviour.

### ***Unnecessary Expense***

9. The Claimant presented information as to the nature of the expenses incurred, namely:

- The production of a statement of case for this appeal, including researching planning history and the production of a history map and schedule; and
  - The equivalent of 1 day of a Planning Officer's work to prepare the statement of case and a half day of a Senior Planner's work to review and amend the statement of case.
10. The withdrawal of the appeal at such a late stage in the process put the Claimant to unnecessary expense through the preparation, review and submission of the statement of case for the appeal. I agree that the claim for costs should succeed in respect of the full costs of the Claimant's case as per the expenses outlined in paragraph above.
11. Given the above reasoning the claim for full costs is therefore allowed.

### **Order**

**It is hereby ordered** that Mr James K Donnelly shall pay to Newry, Mourne & Down District Council the costs of preparing the appeal statement of case; namely one day's preparation time for a Planning Officer in researching and drafting the statement of case and half a day's time for a Senior Planning Officer to review and amend the statement of case.

On receipt of this order the claimant may submit details of those costs to Mr James K Donnelly with a view to reaching agreement on the amount. If the parties are unable to agree, the claimant may refer the matter to the Taxing Master of the High Court for a detailed assessment.

**COMMISSIONER ROSEMARY DALY**

**List of Documents**

Planning Authority:- 'CA' Costs Claim (Newry, Mourne & Down District Council)



# Appeal Decision

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<b>Appeal Reference:</b>	2018/A0021
<b>Appeal by:</b>	Mr Sean Nugent
<b>Appeal against:</b>	The refusal of full planning permission
<b>Proposed Development:</b>	Retention of farm shed
<b>Location:</b>	60m east of No 66 Slatequarry Road, Cullyhanna
<b>Planning Authority:</b>	Newry Mourne and Down District Council
<b>Application Reference:</b>	LA07/2018/0166/F
<b>Procedure:</b>	Informal Hearing on 30 August 2018
<b>Decision by:</b>	Commissioner Pamela O'Donnell, dated 23 November 2018

## Decision

1. The appeal is dismissed.

## Reasoning

2. The main issues in this appeal are whether the proposal would be acceptable in principle in the countryside and whether it would adversely affect the integrity of nearby Areas of Special Scientific Interest (ASSIs).
3. The Planning Act (Northern Ireland) 2015 requires the Commission, in dealing with an appeal, to have regard to the local development plan, so far as material to the application, and to any other material considerations. The Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) operates as the local development plan for the area where the appeal site is located. The Plan places the appeal site outside any development limits and within the countryside. It contains no material policies in respect of the appeal development. There are, however, relevant regional policies and they are discussed below.
4. The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area and it retains certain existing planning policy statements. Amongst these are Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) and Planning Policy Statement 2: Natural Heritage. In light of the aforementioned transitional arrangements set out in the SPPS, both PPS21 and PPS2 provide the relevant policy context for the appeal.
5. The Appellant seeks the retention of a farm shed which, he says would be partially used to house cattle. However, no underground slurry chamber is shown on the plans nor do the plans show any other structures or means to facilitate the storage of manure. Mr McGuinness who attended the Hearing in his capacity as an

agricultural consultant for the Appellant advised that modifications to the appeal building would be required to address this issue. He spoke of the requirement for a manure store, feed barrier and a concrete yard. This additional development is not shown on the plans. Thus it cannot be considered as part of the appeal. Contrary to the views of the Appellant, in the context of a full planning application, the requirement to carry out such additional development cannot be imposed as a condition of approval. The absence of any means of storing slurry/manure as part of the proposal raises fundamental concerns around the prescribed end use of the building especially as the storage and utilisation of manure/slurry has potential implications on the environment.

