

October 13th, 2021

**Notice Of Meeting**

You are invited to attend the Planning Committee Meeting to be held on **Wednesday, 20th October 2021** at **10:00 am** in **Mourne Room, Downshire Civic Centre** and via **Microsoft Teams**.

**Committee Membership 2021-2022**

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

# Agenda

- 1.0 Apologies and Chairperson's remarks
- 2.0 Declarations of Interest
- 3.0 Declarations of Interest in relation to Para. 25 of Planning Committee Operating Protocol - Members to be present for the entire item

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## *Minutes for Adoption*

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### 4.0 Minutes of Planning Committee Meeting held on Wednesday 22 September 2021.

 *Planning Committee Minutes 22.09.2021.pdf*

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## *For Discussion/Decision*

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

 *Addendum list - 20-10-2021.pdf*

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## *Local Development Plan Items - Exempt Information*

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### 6.0 Newry, Mourne and Down Local Transport Study - Presentation by Department for Infrastructure: Transport. (Attached)

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

 *EXEMPT Newry Mourne & Down Local Transport Study V2 with Annex - Web Version 160821.pdf*

*Not included*

### 7.0 LDP: Planning Policy Review - Waste Management. (Attached)

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

 *EXEMPT PC Report re LDP PPR - Waste Management.pdf*

*Not included*

## 8.0 LDP: Planning Policy Review - Tourism. (Attached)

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

📄 *EXEMPT PC Report re LDP PPR - Tourism.pdf*

*Not included*

📄 *EXEMPT PPR Paper - Tourism (PC 20.10.21).pdf*

*Not included*

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

## 9.0 LA07/2021/0246/F - Proposed 3no. self contained tourism units - Immediately north-west of 102 Tullybrannigan Road. (Case Officer report attached).

REFUSAL

- In line with the updated Operating Protocol no further speaking rights are permitted on this application. (Declan Rooney, agent, will be in attendance to answer any questions Members might have).
- Cllrs. Burgess, Hanna, Harte, Larkin, Murphy, McAteer, McEvoy, O'Hare and Trainor are eligible to take part in the discussion/decision on this application.

📄 *LA07-2021-0246-F - Tullybrannigan Road (Tourism)\_.pdf*

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## 10.0 LA07/2020/0661/O - Housing development - Land opposite and west of Nos 10 -32 Grove Gardens. (Case Officer report attached).

APPROVAL

- In line with the updated Operating Protocol no further speaking rights are permitted on this application.
- Cllrs. Enright, Hanna, Harte, Larkin, Murphy, McAteer, McEvoy, McKee, O'Hare and Trainor are eligible to take part in the discussion/decision on this application.

📄 *LA07-2020-0661-O (Housing) Grove Gardens Killyleagh.pdf*

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## 11.0 LA07/2020/1797/F - Proposed single storey rear extension to dwelling - 22 Ballaghbeg Park. (Case Officer report attached).

APPROVAL

- In line with the updated Operating Protocol no further speaking rights are permitted on this application.
- Barry Hillen, Agent, will be in attendance to answer any questions Members might have.
- James & Judith Major and Maria Scullion, who are in objection to the application will be in attendance to answer any questions Members may have. **(submission attached)**
- Cllrs. Burgess, Hanna, Harte, Larkin, Murphy, McAteer, McEvoy, O'Hare and Trainor are eligible to take part in the discussion/decision on this application.

 *LA07-2020-1797-F\_Addendum.pdf* *Page 42*

 *LA07-2020-1797-F - 22 Ballaghbeg Park.pdf* *Page 43*


 *LA07.2020.1797.F - 22 Ballaghbeg Park, Newcastle.pdf* *Page 52*

 *M.Scullion LA07.2020.1797.F.pdf* *Page 54*

## **12.0 LA07/2020/0299/F - Single storey dwelling - Adj. to 7 Annacloy Road North Dunnanelly. (Case Officer report attached).**

REFUSAL

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

 *LA07 2020 0299 F COR.PDF* *Page 56*

 *LA07 2020 0299 F Addendum.pdf* *Page 61*

## **13.0 LA07/2020/0496/F - Consolidation of existing development to form single dwelling - Approx 105m NE of junction of Bernish Road and Seavers Road. (Case Officer report attached).**

REFUSAL

- In line with the updated Operating Protocol no further speaking rights are permitted on this application. (Colin O'Callaghan, agent, will be in attendance to answer any questions Members might have).
- Cllrs. Enright, Hanna, Harte, Larkin, Murphy, McAteer, McEvoy, McKee, O'Hare and Trainor are eligible to take part in the discussion/decision on this application.

 *LA07-2020-0496-F.PDF* *Page 64*

## **14.0 LA07/2020/0893/F - Proposed erection of 2 no. detached rural infill dwelling houses and detached garages ancillary works**



**and additional landscaping - 60 metres south of no. 49  
Ballsmill Road. (Case Officer report attached)**

APPROVAL

- In line with the updated Operating Protocol no further speaking rights are permitted on this application.
- Barney McKevitt, agent, will be in attendance to answer any questions Members might have. **(submission attached)**
- Michelle Teggart & Colin Bennett, who are in objection to the application, will be in attendance to answer any questions Members might have.
- Cllrs. Enright, Hanna, Harte, Larkin, Murphy, McAteer, McEvoy, McKee, O'Hare and Trainor are eligible to take part in the discussion/decision on this application.

 **LA07-2020-0893-F.PDF**

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 **LA07.2020.0893.F.pdf**

**Page 76**

**15.0 LA07/2021/0498/O - Proposed site for infill dwelling & garage -  
20m north of 14 Old Road. (Case Officer report attached).**

REFUSAL

- In line with the updated Operating Protocol no further speaking rights are permitted on this application.
- Cllrs. Enright, Hanna, Harte, Larkin, Murphy, McAteer, McEvoy, McKee, O'Hare and Trainor are eligible to take part in the discussion/decision on this application.

 **LA07-2021-0498-O.pdf**

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

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**16.0 LA07/2019/1748/F - Erection of 12 dwellings, with boundary  
walls, fences, landscaping and associated site works - Site on  
Upper Burren Road. (Case Officer report attached)**

This application is being removed from the Agenda at the request of Planning Officers for further consideration.

 **LA07-2019-1748-F.pdf**

**Page 90**

**17.0 LA07/2021/0108/F - Dwelling - 50m SW of 31a Ballydrumman  
Road. (Case Officer report attached).**

REFUSAL

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

**18.0 LA07/2021/0734/O - Proposed Infill Dwelling and Garage - Approx. 50m South-east of 158 Ballylough Road. (Case Officer report attached).**

REFUSAL

- A request for speaking rights has been received from Declan Rooney, Agent and Fintan Forsyth, Applicant, in support of the application. **(Submission attached).**

**19.0 LA07/2021/0358/O - Proposed erection of outline rural detached infill dwelling house and detached domestic garage - Located approx. 50m SE of No. 91 Maphoner Latbirget Mullaghbawn. (Case Officer report attached).**

REFUSAL

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

**20.0 LA07/2021/0713/F - Cutting and filing of existing ground levels to create new carpark for 10 carparking spaces with 1.1m high perimeter fence - Lands at 360m SE of 18 Glendesha Road (on Glendesha Rd 445m SSE of junction with Quilly Rd) Mullaghbawn. (Case Officer report attached)**

APPROVAL

- Addendum list

**21.0 LA07/2021/0719/F - New, multi-use, non-bitmac, compacted gravel community trails (Application A - amended site**

**address) - Glendesha Forest (Shanroe Block) 350m SE of No. 18 Glendesha Rd Forkhill Newry. (Case Officer report attached)**

APPROVAL

- Addendum list

 *Glendesha Trail LA07.2021.0719.F.pdf*

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**22.0 LA07/2021/0722/F - New, multi-use, non-bitmac, compacted gravel and boardwalk community trails. Application B (revised address) - Glendesha Forest (Shanroe Block) 235m E of No. 21 Glendesha Rd Forkhill Newry. (Case Officer report attached)**

APPROVAL

- Addendum list

 *Glendesha Trail LA07.2021.0722.F.pdf*

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**23.0 LA07/2021/0725/F - New multi-use, non-bitmac, compacted gravel community trails. Application C (Revised address) - Glendesha Forest (Shanroe Block) 120m Nor No. 88 Carrive Rd Forkhill Newry. (Case Officer report attached)**

APPROVAL

- Addendum list

 *Glendesha Trail LA07.2021.0725F.pdf*

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**24.0 LA07/2021/0977/F - Multi-use, non-bitmac, compacted gravel community trails application D (amended address) - Glendesha Forest (Shanroe Block) 95m NW of No. 92 Carrive Rd Forkhill Newry. (Case Officer report attached)**

APPROVAL

- Addendum list

 *Glendesha Trail LA07.2021.0977.F.pdf*


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**25.0 LA07/2021/0930/F - Cutting and filing of existing ground levels to create an extension to existing car parking area, Car parking area to consist of 19 car parking spaces, cycle racks**

**& 1.1m high perimeter fence - 115m W of No. 33 Old Park Rd Drumaness. (Case Officer report attached)**

APPROVAL

- Addendum list


 [LA07\\_2021\\_0930\\_F.pdf](#)

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**26.0 LA07/2021/0933/F - Filing of existing ground level to increase size of existing horsebox parking area. Horsebox parking area to consist of 5 parking spaces and turning area suitable for horseboxes, horse mounting blocks and perimeter fence - 300m NNW of No. 117 Drumnaquoile Rd Ballynahinch. (Case Officer report attached).**

APPROVAL

- Addendum list


 [LA07\\_2021\\_0933\\_F.pdf](#)

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**27.0 LA07/2021/1139/F - New, non-bitmac, compacted gravel and stone pitching community trails and boardwalk feature for local walking - Lough Park Ballynahinch. (Case Officer report attached).**

APPROVAL

- Addendum list


 [LA07-2021-1139-F.pdf](#)

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**28.0 LA07/2021/1410/F - New, non-bitmac compacted gravel community trails for local walking - Windmill Hill Park Ballynahinch. (Case Officer report attached).**

APPROVAL

- Addendum list

 [LA07-2021-1410-F.pdf](#)

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**29.0 LA07/2020/0457/F - Full planning application for construction of practice pitch incorporating goals, ballstops, dugouts, site road, walking track, amenity area, improvements to existing**

**carpark, boundary fencing, two storey pavilion incorporating changing rooms, toilets with meeting rooms over, improvements to existing entrance and visibility splays from Rostrevor Road and alterations and refurbishment of existing changing rooms (Case Officer report attached)**


APPROVAL

- A request for speaking rights has been received from Thomas Bell, Clyde Shanks, Agent, Barney Dinsmore, Agent and Feargal McCormack in support of the application. **(Submission attached).**

Location: St Peters GAA Club Lands Moygannon Warrenpoint bounded to the North by Rath Rd to the West by Moygannon River.

 **LA07-2020-0457-F.pdf**

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 **LA07.2020.0457.F-speaking rights.pdf**

**Page 196**


**30.0 LA07/2021/0020/F - Proposed Barn conversion and extension to dwelling accommodation - 30m NE of 66 Mearne Road Ballysugagh Downpatrick. (Case Officer report attached).**

REFUSAL

- A request for speaking rights has been received from Brigin Byrne, Architect, in support of the application. **(Submission attached).**

 **LA07-2021-0020-F.pdf**

**Page 197**


 **LA07-2021-0020-F.pdf**

**Page 204**

**31.0 LA07/2021/0251/O - Single Dwelling - Site adjacent to 57 Castlewellan Road. (Case Officer report attached).**

REFUSAL

- Addendum list

 **LA07-2021-0251-O.pdf**


**Page 207**

**32.0 LA07/2021/0507/F - Proposed 4 No.Glamping Pods and Welcome Pod with associated car parking, site works and**

**access - 195m W of No. 198 Lackan Rd Kilcoo Newry. (Case Officer report attached).**

REFUSAL

- Addendum list


 [LA07\\_2021\\_0507\\_F.pdf](#)

*Page 215*


### **33.0 LA07/2021/0515/O - Dwelling and detached garage - Adjacent to 9 & 11 Rocks Chapel Road. (Case Officer report attached).**

REFUSAL

- A request for speaking rights has been received from David Burgess, Agent, and Councillor William Walker in support of the application. **(Submission attached).**

 [LA07\\_2021\\_0515\\_O.pdf](#)

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 [LA07.2021.0515.O.pdf](#)

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#### ***For Noting***

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### **34.0 Historic Action Tracking Sheet. (Attached)**

 [Planning HISTORIC TRACKING SHEET - Updated October 2021.pdf](#)

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### **35.0 Planning Committee Performance Report - September 2021. (Attached)**

 [Planning Committee Performance Report - Sept 2021.pdf](#)

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### **36.0 Current Appeals and Decisions - September 2021. (Attached)**

 [Current Appeals and Decisions - September 2021.pdf](#)

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# Invitees

Cllr Terry Andrews

Mr Alan Beggs

Ms Kate Bingham

Cllr Patrick Brown

Cllr Robert Burgess

Cllr Pete Byrne

Mrs Dorinnia Carville

Cllr Charlie Casey

Cllr William Clarke

Cllr Dermot Curran

Ms Alice Curran

Cllr Laura Devlin

Mr Eoin Devlin

Ms Louise Dillon

Cllr Sean Doran

Cllr Cadogan Enright

Cllr Aoife Finnegan

Cllr Hugh Gallagher

Cllr Mark Gibbons

Cllr Oonagh Hanlon

Cllr Glyn Hanna

Cllr Valerie Harte

Cllr Roisin Howell

Mr Colum Jackson

Mrs Sheila Kieran

Cllr Mickey Larkin

Cllr Alan Lewis

Mr Michael Lipsett

Mrs Regina Mackin

Cllr Oonagh Magennis

Mr Conor Mallon

Cllr Gavin Malone

Cllr Cathy Mason

Mr Johnny Mc Bride

Colette McAteer

Cllr Declan McAteer

Cllr Leeanne McEvoy

Marian McIlhone

Cllr Harold McKee

Patricia McKeever

Cllr Karen McKeivitt

Cllr Andrew McMurray

Catrina Miskelly  
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Mr Colin Moffett  
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Margaret Morrow  
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Cllr Roisin Mulgrew  
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Cllr Declan Murphy  
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Cllr Barra Ó Muirí  
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Mr Fearghal O'Connor  
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Linda O'Hare  
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Cllr Gerry O'Hare  
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Cllr Kathryn Owen  
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Cllr Henry Reilly  
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Ms Alison Robb  
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Cllr Michael Ruane  
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Cllr Michael Savage  
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Cllr Gareth Sharvin  
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Donna Starkey  
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Cllr Gary Stokes  
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Sarah Taggart  
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Cllr David Taylor  
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Cllr Jarlath Tinnelly  
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Cllr John Trainor  
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Central Support Unit  
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Cllr William Walker  
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Mrs Marie Ward  
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**NEWRY, MOURNE & DOWN DISTRICT COUNCIL**

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**Minutes of the Planning Committee Meeting of Newry, Mourne and Down District Council held on Wednesday 22 September 2021 at 10.00am in the Mourne Room, Downshire Estate, Downpatrick and via Microsoft Teams.**

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**Chairperson:** Councillor D McAteer  
Councillor R Burgess (10.15 -10.30)

**In attendance: (Committee Members)**

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

**(Officials)**

Mr C Mallon	Director Enterprise Regeneration & Tourism
Mr A McKay	Chief Planning Officer
Mr P Rooney	Principal Planning Officer
Mr A Hay	Principal Planning Officer
Ms M McIlhone	Deputy Principal Planning
Ms L O'Connor	Senior Planning Officer
Ms A McAlarney	Senior Planning Officer (via Teams)
Mr M Keane	Senior Planning Officer (via Teams)
Mr A Davidson	Senior Planning Officer (via Teams)
Mr M McQuiston	Senior Planning Officer (via Teams)
Ms P Manley	Senior Planning Officer (via Teams)
Mr M McCreesh	Administrative Assistant
Mr G McShane	Planning Assistant
Ms N Largey	Legal Advisor
Mr F O Connor	Legal Advisor
Ms C McAteer	Democratic Services Officer
Ms L O'Hare	Democratic Services Officer
Ms P McKeever	Democratic Services Officer (via Teams)

**P/080/2021: APOLOGIES AND CHAIRPERSON'S REMARKS**

No apologies were received.

**P/081/2021: DECLARATIONS OF INTEREST**

No declarations of interest were received.

**P/082/2021: DECLARATIONS IN ACCORDANCE WITH PLANNING COMMITTEE PROTOCOL PARA. 25 – MEMBER TO BE PRESENT FOR ENTIRE ITEM**

- Item 6 – P/2013/0189/F – Cllrs. Burgess, Harte, Larkin, Murphy, O'Hare and Trainor can take part in the discussion/decision.

**MINUTES FOR CONFIRMATION**

**P/083/2021: MINUTES OF PLANNING COMMITTEE MEETING HELD ON WEDNESDAY 25 AUGUST 2021**

Read: Minutes of Planning Committee Meeting held on Wednesday 25 August 2021. **(Copy circulated)**

**AGREED: On the proposal of Councillor Hanna seconded by Councillor O'Hare it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 25 August 2021 as a true and accurate record.**

**FOR DISCUSSION/DECISION**

**P/084/2021: ADDENDUM LIST**

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

Councillor McAteer advised that Item 7 LA07/2020/0299/F was to be removed from the Addendum List to allow for legal advice from Ms Largey at the Planning Committee Meeting Wednesday 22 September 2021.

**AGREED: It was agreed to remove the following Planning Application from the Addendum List to allow for legal advice at the Planning Committee Meeting Wednesday 22 September 2021.**

LA07/2020/0299/F - Single storey dwelling - Adj. to 7 Annacloy Road North, Dunnanelly, Downpatrick – **REFUSAL**

**AGREED: On the proposal of Councillor Hanna, seconded by Councillor O'Hare, it was agreed to approve the Officer recommendation in respect of the following applications listed on the addendum list for Wednesday 22 September 2021:**

Item 12 - LA07/2020/0552/F Erection of a new dwelling (change of

house type from that approved under P/2014/0923/F) with new access arrangements through proposed shared access with No. 115 Greencastle Pier Road Lands adjacent and east of 115 Greencastle Pier Road Kilkeel **APPROVAL**

**Item 13** - LA07/2021/0036/F Proposed 2 No. Subterranean Glamping units 240m North West of 35 Carrick Road Warrenpoint BT34 3QR **APPROVAL**

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

### **P/085/2021: PLANNING APPLICATIONS (WITH PREVIOUS SITE VISITS)**

As Councillor McAteer and Councillor Enright were not present for previous discussions on Planning Application P/2013/0189/F, Councillor McAteer asked for a proposer and seconder to assume the Chair.

Councillor Larkin proposed Councillor Burgess assume the Chair, Councillor Trainor seconded the proposal.

#### **(1) P/2013/0189/F**

##### **Location:**

100m West of no 15 Drumsesk Road, Rostrevor BT34 3EG

##### **Proposal:**

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

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

Refusal

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

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

##### **Speaking rights:**

###### In objection:

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

###### In support:

Barry Gray, agent; Malachy McCourt, Club Trustee and Charlie Daly, Club Committee presented in objection to the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

##### **Noted:**

Councillors Devlin, Enright, Hanna, McAteer, McEvoy and McKee withdrew from discussion/ decision on this application.

# **Issues Raised:**

- There were a number of businesses operating from the farm buildings to the north of the proposed site.
- The applicant advised the club was open to all age groups, clubs and schools in the community.
- The club was not restricted to GAA athletics and organised other events such as the Couch to 5K, sports days and family fun days. There were approximately 1000 members registered.
- There was a distance of approximately 100 – 120 metres between the existing garage on the site and the listed building Amos Vale.
- In response to a comment from a Member that GAA grounds were already in place within an AONB in the District, Mr Rooney replied that each application was different and being located within an AONB did not mean all development should be prevented, however he said care must be taken in the development process and how a development integrated into the surrounding landscape.

Councillor Larkin proposed to issue an approval in respect of Planning Application P/2013/0189/F contrary to officer recommendation on the basis that the development was essential for the survival /growth of the club and the entire community of Rostrevor and he considered the application was an exception to the policy. Councillor Murphy seconded the proposal.

## **AGREED:**

**On the proposal of Councillor Larkin, seconded by Councillor Murphy it was agreed to issue an approval in respect of Planning Application P/2013/0189/F contrary to Officer recommendation on the basis that the development was essential for the survival / growth of the club and the entire community of Rostrevor and was an exception to policy.**

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

(Councillor Burgess withdrew from the Chair)  
(Councillor McAteer assumed the Chair)

## **(2) LA07/2020/0299/F**

### **Location:**

Adjacent to 7 Annacloy Road North, Dunnanelly, Downpatrick

### **Proposal:**

Single storey dwelling

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

Refusal

Mr McKay advised Members Planning Application LA07/2020/0299/F had appeared on the Addendum List by default as there had not been any requests received for speaking rights and he said Ms Largey would provide them with an update from a legal perspective.

Ms Largey said the Officer's report before the Committee did not contain the necessary legal advice and she considered it was important that Members were appropriately updated.

Ms Largey continued, saying commencement was a primary area of concern and the general legal advice on this issue would be to determine what constituted commencement. She said in addition to carrying out a subjective test, an objective test was also required and any works carried out must be in accordance with approved plans.

Ms Largey said the works that had been carried out were significantly different to what had been approved and Planning Officers had visited the site recently and still had concerns.

Ms Largey advised that Officers had requested Members defer Planning Application LA07/2020/0299/F until the October 2021 Planning Committee Meeting where a full presentation could take place, Members would be fully apprised from a legal perspective and updated in relation to the Planning Officers recent site visit.

Councillor McAteer asked that Officers update the agent / applicant.

**AGREED:** **On the proposal of Councillor Larkin, seconded by Councillor Hanna it was unanimously agreed to defer Planning Application LA07/2020/0299/F for full presentation at the October Planning Committee Meeting, Members will be fully apprised from a legal perspective and updated in relation to the Planning Officers' recent site visit.**

**Agent / Applicant to be appropriately updated.**

### **(3) LA07/2020/0964/F**

**Location:**

3 Cedar Heights Bryansford

**Proposal:**

Replacement dwelling and detached garage (Amended Plans)

**Conclusion and Recommendation from Planning Official:**

Refusal

**Power-point presentation:**

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

**Speaking rights:**

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

**Issues Raised:**

- The overlooking issue had been resolved by glazing and didn't form part of the refusal reason.



- The issue of steps at the front door would be dealt with by Building Control rather than Planning.
- Ms McAlarney said the ridge height was not the sole issue Planning had with the application, the proposed two storey house was totally out of character to the house types in the surrounding area which were split level 1970's type design.
- Mr Hillen said there was a variety of house types in the development, including three storey, one and a half storey and single storey.
- Ms McAlarney said it was important not to cast the net too wide when taking in the context of house design in the development.
- Mr Hillen said it would be possible to reduce the ridge height, however this had not been required by Planning, rather the requirement had been to widen the footprint of the house which he said was not viable as access to the rear was needed.

Councillor Larkin proposed to issue an approval in respect of Planning Application LA07/2020/0964/F contrary to Officer recommendation on the basis that he considered the context should not be limited to the houses on either side but should encompass the entire development. Councillor Hanna seconded the proposal saying there were different types of house design in the area and he did not think the ridge height needed to be altered.

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

FOR:	8
AGAINST:	1
ABSTENTIONS:	0

The proposal was declared carried.

**AGREED:**                      **On the proposal of Councillor Larkin seconded by Councillor Hanna it was agreed to issue an approval in respect of Planning Application LA07/2020/0964/F contrary to Officer recommendation on the basis that it was considered the proposed house design was not out of character with the surrounding area.**

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

#### **(4)    LA07/2020/1881/F**

##### **Location:**

11 Mountnorris Newcastle

##### **Proposal:**

Side extension and first floor extension to dwelling

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

Refusal

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

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

**Speaking rights:  
(via Teams)**

In support:

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

**Issues raised:**

- The proposed application was a restricted sloping site on a corner plot.
- The existing two car parking spaces were located on the site of the proposed extension; the agent advised it was proposed to provide parking by extending the driveway and siting parking spaces at the far side of the house at a raised level.
- The agent advised the bottom ledge of the velux windows was at 1.7m and all views were upwards resulting in no overlooking towards No. 9 Mountnorris at the rear; he said the rear eaves had only increased by approximately 400mm thereby resulting in minimal impact on the neighbouring property.
- Ms McAlarney acknowledged that whilst the proposed application did not fail any test in terms of overlooking, the issue of concern was the perception of overlooking with seven velux windows and the dominant effect this would have on the amenity space of No. 9 Mountnorris.

**AGREED:**                      **On the proposal of Councillor Devlin, seconded by Councillor Larkin it was unanimously agreed to issue a refusal in respect of Planning Application LA07/2020/1881/F as per the information and recommendation contained in the Case Officer Report presented to Committee.**

**(5)    LA07/2021/0712/O**

**Location:**

Immediately South East of 137 Tullybrannigan Road Newcastle

**Proposal:**

Infill Site for 2 Dwellings and Garages

**Conclusion and Recommendation from Planning Official:**

Refusal

**Power-point presentation:**

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

**Speaking rights:  
(via Teams)**

**In objection:**

Michael and Heather McClelland, presented in objection to the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**In support:**

Mr Martin Baillie, agent, and Mr Sean Murray, applicant presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**Issues Raised:**

- Unauthorised development at No. 133a Tullybrannigan was the subject of an ongoing enforcement investigation and therefore did not form part of Planning considerations.
- Ms McAlarney said the only buildings that had frontage on to the Tullybrannigan Road were Nos. 135, 137 and 139.
- The separation distance between No. 135 and No. 137 Tullybrannigan Road was 96 metres.
- Mr McClelland said he had photographic evidence to support his claim there was no direct access from the shed to the Tullybrannigan Road.
- Ms Largey advised that any development in the countryside should be sustainable and an unauthorised building may end up having to be removed as a consequence of an enforcement action thereby impacting on any assessment undertaken previously.

Councillor McKee proposed to issue a refusal in respect of Planning Application LA07/2021/0712/0 as per the information and recommendation contained in the Case Officer Report presented to Committee. Councillor Devlin seconded the proposal.

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

FOR:	10
AGAINST:	0
ABSTENTIONS:	1

The proposal was declared carried.

**AGREED:**                      **On the proposal of Councillor McKee seconded by Councillor Devlin it was agreed to issue a refusal in respect of Planning Application LA07/2021/0712/0 as per the information and recommendation contained in the Case Officer Report presented to Committee.**

**(6)                      LA07/2020/1854/0**

**Location:**

40m NW of 169 Bryansford Road, Kilcoo

**Proposal:**

Infill dwelling

**Conclusion and Recommendation from Planning Official:**

Refusal



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

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

### **Speaking rights: (via Teams)**

#### In support:

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

### **Issues raised:**

- Ms McAlarney advised the building currently being utilised as a shed to the west of the proposed site was an unauthorised building and therefore had not been considered by Planning.
- Ms McAlarney said the ancillary building located at No. 169 Byransford Road did not count as a separate building and formed part of the frontage of No. 169.
- Members requested clarity on the buildings contained within the maps on the presentation.

**AGREED:**                      **On the proposal of Councillor Murphy, seconded by Councillor Hanna, it was agreed to defer Planning Application LA07/2020/1854/0 for a site visit to allow Members to assess the site in more detail.**

(12.45 – the meeting adjourned)

(12.50 the meeting resumed)

### **(7)    LA07/2020/0730/F**

#### **Location:**

Between 32 and 38 Mountain Road, Kilkeel

#### **Proposal:**

Proposed Erection of 4 No Terraced Houses

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

Refusal

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

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

Mr Keane advised there was a typing error in the report before the Committee in that the Parking Standards requirement was for 8 spaces and not 9 as outlined in the report.

### **Speaking rights: (via Teams)**

#### In support:

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

**Issues raised:**

- Mr Starkey said there had not been an opportunity to conduct a parking survey, and he considered the one car parking space that was under-provided for in the proposal could be accommodated by on-street parking near-by.
- Mr Keane said there was an issue with on-street parking, the PPS parking provision had not been met and visitor parking had not been considered.
- Councillor Hanna said there was street parking close by and the street was wider at the proposed location.
- Mr Keane said there would be foot paths and visibility splays in place and there was a potential for street parking to block the visibility splays and therefore he considered all car parking provision should be contained within the site.
- Mr Starkey said he considered a parking survey would have clearly demonstrated the surrounding area could accommodate the one parking space shortfall and on street parking was prevalent in the immediate area.
- Mr Starkey said the calculation for car parking spaces for terraced units was 1.75 spaces per unit which amounted to 7 spaces and therefore he considered the application conformed to policy.
- Mr Keane said the lack of car parking was just one issue of concern, there was also the issue of the extent of hardstanding which, he considered would dominate the site and have a negative impact on the character of the street scene.
- Mr Keane said the site was located outside the town centre but within the development limits and although he acknowledged there were historical terraces on one side, this transitioned to lower density detached properties on the other side and he said Planning considered semi-detached properties with front gardens and parking to the side would have been a more appropriate option.
- Mr Starkey said semi-detached houses with gardens to the front and the houses to the rear would not be achievable on the site as there was a flood plain to the back of the site. He said the scheme that had been developed replicated that which had previously been granted planning approval and he said he considered the proposal respected the challenges of the site in terms of the sloping nature of the site and the flood plain to the rear, in addition, he said he considered the proposed application respected the prevailing character of the surrounding area.

Councillor Hanna proposed to overturn Planning Application LA07/2020/0730/F contrary to Officer recommendation citing the following reasons:

- The site had previously been approved for 7 apartments which would have required more car parking spaces than the current proposal.
- The development was sustainable in that the flood plain would be kept contained.
- The visual impact would not be affected and the proposed development would be close to the town centre and was much needed in Kilkeel.

Councillor Hanna proposed the design be amended to include the one car parking space shortfall.

Councillor McKee seconded the proposal.

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

FOR:	10
AGAINST:	0

ABSTENTIONS: 0

The proposal was declared carried.

- AGREED:** On the proposal of Councillor Hanna seconded by Councillor McKee it was agreed to issue an approval contrary to Officer recommendation on the basis that:
- The site had previously been approved for 7 apartments which would have required more car parking spaces than the current proposal.
  - The development was sustainable in that the flood plain would be kept contained.
  - The visual impact would not be affected and the proposed development would be close to the town centre and was much needed in Kilkeel.
  - The current design be amended to include one extra car parking space
  - Planning Officers be delegated authority to impose any relevant conditions.

(13.20 – the meeting adjourned)

(13.50 – the meeting resumed)

Councillor McAteer advised that Planning Applications LA07/2018/1650/F and LA07/2018/1672/DCA would be heard together.

## **(8) LA07/2018/1650/F**

### **Location:**

29-31 Canal Street Newry BT35 6JB

### **Proposal:**

apartments and attendant site works.