6. Policy CTY1 of PPS21 indicates that there are types of development which are considered acceptable in principle in the countryside. One of these is agricultural and forestry development in accordance with Policy CTY12. This policy states that planning permission will be granted for development on an active and established agricultural holding where it is demonstrated that it meets five criteria. The Council considers that the holding is active and established but that the appeal development conflicts with criteria (a) and (d). Criterion (a) requires that the development is necessary for the efficient use of the agricultural holding and criterion (d) requires that the development will not have an adverse impact on the natural or built heritage.
7. The Appellant submitted farming information at appeal stage. The Farm Business Reference No is given as 657498 and the most up to date farm map identifies a total of three fields along the Slatequarry Road (field Nos 3, 4 and 5 in the DAERA map – photo dated 25 August 2016). Field No 5 has a number of farm buildings within. Two screenshots of "single farm applications" were submitted also showing fields 3, 4 and 5 and another field at Annaghmare some 4km to the south west. I was told that this additional field is taken in conacre. The appeal site is part of field 3. Within this field and in addition to the development subject of appeal, there is an existing agricultural shed, described as being needed to serve as an isolation unit for animals. This was approved in February 2011 (P/2010/1300F). The shed subject of appeal is located adjacent and south west of the isolation unit and both sheds are accessed via a stoned driveway from the Slatequarry Road.
8. The Appellant argues that the appeal development is necessary as he will no longer have use of the buildings in field No 5 as this field along with field 4 were inherited by Mr Gerry Guest who intends to use the buildings in connection with another agricultural enterprise. Herd information was provided but it does not appear to be tied to the Appellant or to his farm business as no name or address is attached. However, there is a letter from a local vet who states that the Appellant calves down cows. Given this and the aforementioned approved isolation unit in the Appellant's name, I accept that the Appellant farms cattle. However, without other information such as farm accounts and/or records of herd movements, I cannot be certain of the amount of cattle on the farm.
9. Whilst the Appellant may require additional housing as a result of impending circumstances, an isolation unit is generally used as a repository for sick or injured animals in order to separate them from the herd to prevent the spread of disease for example. As indicated, this isolation unit is adjacent to the appeal development which the Appellant intends to use for wintering cattle and for the storing of feed and fertilisers. Therefore, even if the appeal development were necessary, I would



have concerns about whether it would represent an efficient use of the holding given its location adjacent to the isolation unit. This spatial arrangement would obviously have implications on the overall health and safety of the animals. In addition, even if the isolation unit was not used as such, there is no certainty around the quantum of cattle on the farm as previously discussed. Accordingly, it cannot be concluded that additional space is in fact required. For reasons stated, I am not persuaded that criterion (a) of the policy is met. In addition and in light of the findings I set out below as regards potential impact on the ASSIs, I cannot be satisfied that criterion (d) is met. The decision to forward purchase meal and fertiliser was taken at the Appellant's own risk given there is no planning permission for the appeal building. From the evidence, it is noted that the Appellant is looking for suitable additional land presumably at a sufficient distance from third party residences with livestock housing and feed storage facilities as he intends to expand his business. In the interim, the existing approved shed could be used to winter his cattle.

10. Policy CTY12 requires that where the development relates to a new building, three additional bullet points must be met. There is no objection in relation to the second requirement. The first is that there are no suitable buildings on the holding that can be used. The evidence indicates that the existing buildings in field 5 are likely to be used by Mr Guest in future. Whilst it would have been helpful to have seen some form of legal agreement or land registry folio to verify this, on balance, I accept that the buildings may be taken over by Mr Guest who was present at the Hearing. The third requirement is that the proposal is sited beside existing farm or forestry buildings. The appeal development is located adjacent to the isolation shed which is one building. It is not located beside farm buildings (plural); the policy requirement. Accordingly, this particular clause of the policy is not met.
11. Policy CTY12 goes on to say that exceptionally, consideration may be given to an alternative site away from existing farm or forestry buildings provided there are no other sites available at another group of buildings on the holding. Another requirement is that the development is either (i) essential for the efficient functioning of the business or (ii) there are demonstrable health and safety reasons for it. There are no other buildings on the farm apart from those in field No 5 and the isolation unit in field No 3 and there does not appear to be any other sites available as prescribed in the policy. However, in light of my findings above, I am not persuaded that this development is essential for the efficient functioning of the business and rather than providing an effective solution or arrangement, the development is likely to have negative health and safety implications for the animals due to its proximity to an isolation shed. For reasons stated, the appeal development does not satisfy Policy CTY12. The second, third and fourth reasons for refusal are sustained.
12. Policy CTY1 goes on to say that other types of development will only be permitted where there are overriding reasons why that development is essential. No persuasive evidence was presented to demonstrate why the development was essential. As such, the requirements of Policy CTY1 of PPS21 are not met. The first reason for refusal is therefore sustained.
13. Policy NH3 of PPS2 is entitled 'Sites of Nature Conservation Importance – National'. It states that planning permission will only be granted for a development proposal that is not likely to have an adverse effect on the integrity, including the

value of the site to the habitat network, or special interest of an ASSI. It goes on to say that a development proposal which could adversely affect a site of national importance may only be permitted where the benefits of the proposed development outweigh the value of the site.