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

Refusal

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

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

### **Speaking rights: (via Teams)**

### In support:

Mr Peter Byrne, agent and Mr Damien Rafferty, applicant presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

## **(9) LA07/2018/1672/DCA**

**Location:**

29-31 Canal Street Newry BT35 6JB

**Proposal:**

Demolition of existing public house (closed) and construction of new residential development

**Conclusion and Recommendation from Planning Official:**

Refusal

**Power-point presentation:**

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

**Speaking rights:  
(via Teams)**In support:

Mr Peter Byrne, agent and Mr Damien Rafferty, applicant presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**Issues raised:**

- Councillor Murphy said the building in its current state was very dilapidated, and it was difficult to determine the character of the street as there was a variety of building types e.g. commercial, houses, flats and shops. He asked Mr Davidson what he had meant when he referred to the application site as being a very important site.
- Mr Davidson said Planning considered the application site was a very important one as it was visual, it was within the city centre and within the conservation area.
- Mr Davidson said when he spoke about the character, he was referring to the character of the conservation area and he said one of the guiding principles of the SPPS was if there was an opportunity to enhance the character of an area, that must be utilised. Mr Davidson said there was a clear opportunity to enhance the character of the area
- Mr Davidson said the 3 storey element of the proposed application would result in over development of the site.
- Mr Byrne said everything had been done to keep the proposed application in character with the surrounding area and he said higher buildings were characteristic at junctions.
- Mr Byrne said the building opposite the proposed site was a 3 storey one and the proposed application was 2 ½ storey rather than 3 storey.
- Mr Byrne said the proposal originally included four car parking spaces but after consultation with DfI Roads and Planning, the four car parking spaces had been removed.
- Mr Byrne advised the application had been designed to meet Category 1 Elderly Scheme and HED and DfI Roads had no objections.

Councillor McAteer proposed to defer Planning Applications LA07/2018/1650/F and LA07/2018/1672/DCA for a site visit so Members could assess the site in more detail. Councillor Devlin seconded the proposal.

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

FOR:	2
AGAINST:	10

ABSTENTIONS: 0

The proposal was declared lost.

Councillor Murphy proposed to issue an approval in respect of Planning Applications LA07/2018/1650/F and LA07/2018/1672/DCA contrary to Officer recommendation on the basis that he considered the proposed application would enhance the character of the area, it would help address the need for housing in the city and there was car parking provision in the vicinity.

Councillor O'Hare seconded the proposal.

Ms Largey advised Members that under 104.11 of the Planning Act there was a statutory requirement upon the Council to have special regard to preserving the character / appearance of conservation areas or where there was an opportunity to enhance its appearance to do so and Members should take this into account when determining the application.

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

FOR:	10
AGAINST:	0
ABSTENTIONS:	2

The proposal was declared carried.

Mr Davidson advised Members that Planning Application LA07/2018/DCA would be referred to Planning Department, Belfast before it was issued.

**AGREED:** **On the proposal of Councillor Murphy seconded by Councillor O'Hare it was agreed to issue an approval in respect of Planning Applications LA07/2018/1650/F and LA07/2018/1672/DCA contrary to Officer recommendation on the basis the proposed application would enhance the character of the area, it would help address the need for housing in the city and there was car parking provision in the vicinity.**

**Planning Application LA07/2018/1672/DCA be referred to Planning Department, Belfast before issue.**

#### **(10) LA07/2020/1845/F**

**Location:**

36 Newtown Road Camlough Newry Co. Down

**Proposal:**

Proposed replacement dwelling

**Conclusion and Recommendation from Planning**

**Official:**



## Refusal

### Power-point presentation:

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

### Speaking rights: (via Teams)

#### In support:

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

#### **Issues raised:**

- Mr Davidson said although he accepted the proposed dwelling would be set back from the road, Planning Department considered the proposal would have a visual impact significantly greater than the existing building.
- Councillor Murphy referred to the industrial units that surrounded the proposed site and Mr Davidson's statement the proposal would be unsympathetic to the special character of the AONB and he asked Mr Davidson to clarify what the character of this particular area was.
- In response, Mr Davidson said the policy was very clear in that it did not refer to other buildings, just the application building and its suitability as a replacement dwelling. He said the issue was the proposal would be significantly greater and would be clearly seen.
- In response to a point raised by Mr Feehan regarding a replacement dwelling located opposite to the proposed application site that had been approved and was significantly greater than the existing building, Mr Davidson said that particular proposal had been approved in 2008 before PPS21 had been introduced and he said that application would not be approved if it was before the Committee now.
- Mr Davidson said the example of a house within one mile of the application site that had been granted approval with a hip roof had not been a replacement dwelling application and it had come before the Planning Committee with a recommendation for refusal.

Councillor Murphy proposed to issue an approval in respect of Planning Application LA07/2020/1845/F contrary to Officer recommendation on the basis that he considered the proposal would be sited in the middle of industrial units and it would enhance the character of the area.

Councillor Hanna seconded the proposal.

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

FOR:	10
AGAINST:	2
ABSTENTIONS:	0

The proposal was declared carried.

(3.00pm – Councillors Devlin and Councillor McEvoy left the meeting)

### **FOR NOTING**

**P/086/2021: HISTORIC ACTION SHEET**

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

In response to queries from Members regarding when it was likely for several Planning Applications that had been on the Action Sheet for some considerable time to come before Committee, Mr McKay said some of the long standing applications were out of their control and that volume of work and priorities also played a part, however he said the applications would be tabled at the Planning Committee Meeting as soon as it was feasible to do so.

Specific reference was made to Planning Application LA07/2017/1261/0 that was noted on the Action Sheet as 'awaiting legal advice', Ms Largey advised Members new information had recently been received from the applicant and this would be picked up on and reported back to Committee.

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

**P/087/2021: PLANNING COMMITTEE PERFORMANCE REPORT-AUGUST 2021**

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

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

**P/088/2021: CURRENT APPEALS AND DECISIONS -AUGUST 2021**

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

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

**LOCAL DEVELOPMENT PLAN (CLOSED SESSION)**

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

**P/089/2021: LDP: PLANNING POLICY REVIEW - MINERALS**

Read: Report dated 22 September 2021 from Mr A McKay, Chief Planning Officer regarding the Local Development Plan – Planning Policy Review – Minerals. **(Copy circulated)**

**P/090/2021: LDP: PLANNING POLICY REVIEW - RENEWABLE ENERGY**

**Read:** Report dated 22 September 2021 from Mr A McKay, Chief Planning Officer regarding Local Development Plan – Planning Policy Review – Renewable Energy. **(Copy circulated)**

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

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

**P/089/2021: LDP: PLANNING POLICY REVIEW - MINERALS**

**Agreed:** On the proposal of Councillor Enright seconded by Councillor Larkin it was agreed:

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

**P/090/2021: LDP: PLANNING POLICY REVIEW - RENEWABLE ENERGY**

**Agreed:** On the proposal of Councillor Enright seconded by Councillor Trainor it was agreed:

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

(3.50pm - Councillor Burgess left the meeting)

(4.30pm - Councillors Hanna, Harte and O'Hare left the meeting)

The meeting concluded at 4.50pm



For confirmation at the Planning Committee Meeting to be held on Wednesday 20 October 2021.

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

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

## Item 5 – Addendum List

### Addendum list - planning applications with no representations received or requests for speaking rights – Planning Committee Meeting on Wednesday 20 October 2021

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

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

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

**Application Reference:** LA07/2021/0246/F

**Date Valid:** 4<sup>th</sup> February 2021

**Proposal:** 3No self-contained tourist units

**Location:** North west of 102 Tullybrannigan Road, Newcastle

**Site Characteristics & Area Characteristics:**

The site is located along the minor Tullybrannigan Road Newcastle. It is comprised of a 0.1 greenfield site which is currently vacant of use.

The site is accessed directly off the Tullybrannigan Road, via an existing gate. The site is defined on all sides by mature vegetation. The site is relatively flat and is noted to be approximately 45m from an adjacent watercourse and wood land area.



The site is positioned between No 102 Tullybrannigan Road and a small out-building.

The site is located within the Area of Outstanding Natural Beauty, outside any settlement as designated in the Ards and Down Area Plan 2015.

### **Site History:**

R/2002/0923/O - 102 Tullybrannigan Road, Tullybrannigan, Newcastle - Replacement dwelling - PERMISSION GRANTED - 21.05.2003

R/2006/0466/RM - 102 Tullybrannigan Road, Newcastle. - Replacement dwelling. - PERMISSION GRANTED 18.07.2006

R/2006/1230/F - 102 Tullybrannigan Road, Newcastle - Replacement dwelling - PERMISSION GRANTED - 09.04.2008

R/2007/1253/O - 104 Tullybrannigan Road, Newcastle - 2 no self-contained holiday homes (replacement of existing) (amended proposal) - PERMISSION REFUSED - 29.11.2010

LA07/2020/0655/O - North West of 102 Tullybrannigan Road, Newcastle, - Infill Dwelling - PERMISSION GRANTED - 05.11.2020

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

In assessment of this proposal regard shall be given to the Strategic Planning Policy Statement (SPPS), Ards and Down Area Plan 2015, PPS 2, 3, 16 and 21, in addition, to the history and any other material consideration.

The application was advertised in the local press on 23rd & 24<sup>th</sup> February 2021

The relevant neighbours were notified of the proposal on 7<sup>th</sup> & 15<sup>th</sup> April 2021

### **Consultations:**

In assessment of the proposal it is considered that a consultation with DfI Roads was necessary.

It is important to note that given the short period of time that has elapsed since the previous application LA07-2020-0655-O and in light of the lengthy consultation process that occurred with DfI Rivers and Northern Ireland Environment Agency: Natural Environment Division (NIEA: NED) that another round of consultation was not considered necessary. It is considered that the issues raised in these responses would have remained unchanged in the short intervening period between the two

applications. It is therefore, considered appropriate to include within this assessment for 3 tourist units, the consultations responses previously received.

### **Objections & Representations**

A number of objections have been received from neighbours of the site a summary of which is provided below.

Owner /Occupier 85 Tullybrannigan Road objects to the proposal as it has no merit.

Owner /Occupier 98 Tullybrannigan Rd object to the proposal on the grounds that it is contrary to CTY 1, 8, 13, 14, 15 and 16 of PPS 21 and that it would be detrimental to environmental quality of the AONB due to prominence. There are also concerns raised about the parking provision and the compliance of the location of the onsite package treatment plant.

Owner / Occupier 100 Tullybrannigan Rd objects to the proposal on the grounds that it is not in keeping with the rural area, the front windows will overlook No 105 Tullybrannigan Rd. Insufficient parking and amenity provision for storage. Impact on protected species.

Owner /Occupier 101 Tullybrannigan Rd object to the proposal on the grounds that it is contrary to CTY 6, CTY 7, CTY 8 and regional strategic objectives

Owner / Occupier 102 Tullybrannigan Rd has rebutted the case officers report regarding the previous application on site for an infill dwelling and objects to this current proposal on the grounds that it is contrary to PPS 16.

Owner / Occupier 104 Tullybrannigan Rd objects to the proposal on the grounds that it is not in keeping with the rural area, the front windows will overlook No 105 Tullybrannigan Rd. Insufficient parking and amenity provision for storage. Impact on protected species.

Owner / Occupier 105 Tullybrannigan Rd objects to the proposal on the grounds that it is contrary to PPS 16 and 21 and the impact the proposal will have on local wildlife

Owner / occupier 107 Tullybrannigan Rd objections ot the proposal on the grounds that it is contrary to Policies CTY 1, 8 and 14. It is also contrary to PPS 2 and 16. There are concerns regarding the potential for increased traffic, the suitability of the proposed treatment package, flooding, bio-diversity.

Jim Wells MLA objects to the application on the grounds that it is inappropriate for the area. He considers that PPS7 would be appropriate policy context. Concerns are also raised about the negative impact of the increased traffic on road safety.

### **Consideration and Assessment:**

The proposal seeks full planning permission for the erection of 3 self-contained Tourist Units.

The policy context for this application is provided for by Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS 21). Policy CTY 1 of PPS 21 states that there are a range of types of developments which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.



The applicant has submitted the application on the basis that he considers the proposal to comply with the Tourism policies contained with PPS 16: Tourism.

TSM 5 – Self Catering Accommodation in the Countryside is therefore applicable 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;
- (B) A cluster of 3 or more new units are to be provided at or close to an existing or approved tourist amenity that is / will be a significant visitor attraction in its own right;
- (C) The restoration of an existing clachan or close, through conversion and / or replacement of existing buildings, subject to the retention of the original scale proportions of the buildings and sympathetic treatment of boundaries. Where practicable original materials and finishes should be included.

In assessment of the above, the applicant has detailed in their Design and Access statement that he considers the proposal complies with Criteria B, as the proposal is comprised of 3 No self-catering units which are provided along an existing tourist amenity.

Appendix 1 of PPS 16 defines a Tourism Amenity as “An amenity, facility or service provided primarily for tourists, but does not include tourist accommodation”.

The applicant considers the Newcastle Way, Mourne Way and Ulster Way are existing tourist amenities which are a significant visitor attractions in their own right.

The Planning Authority consider the citing of these walkways as significant visitor attractions in their own right to be misplaced. It is interesting to note that NISRA's Northern Ireland visitor attraction survey 2019 did not list walkways as a tourist attractions.

The Planning Authority do not consider these walkways to be a tourist amenity and on this basis consider that the proposal fails to comply with the requirements of TSM 5 of PPS 16 and consequently CTY 1 of PPS 21.

### CTY 13

In consideration of the acceptability of the site in terms of integration and rural character Policy CTY 13 of PPS 21 is applicable.

Policy CTY 13 states that a new building will be unacceptable where any of the criteria (a) – (f) are met. In assessment of these, it is considered that the site is not prominent, given its low-lying nature and enclosure with mature vegetation as can be seen in the image below.



The tourist units have the external appearance of a single dwelling. The fenestration is simple and rural in form, with vertical emphasis. The design is considered to be in keeping with the rural character of this AONB area.

Overall, therefore the proposal is considered to be compliant with the requirements of CTY 13.

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

As the application is proposing a new access onto the public road, Policy AMP 2 of PPS 3 is applicable, which states that planning permission will only be granted for a development involving direct access onto a public road where

- (A) Such an access will not prejudice the road safety and significantly inconvenience the flow of traffic.

In assessment of this the Planning Authority consulted with DfI Roads, who have advised that they have no objections to the proposal provided the access is in accordance with that shown on Drawing No 002.

On this basis, it is considered that the proposal is compliant with the requirements of PPS 3.

### **PPS 2**

**As indicated above an extensive consultation was carried out with NIEA regarding the bio-diversity of the site. Given the short intervening period since the previous application, the Planning Authority consider it appropriate to re-iterate the conclusions previously made with regards to this issue.**

The site lies adjacent a water course and woodland area. It was therefore considered necessary to assess the impact this proposal would have on the bio-diversity of the area. The applicant therefore submitted a Bio-Diversity Checklist and associated Preliminary Ecological Appraisal carried out by Dr Jane Preston BSc, PhD, MRSB CBiol, MCIEEM CEnv. Following a site survey Dr Prestons' appraisal concluded that in terms of habitat the site was found to consist of species poor, semi-improved grassland which has limited ecological value. The boundaries to the south and west of the site are dominated by non-native laurel and were assessed as having 'low' ecological value. The eastern boundary however contains over mature trees that have higher ecological value which would provide habitat for a range of wildlife including insects, birds and small mammals – hence its requirement for retention as indicated above.

In terms of protected species evaluation, Dr Prestons' appraisal concludes that the boundary vegetation surrounding the application site and the area of broadleaf woodland to the south, offer good potential for foraging and commuting bats. The mature trees to the east of the site are considered to be have potential to provide shelter for roosting bats given their heavy covering of ivy. The out-building to the west of the site was considered to have negligible bat roosting potential.

The boundary vegetation of the site could also offer nesting opportunities for a variety of species of bird.

The appraisal concluded however, that no signs of badger activity were identified, there are no areas of standing water or suitable habitat for smooth newt within the site and that no pine marten nests or red squirrel dreys were noted. It is considered that the broadleaved woodland located to the south of the site is not sufficiently mature to offer potential to either pine martens or red squirrels.

This assessment was sent to NIEA Natural Environment Division for their consideration. It is noted from their consultation response that they agree with the assessment and conclusions made and recommend that in the event of an approval on this site that any further applications indicate on a site layout plan that the western boundary of the site will be retained. This will ensure the protection of the habitat and the species using it.

On the basis of the above assessment it is considered that the proposal complies satisfactorily with Policy NH 5 of PPS 2 which relates to habitat, species and features of natural heritage importance.

As noted in NIEA: NED response the site is close to the boundary of Eastern Mourne Special Area of Conservation (SAC)/ Area of Special Scientific Interest (ASSI). The potential impact of this proposal on European Sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) (Northern Ireland) 1995 (as amended). The proposal would not have any likely significant effect on the features of any European Site.

Given the sites location within the AONB, Policy NH 6 of PPS 2 is applicable which states that ; Planning permission for new development within an Area of Outstanding Natural Beauty will only be granted where it is of an appropriate design, size and scale for the locality and all the following criteria are met:

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

Based on the assessment under CTY 13, considering the context, siting, design and landscaping of the proposal, it is considered that it complies satisfactorily with the requirements of Policy NH 6.

#### PPS 15

**As indicated above an extensive consultation was carried out with NIEA regarding the flooding / surface water issues of the site. Given the short intervening period since the previous application, the Planning Authority consider it appropriate to re-iterate the conclusions previously made with regards to this issue.**

Following assessment of Spatial NI it was considered that the site may be located adjacent a watercourse / stream, consequently DFI Rivers were consulted.

Subsequently DFI Rivers have advised the Planning Authority that there are no watercourses which are designated under the terms of the Drainage (Northern Ireland) Order 1973 within this site. The site may be affected by undesignated watercourses of which they have no record. In assessment of the applicable policies within PPS 15 the following is noted

FLD1 - Development in Fluvial and Coastal Flood Plains.



Flood Maps (NI) indicates that the development does not lie within the 1 in 100 year fluvial or 1 in 200 year coastal flood plain.

#### FLD2 - Protection of Flood Defence and Drainage Infrastructure.

Not applicable to this site.

#### FLD3 - Development and Surface Water.

A Drainage Assessment compiled by MCL Consulting Ltd dated September 2020, was submitted to assess this aspect of the policy. It indicates that surface water discharges from the site will infiltrate to the substrata. The granting of a consent to discharge surface water to substrata as proposed in this Drainage Assessment is not within the remit and expertise of DfI Rivers.

Consequently, DfI Rivers cannot comment on the effectiveness or otherwise as to using this method for the disposal of surface water. This will be a matter for NIEA Water Management and Northern Ireland Order who in response to consultations regarding this application have provided conditions & Informatives which will be attached to any forthcoming approval.

#### FLD4 - Artificial Modification of Watercourses.

Not applicable to this site.

#### FLD5 - Development in Proximity to Reservoirs.

Not applicable to this site.

### **Consideration of Objections**

The objections listed above relate primarily the compliance of the proposal with Planning Policy Statements 2, 3, 16 and 21 and those issues relating to ecology / bio-diversity, traffic, road safety, tourism and development in the countryside.

The above assessment clearly indicates that the Planning Authority consider, through consultation with NIEA and DfI Roads, that PPS 2 (Ecology / Biodiversity) and 3 (Road Safety) have been complied with.

The Planning Authority agree with objectors that the proposal does not comply with PPS 16 and 21, in that the proposal is not provided at or close to an existing or approved tourist amenity that is / will be a significant visitor attraction in its own right and it does not therefore meet the exceptions listed in CTY 1 of PPS 21.

Some policies have been erroneously cited by objectors i.e. CTY 6, 7 and 8, along with PPS 7 and are not applicable to this proposal. It has already been determined through the approval of LA07-2020-0655-O that the site is an infill site.

With regards to the private treatment package proposed on site, no development could take place on site until the method of sewage disposal has been agreed in writing with Northern Ireland Water or a Consent to discharge has been granted under the terms of the Water (NI) Order 1999.

In assessment of the concerns regarding the proposals potential to overlook No 105 Tullybrannigan Road, it is noted that the proposed building will not directly face no 105 but its garden area to the side

which abuts a public road and is screened by a substantial hedge. The Planning Authority do not consider that in the event this proposal is approved that No 105 would be affected by overlooking.

### Conclusion

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

### Drawings

The Drawings considered as part of this assessment are as follows

001, 002 003

**Recommendation: REFUSAL**

### REASON:

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 the SPPS and Policy TSM 5 of Planning Policy Statement 16, Tourism in that the units proposed are not provided at or close to an existing or approved tourist amenity that is / will be a significant visitor attraction in its own right.

**Case Officer:** Claire Cooney

**Date 21.05.2021**

**Authorised Officer:** A.McAlarney

**Date 21 May 2021**



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

**Application Reference:** LA07/2020/0661/O

**Date Received:** 6<sup>th</sup> May 2020

**Proposal:** Housing development

**Location:** Land opposite and west of Nos 10 -32 Grove Gardens Killyleagh

**Site Characteristics & Area Characteristics:**



The site is comprised of a 0.1 hectare site located within Grove Gardens Killyleagh. The site is comprised of an un-zoned area of land which is informally used as an existing open space area within the Grove Gardens development.

The site is sloping in nature. The image below shows how the land within the site slopes distinctly in an east-west direction, with the eastern portion of the site level with the access road serving the development, while the western section is positioned some 4m below this road level.



The site is defined along the northern and western boundaries by mature hedgerows, while the remaining boundaries are currently undefined.

The site lies immediately opposite those two-storey terraced dwellings of Nos 12-32 Grove Gardens.

The site is located within the settlement limits of Killyleagh and Strangford and Lecale AONB and is immediately adjacent LLPA 4 as designated in the Ards and Down Area Plan 2015.

### **Site History:**

There is no previous history on this site for this type of development.

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

- Regional Development Strategy (RDS)
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- DES 2 PSRNI
- The Ards and Down Area Plan 2015
- Planning Policy Statement 3
- Planning Policy Statement 6
- Planning Policy Statement 7
- Planning Policy Statement 8
- Planning Policy Statement 12
- Creating Places and supplementary guidance.

**Consultations:**

DfI Roads – No objections

NIW – No objections

Historic Environment Division -No objections

**Objections & Representations**

In line with statutory requirements the relevant neighbours were notified on 28.05.2020. The application was advertised in the local press on 10.06.2020

10 letters of objection and 1 Petition have been received.

The issues raised relate primarily to

- Access for emergency vehicles
- Parking
- Safety for the children of the area
- Property values.

**Consideration and Assessment:**

The proposal seeks outline planning permission for a housing development. An indicative layout has been provided which shows how the site could be developed for 4 dwellings (2 pairs of semi-detached dwellings).

**RDS**

RGB of the RDS aims to manage housing growth to achieve sustainable patterns of residential development. The SPPS sets out core planning principles to be employed in the pursuit to achieve sustainable development and aims to support good design and positive place making, while preserving and improving the built and natural environment. Section 45 of the Planning Act (Northern Ireland)

2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations.

### **Ards and Down Area Plan 2015**

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

### **SPPS**

The Strategic Planning Policy Statement for Northern Ireland (SPPS), which sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area, retains certain existing planning policy documents and amongst these are: Planning Policy Statement 6: Planning, Archaeology and The Built Heritage, Planning Policy Statement 7: Quality Residential Environments (PPS 7); and the Addendum to PPS 7: Safeguarding the Character of



Established Residential Areas and Planning Policy Statement 12. Creating Places also provides relevant planning guidance.

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

### **Principle of development**

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

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

This policy therefore provides broad support for the principle of the proposal.

### **Policy DES 2 of the PSRNI**

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

### **PPS 7 – Quality Residential Environments**

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

damage to the local character, environmental quality or residential amenity of these areas. All proposals will be expected to conform to nine stated criteria.

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

This criterion requires that the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, landscaped and hard-surfaced areas. While not specified in the proposal description, the indicative layout shows how the site could be developed for 4 dwellings.

The site is located on the edge of the settlement limit of Killyleagh, on a site which is currently vacant, but within an existing residential area. To the immediate east of the site there are those dwellings 10-32 Grove Gardens, while to the north and west there are greenfields located outside the settlement limits and within the rural area. The northern boundary of the site abuts Local Landscape Policy Area 4 (LLPA 4) which relates to Killyleagh Castle and grounds, Coarse Lodge and associated lands.

The residential context of the site is noted to be predominantly two-storey terraced dwellings.

Overall it is considered that the development in principle would respect its surrounding residential context and the indicative layout is appropriate in character.

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

The proposal is affected by historical monuments DOW 024:029 and DOW 031:025. In assessment of these the Planning Authority carried out a consultation with Department of Communities Historic Environment Division (Monuments), who have advised that given the scale of the scheme there is limited potential to uncover below ground archaeological remains during the course of construction

works and they are therefore content that the proposal satisfactorily complies with those policies contained within the SPPS and PPS 6.

The site lies outside but immediately adjacent LLPA 4- Killyleagh Castle and grounds, Coarse Lodge and associated lands. The northern boundary of the site abuts this designation and therefore the vegetation along it should be retained to protect the integrity of the LLPA.

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

In terms of private amenity space, the indicative layout shows that each dwelling will have adequate private amenity space to the rear with garden ranging from 71-105sqm. This provision is in keeping with the guidance contained within Creating Places.

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

Neighbourhood facilities are not required as part of this development. Development is within the settlement limits of Killyleagh.

**(E) a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public**

**rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures;**

The site is located within the settlement limit of Killyleagh and is therefore within walking distance of all the facilities within the settlement and convenient to public transport etc.

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

Proposals for residential development are expected to provide adequate and appropriate provision of parking within the development. 2 in-curtilage car parking spaces have been provided on the indicative layout which is compliant with the parking standards and that guidance set out in Creating Places.

It is also noted that the on-street parking arrangements currently operating within Grove Gardens could continue.

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

The design of the proposed dwellings is not formally before the Planning Authority, however, an indicative design is shown on Drawing No DDC-124-G-1-12b, which shows a split level house-type, thereby respecting the sloping nature of the site. The dwellings would appear single storey at road level with a two-storey element at the rear. Such a design may be appropriate for the site.

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

Given the mix of dwelling types within the village of Killyleagh, it is considered that the indicative proposal would meet this aspect of the policy

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

In consideration of whether the site will create conflict with adjacent land uses it is noted that the indicative site layout shows that the proposed dwellings would be immediately opposite a number of other residential properties, however, they are sufficiently separated from each other so as not create nuisance / disturbance / overlooking or loss of privacy. Each dwelling will have its own in-curtilage car parking spaces and therefore the flow of traffic for those existing residents would not be detrimentally

affected. A turning head has been provided which will allow the safe manoeuvring of service and emergency vehicles within the development.

**(I) The development is designed to deter crime and promote personal safety.**

It is considered that the proposal could comply with this satisfactorily.

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

**PPS7 Addendum – Safeguarding the Character of Established Residential Areas.**

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

(a) the proposed density of the development is lower than that immediately opposite at Grove Gardens. It is therefore appropriate to its setting within the settlement limits.

(b) While the immediate vicinity of the site is noted to be characterised by two-storey terraced dwellings, the dwellings shown on the indicative plans would not be considered to be detrimental to the overall character and environmental quality of the established residential area as discussed under PPS7;

(c) The dwellings shown on the indicative plans would not be less than those set out in Annex A

The indicative layout suggests that the proposal complies satisfactorily with the above criteria.

**PPS 8 – Open Space**

For the purposes of PPS 8, open space is taken to mean all open space of public value, including not just land, but also inland bodies such as rivers, canals lakes and reservoirs which offer important opportunities for sport and outdoor recreation and can also act as a visual amenity.

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

The existing open space area to the immediate west of Grove Gardens comprises an area of approx. 0.3 hectares. The proposal will use approximately half of this area for the new housing.

Policy OS 1 states that an exception will be permitted where it is clearly shown that redevelopment will bring substantial community benefits that decisively outweigh the loss of the open space.

In support of their application, the Council have submitted a statement which advises the Planning Authority that, the joint PPS8 protocol document agreed between Planning Service and NIHE for assessing applications against Policy OS1 (PPS8) must have relevance in this instance, as it is intended to transfer this site back to the NIHE or their partnering agencies for the provision of social housing and their statement is set out in line with Annex A of the protocol.

In addition, the Council cite the following justification for the proposal

1. There is identified need within Killyleagh for 24no. social housing units.
2. There is a shortfall of available land to meet social housing demand.
3. There is a significant area of existing open space in this residential area & this proposal would have minimal impact to the overall open space provision (significantly more than 10% requirement as per Policy OS2 of PPS 8 will remain)
4. This new build scheme will achieve the following:
  - i. Improve the estate physically, improve the attractiveness of Grove Gardens while providing a quality residential and sustainable residential environment, better parking provision, vehicle turning area, additional footpaths, wider carriageway
  - ii. Reduce anti – social behaviour.
  - iii. Develop a peripheral corner site with relatively low amenity value to existing residents within Grove Gardens.
  - iv. Minimal impact to bio-diversity as all existing boundary vegetation would be retained.
  - v. Provide much needed social housing.
5. Development of this area of open space would bring the following community benefits:
  - i. The provision of more social housing where a strong local need exists would go some way to reducing the local demand and significant number in housing stress.
  - ii. The development would see the generation of much needed employment within the local construction industry for the duration of the build contract.
  - iii. Local unemployed people given the opportunity of apprenticeships etc.
  - iv. Create a more attractive and sustainable residential environment, safer for residents and promote a sense of place.



The Planning Authority have no reason to disagree with the justification presented above and on balance, consider that the proposal satisfactorily complies with Policy OS 1 given the community benefits that could be achieved from its approval.

### **PPS 12 - Housing in Settlements**

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

### **PPS 2 – Natural Heritage Interests**

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

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

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

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

**PPS 6****Monuments**

As indicated above the site is within close proximity to historical monuments DOW 024:029 and DOW 031:025. In assessment of these the Planning Authority carried out a consultation with Department of Communities Historic Environment Division (Monuments), who have advised that given the scale of the scheme there is limited potential to uncover below ground archaeological remains during the course of construction works and they are therefore content that the proposal satisfactorily complies with those policies contained within the SPPS and PPS 6.

**PPS 3 – Access, Movement and Parking**

Policy AMP 2 Access to Public Roads, states that Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:

- (A) Such an access will not prejudice road safety or significantly inconvenience the flow of traffic.

In assessment of this, a consultation with DfI Roads has taken place, which has concluded in the presentation of an acceptable indicative road layout.

The proposal therefore complies with the requirements of PPS 3.

**Assessment of Objections**

As indicated above the main issues of concern relate primarily to road safety and parking. As can be seen from the above assessment, these issues have been considered in full and following a lengthy consultation with DfI Roads, it is considered that the indicative layout would represent a scheme which is safe for all. Each new dwelling will have its own in-curtilage car parking spaces and there will be a turning head within the development which will allow for the manoeuvring of service and emergency vehicles.

The granting of a disabled parking space opposite Nos 22 and 24 has been noted, however, this space has not been implemented and therefore the Planning Authority can only consider that which is currently present.

It is acknowledged that many residents are concerned about the impact this development will have on the value of their property. Unfortunately, while noted, this is not an issue to which determining weight can be given in this determination.

### **Other Matters**

Following a consultation with NIW, the Council have been advised that the site is within 20m of public water supply, foul sewer and Killyleagh Waste Water Treatment Works is available to serve the proposal.

### **Conclusion**

Having assessed the proposal against the various planning policies and material considerations which apply to the application and taking into account the input of the Councils consultees and the objection letters and petition, it is concluded that the proposal would not cause demonstrable harm to interests of acknowledged importance and is acceptable to prevailing policy requirements, subject to the attached conditions below being met.

### **Drawings**

The Drawings considered as part of this assessment are as follows

DDC 124-G-1-10, DDC 124-G-1-12b

### **Recommendation: APPROVAL**

### **CONDITIONS**

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

- ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

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

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

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

3. The development hereby permitted shall take place in strict accordance with the following approved plans DDC 124-G-1-10, DDC 124-G-1-12b.

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

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

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

5. As part of the reserved matters scheme, a plan of the site indicating the existing and proposed contours, the finished floor levels of the proposed buildings in relation to the existing and proposed ground levels and the position, height and materials of any retaining walls shall be submitted to the Council for approval.

Reason: To ensure the development takes account of the site's natural features and to safeguard the amenities of the proposed dwellings.