14. The evidence indicates that the appeal site is within 7.5km of a number of ASSIs. Given the nature of the proposal, the Department of Agriculture, Environment and Rural Affairs (DAERA) were consulted. Even though their response was not shared with the Appellant, the issue of impact on the ASSIs was a 'live' one in that it was clearly discussed in the Development Control Officer's Report at planning application stage. This information would have been available to the Appellant. This report raises concerns around potential impacts on the ASSI's from the development and it also refers to the requirement to carry out Simple Calculation of Atmospheric Impact Limits (SCAIL) modelling.
15. It is for the Appellant to ensure that all relevant information is provided in order that a reasoned and robust decision can be taken. In the absence of facilities to store manure/slurry associated with the development and SCAIL modelling (to demonstrate that ammonia levels from the use of the shed would not be exceeded, for example), I cannot be satisfied that the appeal development would not have an adverse effect on the integrity or special interest of the ASSIs. It would not be proper to impose a negative condition, as suggested, stating that no development shall take place until a SCAIL assessment be submitted. This is because the possibility cannot be excluded that such assessment would find that, although permission had already been granted, the development would still have an unacceptable impact on the ASSIs. In addition, there was no persuasive evidence that the appeal development would bring benefits which would outweigh the value of these sites of national importance. A verbal assurance that the impact of ammonia associated with the development would not be significant is not persuasive evidence. For the reasons stated, I find that the appeal development fails to meet the requirements of Policy NH3 of PPS2. Accordingly, the fifth reason for refusal is sustained.
16. As the reasons for refusal are sustained insofar as stated, the appeal must fail.

This decision is based on Site Location Map @ 1:2500, Drawing No 11835/12 Site Layout Plan @ 1:500 and Drawing No 11835-01 Proposed Floor Plans and Elevations @ 1:100 stamped refused by the Council on 2 May 2018.

**COMMISSIONER PAMELA O'DONNELL**

**List of Appearances**

Planning Authority:- Ms P Manley (Newry Mourne and Down District Council)

Appellant(s):-  
Mr J Young (Agent)  
Mr P McGuinness (Agricultural Consultant)  
Mr S Nugent (Appellant)  
Mr G Guest (Supporter)  
Ms C O'Grady (with Agent (observing))

**List of Documents**

Planning Authority: - "A" Statement of Case

Appellant(s):-  
"B" Statement of Case  
"C" Farm Map (Aerial) submitted at appeal



# Appeal Decision

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<b>Appeal Reference:</b>	2018/E0017
<b>Appeal by:</b>	Mr & Mrs S Thompson
<b>Appeal against:</b>	The refusal of an application for a Certificate of Lawfulness for existing use or development
<b>Subject:</b>	Use of 19a Rathcunningham Road as a dwelling separate from the dwelling at 19 Rathcunningham Road
<b>Location:</b>	19a Rathcunningham Road, Toye, Downpatrick, BT30 9PE
<b>Planning Authority:</b>	Newry, Mourne and Down District Council
<b>Application Reference:</b>	LA07/2018/0363/LDE
<b>Procedure:</b>	Written representations and Commissioner's site visit on 8 November 2018
<b>Decision by:</b>	Commissioner Rosemary Daly, dated 9 November 2018

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## Decision

1. The appeal is allowed and a certificate of lawfulness is attached.

## Reasons

2. The main issue in this appeal is whether or not the property at 19a Rathcunningham Road is an independent dwelling separate from the adjacent property at 19 Rathcunningham Road.
3. A Certificate of Lawfulness of Existing Use or Development (CLUD) is a statement specifying what is lawful at a particular date. In accordance with Section 169 (2) of the Planning Act (Northern Ireland) 2011 a use or operation is lawful for planning purposes if (a) no enforcement action can be taken against it; and (b) it does not constitute a contravention of any of the requirements of any enforcement notice then in force. There is no current enforcement notice in force.
4. The application for a Certificate of Lawfulness of Existing Use or Development was submitted to the Council on the 5<sup>th</sup> March 2018. Under Section 132 of the Planning Act (Northern Ireland) 2011, for development and changes of use, immunity from enforcement action can be achieved 5 years after they took place. The onus falls to the appellant to demonstrate that, on the balance of probability, the claimed use of the property at 19a Rathcunningham Road as a separate dwelling unit has commenced on or before 5<sup>th</sup> March 2013 (the relevant date) and continued on the same basis for five years.
5. The Council refused to certify that the use of the property at 19a Rathcunningham Road was lawful given they were not satisfied that the building had been used as a separate dwelling unit for more than five 5 years up to and including the date of

the application. However, at the appeal site visit the Council stated based on the information now submitted by the appellant in support of his case, it has been clearly demonstrated that use of the property at 19a Rathcunningham Road is an independent dwelling from that at 19 Rathcunningham Road. I have also considered the submitted evidence including separate bills for rates, insurance, oil heating, telephone, TV license and the other supporting documentation relating to the occupant of the property. All in all the evidence provided clearly demonstrates, that the occupant of the property, has been living independently at 19a Rathcunningham Road since 2007 and the use of the property has been separate from the dwelling at 19 Rathcunningham Road since that time. On this basis a Certificate of Lawful Use and Development should be certified.

**COMMISSIONER ROSEMARY DALY**

## PLANNING ACT (NORTHERN IRELAND) 2011: SECTION 169

**CERTIFICATE OF LAWFULNESS OF EXISTING USE OR DEVELOPMENT**

The Planning Appeals Commission hereby certifies that on 5<sup>th</sup> March 2018 the use described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and shown on the plan attached to this certificate was lawful within the meaning of section 169 of the Planning Act 2011, for the following reason:

1. The use of the dwelling at 19a Rathcunningham Road is lawfully separate from the dwelling at 19 Rathcunningham Road. The continuous use of the dwelling as a separate unit of residential accommodation over the requisite 5 years period means it is immune from enforcement action.

Signed

*Rosemary Daly*

**COMMISSIONER ROSEMARY DALY**  
**9 November 2018**

**FIRST SCHEDULE**

Dwelling at 19a Rathcunningham Road as shown on the site location map date stamped by Newry, Mourne and Down District Council on the 5 March 2018

**SECOND SCHEDULE**

19a Rathcunningham Road, Toye, Downpatrick, BT30 9PE

Notes:

- (1) This certificate is issued solely for the purpose of section 169 of the Planning Act 2011.
- (2) It certifies that the use described in the First Schedule taking place on the land described in the Second Schedule was lawful on the specified date and, thus, was not liable to enforcement action under 138 of the Planning Act (Northern Ireland) 2011 on that date.
- (3) This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described or which relates to other land may render the owner and occupier liable to enforcement action.

**List of Appearances**

Planning Authority:- Mr M Kelly, Newry, Mourne and Down District Council

Appellant:- Mr E Davis, Agent  
Mr S Thompson

**List of Documents**

Planning Authority:- "A" Newry, Mourne and Down District Council Statement of Case and Appendices  
"A1" Comments

Appellants:- "B" E Davis Statement of Case and Appendices  
"B1" Comments



# Costs Decision

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<b>Appeal Reference:</b>	2018/A0058.
<b>Appeal against:</b>	The refusal of full planning permission for change of house type and garage from previously approved under planning ref. P/2007/0735/ RM.
<b>Location:</b>	Opposite 60 Derryleckagh Road on Aughnagun Road, Newry.
<b>Claim by:</b>	Newry, Mourne & Down District Council.
<b>Claim against:</b>	Mr William McDonnell for a full award of costs.
<b>Decision by:</b>	Commissioner Mark Watson, dated 22 November 2018.

## Decision

1. The claim for a full award of costs is allowed.

## Reasons

2. In accordance with the Commission's publication 'Costs Awards Guidance' costs will normally only be awarded where all four of the following conditions are met:
  - the claim relates to a relevant type of appeal;
  - the claim is timely;
  - the party against whom the award is sought has acted unreasonably; and
  - the unreasonable behaviour has caused the party claiming costs to incur unnecessary or wasted expense.

### *Eligibility*

3. The planning application to which the appeal relates was considered under the Planning Act (NI) 2011. An appeal was made in accordance with Section 58 of the Planning Act against the refusal of full planning permission. The Commission therefore has the power to make an order as to the costs of parties in accordance with Section 205 of the Planning Act.

### *Timeliness*

4. Paragraph 20 of 'Guidance on Costs Awards in Planning Related Appeals' states that in the case where an appeal is withdrawn any costs claim must be submitted in writing to reach the Commission no later than 10 working days after the date on which the Commission sent notification to the claiming party that the appeal had been withdrawn. In this case the Appellant withdrew the appeal on 30 October 2018, with the Commission informing the Claimant of this on the same date. The Claimant's written submission was emailed to the Commission on 31 October 2018 and received by post on 5 November 2018. The claim is a timely one.