6. As part of the reserved matters scheme, a detailed landscaping scheme shall be submitted showing:
  - i retention of the existing vegetation along the northern and western boundaries of the site
  - ii planting along the southern boundary and within the site;
  - iii details of any hard landscaping including walls and pillars.

The landscaping scheme should provide details of the location, numbers, species and sizes of trees and shrubs to be planted within the site. The scheme of planting as finally approved shall be carried out during the first planting season after the dwelling is occupied. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the council gives written consent to any variation.

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

**Case Officer:** C Cooney

**Date:** 09.06.2021

**Authorised Officer:** A.McAlarney

**Date:** 09 June 2021



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

<b>Application Reference:</b>	LA07/2020/1797/F
<b>Date Received:</b>	03.12.2020
<b>Proposal:</b>	Proposed single storey rear extension to dwelling (amended proposal)
<b>Location:</b>	22 Ballaghbeg Park Newcastle

**POST DEFERRAL CONSIDERATION**

Application was presented to the 28 July 2021 meeting of Newry Mourne and Down Planning Committee with a recommendation to Approve.

The application was deferred for a site visit which took place on the 24 September 2021. At the committee meeting it was agreed that the Planning office would seek clarification on whether there was an issue with overhang on the neighbouring property at No.20. The agent submitted amended drawings which show no overhang of the neighbouring property. These drawings are available for inspection on Public Access.

**Appointed Officer:** Annette McAlarney **Date:** 05 October 2021





Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2020/1797/F

**Date Received:** 03.12.2020

**Proposal:** Proposed single storey rear extension to dwelling (amended proposal)

**Location:** 22 Ballaghbeg Park, Newcastle.



#### Site Characteristics & Area Characteristics:

The site in question is a two-storey mid terrace dwelling located within a residential area in Newcastle. The site is a flat site and is a two-storey dwelling with a contained back yard bounded with block walls. There is already a single storey rear extension to the dwelling in question and a small outhouse which forms part of the rear boundary. A path beyond the rear

boundary offers rear access to all properties and opposite the rear of no 22 are the rear yards to a 2<sup>nd</sup> set of dwellings in the same form of terrace row. The two blocks are separated by 17.5m back to back.

The site is located within the settlement development limits of Newcastle as defined in the Ards and Down Area Plan 2015. The site also is located within an area identified by Rivers Agency as being within reservoirs inundation area.



#### **Site History:**

R/2007/0408/F – 20 Ballaghbeg Park, Newcastle, proposed single storey extension to rear of dwelling, granted, 08.08.2007.

R/2004/1969/F – 26 Ballaghbeg Park, Newcastle, single storey bedroom and shower room extension to dwelling, granted, 13.01.2005

R/1991/4065 – Ballaghbeg Park, Newcastle, alterations and extension to dwellings for NIHE, permitted development – 26.11.1991

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

The site is located within the rural area, as identified in the Ards and Down Area Plan 2015.

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

- The Ards and Down Area Plan 2015
- Regional Development Strategy (RDS)
- Strategic Planning Policy Statement for Northern Ireland (SPPS)

- Addendum to PPS 7 Residential Extensions and Alterations
- PPS 15 Planning and Flood Risk.

### Consultations:

No additional consultations were considered necessary in order to make a determination in relation to this application.

### Objections & Representations:

In line with statutory requirements the application was advertised in the local press being the Newry Democrat on 22.12.2020 and Down Recorder on 23.12.2020. initially 5 neighbours were notified of the application on 06.01.2021 which expired on 20.01.2021. To date 4 letters of objection have been received.

Two residents at no 24 Ballaghbeg Park objected on the following grounds:

- The rear of the existing dwelling is currently a sun trap in the evening and the residents feel it will result in a dark cold space to the rear of the dwelling.
- Both residents have health conditions and feel that these would exasperated as a result of the works during construction.
- The works are out of character with the existing properties.
- No 22s sewerage pipe runs through the back yard of the objector.
- Feel like they would become like prisoners with no light.

A further two letters of objection have been received from number 20 Ballaghbeg Park and also No 26 Ballaghbeg Park and were on the following basis:

- Questioned if the application was valid given that the applicant has not given the address he occupies rather the address of the site to be developed.
- Believe the proposal is not in keeping with the layout density, design, appearance or character of the area in particular to the scale and proportions of existing dwellings.
- The objector also requests the Authority considers the cumulative impact of such developments.
- Additional points in relation to health reasons which are contained on file.

### Consideration and Assessment:

The application is considered against Policy EXT 1 Residential Extensions and Alterations and the following points are considered.

- **The scale, massing, design and external materials of the proposal are sympathetic with the built form and appearance of the existing property and will not detract from the appearance and character of the surrounding area.**

There is an existing rear single storey extension existing at present at the property and it extends 3.4m from the existing rear building line and is 3.7m in height from ground and 2.8m wide and it is noted that the overhang on the drawing presented overhangs the property



boundary. The proposed extension is to extend on top of the single storey rear return resulting in an extension again 3.4m from the rear building line and 2.8m in width but with a height of 6.4m from ground.

The existing terraces that sit back to back with a back wall to back wall separation distance of just 17.5 metres is of a small size and scale at present with compact back yards and little amenity space within each for development. It is noted that while there have been some single storey extensions there have been no two storey extensions within the complex to date. The separation distances of the units, the very limited back yards and the proximity of windows to adjacent dwellings limits what would be acceptable on the site for a number of reasons. It is considered to introduce two storey extensions would not be in keeping with the scale and design of the existing dwellings. In terms of scale the existing dwellings are laid out in close proximity but do provide just enough separation to maintain privacy, it is noted that it falls short of what is expected in Creating Places used at present that would stipulate 20m back to back. While this is an amenity issue it illustrates the close proximity of the dwellings and to set a precedent with the introduction of two storey extensions would have a negative impact on the character and appearance of the existing terrace. The design of the extension is large when considered in relation to the existing dwelling and amount of rear amenity available and does not take into account the overall scale and character of the area. It is also noted that the majority of the 1<sup>st</sup> floor will be concrete walls as there is one small window proposed to the side of the extension only and this in itself look blank and dominating especially when presenting to a shared narrow alleyway. To introduce more windows would introduce other issues and further impact on residential amenity by way of privacy.

It is noted that the objectors have also raised the issue of impact on character and again note the small terrace design of the overall estate and that there has not been any 1<sup>st</sup> floor extensions within the overall estate and to introduce them would have a negative impact on the overall character and appearance of the area and set a new precedent that would not be welcome.

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

The extension would allow for a larger bathroom at 1<sup>st</sup> floor, the plan submitted includes the re configuration of 1<sup>st</sup> floor to reduce the accommodation to a two bedroom dwelling where it is currently a three bedroom dwelling and also there is the inclusion of a larger bathroom proposed to be contained within the extension to the rear of the dwelling. the extension in itself will not have any negative impacts in terms of privacy as there is only a small window proposed to the side of the extension overlooking the rear yard of the host property, this glazing would be opaque glazed and is not likely to lead to any demonstrable harm in terms of loss of privacy onto neighbouring dwellings.

There is however an issue of amenity as a result of the proposal. No 24 has objected in relation to the application as it is their opinion that the proposal will lead to a loss of light onto the rear yard of their property where they do enjoy the outdoors and the sun. They believe that there will be a loss of light and a constant shadow cast by the extension leaving the area cold and dark.

The issue of overshadowing and loss of light is dealt within A32 of Addendum to PPS 7 Residential Extensions and Alterations. While applications need to be dealt with on a case by case basis the light test is identified as a tool in order to help guide in relation to overshadowing and loss of light. The light test has been carried out in relation to the 1<sup>st</sup> floor bedroom window at property no 24 and the extension proposed would fail this light test by 2.2m, in order to not fail the light test the extension would need reduced to just 1.2m and in doing so would lead to further issues in terms of character and appearance. A first floor extension at this location, on the existing boundary where there is already an overhanging of guttering onto the adjacent property would have a detrimental impact on the quality of light within the adjacent dwelling. the extension would darken the 1<sup>st</sup> floor bedroom window of no 24 and would also create a feeling of being hemmed in and dominance and overbearing due to the proximity of the extension to the boundary and the overall height of the extension and its relationship to no 24 Ballaghbeg Park.

The works would have a negative impact on the enjoyment of the rear amenity of no 24. Throughout the last year private amenity space has become ever more important. It is noted that the dwellings within this development and within the terrace have already got a very limited area of amenity to enjoy, this area has to be shared with bin storage and washing lines etc and also provide an area of outdoor amenity to enjoy. It is considered that a 1<sup>st</sup> floor extension would result in a degree of loss of light but would also overpower and dominate the rear amenity area of no 24 and would reduce the quality of the amenity space they currently enjoy.

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

The proposal will not have any detrimental impacts on landscape features or impact on the local environmental quality of the area. It is noted that the site sits within a Rivers inundation area, controlled reservoirs however given that this is a first-floor extension with no greater floorspace or catchment area created there is no requirement to consult Rivers Agency, there will be no detrimental impacts as a result of the works.

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

The works do not impact on the amount of space within the curtilage of the dwelling, this aspect of policy has not been offended.

### **Recommendation:**

Refusal

**Reasons for Refusal:**

1. The proposal is considered contrary to SPPS and EXT 1(c) of Addendum to PPS 7 Residential Extensions and Alterations in that the proposal will have an adverse impact on the amenity of no 24 Ballaghbeg Park by way of loss of light and dominance.
2. The proposal is considered contrary to SPPS and EXT 1(a) of Addendum to PPS 7 Residential Extensions and Alterations in that the proposal is not in keeping with the scale and design of the extension is not in keeping with the established character Ballaghbeg Park.

**Further Consideration following Recommendation.**

Before the application appeared on a delegated listing, the agent amended the proposal to a single storey extension. Neighbours have been notified of the amendments which have resulted in a total of 38 letters of objections being received. The objections were received from residents of Ballaghbeg and also Burrenview Court, Newcastle, Aughrim Court, Mourne Green and Bernagh Green Newcastle and in addition to these objections have been received from Killeel and Castlewellan.

The agent submitted amended drawings on 19<sup>th</sup> February 2021 reducing the proposal to include the alteration of windows and doors on the existing building with no physical extension and neighbours were notified of the amended proposal on 22.02.2021 which expired on 08.03.2021. Objections were received in relation to the amended plans on the following grounds:

- The objectors stated that the building in question does not have a building regulations completion certificate and believe to make the alterations would be a breach of The Building Regulations (N.I) Order 1979.
- The existing rear extension does not have the benefit of planning approval or building control approval (no date of construction has been given)
- Objectors also comment that the resale value of their house is negatively affected as the boundary of no 22 overhangs the property of no 24. (this is the existing rear return being referred to)
- Water and sewerage issues were raised again and the question of liability should damage be done.
- The issue of the impact of noise, dust etc was again raised in relation to the build and the neighbours believe this will have a negative impact on some of the more vulnerable residents.
- Issues are raised as to how this application may breach the set of covenants that were issued when dwellings were purchased from the executive.



The agent submitted a further amendment to the application 29th March 2021 and the neighbours and objectors were notified of this on 30.03.2021 which expired on 13.04.2021.

The proposal before the Planning Office and upon which this recommendation is based is for a single storey extension that would extend beyond the rear building line of the existing rear extension by 3.4m and from the main dwelling by 6.7m. The extension would have a height from ground of 3.8m and pairs in with the existing rear return. The extension provides a larger kitchen/dining area and a utility and toilet. Space remains within the yard for bins etc and a small area of amenity. The extension mirrors the extension at no 20 Ballaghbeg Park. 1<sup>st</sup> floor internal alteration is also proposed.

The works are considered again against Addendum to PPS 7 Residential Extensions and Alterations EXT 1.

- **The scale, massing, design and external materials of the proposal are sympathetic with the built form and appearance of the existing property and will not detract from the appearance and character of the surrounding area.**

The scale, massing and design of the extension is a marked improvement on the original scheme and is single storey in height and design and is in keeping with other extensions within this development. The height of the proposal matches the existing single storey return and at 3.8m is an appropriate scale and design to the existing dwelling. All finishes are to match the existing dwelling. The extension is subordinate to the main dwelling house and will not detract from it.

In addition to consideration of the likely impacts of the proposal on the dwelling itself consideration is also given to the potential for impact on the character and appearance of the area. The existing outhouse associated with no 22 is to be removed and the extension will be the same distance from the main building line as the neighbouring dwellings (no 20) extension is. The works are considered to be in keeping with the overall character and appearance of the area and given they are at single storey and to the rear of the property enclosed in a yard there will be limited public view points of the majority of the extension and from wider viewpoints there already is single storey developments either side therefore the impact of this in terms of wider public view points is further limited.

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

The agent has demonstrated that the existing rear return that is to be retained marginally fails the light test set out in the annex of Addendum to PPS 7 and also demonstrates that this proposal will not have any greater impact on the light available to the ground floor window of no 24 Ballaghbeg although it is noted that no 24 has objected in light of this plan and believes that it shows it will have a greater impact. The extended part they refer to as failing the light test would be at the position of the shed being removed. It is not considered that given the existing site layout and the proposal put forward there will not be any demonstrable harm to no 24 Ballaghbeg Park as a result of the works. There will not be any demonstrable harm with loss of light, overshadowing or dominance from the proposal and it is also noted that the works will not result in any loss of privacy or overlooking onto the adjacent properties.

Consideration is also given to the likelihood of any impact onto no 20 Ballaghbeg Park who has also objected to the proposal. Given that there are no windows facing onto the boundary

between no 20 and 22 and also given that there is already a considerable extension to the rear of no 20 it is not considered that this single storey extension will have a detrimental impact on the amenity of no 20 by way of loss of light, overshadowing, loss of privacy or dominance. No 20 has raised the issue of overhang of the extension onto their property however having considered the drawings submitted and the current site layout with the extension of no 20 already alongside a shared boundary it is not considered that there will be any overhang onto no 20 from this extension at no 22. The rear return wall of this extension appears to have the same separation distance from the shared boundary as no 20 does when looking at the floor plans presented.

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

The proposal will not have any detrimental impacts on landscape features or impact on the local environmental quality of the area. Proposal is confined to a private rear concreted yard.

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

While this application will reduce the amount of available space to the rear of the dwelling it is noted that sufficient space will remain for the storing of bins etc and a small amount of amenity will remain to allow the occupant to sit outside.

#### **Recommendation:**

Having taken into consideration the proposals, the site and all of the objections submitted and material considerations it is considered that this application does not offend planning policy and meets with the requirements of SPPS and Addendum to PPS 7 Residential Extensions and Alterations therefore a recommendation of approval is made.

#### **Conditions:**

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

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

2. The development hereby permitted shall take place in strict accordance with the following approved plan A1-04 REV B

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

3. The materials to be used in the construction of the external surfaces of the extensions hereby permitted shall match those of the existing dwelling.

Reason: To ensure a visually acceptable development in accordance with policy EXT1 of PPS7 (Addendum), Residential Extensions and Alterations.

**Informatives:**

1. It is an offence under Article 236 of the Water and Sewerage Services (Northern Ireland) Order 2006, to build over or near watermains, sewers, pipes and associated works owned and maintained by Northern Ireland Water unless with the prior consent by NI Water.
2. This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent dwellings for the removal of or building on the party wall or boundary whether or not defined.
3. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

**Case Officer:** Fionnuala Murray

**Authorised Officer:** Annette McAlarney

**Date:** 17.05.2021

A decision has been made by the planners before even having the respect to receive and look at the objections.

Agenda for this meeting indicating recommendation for approval was publicly published on 6<sup>th</sup> October 2021. This was a full 2 days before the deadline for submission of objections to the amended plans.

This would hardly seem fair and not in the spirit of a democratic process.

from: jmwells  
Sent: 07 October 2021 06:26  
To: McKay, Anthony <anthony.mckay@nmandd.org>; McAlamey, Annette <annette.mcalamey@nmandd.org>  
Subject: Fw: Concerns regarding LA07/2020/1797/F - 22 Ballaghbeg Park, Newcastle – Proposed single storey rear extension to dwelling (Mid Terrace) (Amended Proposal)

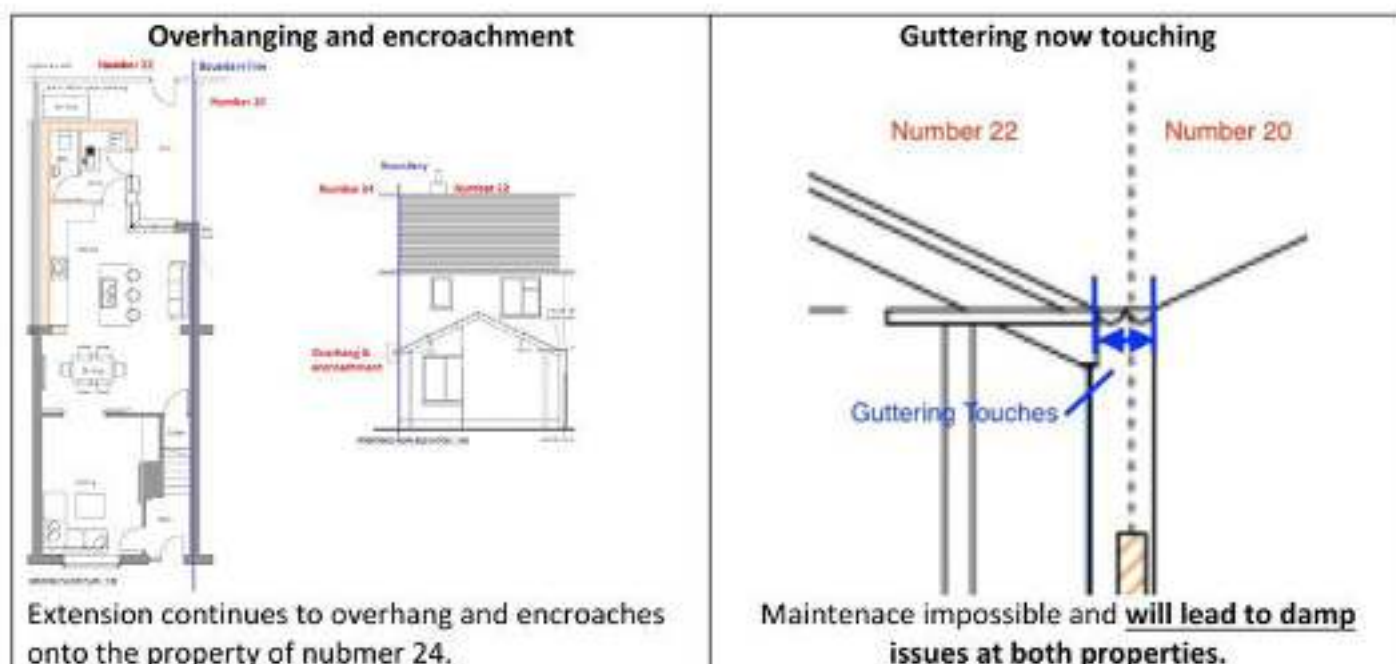
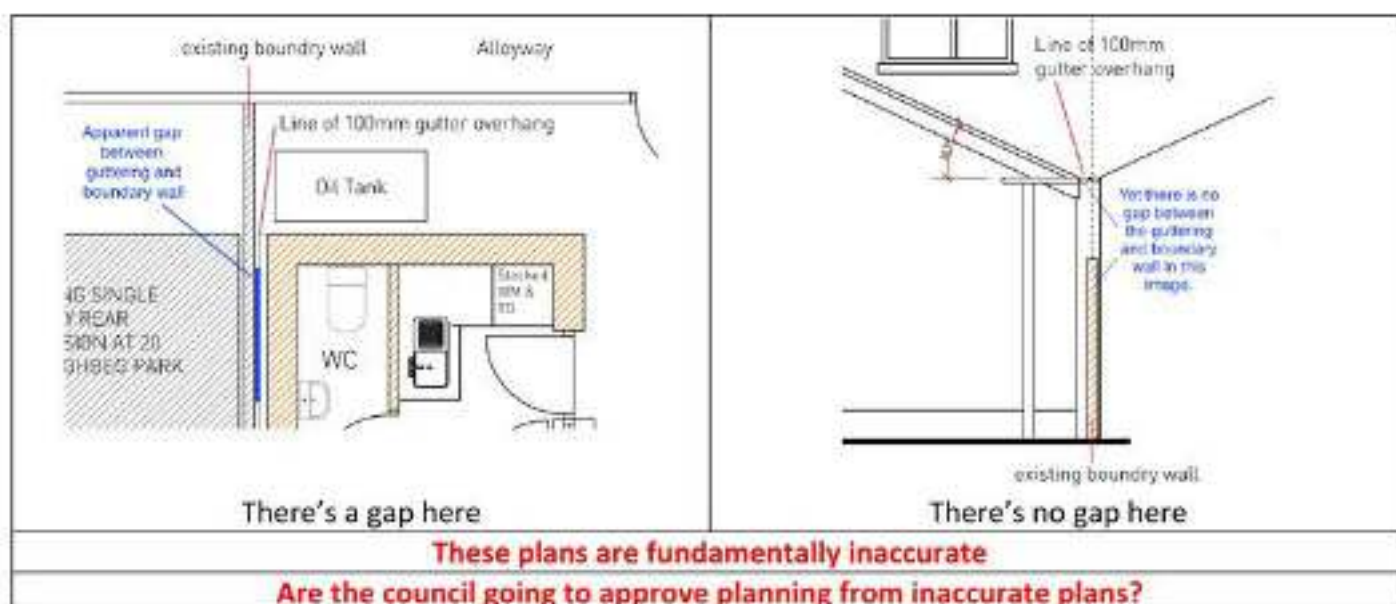
I have to say that Mr Major makes a very valid point.

How could your staff have reached a decision on this amended application before the closing date for objections to it?

Surely you should have waited until after tomorrow's deadline before making a final decision on whether or not the application should go before the Planning Committee with a recommendation?



Jim Wells MLA

**Submitted plans are not accurate – and thus do not comply with fundamental principles of planning**





Our Soil and Vent Pipe is in the proposed Kitchen?	
 <p>How is this to be resolved?</p>	

Building over 2 Manholes	Lack of Amenity Space
 <p><b>Ballaghbeg Park</b>          Scale: 1:1000          Centre: N.Y.: 307.460 310.245          Date: 19 January 2021          Time: 14:57:00</p> <p>Prevents access for maintenance and unblocking.</p> <p><i>This causes issues for ALL properties in this locality that are serviced by these sewers.</i></p>	 <p>Remaining usable amenity space would be very small. Circa 5m<sup>2</sup></p>

**Noise and disturbance** - Many of the residents in this area are old and frail. This will cause unnecessary stress and discomfort for these already frail elderly residents.

**Parking** - development will require a skip. This will take up valuable parking space, which is already at a premium in the area. Many of the residents are elderly and parking is required by visits of care staff, doctors, nurses & relatives.

**Non disability extension** - All existing extensions in this area are disability extensions. This proposal is not.

**The planning and objection system is unfairly weighted against the elderly and frail**

#### Covenants

Fourth Schedule Transferee's Covenants: Section 1: 'not to erect or build or permit to be erected or built upon the subject premises any building'. Etc.

Re: LA07/2020/1797/F - 22 Ballaghbeg Park, Newcastle, Co Down, BT33 0BU.

Proposed single storey rear extension to dwelling (Mid Terrace) (Amended Proposal).

I Maria Scullion of 24 Ballaghbeg Park wish to apply for speaking rights at the planning meeting on 20<sup>th</sup> October, 2021.

I wish to speak about:

**My already compromised small back garden (which is the most compromised in the whole estate).**

- I am already sandwiched in-between the current unreferenced extension at No22 and the disability extension at No26







*Current extension at No 22*



*Disability extension at No 26*

- Encroachment, overhang, dominance, loss of light, increased shadow (as higher and augmented roof line of proposal)
- Noise
- Disturbance
- Parking
- Not listening to me, where can I build my extension as I am already compromised by others and have health issues?
- Not listening to me and others, despite in excess of 50 plus letters of objection and not one letter of support.

Many thanks.

Yours faithfully,

Maria Scullion.



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2020/0299/F

**Date Received:** 26.02.2020.

**Proposal:** Single storey dwelling

**Location:** Adj. to 7 Annacloy Road North, Dunnanelly, Downpatrick.

**Site Characteristics & Area Characteristics:**



The application site forms a plot of land cut out of a larger field. Access to the site is available from a laneway leading off the Annacloy Road North. There is a square shaped set of foundations evident within the site, set back approx. 90 metres from the road. Adjacent to the site is the dwelling and outbuildings at No. 7 Annacloy road North.

The application site is outside the development limits as defined by the Ards and Down Area Plan 2015. The surrounding area is rural in character, with development comprising of single houses and associated outbuildings.

**Site History:**

- R/2004/1192/O, Adjacent to 7 Annacloy Road North, Dunnanelly, Downpatrick, BT30 9AF, Erection of single storey dwelling, PERMISSION GRANTED.
- R/2008/0028/RM, Adjacent to 7 Annacloy Road North, Dunnanevly, Downpatrick, Erection of single storey dwelling., PERMISSION GRANTED.
- R/2009/0622/F, Adj to 7 Annacloy Road North, Dunnanelly, Downpatrick., Relocation of an access to a dwelling already approved R/2008/0028/RM., PERMISSION GANTED.

**Planning Policies & Material Considerations:**

- Strategic Planning Policy Statement for Northern Ireland (SPPS).
- Ards and Down Area Plan 2015.
- Planning Policy Statement 21 – Sustainable Development in the Countryside.
- Planning Policy Statement 3 – Access, Movement and Parking / DCAN 15

**Consultations:**

There were two consultations issued for this proposal, see below.

- Department for Infrastructure Roads (DFI Roads) – Conditions relating to the provision of a safe access. (22/04/2020). Confirmation that neither the Entrance or Visibility Splays have been formed as per Drawing No. 20/01/01 date stamped 17/02/2020 when checked on 26 August 2020. (10/09/2020)
- Northern Ireland Water (NI Water) – Generic response. (12/03/2020).

**Objections & Representations**

There was one neighbour notification issued for this proposal. The application was advertised in the local press on 08<sup>th</sup> June 2020. There were no representations received.

**Consideration and Assessment:**

This application is seeking planning permission to construct the dwelling previous approved under R/2004/1192/O and R/2008/0028/RM.

The Strategic Planning Policy Statement is a material consideration for this application however as there is no significant change to the policy requirements for single dwellings following the publication of the SPPS and it is arguably less prescriptive, the retained policies as discussed below will be given substantial weight in determining the principle of the proposal in accordance with paragraph 1.12 of the SPPS.

**Principle of Development**

The principle of a dwelling was established on this site through the approval of planning applications R/2004/1192/O (approved on 14/01/2005) and R/2008/0028/RM (approved on 26/11/2008). Condition 1 on R/2004/1192/O required that development approved must be begun by either the expiration of a period of 5 years from the date the permission of the outline permission or the expiration of a period of 2 years from the date the permission of the reserved matters permission, whichever is the later date. This would mean that development must have been begun by 25/11/2010. As this application was received on the 26<sup>th</sup> February 2020 the important aspect to the determination of the application is to ascertain if the



development has commenced in order to keep the permission live. 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. As there was a pre-commencement condition with regards to the access including the visibility splays etc attached to the previous approval the onus was also on the agent/applicant to demonstrate compliance with this condition.

Under planning application R/2009/0622/F permission was granted for the relocation of the access to the dwelling already on site. This new access was to be located approx. 30 metres south east of the existing access Condition 2 of this approval was a pre-commencement condition requiring the vehicular access, visibility splays and forward site line to be provided in accordance with the approved plans **prior to the commencement of any works or development hereby permitted** and condition 3 requiring that the visibility splays and forward sight line to be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway **before development hereby becomes operational and shall be retained thereafter**. From the aerials and google street view it not clear that the pre-commencement condition had been complied with within the require timeframe. Having consulted with the Department for Infrastructure Roads (DFI Roads) on this application, they have confirmed that *"neither the Entrance nor Visibility Splays have been formed as per Drawing No. 20/01/01 date stamped 17/02/20 when checked on 26 August 2020"*. This is the same access approved under R/2009/0662/F.

A letter from the Building Control Department within the Council confirmed that a Building Control inspection took place on 22<sup>nd</sup> November 2010 at 5a Annacloy Road, North. This would demonstrate that foundations were in place prior to the expiry of the previous approval. Checking the Orthophotography images of the site, clearing works within the site were evident in the 2012 image and a square shaped set of foundations in place, see below.



Upon measuring the foundations from Spatial NI they are approx. 8.4m x 8.8m. The shape of the dwelling and garage approved resembles an upside down, reversed "L" shape with an additional length of building set at an angle of approx. 45 degrees. The agent has stated on the P1 form submitted with this application that the foundations of the attached garage approved under R/2008/0028/RM were part excavated and concreted but not completed.



# Approved position of the garage under R/2008/0028/RM



The dwelling and garage within the application site was approved adjacent to the outbuilding within the adjoining curtilage of No. 7, with its longest, straight elevation less than 3 metres from this outbuilding. While the foundations on site only represent a small section of the development approved, they do not appear to be in a place where development was approved or represent the position of the approved garage. As demonstrated above, the north western corner of the foundations measure 19.8 metres from the outbuildings south eastern corner. The foundations do not appear to have been laid in accordance with the previous approval, development cannot therefore be considered to have commenced in accordance with the approved previously plans and thus the previous planning permission is considered to have expired.

The agent/applicant was advised on 17/07/2020 that as the previous approval had expired additional evidence was to be submitted to demonstrate development approved under R/2008/0028RM and R/2009/0662/F commenced prior to their and in accordance with the approved plans and conditions. A further email was issued to the agent/applicant on the 20/08/2020 again seeking additional information in regard to this. On the 24<sup>th</sup> August 2020 a letter from the Building Control Department was submitted outlining an inspection of the foundations took place on 22<sup>nd</sup> November 2010 as detailed above. A further email was issued to the application / agent on the 24<sup>th</sup> August 2020 advising that the onus is on the applicant to demonstrate to the Planning Department that pre-commencement conditions have been fulfilled and that the vehicular access was in place prior to the commencement of works on site and that further evidence was requested to demonstrate that the approved access under R/2009/0662/F was in place prior to any works beginning on site. A response was received on the 28/08/2020 with a link to a google street view image of the sites frontage onto the Annacloy Road. The access approved was to be positioned approx. 30 metres SE of the existing access serving the adjoining property, No. 7,

with the new access lane turning towards the front curtilage on No.7 and running along the shared boundary with the application site. This is not the access demonstrated on the 2008 Google Street View image nor on any aerials of the application site ranging in date from 2009 – 2019. Further DFI Roads having inspected the site in August 2020, has confirmed the access has not been formed as per Drawing No. 20/01/01 which is the same as the access approved under planning application R/2009/0662/F.

It does not appear that any of conditioned access works commenced prior to the expiry of the previous approval. The agent/applicant did not demonstrate that the required visibility splays were in place prior to the commencement of development works within the application site and it is considered that the issue of commencement remains unproven. In the absence of any verifiable evidence that the pre-commencement conditions have been complied with on or before the expiry of permission and that development occurred in accordance with approved plans then the Planning Department cannot consider this application on the back of an expired permission.

Any approval would be negatively conditioned to ensure consent to discharge is obtained, prior to commencement of development. This safeguards the policy requirements of policy CTY 16.

The access arrangements are to be as previously approved. DFI Roads has no objections in relation to PPS3 subject to conditions and informative.