***Unreasonable Behaviour***

5. The Claimant considered that the Appellant acted unreasonably in allowing the appeal process to proceed to the point of submission of statements of case and then withdrawing the appeal several days after the deadline for submission of statements of case to the Commission.
6. The withdrawal of an appeal is an example of behaviour which the Commission guidance states may be found to be unreasonable. The guidance states that such a withdrawal, resulting in the entire proceedings being abandoned, may be judged to be unreasonable, unless it was prompted by a significant change in circumstances that was outside the control of the party concerned.
7. The Commission wrote to the parties on 25 September 2018, notifying them of the procedure date, as well as the deadline for the submission of statements of case no later than 4pm on 26 October 2018, a period of just over 4 weeks. The Claimant posted its statement of case to the Commission on 15 October 2018 (it being received 2 days later on 17 October 2018). On 30 October 2018 the Appellant's representative emailed the Commission. The email stated that further to a telephone conversation with a member of the Commission's administrative staff on 26 October 2018, the appeal was being withdrawn as the proper mechanism for ascertaining whether development which had begun on the appeal site was lawful was through the submission of an application for a Certificate of Lawfulness of Existing Use or Development (CLEUD). The email also apologised for the late notice of the withdrawal.
8. Withdrawal of an appeal in itself may not in every case constitute unreasonable behaviour; the facts of the case requiring consideration to make such a determination. The telephone conversation on 26 October 2018 with a member of the Commission's administrative team indicated that the Appellant intended to withdraw the appeal. He was advised that this would require a written instruction to the Commission to that effect. That written instruction was subsequently emailed to the Commission on 30 October 2018. From the evidence provided there does not appear to have been any significant change in circumstances that would explain why the withdrawal was left to such a late stage when set against the timeframe for submission of evidence.
9. The indication to withdraw, followed by the formal withdrawal of the appeal several days after the submission deadline for the statements of case can be considered relatively last minute, particularly since parties had been notified of the submission date some 4 weeks earlier. The Appellant was alive to the criticality of the issue of whether development begun on the appeal site was lawful, evidenced by the prior submission of supporting evidence to the Council in June 2018 in support of that position. The Appellant stated that the claim would have merit if it had not been his intention to pursue a CLEUD application, which if refused would also be appealed. This CLEUD application was submitted to the Council on 14 November 2018. However, regardless of the submission of the CLEUD application to the Council, an earlier notification to withdraw the appeal would have saved the Claimant having to prepare evidence for submission. I therefore agree that the relatively last minute withdrawal of the appeal, unprompted by any significant change in circumstances, in this case amounted to unreasonable behaviour.

***Unnecessary Expense***

10. The Claimant presented information as to the nature of the expenses incurred:
  - half a day's time for one Administrative Assistant and the cost of paper and ink necessary to provide the required materials to the Commission following submission of the appeal;
  - two days' time for a Higher Professional Technical Officer to visit the appeal site, research and draft the statement of case; and
  - half a day's time for a Senior Professional Technical Officer to review the statement of case and authorise it.
  
11. The late timing of the withdrawal of the appeal four days after the submission deadline resulted in the Claimant carrying out nugatory work to prepare a submission for an appeal that did not take place. I do not agree that the work carried out would have in any event largely already been done in processing the application. Whilst the issues may have been the same, I note the increased level of detail provided within the Claimant's submitted statement of case. This clearly required time and effort above and beyond what had already been done in processing the planning application to decision stage. Additionally, the notification of an appeal to the Claimant required that they provide the Commission with background papers, this in itself taking time and resources. Whether or not any of the assessment required to prepare for the appeal might subsequently be used for future assessment of the recently submitted CLEUD application is not pertinent to this claim for costs. The late withdrawal of the appeal put the Claimant to unnecessary expense through the preparation for the appeal, including provision of background papers to the Commission, site inspection, drafting, review and submission of the statement of case itself. The claim for costs should succeed in respect of the full costs for preparation of the Claimant's case, as per the expenses outlined in paragraph 10 above.
  
12. Given the above reasoning the claim for full costs is therefore allowed.

**Order**

**It is hereby ordered** that Mr William McDonnell shall pay to Newry, Mourne & Down District Council the costs of providing the Commission with background papers and preparing its appeal statement of case, namely;

- half a day's time for an Administrative Assistant to provide the Commission with background materials following submission of the appeal;
- the cost of the paper and ink for provision of those materials required for submission to the Commission;
- 2 days' time for a Higher Professional Technical Officer in visiting the appeal site, preparing and drafting the statement of case; and
- half a day's time for a Senior Professional Technical Officer to review and authorise the statement of case.

On receipt of this order the claimant may submit details of those costs to Mr William McDonnell with a view to reaching agreement on the amount. If the parties are unable to agree, the claimant may refer the matter to the Taxing Master of the High Court for a detailed assessment.

**COMMISSIONER MARK WATSON**



**List of Documents**

Claimant:- 'C1' Costs Claim (Newry, Mourne & Down District Council)

Appellant:- 'C2' Response to Costs Claim & Appendix (Collins & Collins on behalf of Mr W. McDonnell)