However, notwithstanding the above, as the previous approval has not lawfully commenced, there is no fall-back position, thus the application must be considered afresh. PPS 21 is the current policy provision in place that outlines the circumstances whereby planning permission will now be granted for a new dwelling in the countryside. No justification has been provided on how the proposal now complies with any of these exceptions and it is considered there is no policy support for this proposal

**Recommendation:**  
Refusal

<p><b>Case Officer: Laura O'Hare</b></p> <p><b>Date: 05/11/2020</b></p>
<p><b>Appointed Officer: Annette McAlarney</b></p> <p><b>Date: 09 November 2020</b></p>

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.





Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2020/0299/F

**Date Received:** 26.02.2020.

**Proposal:** Single storey dwelling

**Location:** Adj. to 7 Annacloy Road North, Dunnanelly, Downpatrick.

#### **Addendum to Case Officers Report**

Planning application LA07/2020/0299/F was recommended for refusal on the 16/11/2020 with the following refusal reason:

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.

This application was due to feature at the Council's Planning Committee in December 2020, but was removed from the agenda by Councillor Trainor. Further information was submitted by the agent on the 2<sup>nd</sup> February 2021 for consideration. Please see below.

- A planning statement from the agent.
- A letter dated 23<sup>rd</sup> October 2019 from the enforcement section within the Newry, Mourne and Down Planning Department regarding the enforcement case for *'Alleged unauthorised clearing of land and trees, planning permission has expired'* at adjacent to 7 Annacloy Road North. The letter advises that this matter is immune from enforcement in accordance with Time Limits set out in Section 132 of the Planning Act (Northern Ireland) 2011 in that, the access and garage founds are immune. The removal of screening is not a breach. It is not expedient to enforce against infilling and so accordingly the Council does not intend to peruse this matter any further.
- A letter from Building Control dated 20<sup>th</sup> August 2020, confirming that their records show a Building Control Inspection of Commencement/Foundation was carried out on the 22<sup>nd</sup> November 2010 and deemed satisfactory.
- Google Street View imagery of the sites frontage on to the Annacloy Road dated October 2008 and March 2011.

Within the Planning Statement the agent outlined the following points:

- Point 1: *The submitted letter from Building Control validated commencement of development within the required time frame.* While the Planning Department do not dispute works commenced prior to the expiry of the approval, aerials of the application demonstrate clearing of the site and foundations in place in 2012, however the foundations evident are not considered to be in laid in accordance with the approved plans as noted in the case officers report. The foundations in place reflect a square shape and are positioned approx. 20 metres east of the south eastern corner of the outbuilding to the rear of No. 7 Annacloy Road North. Upon checking the siting and layout of the dwelling approved, the foundations do not reflect the approved siting or layout of the dwelling.
- Points 2, 3 and 4: *Evidence from Google street view and aerial photography clearly shows sight lines and visibility spays were operational and in place prior to works commencing within the site in November 2010.* As noted in the case officer report, in a consultation response from DFI Roads on 22<sup>nd</sup> March 2020 on this current application, DFI Roads stated no objections to proposal subject to two conditions. Further confirmation was sought from DFI Roads on this and upon inspection of the site in the 26<sup>th</sup> August 2020 it was confirmed by DFI Roads that neither the "Entrance nor Visibility Splays have been formed as per Drawing No. 20/01/01 date stamped 17/02/20". The agent has stated this was due to growth and believes the Google street view imagery of the sites frontage in October 2008 and March 2011 demonstrates the approved access was in place. Images below demonstrate the new access approved under R/2009/0622/F and the aerial imagery of the site, dated 2012. The access approved was to be positioned approx. 30 metres SE of the existing access serving the adjoining property, No. 7, with the new access lane turning towards the front curtilage of No.7 then running along the shared boundary with the application site. This is not considered to be the access demonstrated on the 2008 Google Street View image nor on any aerials of the application site ranging in date from 2009 – 2019.





The pre-commencement conditions attached to the previous approval required all the works associated with the access including the visibility splays to be implemented prior to commencement.

***The vehicular access, including visibility splays and any forward sight line, shall be provided in accordance with the approved plans, prior to the commencement of any works or other development hereby permitted.***

Therefore, this must be done in full compliance with the approved plans and then the development must be commenced to ensure the permission is correctly implemented. In the absence of the access being completed in full compliance with approved plans the pre-commencement conditions cannot be considered as satisfied and therefore the previous permission has not been enacted.

In the absence of any verifiable evidence that the pre-commencement conditions have been complied with and that development occurred in accordance with approved plans then the Planning Department cannot consider this application on the back of an expired permission. There is no provision in rural policy now to allow for a dwelling on this site.

<b>Case Officer:</b>	<b>Laura O'Hare</b>
<b>Date:</b>	<b>23.02.2021</b>
<b>Appointed Officer :</b>	<b>Annette McAlarney</b>
<b>Date:</b>	<b>23 February 2021</b>



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2020/0496/F

**Date Received:** 05/03/2020

**Proposal:** Consolidation of existing development to form single dwelling.

**Location:** Approx 105m NE of junction of Bernish Road and Seavers Road, Newry.

**Site Characteristics & Area Characteristics:**

The application site is located outside any settlement limits as defined within the Banbridge / Newry and Mourne Area Plan 2015, the site is within a designated Special Countryside Area and Area of Outstanding Natural Beauty as designated within the Area Plan.

The site is located immediately to the north of the junction of Seavers Road and Bernish Road.

The site is an area of land adjacent to the public road which rises steeply to the north, the site includes agricultural land and a small group of old stone outbuildings which are located to the north of the site. These buildings are of a very modest scale and are in a very run-down state.

The roadside boundary is defined by the remains of a stone wall, a post and wire fence and hedging, a small field gate is located along the roadside boundary in a central position.

The site is located within a rural area of undulating landform, there are a few properties and buildings within the vicinity of the site.

**Site History:**

P/2010/1021/F - 90m North of junction of Seavers Road and Bernish Road, Newry - Proposed new farm dwelling and garage – Permission Refused 17/01/2013.

**Planning Policies & Material Considerations:**

Banbridge Newry and Mourne Area Plan 2015.

Strategic Planning Policy Statement (SPPS) for Northern Ireland

Planning Policy Statement 21 – Sustainable Development in the Countryside

Planning Policy Statement 2 – Natural Heritage

Planning Policy Statement 3 – Access, Movement and Parking

DCAN 15 – Vehicular Access Standards

## Building on Tradition – Design Guide for Rural Northern Ireland

### Consultations:

Transport NI – no objections subject to conditions.

NI Water – Generic response, no objections.

Historic Environment Division – No objections.

### Objections & Representations:

The application was advertised on 12/05/2020, one neighbouring property was notified on 04/06/2020, no representations or objections have been received.

### 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 settlement limits and within the open countryside, within an SCA and the AONB as designated in the Banbridge, Newry and Mourne Area Plan 2015.

Paragraph 6.75 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) notes that, "Some areas of the countryside exhibit exceptional landscapes, such as mountains, stretches of the coast or lough shores, and certain views or vistas, wherein the quality of the landscape and the unique amenity value is such that development should only be permitted in exceptional circumstances. Where appropriate these areas should be designated as Special Countryside Areas in LDPs, and appropriate policies brought forward to ensure their protections and unnecessary and inappropriate development."

The special status of Countryside Areas is also noted in the preamble to Planning Policy Statement 21 (PPS 21) which states that the provisions of PPS 21 will take precedence over the policy provisions for certain designations contained in existing statutory and published draft development plans with the exception of five Special Countryside Policy Areas. Policy CTY 1 of PPS 21 states that where a SCA is designated in a development plan, no development will be permitted unless it complies with the specific provisions of the relevant plan.

The principle that within Special Countryside Areas, the relevant development plan policy should be applied rather than the provisions of PPS 21 has been well established through previous applications and planning appeals.

The relevant policy against which to assess this proposal is therefore Policy COU 1 of BNMAP which states that,

"Within Special Countryside Areas, planning permission will only be granted to development proposal which are:

- Of such national or regional importance as to outweigh any potential detrimental impact on the unique qualities of the upland environment; or
- the consolidation of existing development providing it is in character and scale, does not threaten any nature conservation or built heritage interest and can be integrated with the landscape.



Volume 3 Newry and Mourne District proposal of BNMAP 2015 notes that development proposals within SCAs will be determined in accordance with Plan Policy COU 1.

Policy COU 1 of the development plan identifies two exceptions only in which planning permission can be granted to development proposal within SCAs.

The first exception is if proposal of such national or regional significance as to outweigh any potential detrimental impact on the unique qualities of the upland environment. This proposal in being for a single dwelling does not fall within the first exception.

The second exception is the consolidation of existing development providing it is in character and scale, does not threaten any nature conservation or built heritage interest and can be integrated within the landscape. The plan does not expand upon what it means by the consolidation of existing development, however the everyday meaning of consolidate is to combine or to unite into a whole as was specified in the previous appeal on the site reference 2013/A0079.

The agent within their submissions outlines that they feel the proposal is the consolidation of two buildings on the and that the state of repair of the buildings should not form part of the consideration as they feel the structures fall within the definition of buildings. The agent also feels that the development will be in character and scale, does not threaten any nature conservation or built heritage interest and can be integrated with the landscape.

Although policy COU 1 does not provide specifics with relation to the meaning of consolidation or the buildings that the policy would relate to some judgement must be given to how the policy was intended to be read and in what circumstances it would be felt that it should be used.

In this case the proposal is looking to consolidate two small buildings and create a new dwelling, I feel that the current condition of the buildings is material to the policy in that if the buildings are in such a state of disrepair that rather than being consolidated the proposal could result in the buildings being demolished and the proposed dwelling being a new build. The existing buildings are in a very poor condition and in 2013 the PAC had referenced the buildings as being dilapidated stone structures. Given the time that has passed since then and having viewed the buildings in question it is felt that they may not be fit to be included in any proposed development.

Aside from the condition of the buildings consideration must also be given to the overall proposal and how the two buildings are intended to be consolidated, at present the buildings are positioned approximately 4.5 metres apart. The buildings have floor areas measuring 4.5m by 10m and the other 3.8m by 4.4m, the scale of the buildings is therefore small. Although the policy allows for existing buildings to be combined in this case the existing buildings are more than 4 metres apart and the proposal does not simply aim to link the buildings together and convert into a dwelling but instead it looks to provide a dwelling four times the size of the existing buildings on the site. It is considered that the policy was intended to allow existing buildings to be combined but in this case the proposal is looking to create a new dwelling which happens to be



designed in a way that the buildings are shown to be included. Rather than consolidating the existing buildings on the site I would consider the level of proposed development would warrant this as a new dwelling and not consolidation given the scale of proposed development as shown on submitted drawings.

Given the level of proposed development it is considered that the proposal is not in line with the second exception as it is not in character and scale with the existing buildings on the site.

Although the agent has stated that he feels the proposal can be integrated within the landscape it is felt that the size and scale of the proposal although single storey in design will be visible from the surrounding area and will result in a detrimental impact on the SCA. Along with the proposed dwelling itself consideration must be given to the creation of a new curtilage, access lane and entrance, an area for parking and turning and new boundary definition.

The new access and driveway will be visible from the public road, the proposed laneway although close to an existing boundary will be approximately 80 metres in length and will lead to an area of parking at the front of the property. When viewed the new access, laneway and parking areas along with the property will not be integrated given the elevated nature of the site and also the lack of established vegetation and need for new boundary planting to provide screening.

It is considered that the proposal is contrary to Policy COU 1 of the Banbridge / Newry and Mourne Area Plan 2015 for the reasons outlined above.

### **Recommendation: Refusal.**

### **Reason for Refusal.**

The proposal is contrary to the Banbridge/ Newry and Mourne Area 2015 Policy COU1 in that the development is within a Special Countryside Policy Area and is not considered to fall within the exemptions of this policy in that the proposal is not seen to be of national or regional importance or consolidation of existing development in keeping with character and scale and the proposal would not integrate.

**Case Officer:** Wayne Donaldson

**Date:** 31/03/2021

**Authorised Officer:** Anthony McKay

**Date:** 16/04/2021



Comhairle Ceantair  
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agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2020/0893/F

**Date Received:** 06/07/2020

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

**Location:** 60 metres south of no. 49 Ballsmill Road, Glassdrumman, Crossmaglen.

**Site Characteristics & Area Characteristics:**

The application site is located outside any settlement limits as defined within the Banbridge / Newry and Mourne Area Plan 2015.

The site is an area of agricultural land on the edge of the public road, the site slopes towards the south west, the western boundary of the site is undefined given it being a portion of a larger field. The northern and southern boundaries are defined by the boundaries of adjacent existing properties, the roadside boundary is defined by existing hedges. Adjacent and south of the site is No 51 a detached single storey dwelling, north of the site is number 49 a detached dwelling with the appearance of a single storey property although it has a first-floor window in one gable. To the west of No 49 is a large building with a corrugated finish, this building shares the access with No 49 although it is set back behind the property and some distance from the road edge. Beyond No 49 and its associated building is a detached one and a half storey property No 47 set back from the road edge with a large driveway leading to the property from the public road.

The site is located within a rural area although there are a number of properties in the vicinity of the site, properties in the area vary in their design.

**Site History:**

P/2003/2830/F - Adjacent to and south of no 49 Ballsmill Road, Crossmaglen - 5 no dwellings with private drive and amenity site – Permission Refused 22/03/2004.

P/2004/2932/F - 60 metres south of 49 Ballsmill Road, Crossmaglen - Erection of dwelling – Permission Refused 16/02/2005.

P/2013/0063/F - 47 Ballsmill Road, Glassdrumman - Retention of existing dwelling – Permission Refused 20/02/2019.

P/2012/0085/CA - 47 Ballsmill Road, Glasdrumman - No.47 is not built as approved in terms of size and design – Appeal allowed, and enforcement case closed, as such the drawings that formed part of the previous application P/2013/0063/F are approved.

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

The following policy documents provide the primary planning context for the determination of this application:

- Banbridge / Newry and Mourne Area Plan 2015
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 21 – Sustainable Development in the Countryside
- Planning Policy Statement 3 – Access, Movement and Parking / DCAN 15
- Building on Tradition

### **Consultations:**

DFI Roads – Amendments had been requested to show adequate visibility splays, the agent provided drawings and information and the latest response from DFI Roads raised no objections. More details regarding access will be provided within the main consideration of the report.

NI Water – No objections raised, conditions suggested.

### **Objections & Representations:**

The application was advertised on 28/07/2020 and 09/03/2021, five neighbouring properties were notified on 22/07/2020 and again on 23/02/2021. Eight objections have been received from 6 different addresses and one letter of support has also been received, the points of objection and support will be outlined below and detailed consideration will be given within the main consideration of the proposal.

#### **Points of objection:**

- Applicant not in control of all the land required for the development.
- Proposal will impact on road safety in the area.
- Previous applications refused on the site.
- Proposal fails to meet policy CTY8.
- Proposal fails to meet policy CTY13.
- Proposal fails to meet policy CTY14.
- Proposal will see removal of hedges and so impact on nesting birds and plants.
- The proposal will result in a loss of amenity to existing properties.

#### **Points of support:**

- Proposal will provide homes in the area and allow residents to contribute to the community.

### **Consideration and Assessment:**

#### **Strategic Planning Policy Statement for Northern Ireland**

Paragraph 1.12 of the SPPS states that where the SPPS introduces a change of policy direction and / or provides a policy clarification that would be in conflict with the retained policy the SPPS should be accorded greater weight in the assessment of individual planning applications. However, the SPPS does not introduce a change of policy direction nor provide a policy clarification in respect of proposals for residential development in the countryside. Consequently, the relevant policy context is provided



by the retained Planning Policy Statement 21, Sustainable Development in the Countryside. Policy CTY1 of PPS21 sets out a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.

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

Policy CTY1 of PPS21 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development. PPS21 states that planning permission will be granted for a gap site which is in accordance with policy CTY8.

### **Principle of Development**

Policy CTY8 states that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided it 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.

Policy states that an exception will be to develop a small site sufficient only to accommodate up to a maximum of two dwellings, it is considered that the gap in question here is sufficient to accommodate a maximum of two dwellings.

The objections received raised concerns that the proposal failed to meet this policy as the site is not within a substantial and continuously built up frontage, not in keeping with plot sizes, the site is a visual break and that the proposal will result in ribbon development, these issues will be considered within this section of the report.

The application site has No 51 to the south, this property is considered to have a frontage to the road. To the north No 49 is considered to have a frontage to the public road although its associated building set to the rear is not considered to have a frontage to the public road. Beyond No 49 is No 47, this property is set slightly back from the road edge with a wide driveway providing access to the public road. The application that was made under reference P/2013/0063/F for the retention of No 47 includes a large red line that extended to the road edge and to the boundary with No 49. Although this application was refused the action taken as part of the enforcement case was appealed and a consequence of this was that the drawings submitted under application P/2013/0063/F were approved and as such the red line extending to the public road and boundary with No 49 must be considered as approved curtilage and given this the property No 47 is seen to have a frontage with the public road. It is considered that the application site is a gap within a substantial and continuously built up frontage.

Policy states that any proposal should respect the existing development in terms of size, scale, siting and plot size. It is considered that the frontage of each plot is similar to others in the area including No's 49 and 51. The plot sizes in the area vary with the proposed being similar in size to No 51, consideration must also be given to the large

plot size at No 47 as approved. It is considered that the frontage and plot size of the proposal are in keeping with the existing area.

As the proposal is considered an infill opportunity it will not result in ribbon development but instead the principle of development is considered acceptable with regards to an infill under policy CTY8.

### **Integration, Design and Rural Character**

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 objections received stated that they consider the proposal to fail to meet all the requirements of the policy in that they consider the proposal will be prominent, that the site lacks natural boundaries and enclosure and that the proposal relies on new landscaping.

The site is set between existing development and given the existing properties and layout of the road the proposed dwellings will only be visible when travelling along a short stretch of the public road and so the proposal would not be considered a prominent feature in the landscape.

Although the application site does not have mature vegetation along its boundaries it does have development on either side of the site which provides a degree of enclosure for the buildings to integrate. As previously stated the dwelling will only be visible along a short section of the public road with existing development on either side providing screening. The proposal includes additional planting along the road frontage and other boundaries, there will also be further planting within each plot, this planting will help to further enclose the site and screen it from views and so help to further integrate the development. It is not considered that the proposal relies primarily on the use of new landscaping for integration but as previously stated existing development and the layout of the public road allows the development to integrate.

It is also considered that any ancillary works will integrate into the surroundings.

The proposed dwellings are modest one and a half storey properties with ridge heights of 6.4 metres above finished floor level, the properties are quite traditional in design and include chimneys to the ridge, small front porch and traditional window openings. The design also includes a small side return to each property and dormer windows to the front which extend from the wall plate.

The proposed single garages are small in their size and scale and designed in keeping with the proposed properties.

The proposed dwellings are set slightly back from the road edge behind the line of existing development, this will help the proposed development further integrate into the area and reduce views when travelling along the public road in both directions. The proposed layout drawing shows adequate provision for amenity space and parking provision, the layout includes details of landscaping.

The design and layout of the proposal are considered appropriate for the site and its locality and it blends with the landform and buildings within the area.

The proposal is considered to comply with the requirements of policy CTY13, the points of objection raised have been considered fully and do not warrant a change of opinion.



Policy CTY14 requires that buildings in the countryside do not cause a detrimental change to or further erode the rural character of the area.

The objections received state that they consider the proposal fails to comply with this policy as the proposal will result in ribbon development and a suburban build up.

The proposed development is not considered unduly prominent as existing development on either side will help to screen the development. It is also considered that the proposal will not result in a suburban build-up of development as the proposal is considered an infill opportunity and in line with policy CTY8 and as such is considered to respect the pattern of development in the area.

As the proposal is considered an infill opportunity under policy CTY8, the proposal is not considered as ribbon development for this reason, it is also considered that ancillary works would not damage the rural character of the area, policy allows for necessary visibility splays.

Having considered the points of objection and the policy requirements it is considered that the proposal complies with the requirements of policy CTY14.

### **Amenity**

One of the points of objection raised was that the proposal would impact on the amenity of neighbouring properties.

It is considered that given the distance between existing development and also that there are no first-floor gable windows within the proposed dwellings there will be no loss of amenity due to overlooking.

It is not considered that the proposal will unduly impact on the privacy or amenity of any neighbouring properties.

### **Other areas of objection**

An area of objection related to lands outside the ownership of the applicant, the application required the increase in the red line to provide adequate visibility splays, as such the site now includes land outside the ownership of the applicant, the agent has provided details to show that notice was served on the relevant land owners.

Objectors are entitled to object to their land being used as part of the proposed development, however any planning permission does not confer title and it will be the responsibility of the developer to ensure they have control or ownership of any land required to carry out the development. Given that relevant landowners have been served notice by the applicant the statutory obligations have been fulfilled, also no legal information has been provided by any objector to establish the ownership of any land in question. The issue of ownership has been fully considered and the recommendation remains unchanged.

It has been stated within objections that given previous applications on the site were refused that this current application should also be refused. The previous applications P/2003/2830/F and P/2004/2932/F were considered under the relevant planning policies at that time, since then new policy has been published and so this application will be considered under current relevant policy and the previous refusals on the site do not automatically warrant that this application should be refused. The issue of the history on the site has been considered.

One objection received raised a concern that the removal of the hedge along the frontage would impact on nesting birds and plants along this area of the site. The removal of hedges during nesting season would be an offence under the Wildlife (NI)

Order 1985 and as such the applicant and developer would be required to comply with the Order and ensure any works are carried out at the appropriate time. Unless any plant to be removed was protected then there would be no issues with its removal and if it was felt that a protected plant was being removed this could be reported to the relevant authorities. The issue with nesting birds and plant removal has been considered.

### **Access and Parking**

DFI Roads had raised concerns with regards to the level of visibility splays required for the development, the agent had submitted information to try and persuade DFI to reduce the level required. DFI Roads did not agree to a reduced level of splays, information was also submitted on behalf of objectors in the form of a traffic speed survey to try and show that the splays requested by DFI Roads are as required. The agent has subsequently increased the red line and visibility splays and served notice on the land owners, as such the latest response from DFI Roads raised no objections to the proposed access arrangement and as such it is considered that the access as shown on amended drawings will be acceptable and not impact on road safety in the area as was suggested within objections received.

### **Development relying on non-mains sewerage.**

Policy CTY 16 – The application would appear to comply with this policy, a condition should be included to ensure a copy of a consent to discharge be submitted prior to commencement of the development.

The proposal has been considered in accordance with relevant policy and the points of objection raised have been fully considered within this report.

### **Recommendation: Approval**

#### **Conditions**

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

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

2. The development hereby permitted shall take place in strict accordance with the following approved plans: Drawing No's PL-01 Rev C, PL-03 Rev C and PL-04.

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

3. All hard and soft landscape works shall be carried out in accordance with the approved details shown on Drawing No PL-03 Rev C and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out during the first available planting season following the occupation of the first of the dwellings hereby approved.

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

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

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

5. The vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No PL-03 Rev C, 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.

6. The access gradient to the dwellings 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.

7. The materials to be used in the construction of the external surfaces of the dwelling and garage hereby permitted, shall be in accordance with those detailed on the approved drawing No PL-04.

Reason: In the interest of visual amenity and to ensure the proposal is in keeping with the rural area.

8. No construction to be made, trees planted, or other obstruction made within  
 • 3m (or 1.5 times the depth whichever is greater) of sewers,  
 OR • 4m (or 1.5 times the depth whichever is greater) of watermain <350mm diameter  
 or 8m of watermain of 350mm diameter or greater.

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

9. Prior to commencement of development the applicant shall submit a copy of a consent to discharge for the proposed site, to be agreed in writing by the Planning Authority.

Reason: To protect the environment and to comply with CTY 16 of Planning Policy Statement 21- Sustainable Development in the Countryside.

<b>Case Officer:</b>	<b>Wayne Donaldson</b>	<b>Date: 07/07/2021</b>
<b>Authorised Officer:</b>	<b>Andrew Davidson</b>	<b>Date: 07/07/2021</b>

**Principle of Development:**

- The proposal is in keeping with Policy CYT8 of PPS21 in that the site is featured within a substantial and continuously built-up frontage and respects the existing development pattern in terms of size, scale, siting and plot size.
- The application site is located between a number of buildings all of which have frontage to the Ballsmill Road, No. 51 to the South and both No. 49 & No. 47 Ballsmill Road. While the building at No. 47 is set back from the road, the drawings submitted in its appeal case and stamped approved under reference P/2013/0063/F show the red line extending to the public road and borders on No. 49 Ballsmill Road concluding that the building at No. 47 has frontage with the public road. Therefore, it is considered the application site is a gap within a substantial and continuously built-up frontage.
- The frontage of both proposed plots respects the existing development along the Ballsmill Road. Consideration has been given to the large plots of No. 49 & No. 47 with the proposed plot size being similar in size to No. 51 Ballsmill Road ensuring the frontage and plot size of the proposal is in keeping with the existing area.
- The proposal is considered an infill opportunity and will not result in a ribbon of development and is considered acceptable under Policy CTY8.

**Integration, Design & Rural Character:**

- As proven earlier, the proposal is located between existing development and given the existing properties and layout of the road the proposed dwellings will only be visible when travelling along a short distance of the public road and it would not be considered a prominent feature in the landscape. The existing development either side of the proposed site provides a suitable degree of enclosure and although the site lacks mature vegetation on its boundaries, the proposal includes additional planting along the road frontage and other boundaries. However, it is not considered that the proposal relies primarily on the use of new landscaping for integration but as previously stated, existing development and the layout of the public road allows the development to integrate.
- The proposed dwellings are traditional in design and are set back from the public road slightly behind the line of the existing development, which will further aid integration to the local surroundings and reduce views when travelling in either direction along the Ballsmill Road. There is also adequate space for parking provision and amenity space.
- The proposed dwellings are modest one and a half storey properties with ridge heights of 6.4 metres above finished floor level. The proposed single garages are also small in their size and scale and are designed to be in keeping with the proposed dwellings. The proposal complies with Policy CTY13 as the design and layout of the proposed



dwelling allows the new buildings to integrate visually within the landscape in which they will be set.

- The proposal complies with Policy CTY14 as it was earlier proven that the proposal meets the requirements of Policy CTY8 and is considered as an infill opportunity and will not result in ribbon development or suburban build up. Therefore, the development is not considered unduly prominent and will not cause a detrimental change to or further erode the rural character of the area.

#### **Amenity :**

- Due to the distance between the proposed dwellings and the existing buildings located either side and the fact that there are no first-floor gables windows on either side of the proposed dwellings, there will be no loss of amenity due to overlooking for either No. 49 or No. 51 Ballsmill Road. Therefore, the proposal will not unduly impact the privacy or amenity of the neighbouring properties.

#### **Other Areas of Consideration:**

- To ensure adequate visibility splays could be attained for the proposal notice was served on a neighbouring landowner by the applicant and therefore statutory obligations have been fulfilled. The landowner has the right to object to their lands being used, however, planning permission does not confer title and it is the responsibility of the landowner and applicant to ensure they have control of any lands required for development. Therefore the issue of ownership has been fully considered and a recommendation for approval should remain unchanged.
- Previous planning histories associated with the proposed site were considered under the relevant policies at that time. Since then, new policy has been published in which this proposal has been assessed and any previous refusals on the proposed site do not automatically warrant that this application should be refused.
- Any removal of existing vegetation during the development stage would be carried out at the appropriate time to ensure that any works undertaken will comply with the Wildlife (NI) Order 1985.
- Following on from the submission of amended plans showing an increase in the red line and visibility splays from neighbouring land owners being served notice gathered the latest response from DFI Roads in which no objections were raised. The proposed access as shown on these amended plans will not impact on road safety as previously suggested by objectors and will ensure that access to the proposed dwellings will ensure the safety of both road users and homeowners.
- In accordance with Policy CTY16 a copy of consent to discharge will be duly submitted to the council before any commencement of development works begin.

## APPENDIX 1



View of Newly Constructed Boundary Wall and Detached Domestic Garage adjacent to the existing Dwelling House at No.51 Ballsmill Road, Glassdrumman.



View of Newly Constructed Boundary Wall and Detached Domestic Garage adjacent to the existing Dwelling House at No.49 Ballsmill Road.



Ariel View of Existing Dwelling Houses (49 & 51), Infill Development site is indicated in Red on Map. (Identification Purposes Only).





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

**Application Reference:**

LA07/2021/0498/O

**Date Received:**

15.03.2021

**Proposal:**

Proposed site for infill dwelling & garage

**Location:**

20m north of 14 Old Road Mayobridge Newry BT34 2HG

**Site Characteristics & Area Characteristics:**

The site is located within the rural countryside outside any settlement limits as designated under the Banbridge, Newry and Mourne Area Plan 2015 (BNMP, 2015).

The site is situated 20m north of 14 Old Road and is in between 2 large sheds. The site is accessed via a laneway that runs along No. 14 to the south and along the western boundary of No. 16 Old Road. No. 14 Old Road is a single storey dwelling with a 2-storey extension and No. 16 is a single storey dwelling.

The shed west of the site appears to be in use as a mechanics (no planning history) with a smaller stone outbuilding just to the south. The site appears to have a number of old cars within as well as the lands beyond No. 16 to the east and south-east being used to store old cars.

The site itself is elevated from the level of the adjacent private laneway. The site cannot be accessed from the laneway that runs between the large shed to the east and No. 16 to the west and can only be accessed via the laneway that runs to the west of No. 16.





*Application site from laneway north of No. 14. Large shed to east of application site. Gate and white pillar in picture denotes the curtilage of No. 16*



*Looking towards No. 14 SW from application site. Old stone outbuilding can be seen right hand side of photo*



*Large shed and outbuilding west of application site and No. 14 Old Road*



*Proposed access laneway west of No. 14 and past large shed and adjacent outbuilding. This laneway stops at the curtilage of No. 16 as shown below and does not lead to the shed to the east of the site*





*Gate and white pillar denotes curtilage of No. 16. Application site beyond with cars and vans within*

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

This application will be assessed under the following policy considerations:

- Strategic Planning Policy Statement (SPPS)
- Banbridge, Newry and Mourne Area Plan (2015)
- PPS 21: Sustainable Development in the Countryside
- PPS 3: Access, Movement and Parking
- DCAN 15: Parking Requirements
- Building on Tradition

### **Site History:**

No planning history for this site.

There is planning history for No. 16 Old Road.

- P/2007/1244/F - 16, Old Road, Mayobridge - Erection of replacement dwelling – Permission granted, 15.05.2008. This development does not appear to have commenced and has since expired.

### **Consultations:**

DfI Roads – No objections subject to conditions

Water – Generic response

Rivers – No objections

### **Objections & Representations:**

Neighbour notification: 14.04.2021

Advertisement: 31.03.2021

No objections or representations have been received to date (16.06.2021).

### **Assessment**

#### Proposal

The proposal is an outline application for the infill of a site to provide 1 dwelling on lands 20m north of 14 Old Road Mayobridge. No floorplans or elevations have been submitted with this application, these would be required at reserved matters stage.

#### Principle of Development

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is currently within the remit of the Banbridge / Newry & Mourne Area Plan 2015 as the new council has not yet adopted a local development plan. The site is located outside settlement limits on the above Plan and is un-zoned. There are no specific policies in the Plan that are relevant to the determination of the application and it directs the decision-maker to the operational policies of the SPPS and the retained PPS21.

There is little change in the SPPS from that of the policies within PPS 21 and it is arguably less prescriptive, therefore PPS 21: Sustainable Development in the Countryside will provide the material considerations for this application.

As the application is for the infill of a site, the relevant policy would be Policy CTY 8 – Ribbon Development. This policy provides the criteria to be met in order to grant permission for an infill site.

In assessing proposals against policy CTY8, the PAC has set out four steps to be undertaken in order (e.g. in appeal decision 2016/A0040):

- a. Identify whether there is a substantial and continuously built up frontage.
- b. Establish whether there is a small gap site.
- c. Determine whether the proposal would respect the existing development pattern in terms of size, scale, siting and plot size.
- d. Assess the proposal against other planning and environmental requirements (typically, integration and impact on rural character).

This approach will be followed below.

The site in question sits 20m north of No. 14 Old Road along a private laneway in between a large shed and smaller outbuilding to the west and a large shed to the west. There are 2 dwellings adjacent the site, No. 14 to the SW and No. 16 to the



SE. The application site is roughly outlined in red below. The blue dot denotes No. 16 and the green dot denotes No. 14. The shed and outbuilding west of the site is denoted by an orange dot while the shed east of the site is denoted by a purple dot. The blue line below shows the route of the laneway in question which travels west of No. 16 and then south of the outbuilding and large shed and application site. This laneway stops at the curtilage of No. 16 which is defined by a metal gate and white pillars as shown in the pictures above and does not continue on towards to other shed east of the application site. The laneway outlined in purple travels south of No. 14 and leads to the curtilage of No. 16 which is defined by a metal gate and wooden fence. The laneway also continues east of No. 16 towards the shed denoted by the purple dot below.





A substantial and continuously built up frontage is defined as including a line of 3 or more buildings along a road frontage without accompanying development to the rear.

Within the Concept Statement submitted alongside this application the agent has stated "Our proposal has two buildings along the road frontage to the west and 2 buildings along the road frontage to the east along with a further 2 buildings to the south which are all accessed from the lane which loops around the dwelling and shed at No. 14".

As shown above, the laneway in question is outlined in blue. This laneway stops at the curtilage of No. 16 and does not continue on towards the shed east of the site. Therefore it is considered that the shed east of the site does not have frontage to this laneway. The shed and outbuilding west of the site do benefit from frontage to this laneway. The laneway south of No. 14 outlined in purple above travels towards No. 16 and stops at the metal gate and wooden fence. The laneway does not loop around as the agent has suggested in the Concept Statement as it is intercepted by the curtilage of No. 16 which is clearly defined by gates, fences and pillars as shown in the pictures from the site visit above. Therefore No. 16 does not have frontage to the laneway outlined in blue above and similarly, the application site and shed and outbuilding west of the application site do not have frontage to the laneway outlined in purple above.

From an aerial it is noted the application site may be viewed as being sited between sheds to either side, or also between the dwellings at no.14 and 16, however the following is noted.

- The line of the laneway may be deemed to have 2 separate frontages, namely that extending from no.14 to include the shed behind, AND, the stretch of laneway between No.14 and 16. As advised, the laneway terminates at No.16.
- The site is set back from the laneway and has no frontage to the stretch of laneway between no.14 and 16.
- The site is behind the shed which is north of no.14. It is not an infill of a gap site.
- There is no continuous frontage linking the sheds to the north of no.14 and 16.

For the reasons explained above, the Department do not consider the application site to be sited within a substantial and continuously built up frontage and therefore the first and second test of the policy is not met and the principle of development cannot be established on this site.

Notwithstanding the above, I will assess the proposal in its entirety against the other relevant policies, CTY 13 and CTY 14.

#### Design, Scale, Size and Massing

Policy CTY13 -Integration and Design of Buildings in the Countryside outlines that a dwelling will be acceptable where it is visually integrated into the landscape and is of an appropriate design.

The policy provides 7 criteria that should be met:

- (a) As this is an outline application, no floor plans or elevations have been submitted. The application site is located along a private laneway and there are a number of buildings adjacent the site – 2 large sheds, 2 single storey dwellings and a small outbuilding. Although the site is higher than the laneway, it is considered that a dwelling on this site with ridge height condition attached would not appear prominent and could integrate with the retention of all natural boundaries and proposed planting to be shown on a landscaping plan submitted at RM stage.
- (b) The site does not lack long established natural boundaries and is able to provide a suitable degree of enclosure for the building to integrate into the landscape due to the adjacent development.
- (c) As mentioned above, the existing natural boundaries of the site are to be retained and the indicative site plan proposes a new hedgerow and planting along the boundaries. It is considered that the proposed does not rely primarily on the use of new landscaping for integration;
- (d) The indicative site layout proposes a new access point along the southern boundary of the site from the laneway. It is considered ancillary works will integrate into the surroundings;
- (e) As this is an outline application, no floor plans or elevations have been submitted. The design of the dwellings would be considered at Reserved Matters stage;
- (f) It is considered that the development of a dwelling on this site will blend with the landform with relevant conditions attached e.g. ridge height and landscaping.



(g) The application is not for a farm dwelling.

The proposal complies with CTY 13.

Policy CTY14- Rural Character outlines that a dwelling will be acceptable where it does not cause a detrimental change to, or further erode the rural character of an area.

The policy provides 5 criteria that should be met:

(a) The application site is located along a private laneway and there are a number of buildings adjacent the site – 2 large sheds, 2 single storey dwellings and a small outbuilding. Although the site is higher than the laneway, it is considered that a dwelling on this site with ridge height condition attached would not appear prominent and could integrate with the retention of all natural boundaries and proposed planting to be shown on a landscaping plan submitted at RM stage

(b) For the reasons outlined within the assessment for CTY 8 above and the fact that the application site is not considered to be within a continuous or substantially built up frontage, the Department consider that the proposal would result in a suburban style build-up of development when viewed with existing and approved buildings.

(c) It is considered that the proposal would respect the traditional pattern of settlement exhibited in the area as there are a mixture of adjacent plot sizes.

(d) As mentioned above, the proposal is considered to add to ribbon development along the private laneway in question.

(e) The indicative site layout proposes a new access point along the southern boundary of the site from the laneway. It is considered ancillary works will integrate into the surroundings and would not damage rural character.

The proposal fails to comply with Policy CTY 14.

#### Impact on Amenity

The closest neighbouring dwellings are Nos. 14 and 16 SW and SE of the site respectively. It is considered that the separation distance between the proposed dwelling and existing adjacent dwellings would alleviate any concerns of potential overlooking, overshadowing and loss of light. As this is an outline application, floor plans and elevations have not been submitted and would be considered at Reserved Matters stage. It is considered that appropriate design would ensure that there are no concerns of the proposed dwelling impacting the amenity of the neighbouring dwellings to an unacceptable level.

#### **Recommendation:**



## Refusal

### Reasons for refusal:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the site does not represent a small gap site within a substantial and continuously built-up frontage.
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 building would, if permitted (b) result in a sub-urban style build up of development when viewed with existing and approved buildings and would (d) add to a ribbon of development along the laneway; and would therefore result in a detrimental change to further erode the rural character of the countryside.

**Case Officer Signature: Eadaoin Farrell**

**Date: 16.06.2021**

**Appointed Officer Signature: M Keane**

**Date: 22-06-21**



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

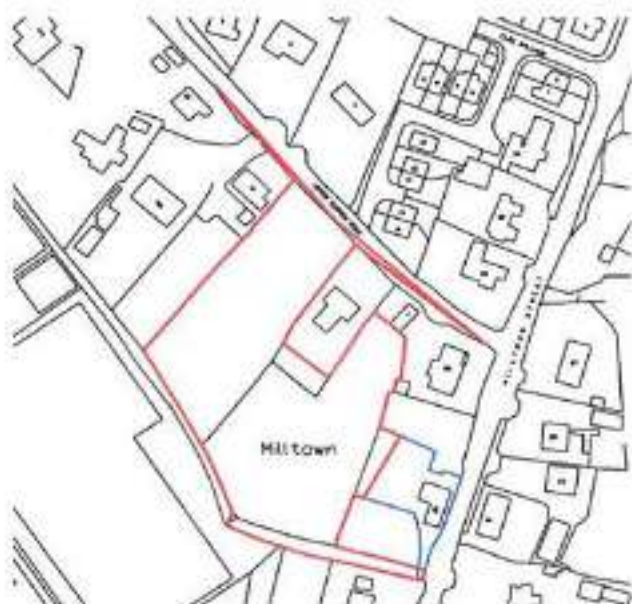
**Application Reference:** LA07/2019/1748/F

**Date Received:** 15/11/2019

**Proposal:** Erection of 12 dwellings, with boundary walls, fences, landscaping and associated site works

(Note: When initially submitted in 2019, this application was for a total of 15 dwellings but has since been amended/reduced to a total of 12).

**Location:** Lands on Upper Burren Road between No's. 6 and 10 and extending to the rear of 22 and 26 Milltown Street and 4 Upper Burren Road, Burren



**Site Characteristics & Area Characteristics:**

Characteristics of site: The lands outlined in red are irregular in shape located between no. 06 and no. 10 Upper Burren Road and running to the rear of 22-26

Milltown Street. The site at present is a piece of unmaintained land, consisting of long grass and portions of scrub. The levels within the site fall from north east to south west. There is no vehicular access to the site at present, with access served via a field gate. A belt of trees run along the entire south western boundary, with a mature hedgerow running along the north eastern boundary. There are limited views into and through the site from the public road, given that the site is located to the rear of a number of properties.

Characteristics of area: The subject site is located within the settlement limits of Warrenpoint/Burren on un-zoned white lands. The southern portion of the site abuts Milltown Industrial Estate which is land zoned as Existing Industry. The immediate area is predominately characterised by detached dwellings which front onto Upper Burren Road and Milltown Street. Case officers note semi-detached dwellings located opposite the proposed entrance.

### **Site History:**

P/2013/0141/O - Adjacent to and south east of 10 Upper Burren Road, Burren, Warrenpoint. Site for dwelling and garage. Permission granted.

P/1995/0564 - Adjacent To No.10 Upper Burren Road Milltown Burren Warrenpoint. Site for dwelling. Application withdrawn.

### Applications within close proximity to the site

LA07/2021/1549/F- Application under section 54 for amendment of condition 03C of planning approval LA07/2018/0244/F as follows: Manufacturing operating hours extended from 7.00 - 23.00 hours Monday to Friday to 24 Hour production, 7 days per week. Received Sept 2021. Remains under consideration. Currently at consultee stage.

LA07/2020/1708/F - Section 54 for the amendment of Condition 03C of Planning Approval LA07/2018/0244/F as follows; Manufacturing operating hours extended from 7.00-23.00 Monday to Friday to 24 Hour production, 7 days a week. Unit 11 Milltown Industrial Estate, Warrenpoint. Permission refused.

LA07/2020/0189/F - To amend condition No 03c of planning approval LA07/2018/0244/F which reads No machinery shall be operated, no process shall be carried out and no deliveries taken at, or dispatched from the site outside the following times: c) Manufacturing: 0700-2300 hours Monday to Friday to read Manufacturing operating hours to be 24 hours, 7 days a week. Unit 11, Milltown Industrial Estate, Warrenpoint, BT34 3FN. Permission refused.

LA07/2018/0244/F - Change of use of part of existing warehouse to 1. Manufacturing, 2. Showroom with associated sales office. Alterations to existing building including new first floor sales office, new shop front, new goods access and

new access to estate Road. Demolition of existing testing laboratory and erection of modular offices to provide admin/welfare to manufacturing use. Unit 11, Milltown Industrial Estate, Warrenpoint, BT34 3FN. Permission granted.

P/2012/0820/F - Erection of a Dwelling. Adjacent to No. 4 Upper Burren Road Warrenpoint. Permission granted.

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

The NI Regional Development Strategy 2035  
 SPPS – Strategic Planning Policy Statement for Northern Ireland.  
 Banbridge/Newry and Mourne Area Plan 2015  
 PPS 2 – Natural Heritage  
 PPS 3 - Access, Movement and Parking  
 PPS4- Economic Development  
 PPS 7 – Quality Residential Environments  
 PPS8 – Open Space, Sport and Outdoor Recreation  
 Addendum to PPS7 – Safeguarding the Character of Established Residential Areas  
 PPS 12 – Housing in Settlements  
 PPS 15 – Planning and Flood Risk

Supplementary guidance  
 Creating Places  
 Development Control Advice Note (DCAN) 8 - Housing in Existing Urban Areas  
 DCAN15 – Vehicular Access Standards  
 Parking Standards  
 DCAN8 – Housing in Existing Urban Areas  
 A Planning Strategy for Rural Northern Ireland (Policies DES2 & SP18)

### **Consultations:**

NI Water – Available capacity

DFI Rivers – No objection subject to recommended planning condition and informatives (Noted a Drainage Assessment was submitted and Schedule 6 Consent obtained).

Environmental Health (NM&D) – No objection in principle. Having considered the application stating that applicant should be aware that there is an existing industrial estate to the rear of the site and future occupants of the dwellings may be affected by noise from the site.

SES – No objections (Informal consultation)

DFI Roads - No objections subject to access being constructed in accordance with approved PSD's and planning conditions.



NIEA – No objections in principle (Noted a Landscape and lighting plan, Bio Diversity Report, and Preliminary Ecological Appraisal were submitted).

Since receipt of the application in 2019 consultation and re-consultation has been undertaken with several bodies including those outlined above, whereby it is noted all consultees now offer no objections to the proposals in principle.

### **Publication, Objections & Representations:**

Having account current procedure and practice an initial round of neighbour notification as undertaken in Jan 2020 (with additional neighbour being notified in March 2020).

Following receipt of amended plans/additional information, further rounds of NN were also undertaken.

The application was also advertised in the local press in Jan 2019, and again in Oct and Dec 2020 following receipt of an amended description. (Reducing the number of units).

It is considered the proposals have been correctly Advertised and Neighbours Notified, whereby the proposal description and site address provided are sufficiently detailed.

To date (06-10-21) approx 100 representations have been logged in respect of this application, with some 76 logged as objections and 22 logged in support. The address points of those who have made representation have been noted.

The planning concerns raised are summarised as follows:

- Size and scale of the proposal, over-development,
- Directly overlooking
- Congestion and traffic pressures including parking
- Siting and heights of buildings
- Dwelling types
- Road safety
- Conflict with adjoining land uses (overlooking, overshadowing, dominance, smoke from chimneys)
- Boundary treatments
- Impact on Protected species
- Security concerns
- Lack of green space
- Impact on a Right of Way

The representations in support of the proposal include the following:-

- Disagree with the road dangers raised in the objections,
- The number of houses does not determine how people drive
- Note a footpath is provided along the site frontage. Other landowners along this stretch of road may wish to offer lands to DFI to provide footpaths further along the road
- Support the housing building for the area.

The comments made are considered further below.

See file for full content of reps received as the above is a summary of main issues raised.

## Consideration and Assessment:

### STRATEGIC POLICY

RG8 of the RDS aims to manage housing growth to achieve sustainable patterns of residential development. It aims to provide more high quality accessible housing within existing urban areas without causing unacceptable damage to the local character and environmental quality or residential amenity of these areas. Therefore the principle of developing this site within the urban footprint is in line with the regional housing policy of the RDS.

The SPSS sets out core planning principles to be employed in the quest to achieve sustainable development. Of particular relevance to this application are the aim of supporting good design and positive place making while preserving and improving the built and natural environment.

The design, density and layout of the scheme has been amended during the course of the application in response to the concerns of the planning authority. These matters will be assessed further below.

The SPSS also addresses housing in settlements. It repeats the planning control principles listed in PPS12. The proposal complies with these as follows:

- *increased housing density without town cramming* – the proposal will increase the housing density in this area without erosion of local character, environmental quality or amenity. The design draws on some of the characteristics of adjacent development. For further consideration of these issues, see 'urban design' below.
- *sustainable forms of development* – the use of sites like this within the urban footprint is more sustainable than one-off housing developments outside development limits and is therefore to be encouraged. There are local facilities and services available nearby.

- *good design* – The design of the scheme successfully respects the context of the area and follows local traditions of form, materials and detailing, while taking advantage of the characteristics of the site.
- *balanced communities* – as this proposal is for a small development, there is limited scope to provide different unit sizes, however several house types are proposed.

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is currently within the remit of the Banbridge / Newry & Mourne Area Plan 2015 as the new council has not yet adopted a local development plan.

As stated above the lands comprising the application site are located within the settlement limits of Warrenpoint/Burren on un-zoned white lands, as identified in the Area Plan.

With regards to the principle of development, as stated above, the site is regarded as white-land. The site is vacant at present, whereby the area in general along the Upper Burren Rd and Milltown St is largely residential in character. The adjoining land use and zoning to the rear is also noted, however having account the zoning of the site, and character of the area, it is considered there can be no objection to the principle of residential use on this site.

## URBAN DESIGN

Planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment, as per the requirements of QD1 of PPS7.

As outlined previously, the proposal was initially for a total of 15 units, however this has since been reduced and is now for a total of 12 units (2 detached and 10 semi-detached).

This report is based on the latest scheme for 12 units, which effectively comprises 4 house types.

Houses 1-2: 2 storey semi-detached adjacent to the entrance to the development and closest to the Upper Burren Rd.

Houses 3-11: split level units, 2 storey to the front and 3 storey to the rear, which will back towards the industrial site. Plot 3 is detached, while Plots 4-11 are semi-detached

House 12: 2 storey detached dwelling, sited adjacent to No.24 and 26 Milltown St.

The finishes for all units include black roof tiles, black RWGs, cream colour pvc fascia, windows and doors, and cream coloured render walls with grey slate stone cladding.

The site will access directly onto the Upper Burren Rd adjacent to no.10, with all units using this same individual entrance.

Policy QD1 of PPS 7, requires all proposals for residential development to conform to Criteria (a) – (i).

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

In assessment of this criterion it is considered the development does respect the surrounding context in terms of its layout, house type, size, finishes, plot size and density.

It is noted this stretch of Upper Burren Rd and Milltown St now includes a mix of detached and semi-detached dwellings of differing sizes and designs, both single and 2 storey in nature.

While the adjoining properties to either side of the entrance are detached, there are also semi-detached dwellings immediately adjacent, including the more recently constructed developments of Clock Ballaun and Milltown Close, which now also form part of the character of this area.

As stated above it is considered the development proposed including the layout, scale, plot sizes, house types and finishes respect the surrounding context and is appropriate for the area, for the reasons outlined. The development is set back from the road, with a soft area of amenity space at the entrance, however the development still provides a frontage to the road, with the entrance unit being double fronted and which will also respect the character and scale along the street-scene.

Each unit includes incurtilage parking to the side with soft landscaping to the front, thereby creating a quality environment.

Levels have been provided which indicate those proposed will respect those existing including those of the adjoining properties.

The boundaries of units will primarily comprise aluminium estate type railings along the front with boarded fencing hidden to the rear with planting. A number of existing



trees are also to be retained with root protection zones included in the landscaping plan. A Landscaping plan has also been submitted.

The size of the development does not trigger any requirement for communal open space provision, however 2 pockets of communal open space are provided either side of the entrance.

While the site is located within the settlement limit, the Planning Authority noted the adjoining lands to the west are zoned as an existing area of economic development, with a current application under consideration to increase operating times for the adjoining site. Consultation was undertaken with Environmental Health (EH) due to the nature of the proposal and constraints of the site and wider area, whereby EH did not object to the proposal and did not request any further information, such as acoustic measures or a Noise Assessment.

The Planning Dept had requested a Noise Assessment from the agent during the processing of the case, however the agent rebutted this request, setting out the comments from EH.

Having account the comments and position from EH the Planning Dept considered this request was not justifiable.

It is noted the existing planting along the boundary with the industrial lands is to be retained, with a new hedgerow also provided along this boundary boundary.

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

There are no known features which impact the site.

- (c) Adequate provision is made for public and private open space and landscaped areas as an integral part of the development

Each unit will have its own internal area of private amenity space, with small soft areas to the front and larger private garden areas to the rear, which are considered sufficient for each of these 3 and 4 bedroom units.

Given the scale of the development, it is considered that there is no requirement for this proposal to comply with (d) and (e).

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

Each unit will have its own in-curtilage parking with space for at least 2 cars off-street, and also space for additional parking on-street if required. It is noted TNI are now content with the proposals.

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

The design and finishes of each unit as outlined above are considered to be in keeping and acceptable for this setting.

- (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

Since the original submission in 2019, the Planning authority has sought and received revisions and reductions to the layout to ensure a quality layout and to prevent any unacceptable impact resulting on the amenity of any adjoining property and also to ensure there are no inter-relationship issues between the units proposed.

It is considered the siting of each unit, together with the levels and layout including window openings and orientation, and separation distances to the various boundaries will ensure no unacceptable impact will result on the amenity of any adjoining property, or indeed between the units proposed, in terms of overlooking, overshadowing, loss of light or dominant impact, in this urban context. Also it is considered the entrance road which is centrally located is sufficiently removed from the boundaries with adjoining properties, and together with boundary proposals, will not result in any unacceptable loss of amenity.

- (i) The development is designed to deter crime and promote personal safety

The proposed layout is spacious and open and does not include any elements that would give rise to concern. The area of public open space to the front is open and visible and can be monitored. As such it is considered the proposal does not offend this criteria.

The representations received included that there is a Right of Way (ROW) affected by the site. In respect of this, the agent advised they queried this with the Councils Rights of Way Officer, who confirmed the said path is not registered as a ROW, however that the proposals do not impact/obstruct this.

In summary it is considered the proposal does not offend the requirements of PPS7 or the subsequent associated Addendum, whereby the scale and form of the development proposed is respective of the character of the area.

In addition to PPS7, proposals for residential development must also comply with the requirements of the Addendum to PPS7 (Safeguarding the Character of Established Residential Areas).

#### Policy LC 1 of the Addendum to PPS 7

Given the mixed character of the area surrounding the site and the existing use of this site, the proposal must accord with the requirements of this policy.

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

It is considered the density including plot sizes and pattern of development respects the character of the area, for the reason outlined above, and does not offend this policy.

#### PPS 2 - Natural Heritage

The agent submitted a Biodiversity Checklist and associated Ecological statement, landscape layout, Lighting Report and Lighting Plan, and a further Addendum to the Preliminary Ecological Appraisal. NED has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, is content with the proposal, subject to conditions and informatives.

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). Shared Environmental Services have considered the site, in a response dated 09/01/2021 concluded that "the proposal would not have any likely significant effect on the features of any European Site."

### PPS 3 – Access, Movement and Parking

DFI Roads has been consulted with regards to the Access, Movement and Parking, on more than one occasion throughout the processing of this application. The Department has responded to the most recent scheme with no objections to the proposal subject to Conditions. As stated above, it is considered parking provision for each unit is sufficient. The site indicates these 12 units will use the same entrance road and shared access on to the Upper Burren Rd. The development includes a footpath within the site and also along the site frontage (2m wide), with internal access road width of 5.5m, and 8m radius at the site entrance from the Upper Burren Rd, with splays of 2.4m by 45m and 2.4m by 40m in either direction, which is deemed acceptable by DFI Roads in this instance.

The ownership of the lands outlined in red line was raised with the agent during the processing of the case whereby an amended P1 form and Certificate was received.

### **Recommendation:**

While it is noted this application has attracted considerable interest both in opposition and support, it is considered the current proposals do not offend any of the applicable policy provisions and there are no grounds to sustain a refusal.

The Planning Authority have secured significant amendments to this proposal throughout the processing of this application to ensure that this proposal meets these core planning principles for sustainable development outlined in the SPPS for the reasons outlined within this report.

On this basis the application is recommended for Approval subject to conditions.

### **Approval**

### **Conditions:**

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

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



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

The Department hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawings hereby approved

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

3. The visibility splays at the junction of the proposed access road with the public road shall be provided in accordance with the plans hereby approved, prior to the commencement of any other works or other development.

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

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

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

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

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

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

Reason: Road safety and convenience of traffic and pedestrians.

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

(These works will be carried out entirely at the developer's expense.)

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

8. Existing mature trees and hedgerow along the site boundaries shall be retained, as shown on Drawing P04D.

Reason: To protect the biodiversity value of the site, including protected species.

9. Prior to works commencing on site, all existing trees as shown on Drawing Number P04D and Drawing Number P011, as being retained shall be protected by appropriate fencing in accordance with British Standard 5837:2012 *Trees in relation to design, demolition and construction – Recommendations*. No retained tree shall be cut down, uprooted or destroyed, or have its roots damaged within the crown spread nor shall arboricultural work or tree surgery take place on any retained tree other than in accordance with the approved plans and particulars, without the written approval of the Planning Authority.

Reason: To protect the biodiversity value of the site, including protected species.

10. All works to be carried out within the Root Protection Area (RPA) as shown on Drawing No. P011 shall be carried out under the supervision of an experienced and suitably qualified arboriculturist. The arboriculturist shall write a report detailing the works carried out and the implementation of mitigation measures and this shall be submitted to the Planning Authority within 6 weeks of the completion of works within the RPA.

Reason: To protect biodiversity within the site, including protected species.

11. ALL landscape and planting proposals shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The planting plan shall be carried out during the first available planting season after construction works have been completed, in accordance with Drawing Number P04D. The proposed boundary planting to the rear of all units shall be a minimum height of 1m at the time of planting, and shall be allowed to grow on to a minimum height of 2m.

Reason: In the interests of visual and residential amenity.

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

Reason: To ensure the provision of landscaping to the site..

13. The boundary fencing associated with each unit as indicated on Drawing No. shall be completed prior to the occupation of the unit it serves, which shall be permanently retained thereafter.

Reason: In the interests of visual and residential amenity.

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

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

**Informatives**

<b>Case Officer Signature: S Maguire</b> <b>Date: 06-10-21</b>
<b>Appointed Officer Signature: M Keane</b> <b>Date: 06-10-21</b>



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

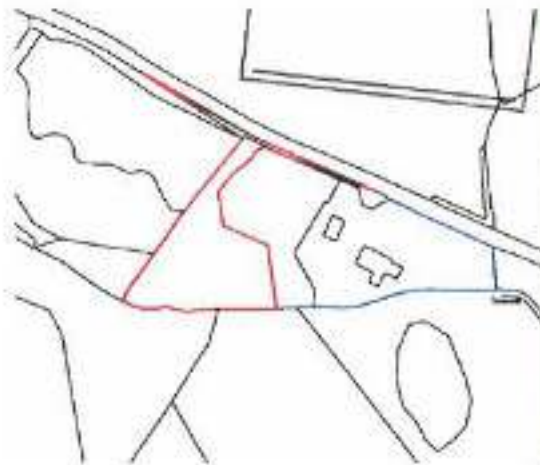
**Application Reference:** LA07/2021/0108/F

**Date Received:** 19<sup>th</sup> January 2021

**Proposal:** Dwelling

**Location:** 50m SW of 31a Ballydrumman Road, Castlewellan

**Site Characteristics & Area Characteristics:**



The application site is comprised of a cut out from a larger agricultural field. Access to the site is provided via an existing laneway leading from the Ballydrumman Road. The main portion of the application site is setback approx. 40 metres from the road frontage. Within the south western corner of the site is an agricultural shed. South east of the site and separated by the remaining portion of the larger agricultural field is a two-storey dwelling and detached garage. The immediate surrounding topography is undulating with land levels rising up to the south west within the application site from the road.

The surrounding area is rural in character with development comprising of single dwelling and outbuildings. The application site is located outside any settlement



limits and is designated an Area of Outstanding Natural Beauty (AONB) by the Banbridge, Newry and Mourne Area Plan 2015.

#### **Site History:**

- Q/2004/1223/F, 168 metres south east of 29 Ballydrumman Road Ballyward, Erection of dwelling and double garage, Permission Granted.
- Q/2001/0769/O, 168 metres south east of No 29 Ballydrumman Road, Ballyward, Castlewellan, Site for dwelling, Permission Granted.

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

- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- The Ards and Down Area Plan 2015 (ADAP)
- PPS 2 - Natural Heritage
- PPS 3 - Access, Movement and Parking
- PPS21 – Sustainable Development in the Countryside
- DCAN15 – Vehicular Access Standards
- Building on Tradition' Design Guide

#### **Consultations:**

There were three consultations carried out for this application. See details below.

- Northern Ireland Water (NI Water) – Generic response. (09.03.2021).
- The Department for Infrastructure Roads (DFI Roads) – No objection to proposal subject to conditions outlined below. (23.03.202).
- Department of Agriculture, Environment and Rural Affairs – Confirmation that Farm business ID has been in existence for more than 6 years. The farm business has claimed payments in 2021 (one year) and the application site is on land for which payments are currently being claimed. (28/05/2021).

#### **Objections & Representations**

There were no neighbour notifications required. The proposal was advertised in the local press on the 3<sup>rd</sup> February 2021. No representations were received.

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

The proposal seeks full planning permission for the erection of a farm dwelling.

The policy context for this application is provided for by Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS 21). Policy CTY 1 of PPS 21 states that there are a range of types of developments which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. The applicant has submitted the application on the basis that he considers the proposal to comply with CTY 10 of PPS 21.

#### **Policy CTY 10**

Policy CTY 10 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.

The applicant has provided a DARD business ID. The initial consultation response from DAERA advised that the farm business had been in existence for more than 6 years, no payments have been claimed in the last 6 years and that the proposed site is located on lands associated with another farm business. A second consultation was issued to DAERA following further investigations. Their response received on the 18<sup>th</sup> May 2021 indicates that single farm payments or other allowances have only been claimed in the year 2021 and no indication that the application site was associated with another business. The agent provided information in the form of Herd records dated from 2012 to present and a copy of the applicant farmers breeders certificate. The information provided is considered sufficient to demonstrate that the farm business has been active for the last 6 years. The proposal meets the policy requirements of CTY10a

A search of planning histories has not revealed any other planning applications in connection with the business ID provided, nor any other developments being sold off. The provision in CTY10 with regards to disposing of development opportunities or dwellings applies from 25<sup>th</sup> November 2008. There is no evidence to suggest that any development opportunities or dwellings have been sold off since 25<sup>th</sup> November 2008, therefore the proposal meets criteria (b).

The P1C form submitted with this application outlines that the farm business is registered to 31 Ballydrumman Road. The application site is positioned approx. 50m south west of No. 31a Ballydrumman Road. The agent has explained that DAERA's correspondence refers to the applicant farmers address as No. 31, but maps clearly show the property as 31a. Land registry checks confirm, the dwelling and garage east of the application site (No. 31a) and all land within the application site and outlined in blue on the Site Location Plan is registered to the applicant farmer. On the basis of this information, the dwelling and garage to the north east of the application site is the registered farm dwelling and the agricultural shed within the south western corner of the application site is a building on the farm. During a site inspection in April 2021, the small shed was being used to house cattle. Upon checking, this shed does not appear to benefit from planning permission however aerials show the shed in place as far back as 2015.

Criteria (c) of CTY 10 requires the new dwelling to be visually linked or sited to cluster with the established farm buildings. Paragraph 5.41 of the justification and amplification to the policy indicates that to help minimise impact on the character and appearance of the landscape such dwellings should be positioned sensitively with an established group of buildings on the farm, either to form an integral part of that particular building group, or when viewed from surrounding vantage points, it reads as being visually interlinked with those buildings, with little appreciation of any physical separation that may exist between them.

The new dwelling is proposed on land positioned between the main farm dwelling and garage and the agricultural shed. Travelling west on Ballydrumman Road, the application site cannot be seen until passing the frontage of No.31a. Travelling westwards along Ballydrumman Road, the appeal site falls into view while on the descent of the hill, just past No. 30. At the brow of the hill the registered farm dwelling and garage are visible but not the agricultural building within the application site. The positioning of the new dwelling results in a greater separation distance from the farm buildings at No. 31a then from the agricultural shed within the site, see proposed layout below.



The positioning of the new dwelling will not permit clustering or visually linkage with buildings on the farm. The agricultural shed within the south western corner of the application site represents one building, policy requires grouping with buildings (plural). The physical separation distance between the new dwelling and the group of buildings to the north east hinders its ability to cluster. On approach to the application from the east and while passing the application site, the positioning on the farm buildings, the physical separation distance and the setback of the new dwelling hinders the ability for the new dwelling to visually link with buildings on the farm and is contrary to part (c) of CTY10.

### CTY13

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape. Seven criteria are listed wherein a new building will be unacceptable. It has already been concluded above that the proposed dwelling would not be visually linked or sited to cluster with an established group of buildings on a farm.

The dwelling proposed will be single storey with an under build and will be setback 47m from the Ballydrumman Road. The buildings footprint will resemble a "H" shape and will comprise of two gable fronting building components with pitched roof coverings, linked together by a small flat roof building component accommodating a lobby, utility and W.C. The eastern section of the dwelling will comprise of the bedroom accommodation across two levels. It will stand at 7.1m from GFL. The western section of the building will comprise of the kitchen, dining and living area. It



will be single storey with the ridge height measuring 5.5m above GFL. As previously noted, land levels rise as you move across the site and away from the Ballydrumman Road. The proposed finished floor level for the dwelling would be 127.99 and 129.05. The surrounding drumlin topography results in the dwelling and garage at No. 31a, east of the site, positioned on lower land levels and in comparison, the ridge height of the dwelling to the east matches the FFL of the proposed dwelling. Further, the new dwellings FFL will be close to 9m above the level of section of the Ballydrumman Road just north of the site.

As noted above, when travelling west along the Ballydrumman Road, the application site will come into view while travelling passed the frontage of No.31a. Travelling eastwards along Ballydrumman Road, the application site cannot be seen until decent the hill past No. 31. While there are no long-distance views of the application site, the proposal will be critically viewed from the Ballydrumman Road. Section 5.60 of Policy CTY 13 outlines that *"where a site cannot be readily identified from critical viewpoints, it does not obviate the need for careful site selection to ensure the proposed building blends into its surroundings and is of a high standard of design"*.

Given the elevated nature of the site and the size and scale of the proposed dwelling, the proposal will be a prominent feature in the landscape. The site lacks established natural boundaries to the north and west and is unable to provide a suitable degree of enclosure and relies primarily on the use of new landscaping to enable the dwelling to integrate into the landscape, the submitted site plan shows the level of new boundary treatment proposed. Given the elevated nature of the application site there is not considered to be any backdrop to avail of for enclosure. The presence of the main farm dwelling and garage will intervene views of the new dwelling when travelling west on the Ballydrumman Road, however given the change in levels, the new dwelling will appear incongruous in the landscape. The agent contends that the proposed dwelling will not result in any demonstrable harm and will nestle within the existing contours of the site and occupy a much lower position (FFL) in the landscape than the adjoining shed. The shed referred to is positioned further south (to the rear) of the proposed dwelling and has a lower ridge height. The presence of this shed is not considered justification for the positioning of the dwelling. For the reasons outlined above the proposal is considered contrary to parts (a), (b), (c) and (g) of CTY13.

#### CTY14

Indicates that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. It states that a new building will be unacceptable where it results in a suburban style build-up of development when viewed with existing and approved buildings, where it does not respect the traditional pattern of settlement exhibited in that area, or where it creates or adds to a ribbon of development.

As the proposal is not considered to meet CTY10 (c), a dwelling on the site would be unduly prominent in the landscape and will result in a suburban style build-up of development when viewed with other development in the area. The proposal is considered contrary to parts (a) and (b) of Policy CTY14.



Policy CTY 16 – Development relying on non-mains sewerage

The application would appear to comply with this policy, a condition should be included to ensure a copy of a consent to discharge be submitted prior to commencement of the development. The proposal is not contrary to CTY16.

PPS3 – Access, Movement and Parking

This application proposed to use an existing access which serves the agricultural building just south west of the application site. PPS 3 Policy AMP 2: Access to Public Road, is applicable and states that planning permission will only be granted for a development involving direct access, or the intensification of the use of an existing access where;

- Such access will not prejudice road safety or significantly inconvenience the flow of traffic.

Following a consultation with DFI Roads, they have no objections subject to compliance with conditions which will be attached to any future approval.

AONB

As the site lies within an AONB it must be considered if the proposal will have an unacceptable impact on the setting of the AONB. While the dwelling is not considered appropriate for the application site, in the context of the wider AONB it is considered that the proposal is of an appropriate design, size and scale for the locality.

Conclusion

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

**Recommendation:**

Refusal

<b>Case Officer: Laura O'Hare</b>  <b>Date: 12.08.2021</b>
<b>Appointed Officer : A.McAlarney</b>  <b>Date: 13 August 2021</b>

**Refusal Reasons:**

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland 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

proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm.

2. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:
  - the proposed building is a prominent feature in the landscape;
  - the proposed site lacks long established natural boundaries/is unable to provide a suitable degree of enclosure for the building to integrate into the landscape;
  - the proposed building relies primarily on the use of new landscaping for Aintegration and
  - 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.
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 prominent feature in the landscape; it is unduly prominent in the landscape and
  - result in a suburban style build-up of development when viewed with existing and approved buildings.

Planning permission is sought for a farm dwelling. This application has been called before the Council's planning committee as the applicant feels that the Officers' consideration has been unduly harsh. Officers do not accept that it has been demonstrated that the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm. The only reason there is not complete intervisibility between the dwelling and the farm grouping is because the farm shed is so well integrated that it is barely visible, a point accepted in the planning report. CTY 10 actually addresses this subject but officers have failed to do so. The proposed dwelling is to be erected in close proximity to a cluster of buildings associated with the farm holding. The cluster includes the principal farm dwelling, its outbuilding and a farm shed that is positioned nearby. The farm yard is immediately adjacent to one boundary, and the house and garage abut the other. There is no set distance specified within planning policy to determine how close a building must be to be considered as clustering with other development. The dwelling is sited within this gap and clustered with buildings (plural), not one as the planners have stated. At the closest point, the proposed dwelling is 31 metres from the outbuilding and 22 metres from the farm shed, not significant distances. Both the proposed dwelling and farm shed are sited in the same field and therefore the proposal actually meets CTY 10's clustering requirement. Officers have misinterpreted the planning policy: the supplementary guidance within CTY 10 indicates that dwellings should be positioned sensitively with an established group of buildings on the farm, either to form an integral part of that particular building group, or when viewed from surrounding vantage points, to read as being visually interlinked with those buildings, with little appreciation of any physical separation that may exist between them. Officers fail to understand that CTY 10 offers an either / or scenario. The other scenario provided for, and the one the applicant falls into, is one in which the existing building group is well landscaped. In such circumstances CTY 10 is emphatic - Para. 5.41 of CTY 10 states: planning permission can be granted for a new dwelling even though the degree of visual linkage between the two is either very limited, or virtually non-existent. Although Officers have highlighted Para.5.41 of CTY 10 within their report, they have failed to allude to this part of the Policy provision, indicating that the policy has potentially been misunderstood or misapplied. Officers' expectations have clearly strayed far beyond the reaches of Policy CTY 10. In reality, the purported deficiency arises because there are very little critical views into and through the site and as a result it is not possible to see all parts of the proposed grouping. Officers appear to have failed to acknowledge the either/or nature of CTY 10's criterion relating to siting, ignoring the fact that there is physical clustering. In fact, officers refer to a single viewpoint from which the entire cluster will not be intervisible, and there has been no acceptance that there are other positions from which there is in fact intervisibility (even though this is not the only acceptable typology).

Officers suggest that the positioning of the new dwelling will not permit clustering or visual linkage with buildings on the farm. The image below illustrates how the buildings will appear as one entity.



The image indicates the position of the proposed dwelling (red dot) in the context of the existing development on the holding. It will be nestled within the farm grouping and wider Drumlin landscape and will lie below the ridge-top location occupied by the shed. All buildings will appear as one entity in the landscape.



The previously stated distances that the buildings are set apart by, does represent clustering, particularly in light of officers acknowledging that the shed and proposed dwelling are both cut from the same field, which is not exactly large. When dealing with CTY 13, the report states that “it has already been concluded above that the proposed dwelling would not be visually linked or sited to cluster with an established group of buildings on the farm”. Again, officers appear not to have first appraised the issue of siting in the context of clustering (distances set apart), dealing only with the subject of visual linkage, so this was predetermined. Officers’ analysis of the issue of prominence requires closer scrutiny from members, because there appears to be an acceptance that the proposed levels are graduated in the terrain, in keeping with the developments to either side of the site. If the levels, and the dwellings, are all stepped how can this be prominent when it is not the uppermost development and the uppermost development is not prominent? In addition to this, one must appreciate that a dwelling will not necessarily be prominent just because it is elevated. Officers have acknowledged that there will be no long-distance views into the site. This proposal will not break the sky-line, albeit it is positioned near a localised crest.



Image taken when travelling towards the farm grouping from the west along Ballydrumman Road. Views into the proposed site are totally obscured by the landform and will only be possible along the site frontage.

Officers have not referred to Building on Tradition’s guidance at all in their analysis. The purpose of BoT is to show how the Policy is to be applied. By not consulting the document that shows how the Policy is to be applied, officers run the risk of determining an application without having regard to all material considerations. Within their report Officers suggest that the elevated nature of the application site means there is no backdrop to avail of for enclosure. Officers fail to appreciate that the test for integration has to be taken in a wider context with regard to dwellings on farms, given the wider approach on clustering. That aside, officers also fail to show how there is an understanding that each of the factors cited in 5.59 of PPS 21 have to be appraised. There is a danger also that officers have determined this application against assumed criteria set out in a policy’s accompanying text, when this cannot be given the same weight as the headnote / bold text. Officers acknowledge that the presence of the main farm dwelling and garage will impede views of the new dwelling when travelling west on the Ballydrumman Road, however they feel that given the change in land levels, the new dwelling will appear incongruous in the landscape. How can something that cannot be seen beyond the frontage, be deemed incongruous. The supposed suburban-style build-up of development arises due to Policy CTY 10’s requirement to cluster with a group of buildings on a farm. The officer’s recommendation has been arrived at without regard to CTY 10’s either / or scenario. It is important to consider what could potentially be considered another potentially contradictory assessment of the proposal i.e. it is suggested that the views of the proposal are limited to a very short stretch of frontage, beyond which there is no intervisibility between all elements of the cluster, due to the nature of the terrain. However, this is precisely the reason why the proposal is not in fact prominent: views are from the shortest of short ranges, and they are offset at an acute angle not side-on or full frontal. In closing Members have previously shown a greater willingness to recognise that permissions can be justified where proposals conform with the thrust, spirit and intent of a Policy but not the last letter and the same justification should be applied in this case and approval granted.





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**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2021/0734/O

**Date Received:** 21/04/2021

**Proposal:** Proposed Infill Dwelling and Garage

**Location:** Approx. 50m South-east of 158 Ballylough Road, Castlewellan



**Site Characteristics & Area Characteristics:**

The lands outlined in red form an irregular shaped plot located adjacent to 158 Ballylough Road. The site consists of a partially unmaintained piece of land with an orientation running north west to south east. The site has frontage to the Ballylough Road, with a field gate located to the southern portion of the site. The site is generally quite level in topography, resting at a slightly lower elevation than road level. The site occupies strong boundary treatments, with the south western, south eastern and north eastern consisting of mature vegetation providing substantial visual screening onto the site. The north west boundary is defined by ranch style

fencing, with the recent Leylandii planting to the adjacent side occupied by no. 158 Ballylough Road.

The application site is located outside any settlement development limits as designated within the Ards and Down Area Plan 2015. The area is of typical rural character and predominately agricultural use, located within a designated Area of Outstanding Natural Beauty.

### **Site History:**

R/2000/1109/F - Proposed dwelling and garage. Approx. 120 metres south west of junction Drumnaquoile/Ballylough Road, Castlewellan. Permission granted.

R/1997/0997 – Site for a bungalow. Approx. 120metres Southwest of the Junction of Drumnaquoile And Ballylough Roads Castlewellan. Permission granted.

R/1994/0314 – Dwelling. Ballylough Road, Castlewellan. Permission granted.

R/1981/0412 – Housing. Drumnaquoile, Castlewellan. Permission refused.

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

Ards and Down Area Plan 2015

SPPS - Strategic Planning Policy Statement for Northern Ireland

PPS 2 - Natural Heritage NH 6 - Areas of Outstanding Natural Beauty

PPS 3 - Access, Movement and Parking AMP 2 - Access to Public Roads

PPS 21 - Sustainable Development in the Countryside

CTY 1 - Development in the Countryside

CTY 8 - Ribbon Development

CTY 13 - Integration and Design of Buildings in the Countryside; and

CTY 14 - Rural Character

Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside

### **Consultations:**

NI Water - Generic Response.

DfI Roads – No objections subject to access being constructed in accordance with RS1

DfI Rivers - No objections and recommended planning informatives as a precautionary approach

### **Objections & Representations:**

1 Neighbour within close proximity of the site were notified on 10/05/2021. This application was advertised in the local press on 05/05/2021. No objections or representations have been received to date.

### **Consideration and Assessment:**

The application submitted is seeking outline planning permission for the erection of a dwelling and garage in the countryside. The SPPS along with PPS 21 provide the relevant planning context for determining this application.

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is currently within the remit of the Ards and Down Area Plan 2015 as the new council has not yet adopted a local development plan. The site is located outside settlement limits on the above Plan in open countryside. There are no specific policies in the Plan that are relevant to the determination of the application and it directs the decision-maker to the operational policies of the SPPS and PPS21.

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

Policy CTY 1 of PPS 21 identifies a range of types of development which in principle are considered acceptable in the countryside. One of these is the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8.

#### *Policy CTY 8*

Policy CTY 8 'Ribbon Development' states that planning permission will be refused for a building which creates or adds to a ribbon of development. However, an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within a substantially and continuously built up frontage. This policy requires four specific elements to be met, the gap site must be within a substantially and continuously built up frontage, the gap must be small, the existing development pattern along the frontage must be respected and other planning and environmental requirements must be met. The policy defines a substantial and built up frontage as a line of three or more buildings along a road frontage within accompanying development to the rear.



The agent considers that the site is such a gap site for one dwelling and garage, falling within a substantial and continuously built up frontage and suitable for a dwelling. For the purpose of the policy a line of 3 or more buildings along a frontage without accompanying development to the rear is required. The accompanying Design and Access Statement states that the subject site fronts onto Ballylough Road, in a row of 3 buildings. The buildings include dwelling and garage at No.158 and a single building located to the south east of the subject site.

The Planning Department accept that the dwelling at No.158 and the stone building located to the south east have frontage onto the Ballylough Road. Having carried out a relevant history search for the dwelling at 158, it is noted that under the most recent planning approval R/2000/1109/F - Proposed dwelling and garage, the garage has not been constructed in accordance with the approved plans, in that, the garage has been sited approx. 40m south west of approved siting (opposite side of the site). In addition, the orientation of the garage has been rotated by approx. 90 degrees. The Planning Department are of the opinion that the subject garage is not currently lawful as no Certificate of Lawfulness has been submitted to the Planning Authority for a formal determination. The garage cannot therefore be counted as a frontage building for the purposes of CTY8.

Of note in this consideration is planning appeal (2020/A0058) and its decision which relates to the planning assessment for Infill Dwellings contained with CTY-8 of PPS21. This appeal dealt specifically whether an "unregularised" building can be counted towards sharing a frontage.

The commissioner stated;

*The word "unregularised" indicates that they do not have planning permission. The appropriate route to determine their planning status would therefore be through the submission of an application to the Council for a Certificate of Lawfulness of Existing Use or Development for a formal determination. In the absence of such a Certificate, it cannot be concluded that both structures are lawful. As a consequence, both the pony shelter and metal clad structure cannot be counted towards sharing frontage. Hence, in the evidential context of this appeal, there are no buildings on the northern side of the appeal site that have road frontage.*

This recent appeal supports the Planning Departments determination that the detached "garage" associated with no.158 Ballylough Road has no lawful status and must therefore be discounted from this assessment.

There is no line of three or more buildings to constitute a substantial and continuously built up frontage, as envisaged by the policy. Accordingly, there is no gap or infill opportunity. As there is no substantial and continuously built up frontage the proposal does not meet the first test as set out in Policy CTY8. In these circumstances (as accepted by the PAC) it is not necessary to assess such matters of development pattern, plot size, frontage width and scale of development which are deemed irrelevant.



The other planning and environmental requirements under Policy CTY8 fall to be considered under Policy CTY13 which deals with the integration and design of buildings in the countryside and Policy CTY14 which addresses rural character.

#### Policy CTY13

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. Whilst there would have to be some ancillary works and partial removal of hedgerow to achieve visibility splays, there would be sufficient landscaping to provide a satisfactory backdrop for a dwelling of low elevation, a similar pattern of development exists further along the road. This is an outline application and design details are not available to assess at this stage. The proposal would comply with Policy CTY 13 subject to suitable conditions.

#### Policy CTY14

Policy CTY14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of the area. The proposal would result in a suburban style build-up of development when viewed with existing buildings and create a ribbon of development. The proposal is contrary to criterion b and d of Policy CTY14.

#### Policy CTY 16

CTY 16 ensures that new developments will not create or add to a pollution problem. A septic tank is proposed, a copy of 'Consent to Discharge' must be submitted to the Planning Department prior to the commencement of development. Environmental Health, drew reference to the need for a 'Consent to Discharge'. The proposal appears to conform to Policy CTY 16.

#### PPS 3 - Access, Movement and Parking

DfI Roads were consulted as part of the assessment of this application. In a response dated 25/05/2021, DfI Roads have no objections to the proposal with regard to the above policy criteria subject to access being in accordance with the RS1 form. The proposal can accommodate adequate curtilage parking.

#### PPS 2 - Natural Heritage

As this site is located within a designated Area of Outstanding Natural Beauty (AONB) policy NH 6- requires that new development within a designated AONB must be of an appropriate design, size and scale for the locality. The design and siting of a dwelling and garage within the lands in red would not be considered to be

unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.

### Other matters

It is noted in the submitted Design and Access Statement a number of appeal decisions have been quoted for reference. Case officers note that none of these appeals deal specifically with an "unregularised" structure on site, but deal more specifically with plot sizes, main/subordinate buildings and the general thrust of policy CTY 8. **Recommendation:**

Having considered the relevant policy, the proposal does not meet with the criteria as set out in CTY 1, CTY 8, CTY 14 of PPS 21 and refusal is recommended.

### **Refusal Reasons:**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 and CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is not a line of 3 or more buildings in a substantial and continuously built up frontage and it would, if permitted, result in the creation of ribbon development along the Ballylough Road.

<b>Case Officer:</b> S. Maguire	<b>Date:</b> 05/08/2021
<b>Appointed Officer:</b> A.McAlarney	<b>Date:</b> 05 August 2021



Reference	LA07/2021/0734/O
Location	Land immediately southwest of 158 Ballylough Road, Castlewellan
Proposal	Proposed infill dwelling and garage

### Response to Refusal Reasons

This application was refused on the basis that the Department determined there was not a line of 3 buildings in a substantial and continuously built up frontage.

As you can see from the above plan, we considered that there is a line of three buildings, which include the Domestic garage (building 1), the dwelling (building 2) followed by the gap site and the building to the southeast (building 3).

It is worth noting that The Department agreed that building 2 and 3 have a frontage to the road.

.....

The Department specifically referred to the garage of no.158 not counting towards the frontage as it has not been constructed in accordance with the approved plans(r/2000/1109/F) and therefore cannot be considered a building as there is no Certificate of Lawfulness to determine this.

This is despite the fact this building has been in situ for over 15 years, with no enforcement being taken upon the structure. This building therefore benefits from immunity.

The Planning Department highlighted appeal 2020/A0058, as support for their opinion. We however believe that this appeal is not comparable to the site subject to this application, as this appeal referred to a recently constructed stable block, which did not benefit from planning permission and couldn't be considered lawful as it was not immune from enforcement.

.....

Section 169 (2) of the Planning Act, any uses or operations are lawful at any time if (a) no enforcement action may then be taken in respect to them.



Therefore, as the garage has been in situ for over 15 years, no enforcement action can be taken upon the building therefore it is considered lawful and should count towards the built up frontage

Notwithstanding this, we have since applied for a Certificate of Lawfulness for an Existing Use, which we would expect to be approved given the google imagery which dates back to 2008.

I have shown a number of aerial images, attached on the following slide which demonstrate this buildings immunity

This is the interpretation that the Planning Appeals Commission took in **2015/A0052**. Below is a screenshot taken from this appeal, which considered an unregularized building which was immune from enforcement.

As shown on the screen, I have highlighted a that

***"Although no CLUD has been submitted to regularise this building, the LPA's representative confirmed at the site visit that the building was immune from enforcement. This being the case, this structure falls to be considered in my assessment."***

.....

To conclude, As the case officer has already considered that the dwelling and stone building to the southeast fall within the built up frontage, there is a line of three buildings which constitute a substantial and continuously built up frontage.

As the gap site can accommodate up to a maximum of two houses, whilst respecting the existing development pattern along the frontage in terms of size, scale, siting and plots sizes, the proposal therefore conforms to Policy CTY8 and CTY 14.

We respectfully request the Planning Committee overturn the case officers recommendation and approve this application.





Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2021/0358/O

**Date Received:** 22/02/2021

**Proposal:** Proposed erection of outline rural detached infill dwelling house and detached domestic garage.

**Location:** Located approximately 50 metres south east of no. 91 Maphoner, Mullaghbawn

**Site Characteristics & Area Characteristics:**

The application site is located outside any settlement limits as defined within the Banbridge / Newry and Mourne Area Plan 2015, the site does lie within an Area of Outstanding Natural Beauty.

The site is an area of land located on the edge of the public road, the site slopes down to the east. To the east of the site in No 52c a detached dwelling with a garage to the side which is located closer to the public road, beyond this property is No 52 which is again a detached property and is set back from the public road although its garden area extends to the public road. On the other side of the site to the west is a hardcore access that leads to a building set back from the public road with a field / paddock area between the road and the building.

Although located in a rural area there are a number of properties and other buildings in the vicinity of the site.

**Site History:**

LA07/2018/1463/F - Lands approximately 30 metres North West of No 52 Mill Road, Mullaghbawn - Proposed erection of a Replacement Dwelling House and Single Storey Detached Garage, ancillary site works and landscaping – Permission Granted (Constructed No 52c).

No history of the constructed hardcore access lane or the building it provides access with annotated B01 on the submitted plan.

**Planning Policies & Material Considerations:**

The following policy documents provide the primary planning context for the determination of this application:

- Banbridge / Newry and Mourne Area Plan 2015

- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 21 – Sustainable Development in the Countryside
- Planning Policy Statement 3 – Access, Movement and Parking / DCAN 15
- Planning Policy Statement 2 Natural Heritage
- Building on Tradition

#### **Consultations:**

DFI Roads – No objections, conditions suggested.

NI Water - Generic response.

#### **Objections & Representations:**

The application was advertised on 09/03/2021, four (4) neighbours were notified on 03/03/2021, no objections or representations have been received.

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

##### **Strategic Planning Policy Statement for Northern Ireland**

Paragraph 1.12 of the SPPS states that where the SPPS introduces a change of policy direction and / or provides a policy clarification that would be in conflict with the retained policy the SPPS should be accorded greater weight in the assessment of individual planning applications. However, the SPPS does not introduce a change of policy direction nor provide a policy clarification in respect of proposals for residential development in the countryside. Consequently, the relevant policy context is provided by the retained Planning Policy Statement 21, Sustainable Development in the Countryside. Policy CTY1 of PPS21 sets out a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.

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

Policy CTY1 of PPS21 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development. PPS21 states that planning permission will be granted for gap site which is accordance with policy CTY8.

#### **Principle of Development**

Policy CTY8 states that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

The site has to the east No's 52c and 52 which are considered to have a frontage with the road, to the other side of the site is the access lane leading to a building set back from the road with a field / paddock between the public road and the building in question. The building is not considered to have a frontage with the public road, the agent was advised of this and given the opportunity to submit additional information.

The agent stated in their information that the building in question annotated B01 is a commercial building that has been in place for some time. The agent states that the area between the building and the public road is an ancillary area and is significant to the operations of the building in terms of service access and storage area. At the time of inspection this area of land had the appearance of a field / paddock and not an area used for storage in connection with a commercial building.

The agent argues that the building has a frontage and also that the access to the road results in the building having a frontage, the agent refers to a number of previous applications in the Council area that they feel are relevant to this application, I will provide brief comment on these applications.

LA07/2020/0989/F – The development set back from the public road was not considered to have a frontage to the road, approval was granted as an outbuilding within a plot adjacent to the site was considered to have a frontage.

LA07/2019/0008/F – Application recommended for refusal, committee approved the application as the laneway leading to adjacent development was considered to be of such a significant size that it was deemed to have a frontage.

LA07/2020/1033/F – This application was approved on the grounds that the adjacent buildings had a frontage onto the laneway and not that the laneway had a frontage to the main public road.

LA07/2020/1622/F – This application was approved on the grounds that the adjacent development had a frontage to the lane given that garden areas abut the lane, the development was not considered to have a frontage to the main public road.

LA07/2019/1449/F – This application was recommended for refusal, approval was granted by the committee.

Having considered the examples submitted by the agent this does not alter the view that the building does not have a frontage with the public road given its location set back from the road with only a narrow hardcore access leading to the building. The agent has stated that the commercial building has been in place for some time and also that the access has been in place for a period of time. Although the building has been in place there is no record of any planning approval and so the building would not have the benefit of planning and even if the building has been in place for more than 5 years planning approval would be required to allow it to be considered as part of an infill application. It would also appear that the building was previously accessed directly from No 89 with the hardcore access a recent addition, again this access has no planning approval given that this would be required to access a commercial building. The agent also states that the area between the building and road is used in connection with the commercial building, this would again require planning approval as this would be a change of use of the land.

The building to the west of the application site is not considered to have a frontage to the public road and also the hardcore access and commercial building as referenced by the agent do not have the benefit of planning approval.



As such, the application site is not considered to be a gap within an otherwise substantial and continuously built up frontage but instead it is considered that it would create a ribbon of development.

The proposal is not considered an exception to policy but is contrary to CTY8, as there are no reasons why the development is essential in this rural location and does not meet any exceptions it is contrary to CTY1.

### **Design, Appearance and Layout**

The proposal is for outline planning permission and so specific details have not been provided regarding the design, appearance and layout of any scheme although an indicative layout was submitted. If it was considered that the proposal met all relevant policy requirements then conditions could be included on any approval to ensure the design, appearance and layout of any scheme were acceptable.

### **Integration, Design and Rural Character**

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. In terms of CTY13 the proposal will be critically viewed from the public road in both directions and so would be considered prominent. The site is unable to provide a suitable degree of enclosure with any existing vegetation providing little screening and as a result the proposal relies primarily on the use of new landscaping to enable the dwelling to integrate into the landscape and as a result, the proposal is contrary to CTY13 (parts a, b and c).

Policy CTY14 requires that buildings in the countryside do not cause a detrimental change to or further erode the rural character of the area. As previously stated the site will be critically viewed and so any new dwelling on the site will be prominent in the landscape. Given that the proposal is not considered as an infill opportunity it will create a ribbon of development along Maphoner Road, this will therefore result in a suburban style build-up when viewed with existing buildings. The proposal is considered contrary to parts (a), (b) and (d) of Policy CTY14.

### **Area of Outstanding Natural Beauty**

Planning Policy Statement 2 Policy NH6 is applicable due to the location in the Ring of Gullion AONB. The siting (for the reasons noted above) is considered unsympathetic to the special character of the AONB and therefore fails this policy criterion.

### **Access and Parking**

DFI Roads raised no objections to the proposal although conditions have been suggested, a detailed access plan would be required for approval at reserved matters or full application stage.

### **Development relying on non-mains sewerage.**

Policy CTY 16 – The application would appear to comply with this policy, a condition should be included to ensure a copy of a consent to discharge be submitted prior to commencement of the development.

### **Recommendation: Refusal**



## Reasons for Refusal

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along Maphoner Road and does not represent an exception of policy.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that a dwelling on the site would be a prominent feature, the site is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and the proposed building relies primarily on the use of new landscaping for integration and therefore would not visually integrate into the surrounding landscape.
4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted would be unduly prominent, result in a suburban style build-up of development when viewed with existing and approved buildings and would create a ribbon of development and would therefore result in a detrimental change to and further erode the rural character of the countryside.
5. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy NH6 of Planning Policy Statement 2, Natural Heritage in that the siting of the proposal is unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.

**Case Officer:** Wayne Donaldson

**Date:** 18/05/2021

**Authorised Officer:** David Fitzsimon

**Date:** 18/05/2021

**Principle of Development:**

- The proposal is in keeping with Policy CYT8 of PPS21 in that the site is featured within a substantial and continuously built-up frontage and respects the existing development pattern in terms of size, scale, siting and plot size.
- The application has been assessed by the Council's planning department on the basis of personal interpretation of planning policy not the legal interpretation of the actual planning policy. It is the applicants understanding that the adjacent plot with frontage onto Smyths Brae Road, should be considered as the **"entire curtilage"**. There is nowhere within the existing planning policy, which states any existing "farm buildings" / Commercial Buildings should be excluded from the assessment of built-up frontage or should exclude agricultural farm buildings. As such, on the basis of the interpretation and assessment of the literal meaning of the planning policy contained with PPS21-CYT8, this interpretation has not been applied in this instance.
- The **"curtilage"** of the existing plot, associated with the existing agricultural building, includes the access laneway and the access arrangement onto the Smyths Brae / Maphoner Road. Regular maintenance of any items stored takes place on a monthly schedule.
- Curtilage has been defined in a legal test case, (whereby in Sinclair v Lockhart), it was found curtilage land should serve the purpose of the building within it, in some reasonably necessary or useful manner. This was clearly outlined within the planning supporting statement, whereby the existing storage area, access laneway and existing access does clearly serve, the purpose of the existing building. The curtilage land in question, forms part and parcel of the building to which it is related.
- In consideration of planning guidance issued on the specific determination of what is defined as a frontage; frontage is defined as follows - A building has a frontage to a road, if the plot on which it stands abuts or shares a boundary with that road. The wording is quite specific for interpretation, which it stands abuts or shares a boundary with that road. This is an either-or scenario for determination.
- In previous correspondence to the council's planning department, it was advised we considered the existing access arrangement to be an integral portion of the curtilage and frontage. The question to be considered by committee is how an existing access arrangement to the existing building cannot be considered to be an integral part of "one holding", whereby the positioning onto the public road and in light of other planning precedents granted by utilising existing laneways, it was deemed acceptable in those other planning cases, yet this development proposal fails to meet the same qualifying criteria.
- This 'boundary Area' is not defined by the material characteristics that the type of frontage has, merely that it abuts a road. An access and laneway, which abuts a road is by this definition a road frontage.

- If it is an established fact, A dwelling in the countryside has a frontage to a road and incorporates an associated access laneway - it is therefore the view that this laneway is an integral portion of this frontage – and so, it can be determined any existing access laneway and storage area also forms a frontage to the road.
- There are being previous Planning Precedents granted within this council area for infill development proposals, whereby no formally planning permission was in place for the existing qualifying buildings, especially similar to this planning application, having regards to existing agricultural buildings within the same locale. Some of these examples are as follows, **LA07/2020/0967/O – LA07/2020/0731/F – LA07/2020/1298/F & LA07/2019/0057/O**. The applicant is very perturbed by the Councils position and feels his application recommendation is totally inequitable in direct comparison to recent planning precedents granted within the same area.

#### **Integration, Design & Rural Character:**

- The proposal is located between existing developments and given the existing properties and layout of the road the proposed dwelling will be visible when travelling along the public road and it would not be considered a prominent feature in the landscape. The existing development either side of the proposed site provides a suitable degree of enclosure, the proposal includes additional planting along the road frontage and other boundaries. However, it is not considered that the proposal relies primarily on the use of new landscaping for integration but as previously stated, existing developments and the layout of the public road allows the development to integrate successfully. The proposed dwelling is traditional in design and set back from the public road slightly behind the line of the existing development, which will further aid integration to the local surroundings and reduce views when travelling in either direction along the Smyth brae road. There is also adequate space for parking provision and amenity space within the development.
- The proposed dwelling is a modest one and a half storey building with a ridge height of 6.5 metres above finished floor level. The proposed single garage is also small in size and scale and is designed to be in keeping with the proposed dwelling house. The proposal complies with Policy CTY13 as the design and layout of the proposed dwellings allows the new buildings to integrate visually within the landscape in which they will be set.
- The proposal complies with Policy CTY14 as it was earlier proven that the proposal meets the requirements of Policy CTY8 and is considered as an infill opportunity and will not result in ribbon development or suburban build up. Therefore, the development is not considered unduly prominent and will not cause a detrimental change to or further erode the rural character of the area.
- We therefore respectfully request that the planning committee consider and overturn the case officer's recommendation as the proposal fully conforms to Policy CTY8 as the existing building and associated storage area has a considered frontage on Smyths Brae.



## APPENDIX 1



Existing Aerial Views of Proposed Infill Development site (Red Line Area) at Symth's Brae Road, Mullaghbawn.







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

**Application Reference:** LA07/2021/0713/F

**Date Received:** 19.04.2021

**Proposal:** Cutting and filing of existing ground levels to create new carpark for 10 carparking spaces with 1.1m high perimeter fence.

**Location:** Lands at 360m SE of 18 Glendesha Road (on Glendesha Road 445m SSE of junction with Quilly Road) Mullaghbawn.

**Site Characteristics & Area Characteristics:**

The site takes in a rectangular roadside portion of wild grassland that includes a gated access point and an existing lane. The area is characterised by undulating hills and wild agricultural / grassed land with mature landscape features. The is located on the slopes of Slievebrack and Croslieve within the countryside / AONB / Special Countryside Policy Area.

**Relevant Site History:**

N/A

**Planning Policies & Material Considerations:**

Banbridge, Newry and Mourne Area Plan 2015  
Strategic Planning Policy Statement for Northern Ireland  
Planning Policy Statement 8 Open Space  
Planning Policy Statement 2 Natural Heritage  
Planning Policy Statement 15 Planning and Flood Risk  
Planning Policy Statement 3 Access Movement and Parking

**Consultations:**

DAERA – (Natural Heritage) following consideration of additional information including a PEA, no objection subject to compliance with conditions.

DFI Rivers – no objection.

SES - HRA Stage 1 screening on all the GIS layers and datasets available to SES has found no viable environmental pathway from this proposal linking to any European Site or feature.

Forest Service – no objection

DFI Roads – request for details of passing bays.

**Objections & Representations**

No neighbours notified.

Application advertised on 05.05.2021

No objections or representations received.

**Consideration and Assessment:**

The potential impact of this proposal on European Sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) (Northern Ireland) 1995 (as amended). The proposal would not have any likely significant effect on the features of any European Site.

The SPPS is less prescriptive with regards to the policies discussed below and therefore the retained policies will take determining weight.

Banbridge Newry and Mourne Area Plan 2015

The proposal lies within the AONB and Special Countryside Policy Area. Policy COU 1 is applicable to proposals within the Special Countryside Area. There are existing walking trails within the vicinity of the site and I consider the proposal to consolidate that existing development by formalising and improving the walking trails. The proposal is in keeping with character and scale of the existing arrangements with a small car park included to ensure adequate and safe access to the walking trails. NIEA has no objections to the nature conservation aspects of the site and there is no built heritage notable associated with the development.

A negative condition can be added to any decision notice to ensure the car park is satisfactorily integrated into the landscape to the satisfaction of the Planning Dept, however it is noted the views of the car park are limited largely to the site and the approach to the site from the southern direction.

I consider the proposal to be in compliance with policy COU 1 and in general compliance with the Area Plan.

Strategic Planning Policy Statement for Northern Ireland / Planning Policy Statement 8

The SPPS is less prescriptive with regards to open space within the countryside and therefore the retained policy of PPS 8 will take determining weight.

Policy OS 3 is applicable for Outdoor Recreation in the Countryside and is considered acceptable where each of the 8 criteria are met;

1. There are is no adverse impact on features of importance to nature conservation, archaeology or built heritage. NIEA has no objection and there are no archaeological features or built heritage features of importance associated with the site.
2. The proposed site is owned by Forestry Service and is not considered the best most versatile agricultural land. There is no obvious reason to suggest the proposal would impact any adjacent agricultural activities.
3. A decision notice would include a negative condition to ensure suitable landscaping arrangements are in place to ensure the car park will integrate into

the landscape. The site benefits from a good back drop Slieve Brack and Croslieve and mature landscaping in the surrounding area.

4. There is no anticipated impact on neighbouring dwellings. The closest dwelling is approximately 150m from the site.
5. Public safety is not compromised, and the proposal is compatible with surrounding land uses. Walking trails currently exist adjacent to the site.
6. N/A
7. The proposal could be accessed by those with disabilities however given the remote location, public transport is unlikely to prove practicable.
8. DFI Roads has raised no issues regarding the access and passing bays will be dealt with by way of a negative condition to ensure compliance. There is no waste disposal associated with the proposal and no concerns raised regarding drainage. Parking of 10 spaces has been provided and it is considered adequate to serve the proposal.

The proposal is in compliance with policy OS of PPS 8.

#### Planning Policy Statement 15

DFI Rivers was consulted and has responded confirming it has no objection to the proposal with regard to policies FLD 1 and FLD 3. Policies FLD 2 and 4 are not applicable to the application. The proposal is in general compliance with PPS 15.

#### Planning Policy Statement 2

The proposal has been considered against PPS 2 due to the ecological value the site holds. Through consultation with DAERA and the submission of a Preliminary Ecological Assessment and additional information DAERA has no objection subject to the attached conditions. I am therefore satisfied that the natural heritage interests of the site will not be compromised by the proposal.

Policy NH 6 is applicable for all development within the AONB. The proposal is not considered to conflict with this policy criteria.

The proposal is in general compliance with PPS 2.

#### Planning Policy Statement 3

DFI Roads has raised no objection to the access arrangements. A request was included however to show passing bays as part of the application. It has been agreed by officers that shall form part of a negative condition to ensure compliance. The proposal is in general compliance with PPS 3.

**Recommendation:** Approval

#### **Conditions:**

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

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



2. The development hereby permitted shall take place in strict accordance with the following approved plans: 2167/PL/01, 2167/PL/02, 2167/PL/03 and 2167/PL/04.

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

3. No development activity, including ground preparation or vegetation clearance, shall take place until a competent ecologist has been appointed as an Ecological Clerk of Works (ECoW) and the details, roles and responsibilities of the ECoW submitted to, and agreed in writing by, the Planning Authority.

Reason: To ensure potential risks to natural heritage features are minimised and to ensure effective implementation of mitigation measures.

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

- a) Construction methodology and timings of works - all trails to be designed according to the sustainable trail design principles outlined in the Preliminary Ecological Appraisal (PEA), dated August 2021;
- b) Pollution prevention measures, including details of works near wetland areas;
- c) Details of equipment to be used, including low impact excavators;
- d) Details on tree protection agreed with the Ecological Clerk of Works in accordance with British Standard 5837:2012 Trees in relation to design, demolition, and construction Recommendations.
- e) Working corridor to be marked out using appropriate temporary fencing or hazard warning tape to protect ecologically sensitive areas;
- f) The use of trail features or obstacles to prevent trail users impacting sensitive habitat;
- g) Details of materials to be used in trail construction only locally sourced stone that respects the local geology shall be used;
- h) Tree or shrub removal to be carried out using hand tools only;
- i) Details of any temporary lighting to be used, during the construction phase, to be approved by the Ecological Clerk of Works with specifications to minimise impacts on wildlife;
- j) Details of monitoring of works by the Ecological Clerk of Works and "toolbox talks" provided to contractors.

Reason: To protect/minimise the impact of the proposal on the biodiversity of the site, including protected/priority species/habitats.

5. All hedgerows and mature trees shall be retained, and the proposed trails routed so as to minimise any damage including to underground root systems. Where works are to be carried out in proximity to mature trees and/or hedgerows, the trees shall be protected in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction Recommendations.



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

6. There shall be no external lighting on the site.

Reason: To minimise the impact of the proposal on protected species.

7. No vegetation clearance/removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a detailed check for active bird's nests immediately before clearance/demolition and provided written confirmation that no nests are present/birds will be harmed and/or there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the Planning Authority within 6 weeks of works commencing.

Reason: To protect breeding birds.

8. The vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No. 2167/PL/02, 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

9. The access gradient to the development 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.

10. Prior to commencement of the development hereby approved, a detailed landscaping plan that shall include full details of the car park boundaries shall be submitted to and agreed in writing by the Planning Authority.

Reason: Visual amenity.

11. Prior to the development hereby approved becoming operational, a scheme of passing bays along Glendesha 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.

**Case Officer:** Ashley Donaldson 06.10.2021

**Authorised Officer:** Andrew Davidson 06.10.2021



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

**Application Reference:** LA07/2021/0719/F

**Date Received:** 23.03.2021

**Proposal:** New, multi-use, non-bitmac, compacted gravel community trails (Application A - amended site address)

**Location:** Glendesha Forest (Shanroe Block) 350m south east of No.18 Glendesha Road, Forkhill, Newry, BT35 9XN

**Site Characteristics & Area Characteristics:**

The site takes in a small portion of rough grassland adjacent an existing laneway off the Glendesha Road. The area is characterised by undulating hills and wild agricultural / grassed land with mature landscape features. The is located between the slopes of Croslieve and Slievebrack within the countryside / AONB / Special Countryside Policy Area.

**Relevant Site History:**

N/A

**Planning Policies & Material Considerations:**

Banbridge, Newry and Mourne Area Plan 2015  
Strategic Planning Policy Statement for Northern Ireland  
Planning Policy Statement 8 Open Space  
Planning Policy Statement 2 Natural Heritage  
Planning Policy Statement 15 Planning and Flood Risk  
Planning Policy Statement 3 Access Movement and Parking

**Consultations:**

DAERA – (Natural Heritage) will consideration of additional information including a PEA, no objection subject to compliance with conditions.

DFI Rivers – no objection

SES - HRA Stage 1 screening on all the GIS layers and datasets available to SES has found no viable environmental pathway from this proposal linking to any European Site or feature.

Forest Service – no objection

DFI Roads – request for details of passing bays.

**Objections & Representations**

No neighbours notified.

Application advertised on 04.08.2021

No objections or representations received.

**Consideration and Assessment:**

The potential impact of this proposal on European Sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) (Northern Ireland) 1995 (as amended). The proposal would not have any likely significant effect on the features of any European Site.

The SPPS is less prescriptive with regards to the policies discussed below and therefore the retained policies will take determining weight.

Banbridge Newry and Mourne Area Plan 2015

The proposal lies within the AONB and Special Countryside Policy Area. Policy COU 1 is applicable to proposals within the Special Countryside Area. There are existing walking trails in the vicinity of the site and I consider the proposal to consolidate that existing development by formalising and improving the walking trails. The proposal is in keeping with character and scale of the existing arrangements with a small car park included to ensure adequate and safe access to the walking trails. NIEA has no objections to the nature conservation aspects of the site and there is no built heritage notable associated with the development. The proposal for a trail is not considered to be incongruous on the landscape.

I consider the proposal to be in compliance with policy COU 1 and in general compliance with the Area Plan.

Strategic Planning Policy Statement for Northern Ireland / Planning Policy Statement 8

The SPPS is less prescriptive with regards to open space within the countryside and therefore the retained policy of PPS 8 will take determining weight.

Policy OS 3 is applicable for Outdoor Recreation in the Countryside and is considered acceptable where each of the 8 criteria are met;

1. There are is no adverse impact on features of importance to nature conservation, archaeology or built heritage. NIEA has no objection and there are no archaeological features or built heritage features of importance associated with the site.
2. There proposed site is owned by Forestry Service and is not considered the best most versatile agricultural land. There is no obvious reason to suggest the proposal would impact any adjacent agricultural activities.
3. There are no concerns regarding integration due to the nature of the proposal.
4. There is no anticipated impact on neighbouring dwellings.
5. Public safety is not compromised, and the proposal is compatible with surrounding land uses.
6. N/A



7. The proposal could be accessed by those with disabilities however given the remote location and nature of the proposal it is unclear how practicable this would be, public transport is unlikely to prove practicable.
8. DFI Roads has raised no specific objections and passing bays will be dealt with by way of a negative condition to ensure compliance. There is no waste disposal associated with the proposal and no concerns raised regarding drainage. Parking of 10 spaces has been provided in application LA07/2021/0713/F and it is considered adequate to serve the proposal.

The proposal is in compliance with policy OS of PPS 8.

#### Planning Policy Statement 15

DFI Rivers was consulted and has responded confirming it has no objection to the proposal with regard to policies FLD 1 and FLD 3. Policies FLD 2, 4 and 5 are not applicable to the application. The proposal is in general compliance with PPS 15.

#### Planning Policy Statement 2

The proposal has been considered against PPS 2 due to the ecological value the site holds. Through consultation with DAERA and the submission of a Preliminary Ecological Assessment and additional information DAERA has no objection subject to the attached conditions. I am therefore satisfied that the natural heritage interests of the site will not be compromised by the proposal.

Policy NH 6 is applicable for all development within the AONB. The proposal is not considered to conflict with this policy criteria.

The proposal is in general compliance with the PPS 2.

#### Planning Policy Statement 3

A request was included from DFI Roads to show passing bays as part of the application. It has been agreed by officers that shall form part of a negative condition to ensure compliance. The proposal is in general compliance with PPS 3.

#### **Recommendation: Approval**

#### **Conditions:**

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

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

2. The development hereby permitted shall take place in strict accordance with the following approved plan: 01.

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

3. No development activity, including ground preparation or vegetation clearance, shall take place until a competent ecologist has been appointed as an Ecological Clerk of Works (ECoW) and the details, roles and responsibilities of the ECoW submitted to, and agreed in writing by, the Planning Authority.

Reason: To ensure potential risks to natural heritage features are minimised and to ensure effective implementation of mitigation measures.

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

- a) Construction methodology and timings of works - all trails to be designed according to the sustainable trail design principles outlined in the Preliminary Ecological Appraisal (PEA), dated August 2021;
- b) Pollution prevention measures, including details of works near wetland areas;
- c) Details of equipment to be used, including low impact excavators;
- d) Details on tree protection agreed with the Ecological Clerk of Works in accordance with British Standard 5837:2012 Trees in relation to design, demolition, and construction Recommendations.
- e) Working corridor to be marked out using appropriate temporary fencing or hazard warning tape to protect ecologically sensitive areas;
- f) The use of trail features or obstacles to prevent trail users impacting sensitive habitat;
- g) Details of materials to be used in trail construction only locally sourced stone that respects the local geology shall be used;
- h) Tree or shrub removal to be carried out using hand tools only;
- i) Details of any temporary lighting to be used, during the construction phase, to be approved by the Ecological Clerk of Works with specifications to minimise impacts on wildlife;
- j) Details of monitoring of works by the Ecological Clerk of Works and "toolbox talks" provided to contractors.

Reason: To protect/minimise the impact of the proposal on the biodiversity of the site, including protected/priority species/habitats.

5. All hedgerows and mature trees shall be retained, and the proposed trails routed so as to minimise any damage including to underground root systems. Where works are to be carried out in proximity to mature trees and/or hedgerows, the trees shall be protected in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction Recommendations.

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

6. There shall be no external lighting on the site.

Reason: To minimise the impact of the proposal on protected species.

7. No vegetation clearance/removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a detailed check for active bird's nests immediately before clearance/demolition and provided written confirmation that no nests are present/birds

will be harmed and/or there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the Planning Authority within 6 weeks of works commencing.

**Reason:** To protect breeding birds.

8. Prior to the development hereby approved becoming operational, a scheme of passing bays along Glendesha 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.

**Case Officer:** Ashley Donaldson 06.10.2021

**Authorised Officer:** Andrew Davidson 06.10.2021



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

**Application Reference:** LA07/2021/0722/F

**Date Received:** 23.03.2021

**Proposal:** New, multi-use, non-bitmac, compacted gravel and boardwalk community trails. Application B

**Location:** Glendesha Forest (Shanroe Block) 235m east of No.21 Glendesha Road Forkhill, Newry

**Site Characteristics & Area Characteristics:**

The site takes in a portion of rough grassland adjacent an existing trail off the Glendesha Road. The area is characterised by undulating hills and wild agricultural / grassed land with mature landscape features. The is located between the slopes of Croslieve and Slievebrack within the countryside / AONB / Special Countryside Policy Area.

**Relevant Site History:**

N/A

**Planning Policies & Material Considerations:**

Banbridge, Newry and Mourne Area Plan 2015  
Strategic Planning Policy Statement for Northern Ireland  
Planning Policy Statement 8 Open Space  
Planning Policy Statement 2 Natural Heritage  
Planning Policy Statement 15 Planning and Flood Risk  
Planning Policy Statement 3 Access Movement and Parking

**Consultations:**

DAERA – (Natural Heritage) will consideration of additional information including a PEA, no objection subject to compliance with conditions.

DFI Rivers – no objection

SES - HRA Stage 1 screening on all the GIS layers and datasets available to SES has found no viable environmental pathway from this proposal linking to any European Site or feature.

Forest Service – no objection

DFI Roads – request for details of passing bays.



## Objections & Representations

No neighbours notified.

Application advertised on 05.05.2021

No objections or representations received.

## Consideration and Assessment:

The potential impact of this proposal on European Sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) (Northern Ireland) 1995 (as amended). The proposal would not have any likely significant effect on the features of any European Site.

The SPPS is less prescriptive with regards to the policies discussed below and therefore the retained policies will take determining weight.

### Banbridge Newry and Mourne Area Plan 2015

The proposal lies within the AONB and Special Countryside Policy Area. Policy COU 1 is applicable to proposals within the Special Countryside Area. There are existing walking trails in the vicinity of the site and I consider the proposal to consolidate that existing development by formalising and improving the walking trails. The proposal is in keeping with character and scale of the existing arrangements with a small car park included to ensure adequate and safe access to the walking trails. NIEA has no objections to the nature conservation aspects of the site and there is no built heritage notable associated with the development. The proposal for a trail is not considered to be incongruous on the landscape.

I consider the proposal to be in compliance with policy COU 1 and in general compliance with the Area Plan.

### Strategic Planning Policy Statement for Northern Ireland / Planning Policy Statement 8

The SPPS is less prescriptive with regards to open space within the countryside and therefore the retained policy of PPS 8 will take determining weight.

Policy OS 3 is applicable for Outdoor Recreation in the Countryside and is considered acceptable where each of the 8 criteria are met;

1. There are is no adverse impact on features of importance to nature conservation, archaeology or built heritage. NIEA has no objection and there are no archaeological features or built heritage features of importance associated with the site.
2. There proposed site is owned by Forestry Service and is not considered the best most versatile agricultural land. There is no obvious reason to suggest the proposal would impact any adjacent agricultural activities.
3. There are no concerns regarding integration due to the nature of the proposal.
4. There is no anticipated impact on neighbouring dwellings.
5. Public safety is not compromised, and the proposal is compatible with surrounding land uses.
6. N/A

7. The proposal could be accessed by those with disabilities however given the remote location and nature of the proposal it is unclear how practicable this would be, public transport is unlikely to prove practicable.
8. DFI Roads has raised no specific objections and passing bays will be dealt with by way of a negative condition to ensure compliance. There is no waste disposal associated with the proposal and no concerns raised regarding drainage. Parking of 10 spaces has been provided in application LA07/2021/0713/F and it is considered adequate to serve the proposal.

The proposal is in compliance with policy OS of PPS 8.

#### Planning Policy Statement 15

DFI Rivers was consulted and has responded confirming it has no objection to the proposal with regard to policies FLD 1 and FLD 3. There is no objection raised with regard to policy FLD 2 and informative will be added to remind the developer to ensure a working strip is maintained. Culverting is required due to the watercourse that runs perpendicular across the site. This culvert is considered of short length and necessary to maintain access. A negative condition can be added to ensure Schedule 6 consent is obtained from DFI Rivers. Policy FLD 5 is not applicable to the site. The proposal is in general compliance with PPS 15.

#### Planning Policy Statement 2

The proposal has been considered against PPS 2 due to the ecological value the site holds. Through consultation with DAERA and the submission of a Preliminary Ecological Assessment and additional information DAERA has no objection subject to the attached conditions. I am there satisfied that the natural heritage interests of the site will not be compromised by the proposal.

Policy NH 6 is applicable for all development within the AONB. The proposal is not considered to conflict with this policy criteria.

The proposal is in general compliance with the PPS 2.

#### Planning Policy Statement 3

A request was included from DFI Roads to show passing bays as part of the application. It has been agreed by officers that shall form part of a negative condition to ensure compliance. The proposal is in general compliance with PPS 3.

#### **Recommendation: Approval**

#### **Conditions:**

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

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

2. The development hereby permitted shall take place in strict accordance with the following approved plans: AppB/2, Detail-1, Detail-2 and Detail-3.

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

3. No development activity, including ground preparation or vegetation clearance, shall take place until a competent ecologist has been appointed as an Ecological Clerk of Works (ECoW) and the details, roles and responsibilities of the ECoW submitted to, and agreed in writing by, the Planning Authority.

Reason: To ensure potential risks to natural heritage features are minimised and to ensure effective implementation of mitigation measures.

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

- a) Construction methodology and timings of works - all trails to be designed according to the sustainable trail design principles outlined in the Preliminary Ecological Appraisal (PEA), dated August 2021;
- b) Pollution prevention measures, including details of works near wetland areas;
- c) Details of equipment to be used, including low impact excavators;
- d) Details on tree protection agreed with the Ecological Clerk of Works in accordance with British Standard 5837:2012 Trees in relation to design, demolition, and construction Recommendations.
- e) Working corridor to be marked out using appropriate temporary fencing or hazard warning tape to protect ecologically sensitive areas;
- f) The use of trail features or obstacles to prevent trail users impacting sensitive habitat;
- g) Details of materials to be used in trail construction only locally sourced stone that respects the local geology shall be used;
- h) Tree or shrub removal to be carried out using hand tools only;
- i) Details of any temporary lighting to be used, during the construction phase, to be approved by the Ecological Clerk of Works with specifications to minimise impacts on wildlife;
- j) Details of monitoring of works by the Ecological Clerk of Works and "toolbox talks" provided to contractors.

Reason: To protect/minimise the impact of the proposal on the biodiversity of the site, including protected/priority species/habitats.

5. All hedgerows and mature trees shall be retained, and the proposed trails routed so as to minimise any damage including to underground root systems. Where works are to be carried out in proximity to mature trees and/or hedgerows, the trees shall be protected in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction Recommendations.

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

6. There shall be no external lighting on the site.

Reason: To minimise the impact of the proposal on protected species.

7. No vegetation clearance/removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a detailed check for active bird's nests immediately before clearance/demolition and provided written confirmation that no nests are present/birds will be harmed and/or there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the Planning Authority within 6 weeks of works commencing.

Reason: To protect breeding birds.

8. Prior to the development hereby approved becoming operational, a scheme of passing bays along Glendesha 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.

9. Schedule 6 Consent for the culverting of the watercourse shall be obtained from DFI Rivers Agency and submitted to and agreed in writing by the Planning Authority prior to the commencement of development.

Reason: To ensure the development is regularised.

**Case Officer:** Ashley Donaldson 06.10.2021

**Authorised Officer:** Andrew Davidson 06.10.2021





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

**Application Reference:** LA07/2021/0725/F

**Date Received:** 23.03.2021

**Proposal:** New multi-use, non-bitmac, compacted gravel community trails. Application C

**Location:** Glendesha Forest (Shanroe Block) 120m north of No.88 Carrive Road Forkhill Newry

**Site Characteristics & Area Characteristics:**

The site takes in a portion of rough grassland adjacent an off the Glendesha Road. The area is characterised by undulating hills and wild agricultural / grassed land with mature landscape features. The is located between the slopes of Croslieve within the countryside / AONB / Special Countryside Policy Area.

**Relevant Site History:**

N/A

**Planning Policies & Material Considerations:**

Banbridge, Newry and Mourne Area Plan 2015  
Strategic Planning Policy Statement for Northern Ireland  
Planning Policy Statement 8 Open Space  
Planning Policy Statement 2 Natural Heritage  
Planning Policy Statement 15 Planning and Flood Risk  
Planning Policy Statement 3 Access Movement and Parking

**Consultations:**

DAERA – (Natural Heritage) will consideration of additional information including a PEA, no objection subject to compliance with conditions.

DFI Rivers – no objection

SES - HRA Stage 1 screening on all the GIS layers and datasets available to SES has found no viable environmental pathway from this proposal linking to any European Site or feature.

Forest Service – no objection

DFI Roads – request for details of passing bays.

**Objections & Representations**

No neighbours notified.

Application advertised on 04.08.2021

No objections or representations received.

**Consideration and Assessment:**

The potential impact of this proposal on European Sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) (Northern Ireland) 1995 (as amended). The proposal would not have any likely significant effect on the features of any European Site.

The SPPS is less prescriptive with regards to the policies discussed below and therefore the retained policies will take determining weight.

Banbridge Newry and Mourne Area Plan 2015

The proposal lies within the AONB and Special Countryside Policy Area. Policy COU 1 is applicable to proposals within the Special Countryside Area. There are existing walking trails locally to the site and I consider the proposal to consolidate that existing development by formalising and improving the walking trails. The proposal is in keeping with character and scale of the existing arrangements with a small car park included to ensure adequate and safe access to the walking trails. NIEA has no objections to the nature conservation aspects of the site and there is no built heritage notable associated with the development. The proposal for a trail is not considered to be incongruous on the landscape.

I consider the proposal to be in compliance with policy COU 1 and in general compliance with the Area Plan.

Strategic Planning Policy Statement for Northern Ireland / Planning Policy Statement 8

The SPPS is less prescriptive with regards to open space within the countryside and therefore the retained policy of PPS 8 will take determining weight.

Policy OS 3 is applicable for Outdoor Recreation in the Countryside and is considered acceptable where each of the 8 criteria are met;

1. There are is no adverse impact on features of importance to nature conservation, archaeology or built heritage. NIEA has no objection and there are no archaeological features or built heritage features of importance associated with the site.
2. There proposed site is owned by Forestry Service and is not considered the best most versatile agricultural land. There is no obvious reason to suggest the proposal would impact any adjacent agricultural activities.
3. There are no concerns regarding integration due to the nature of the proposal.
4. There is no anticipated impact on neighbouring dwellings.
5. Public safety is not compromised, and the proposal is compatible with surrounding land uses.
6. N/A

7. The proposal could be accessed by those with disabilities however given the remote location and nature of the proposal it is unclear how practicable this would be, public transport is unlikely to prove practicable.
8. DFI Roads has raised no specific objections and passing bays will be dealt with by way of a negative condition to ensure compliance. There is no waste disposal associated with the proposal and no concerns raised regarding drainage. Parking of 10 spaces has been provided in application LA07/2021/0713/F and it is considered adequate to serve the proposal.

The proposal is in compliance with policy OS of PPS 8.

#### Planning Policy Statement 15

DFI Rivers was consulted and has responded confirming it has no objection to the proposal with regard to policies FLD 1 and FLD 3. There is no objection raised with regard to policy FLD 2 and informative will be added to remind the developer to ensure a working strip is maintained. Culverting is required due to the watercourse that runs perpendicular across the site. This culvert is considered of short length and necessary to maintain access. A negative condition can be added to ensure Schedule 6 consent is obtained from DFI Rivers. Policy FLD 5 is not applicable to the site. The proposal is in general compliance with PPS 15.

#### Planning Policy Statement 2

The proposal has been considered against PPS 2 due to the ecological value the site holds. Through consultation with DAERA and the submission of a Preliminary Ecological Assessment and additional information DAERA has no objection subject to the attached conditions. I am therefore satisfied that the natural heritage interests of the site will not be compromised by the proposal.

Policy NH 6 is applicable for all development within the AONB. The proposal is not considered to conflict with this policy criteria.

The proposal is in general compliance with the PPS 2.

#### Planning Policy Statement 3

A request was included from DFI Roads to show passing bays as part of the application. It has been agreed by officers that shall form part of a negative condition to ensure compliance. The proposal is in general compliance with PPS 3.

#### **Recommendation: Approval**

#### **Conditions:**

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

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

2. The development hereby permitted shall take place in strict accordance with the following approved plan: AppC/2

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



3. No development activity, including ground preparation or vegetation clearance, shall take place until a competent ecologist has been appointed as an Ecological Clerk of Works (ECoW) and the details, roles and responsibilities of the ECoW submitted to, and agreed in writing by, the Planning Authority.

Reason: To ensure potential risks to natural heritage features are minimised and to ensure effective implementation of mitigation measures.

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

- a) Construction methodology and timings of works - all trails to be designed according to the sustainable trail design principles outlined in the Preliminary Ecological Appraisal (PEA), dated August 2021;
- b) Pollution prevention measures, including details of works near wetland areas;
- c) Details of equipment to be used, including low impact excavators;
- d) Details on tree protection agreed with the Ecological Clerk of Works in accordance with British Standard 5837:2012 Trees in relation to design, demolition, and construction Recommendations.
- e) Working corridor to be marked out using appropriate temporary fencing or hazard warning tape to protect ecologically sensitive areas;
- f) The use of trail features or obstacles to prevent trail users impacting sensitive habitat;
- g) Details of materials to be used in trail construction only locally sourced stone that respects the local geology shall be used;
- h) Tree or shrub removal to be carried out using hand tools only;
- i) Details of any temporary lighting to be used, during the construction phase, to be approved by the Ecological Clerk of Works with specifications to minimise impacts on wildlife;
- j) Details of monitoring of works by the Ecological Clerk of Works and "toolbox talks" provided to contractors.

Reason: To protect/minimise the impact of the proposal on the biodiversity of the site, including protected/priority species/habitats.

5. All hedgerows and mature trees shall be retained, and the proposed trails routed so as to minimise any damage including to underground root systems. Where works are to be carried out in proximity to mature trees and/or hedgerows, the trees shall be protected in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction Recommendations.

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

6. There shall be no external lighting on the site.

Reason: To minimise the impact of the proposal on protected species.



7. No vegetation clearance/removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a detailed check for active bird's nests immediately before clearance/demolition and provided written confirmation that no nests are present/birds will be harmed and/or there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the Planning Authority within 6 weeks of works commencing.

Reason: To protect breeding birds.

8. Prior to the development hereby approved becoming operational, a scheme of passing bays along Glendesha 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.

9. Schedule 6 Consent for the culverting of the watercourse shall be obtained from DFI Rivers Agency and submitted to and agreed in writing by the Planning Authority prior to the commencement of development.

Reason: To ensure the development is regularised.

**Case Officer:** Ashley Donaldson 06.10.2021

**Authorised Officer:** Andrew Davidson 06.10.2021



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

**Application Reference:** LA07/2021/0977/F

**Date Received:** 14.05.2021

**Proposal:** Multi-use, non-bitmac, compacted gravel community trails application D

**Location:** Glendesha Forest (Shanroe Block) 95m north west of No.92 Carrive Road Forkhill Newry BT35 9T

**Site Characteristics & Area Characteristics:**

The site takes in a small portion of rough grassland adjacent an existing laneway off the Carrive Road. The area is characterised by undulating hills and wild agricultural / grassed land with mature landscape features. The is located on the slopes of Croslieve with the countryside / AONB / Special Countryside Policy Area

**Relevant Site History:**

N/A

**Planning Policies & Material Considerations:**

Banbridge, Newry and Mourne Area Plan 2015  
Strategic Planning Policy Statement for Northern Ireland  
Planning Policy Statement 8 Open Space  
Planning Policy Statement 2 Natural Heritage  
Planning Policy Statement 15 Planning and Flood Risk  
Planning Policy Statement 3 Access Movement and Parking

**Consultations:**

DAERA – (Natural Heritage) will consideration of additional information including a PEA, no objection subject to compliance with conditions.

DFI Rivers – no objection

SES - HRA Stage 1 screening on all the GIS layers and datasets available to SES has found no viable environmental pathway from this proposal linking to any European Site or feature.

Forest Service – no objection

DFI Roads – request for details of passing bays.

**Objections & Representations**

7 neighbours notified on 06.07.2021

Application advertised on 04.08.2021

No objections or representations received.

### **Consideration and Assessment:**

The potential impact of this proposal on European Sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) (Northern Ireland) 1995 (as amended). The proposal would not have any likely significant effect on the features of any European Site.

The SPPS is less prescriptive with regards to the policies discussed below and therefore the retained policies will take determining weight.

#### Banbridge Newry and Mourne Area Plan 2015

The proposal lies within the AONB and Special Countryside Policy Area. Policy COU 1 is applicable to proposals within the Special Countryside Area. There are existing walking trails close proximity to the site and I consider the proposal to consolidate that existing development by formalising and improving the walking trails. The proposal is in keeping with character and scale of the existing arrangements with a small car park included to ensure adequate and safe access to the walking trails. NIEA has no objections to the nature conservation aspects of the site and there is no built heritage notable associated with the development. The proposal for a trail is not considered to be incongruous on the landscape.

I consider the proposal to be in compliance with policy COU 1 and in general compliance with the Area Plan.

#### Strategic Planning Policy Statement for Northern Ireland / Planning Policy Statement 8

The SPPS is less prescriptive with regards to open space within the countryside and therefore the retained policy of PPS 8 will take determining weight.

Policy OS 3 is applicable for Outdoor Recreation in the Countryside and is considered acceptable where each of the 8 criteria are met;

1. There are is no adverse impact on features of importance to nature conservation, archaeology or built heritage. NIEA has no objection and there are no archaeological features or built heritage features of importance associated with the site.
2. There proposed site is owned by Forestry Service and is not considered the best most versatile agricultural land. There is no obvious reason to suggest the proposal would impact any adjacent agricultural activities.
3. The site benefits from a good back drop from Croslieve and mature landscaping in the surrounding area.
4. There is no anticipated impact on neighbouring dwellings.
5. Public safety is not compromised, and the proposal is compatible with surrounding land uses.
6. N/A
7. The proposal could be accessed by those with disabilities however given the remote location as far as is practicable, public transport is unlikely to prove practicable.

8. DFI Roads has raised no specific objections and passing bays will be dealt with by way of a negative condition to ensure compliance. There is no waste disposal associated with the proposal and no concerns raised regarding drainage. Parking of 10 spaces has been provided in application LA07/2021/0713/F and it is considered adequate to serve the proposal.

The proposal is in compliance with policy OS of PPS 8.

#### Planning Policy Statement 15

DFI Rivers was consulted and has responded confirming it has no objection to the proposal with regard to policies FLD 1 and FLD 3. Policies FLD 2, 4 and 5 are not applicable to the application. The proposal is in general compliance with PPS 15.

#### Planning Policy Statement 2

The proposal has been considered against PPS 2 due to the ecological value the site holds. Through consultation with DAERA and the submission of a Preliminary Ecological Assessment and additional information DAERA has no objection subject to the attached conditions. I am there satisfied that the natural heritage interests of the site will not be compromised by the proposal.

Policy NH 6 is applicable for all development within the AONB. The proposal is not considered to conflict with this policy criteria.

The proposal is in general compliance with the PPS 2.

#### Planning Policy Statement 3

A request was included from DFI Roads to show passing bays as part of the application. It has been agreed by officers that shall form part of a negative condition to ensure compliance. The proposal is in general compliance with PPS 3.

**Recommendation:** Approval

#### **Conditions:**

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

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

2. The development hereby permitted shall take place in strict accordance with the following approved plans: AppD/1 and AppD/2.

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

3. No development activity, including ground preparation or vegetation clearance, shall take place until a competent ecologist has been appointed as an Ecological Clerk of Works (ECoW) and the details, roles and responsibilities of the ECoW submitted to, and agreed in writing by, the Planning Authority.

Reason: To ensure potential risks to natural heritage features are minimised and to ensure effective implementation of mitigation measures.



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

- a) Construction methodology and timings of works - all trails to be designed according to the sustainable trail design principles outlined in the Preliminary Ecological Appraisal (PEA), dated August 2021;
- b) Pollution prevention measures, including details of works near wetland areas;
- c) Details of equipment to be used, including low impact excavators;
- d) Details on tree protection agreed with the Ecological Clerk of Works in accordance with British Standard 5837:2012 Trees in relation to design, demolition, and construction Recommendations.
- e) Working corridor to be marked out using appropriate temporary fencing or hazard warning tape to protect ecologically sensitive areas;
- f) The use of trail features or obstacles to prevent trail users impacting sensitive habitat;
- g) Details of materials to be used in trail construction only locally sourced stone that respects the local geology shall be used;
- h) Tree or shrub removal to be carried out using hand tools only;
- i) Details of any temporary lighting to be used, during the construction phase, to be approved by the Ecological Clerk of Works with specifications to minimise impacts on wildlife;
- j) Details of monitoring of works by the Ecological Clerk of Works and "toolbox talks" provided to contractors.

Reason: To protect/minimise the impact of the proposal on the biodiversity of the site, including protected/priority species/habitats.

5. All hedgerows and mature trees shall be retained, and the proposed trails routed so as to minimise any damage including to underground root systems. Where works are to be carried out in proximity to mature trees and/or hedgerows, the trees shall be protected in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction Recommendations.

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

6. There shall be no external lighting on the site.

Reason: To minimise the impact of the proposal on protected species.

7. No vegetation clearance/removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a detailed check for active bird's nests immediately before clearance/demolition and provided written confirmation that no nests are present/birds will be harmed and/or there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the Planning Authority within 6 weeks of works commencing.

Reason: To protect breeding birds.

8. Prior to the development hereby approved becoming operational, a scheme of passing bays along Glendesha 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.

**Case Officer:** Ashley Donaldson 06.10.2021

**Authorised Officer:** Andrew Davidson 06.10.2021



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

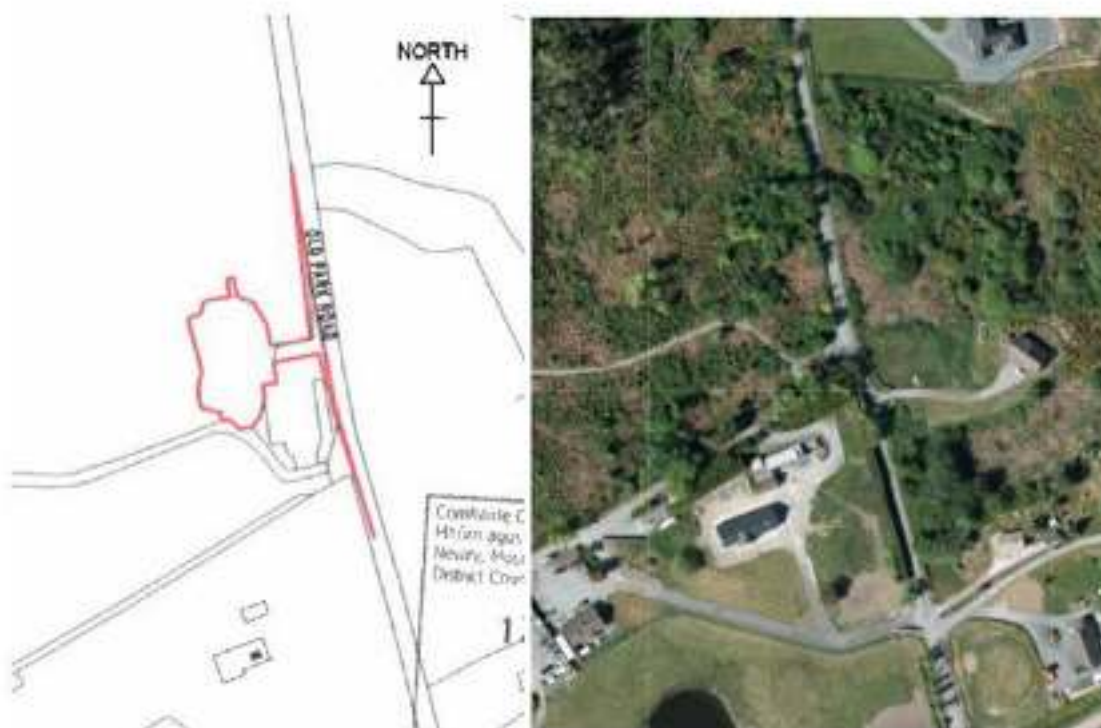
**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2021/0930/F

**Date Received:** 13.05.2021

**Proposal:** The application is for full planning permission for the cutting and filing of existing ground levels to create an extension to existing car parking area, car parking area to consist of 19 car parking spaces, cycle racks & 1.1m high perimeter fence.

**Location:** The application site is located 115m West of No 33 Old Park Road Drumaness at Tievenadarragh Wood.



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

The site is located parallel with the Old Park road and comprises an area to the north west of an existing car park which currently comprises a stoned surface. The car park serves an existing area of woodland known as Tievenadarragh Wood which consists predominantly of conifer trees but also comprises a mix of ash, hawthorne, rowan and downy birch to its southern side. The existing car park has a wooden d-rail fence around its perimeter. The



area defined by the red line extends to the north west of the existing car park and comprises lands which are bare ground and existing part of the trail and by young conifer plantation to the north and west.



#### **Site History:**

LA07/2018/1929/F | New car park for 15 no. carparking spaces and perimeter fence | 90m West of No 33 Old Park Road, Drumaness | Permission Granted 16.04.2019.

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

The application site is located outside the settlements in the open countryside as designated in the Ards and Down Area Plan 2015. The relevant regional policy context is provided by:

Regional Development Strategy (RDS)

SPPS – Strategic Planning Policy Statement for Northern Ireland

PPS 2 – Natural Heritage

PPS 3 - Access Movement and Parking

PPS 8 - Open Space, Sport and Recreation

PPS 15 – Planning and Flood Risk

PPS 21 Sustainable Development in the Countryside

Guidance – Parking Standards

#### **Consultations:**

DFI Roads – No objections

NIEA Water management – No objections

NIEA Natural Environment Division – No objections

Rivers Agency – No objections

Shared Environmental Services – No formal consultation required

Forestry Service – No objections

#### **Objections & Representations**

In line with statutory requirements five neighbours have been notified on 11.06.2021. The application was advertised in the Mourne Observer 02.06.2021.



Two objections have been received in relation to the proposal from Mr N Smyth of 67 Old Park Road, Drumaness who states that he objects and Mr Barry Hanna who doesn't state his address but indicates that:-

- some of the walk ways run parallel with the road and therefore with his house, which has resulted in a massive reduction in the privacy he and his wife once enjoyed and one of the reasons they chose this property.
- He states that his house can now be seen clearly from these walk ways and he often see people staring at his house and windows with bird watching binoculars with people shining torches at his house, often later than midnight.
- He states that when the car park fills up people park their vehicles along the front of his garden for hours on end sometimes causing damage to his shrubbery and wire fencing when they try to do 3 point turns.
- He also states this will contribute to lowering the value of his home as it has gone from a very private location to an overlooked building next to a public walkway covered by dog droppings.

The objector's comments will be considered below.

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

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

Under the SPPS, the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations unless the proposed development will cause demonstrable harm to the interests of acknowledged importance. In practice this means that development that accords with an up-to-date development plan should be approved and proposed development that conflicts with an up-to date development plan should be refused unless other material consideration indicate otherwise. Any conflict between retained policy and the SPPS is to be resolved in favour of the SPPS.

There is no conflict in this case between the SPPS and the current policy.

The application seeks permission to provide a new overflow car park for 19 car parking spaces, cycle racks & 1.1m high perimeter fence. Following on from establishing the first car park there has been an increase in the demand to visit this woodland area for walks.



**Existing and proposed layout**

In assessment of this, it is considered that the existing woodland walking trails have encouraged the use of an outdoor resource which is positive.

The applicant Recreation NI has indicated that when the project was first being developed, it was estimated that a car park for 15 cars (including spaces for disabled car parking) would have been adequate for the predicted numbers that would use the trails at Tievenadarragh. This has not been the case, with the popularity of the Trails exceeding all expectations. At Tievenadarragh, it was predicted that 8,000 people would visit the Forest in the first year after the Trail network was opened. The people counter was installed in April 2021 and within the first month of counting, 1500-2000 people have walked the Trail on a monthly basis. Again, when crudely extrapolated up for a full year, this suggests that the trail could easily see 16,000 visitors a year – double what was expected.

Increased use of the site has undoubtedly been exacerbated by COVID. Research undertaken by ORNI during the first lockdown revealed that there was a 46% increase in the numbers using the outdoors for recreation than the same period the previous year and that 51% said they expected to continue to visit the outdoors after COVID was over. As a result of the trails' popularity, the existing car parking provision is inadequate. When the car park is full, cars line both sides of the small country road leading to the official trail head. This causes not only safety issues for those using the trails but for the residents who live along the road close to the trail head.

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

### **PPS 3 - Access, Movement and Parking - Policy AMP 9 Design of Car Parking**

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

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

It is considered that the proposed surface level car park extension would utilise part of an area which is free of vegetation with the remaining area having immature planting. The site has a mature backdrop of trees in the wider area. The additional car park part would only be viewed from the roadside when at the site and in this respect, it is not considered that the proposal would harm the character or visual amenity of the area. The site is to be defined by a 1.1m timber fence along the perimeter of the site. It is considered that the proposal satisfactorily complies with this policy. In addition, it is noted that DfI Roads, consider the proposal to be acceptable with no objections offered.

### **PPS 2 – Natural Heritage**

In assessment, it is noted that the site will be accessed through the existing car park and is comprised of an area which forms part of the existing trail with an area of scrub and immature conifers and deciduous trees to the north and west. This northern and western will area be more impacted by the proposal.

Council consultation was carried out with NIEA - Natural Environment Division. Shared Environmental Services (SES) were also informally consulted and advise that there is no likely viable hydrological pathway to Murlough SAC which is c.9.5kms and considering the nature/scale of the development, there can be no conceivable effects on designated sites.

The information submitted in the Preliminary Ecological Appraisal (PEA) has been considered by NIEA and it is noted the site contains bare ground, a drain, trees, scrub and is adjacent to an existing car park. NED notes the PEA has confirmed the absence of badgers, bats, invasive species, newts and otters in and within 30 metres of the site. It is considered therefore that the proposal complies satisfactorily with PPS 2.

### **PPS 15 – Planning and Flood Risk**

**FLD1 - Development in Fluvial and Coastal Flood Plains – DfI Rivers Flood Map (NI)** indicates that the development does not lie within the 1 in 100 year fluvial or 1 in 200 year coastal flood plain.

**FLD2 - Protection of Flood Defence and Drainage Infrastructure –** An undesignated watercourse flows generally from the north east to the south west through the site. Provision for access to this undesignated watercourse under 6.32 of FLD 2, has been addressed on the revision to the site plan, drawing reference 2251/PL/02 Rev C. The site may be affected by undesignated watercourses of which we have no record, in the event of an undesignated watercourse being discovered, Policy FLD 2 will apply.

**FLD3 - Development and Surface Water - DfI Rivers Flood Maps (NI)** indicates that a portion of the site to the north of the entrance, lies within an area of predicted pluvial flooding. It is noted that the proposed car park is finished in a gravel surface. A Drainage Assessment is not required by the policy but the developer should still be advised to carry out their own



assessment of flood risk and construct in an appropriate manner that minimises flood risk to the proposed development and elsewhere.

**FLD4 - Artificial Modification of watercourses** – Drawing number 2251/PL/02D indicates that the developer plans to “culvert along route of existing swale where carpark crosses swale”. Historical maps and a site visit on 7 July 2021 confirm this is the line of a watercourse. Under FLD 4 of Planning Policy Statement 15, the planning authority will only permit the artificial modification of a watercourse, including culverting or canalisation operations, in either of the following exceptional circumstances:

- Where the culverting of short length of a watercourse is necessary to provide access to a development site or part thereof;
- Where it can be demonstrated that a specific length of watercourse needs to be culverted for engineering reasons and that there are no reasonable or practicable alternative courses of action.

Artificial modification of a watercourse is normally not permitted unless it is necessary to provide access to a development site or for engineering reasons. This is a matter for The Planning Authority. Any culverting approved by the Planning Authority will also be subject to approval from DfI Rivers under Schedule 6 of the Drainage (NI) Order 1973. A site visit on 7 July 2021 by Rivers Agency found that a short section of the undesignated watercourse has been culverted recently to facilitate the walking trail to the north west of the existing car park. Under the terms of Schedule 6 of the Drainage (NI) Order 1973, any proposals either temporary or permanent, in connection with the development which involves interference with any watercourses such as culverting, bridging, diversion, building adjacent to or discharging storm water etc. requires the written consent of DfI Rivers.

Planning are content that a schedule 6 application has been submitted and accepted by Rivers Agency, the proposal complies with FLD 4.

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

No objections have been raised by Rivers Agency.

### **Forestry Service**

As Forestry Service manage the site, they have been asked to comment on the proposal and have advised that they do not object to the proposal.

### **Impact on Residential Amenity**

The car park is considered to be sited a sufficient distance from adjacent dwellings to prevent any unacceptable impacts. The objector raises issues which relate to the trails in general and since the principle of the trails and existing car park are well established, the basis of consideration can only be related to this extension of car park, which is positioned further to the north and west further away from residential properties than the existing car park. The extra additional spaces should also help alleviate the parking of cars away from the roadside and his property which was an issue raised by the objector. The other issues raised in relation to dog fouling and lowering of house prices are beyond the remit of planning material considerations. On balance determining weight is not attached to the objector's concerns.



## Conclusion

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

## Recommendation:

Approval

The plans to which this proposal was assessed include:

Site location plan – 2251/PL/01

Existing & Proposed Site layout plan & sections – 2251 PL 02(D)

Elevations – 2251/PL/03

## Conditions:

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

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

2. The development hereby permitted shall take place in strict accordance with the following approved plans: **2251/PL/01, 2251/PL/02D, 2251/PL/03.**

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

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

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

## Informatives

1. **Birds**

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

- kill, injure or take any wild bird; or
- take, damage or destroy the nest of any wild bird while that nest is in use or being built; or
- at any other time take, damage or destroy the nest of any wild bird included in Schedule A1; or
- obstruct or prevent any wild bird from using its nest; or
- take or destroy an egg of any wild bird; or

- disturb any wild bird while it is building a nest or is in, on or near a nest containing eggs or young;

or

- disturb dependent young of such a bird.

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

of these provisions shall also be guilty of an offence.

It is therefore advised that any tree, hedge loss or vegetation clearance should be kept to a minimum

and removal should not be carried out during the bird breeding season including 1<sup>st</sup> March to 31<sup>st</sup>

August, unless pre-clearance surveys show an absence of breeding birds.

## 2. **Badgers**

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

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

## 3. **Bats.**

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

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

b) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;

c) Deliberately to disturb such an animal in such a way as to be likely to;

(i) affect the local distribution or abundance of the species to which it belongs;

(ii) Impair its ability to survive, breed or reproduce, or rear or care for its young; or

(iii) Impair its ability to hibernate or migrate;

d) Deliberately to obstruct access to a breeding site or resting place of such an animal; or

e) To damage or destroy a breeding site or resting place of such an animal.

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

4. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
5. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
6. This decision relates to planning control and does not cover any other approval which may be necessary under other legislation.

**Case Officer**

**C Moane**

**Date 10/09/2021**

**Appointed Officer**

**A.McAlarney**

**Date 10 September 2021**



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2021/0933/F

**Date Received:** 13.05.2021

**Proposal:** The application is for full planning permission for the filing of existing ground level to increase size of existing horsebox parking area. Horsebox parking area to consist of 5 parking spaces and turning area suitable for horseboxes, horse mounting blocks and perimeter fence.

**Location:** The application site is located 300m NNW of 117 Drumnaquoile Road, Ballynahinch.



**Site Characteristics & Area Characteristics:**

The site is located just off the Drumnaquoile Road and consists of an existing gravelled stoned area which is informally being used as a car park. The site extends towards the existing stoned trail and includes areas of coniferous and deciduous trees and scrubland.





#### **Site History:**

No relevant history on the site.

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

The application site is located outside the settlements in the open countryside within the AONB as designated in the Ards and Down Area Plan 2015. The relevant regional policy context is provided by:

Regional Development Strategy (RDS)  
 SPPS – Strategic Planning Policy Statement for Northern Ireland  
 PPS 2 – Natural Heritage  
 PPS 3 - Access Movement and Parking  
 PPS 8 - Open Space, Sport and Recreation  
 PPS 15 – Planning and Flood Risk  
 PPS 21 Sustainable Development in the Countryside  
 Guidance – Parking Standards

#### **Consultations:**

**DFI Roads** – No objections subject to conditions

**NIEA Water management** – No objections - on the basis of the information provided are content subject to any relevant statutory permissions are obtained, The applicant referring and adhering to standing advice

**NIEA Natural Environment Division** – No objections – NED has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns subject to recommendations.

**Rivers Agency** – No objections

**Shared Environmental Services** – No formal consultation required

**Forestry Service** – No objections

### Objections & Representations

In line with statutory requirements four neighbours have been notified. The application was advertised in the Mourne Observer 02.06.2021.

No letters of objection or support have been received in relation to the proposal.

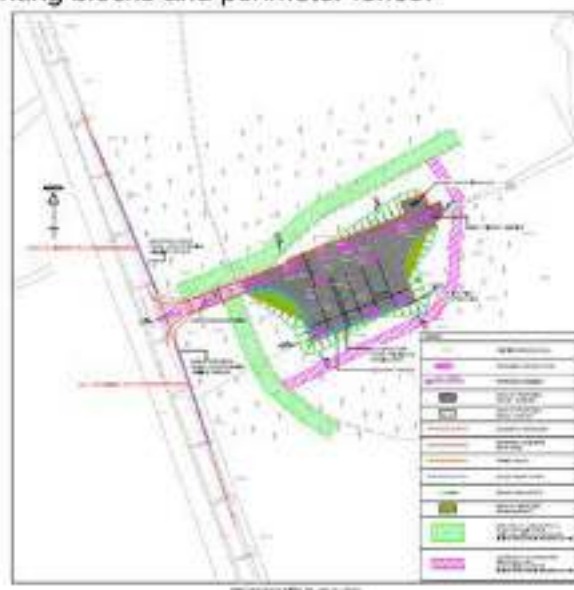
### Consideration and Assessment:

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

Under the SPPS, the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations unless the proposed development will cause demonstrable harm to the interests of acknowledged importance. In practice this means that development that accords with an up-to-date development plan should be approved and proposed development that conflicts with an up-to-date development plan should be refused unless other material consideration indicate otherwise. Any conflict between retained policy and the SPPS is to be resolved in favour of the SPPS.

There is no conflict in this case between the SPPS and the current policy.

The application seeks permission for the Filling of existing ground level to increase size of existing horsebox parking area. Horsebox parking area to consist of 5 parking spaces and turning area suitable for horseboxes, horse mounting blocks and perimeter fence.



**Existing and proposed layout**

The applicant Outdoor Recreation NI have indicated the rationale behind the application which came about as a result of safety concerns. Horses are mixing in a confined space with families, young children on bikes, dogs and older people at the current car park. The applicant



states that this project therefore seeks to address this issue of car parking by reconfiguring the existing car park and horse box area for use by cars only, upgrading and extending the former forest car park for horse boxes only and associated upgrading of a small section of trail to take the horses from this car park to the horse riding trails. They state that by doing this work it will improve the quality of the outdoor experience to the site, ensure good community relations are maintained in the local area and ultimately encourage even greater usage to the site in the future.

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

### **PPS 3 - Access, Movement and Parking - Policy AMP 9 Design of Car Parking**

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

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

It is considered that the proposed surface level car park extension would utilise not only part of an existing car park, but also part of an area which is partly scrubland which extends further into semi improved grassland. The site is set back from the roadside by approx. 165m, with a mature backdrop of trees in the wider area. The car park would only be viewed from the roadside when at the entrance to the site given the tree coverage on approach from both sides of the Drumnaquoile Road and in this respect, it is not considered that the proposal would harm the character or visual amenity of the area. The site is to be defined by a timber fence along the perimeter of the site. It is considered that the proposal satisfactorily complies with this policy. In addition, it is noted that DFI Roads, consider the proposal to be acceptable in terms of road safety with DFI Roads offering no objections subject to conditions.

### **PPS 2 – Natural Heritage**

In assessment, it is noted that the site will be accessed through the existing access and is comprised of an existing car park area which leads to the existing trails.

Council consultation was carried out with NIEA - Natural Environment Division. Shared Environmental Services (SES) were also informally consulted and advise that there is no likely viable hydrological pathway to Murlough SAC which is c.14kms and considering the nature/scale of the development, there can be no conceivable effects on designated sites.

The information submitted in the Preliminary Ecological Appraisal (PEA) has been considered by NIEA and it is noted the PEA has confirmed the absence of badgers, bats, and priority species within the site. The car park is to remain unlit. NED have recommended a condition relating to breeding birds. It is considered therefore that the proposal complies satisfactorily with PPS 2.

**PPS 15 – Planning and Flood Risk**

**FLD1 - Development in Fluvial and Coastal Flood Plains** – The Flood Hazard Map (NI) indicates that the development does not lie within the 1 in 100 year fluvial or 1 in 200 year coastal flood plain.

**FLD2 - Protection of Flood Defence and Drainage Infrastructure** – An undesignated watercourse is located adjacent to the western boundary of the site. Under 6.32 of Policy PPS 15 FLD 2, an adjacent working strip along a watercourse must be retained to facilitate future maintenance by DfI Rivers, other statutory undertaker or the riparian landowners. The working strip should have a minimum width of 5m, but up to 10m where considered necessary and be provided with clear access and egress at all times. DfI Rivers PAMU has no reason to sustain an objection under policy FLD 2. This working strip has been shown on the site plan.

**FLD3 - Development and Surface Water** - This development does not exceed the thresholds as outlined in Policy FLD 3 and subsequently a Drainage Assessment is not required. We advise it is the developer's responsibility to assess the flood risk and drainage impact and to mitigate the risk to the development and any impacts beyond the site.

**FLD4 - Artificial Modification of watercourses** – Not applicable to this site.

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

No objections have been raised by Rivers Agency.

**Forestry Service**

As Forestry Service manage the site, they have been asked to comment on the proposal and have advised that they do not object to the proposal.

**Impact on Residential Amenity**

The car park is considered to be sited a sufficient distance from the adjacent dwelling to prevent any unacceptable impacts. The reconfigured car park spaces should also help alleviate the parking of cars away from the roadside and make the car park safer for its users.

**Conclusion**

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

**Recommendation:****Approval**

The plans to which this proposal was assessed include:

Site location plan – 2253/PL/01

Existing & Proposed Site layout plan & sections – 2253/PL/02A

Elevations – 2253/PL/03

Vehicle swept path analysis – 2253/PL/04

**Conditions:**



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

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

2. The development hereby permitted shall take place in strict accordance with the following approved plans: **2253/PL/01, 2253/PL/02A, 2253/PL/03.**

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

3. The vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No **2253/PL/02A** prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

4. The access gradient to the development hereby permitted shall not exceed 4% (1 in 25) over the first 10 m outside the road boundary. Where the vehicular access crosses footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

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

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

6. There shall be no works, including vegetation clearance, during the bird breeding season 1 March to 31 August inclusive, unless otherwise agreed in writing with the Planning Authority.

Reason: To protect breeding birds.

### Informatives

1. Notwithstanding the terms and conditions of the Planning Authority's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of DFI Roads consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the DFI Roads Section Engineer whose address is Newcastle Rd Seaforde. A monetary deposit will be required to cover works on the public road.

2. It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site.
3. The approval does not empower anyone to build or erect any structure, wall or fence or encroach in any other manner on a public roadway (including a footway and verge) or on any other land owned or managed by the Department for Infrastructure for which separate permissions and arrangements are required.
4. All standing advice referred to in this response unless otherwise stated can be found at the following link [www.daera-ni.gov.uk/water-environment-standingadvice](http://www.daera-ni.gov.uk/water-environment-standingadvice)

5. The applicant must refer and adhere to the relevant precepts contained in DAERA Standing Advice:

- Pollution Prevention Guidance
- Discharges to the Water Environment

Water Management Unit recommends the applicant refers and adheres to the precepts contained in DAERA Standing Advice Sustainable Drainage Systems.

All infill material must be strictly inert.

The applicant should note discharge consent, issued under the Water (Northern Ireland) Order 1999, is required for any discharges to the aquatic environment and may be required for site drainage during the construction phase of the development .

The applicant should be informed that it is an offence under the Water (Northern Ireland) Order 1999 to discharge or deposit, whether knowingly or otherwise, any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata. Conviction of such an offence may incur a fine of up to £20,000 and / or three months imprisonment. The applicant should ensure that measures are in place to prevent pollution of surface or groundwater as a result of the activities on site, both during construction and thereafter.

6. **Birds**

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

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

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence. It is therefore advised that any tree, hedge loss or vegetation clearance should be kept to a minimum and removal

should not be carried out during the bird breeding season including 1<sup>st</sup> March to 31<sup>st</sup> August, unless pre-clearance surveys show an absence of breeding birds.

**7. Badgers**

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

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

**8. Bats.**

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

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

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

9. It is therefore advised that any tree or hedgerow loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season (e.g. between 1<sup>st</sup> March and 31<sup>st</sup> August).

10. The applicant should comply with all the relevant Pollution Prevention Guidance (PPG's) and the replacement guidance series, Guidance for Pollution Prevention (GPPs) in order to minimise the impact of the project on the environment, paying particular attention to:

- New GPP 05 - Works and maintenance in or near water.

11. 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.
12. 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.
13. This decision relates to planning control and does not cover any other approval which may be necessary under other legislation.

<b>Case Officer</b>	<b>C Moane</b>	<b>Date</b>	<b>10/09/2021</b>
<b>Authorised Officer</b>	<b>A.McAlarney</b>	<b>Date</b>	<b>10 September 2021</b>





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

**Application Reference:** LA07/2021/1139/F

**Date Received:** 23.06.2021

**Proposal:** New, non-bitmac, compacted gravel and stone pitching community trails and boardwalk feature for local walking

**Location:** Lough Park, Ballynahinch



**Site Characteristics & Area Characteristics:**

The site takes in a large undulating area of mature, wooded land situated on a sloping site within the development limit of Ballynahinch. The park is surrounded by residential properties as well as the commercial premises on Windmill Street. The site also

includes LLPA designation BH 20/LLPA 3 and adjacent to an Archaeological site and monument – A windmill Stump in the neighbouring Windmill Park.

### *Lough Park and trails*



### **Relevant Site History:**

No recent or relevant planning history on site

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

Ards and Down Area Plan 2015

Strategic Planning Policy Statement for Northern Ireland

Planning Policy Statement 2 Natural Heritage

Planning Policy Statement 6 Planning Archaeology and built heritage

Planning Policy Statement 8 Open Space

Planning Policy Statement 15 Planning and Flood Risk

### **Consultations:**



### **NIEA – response still outstanding.**

HED - HED (Historic Monuments) has assessed the application and on the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

Rivers Agency – no objections

### **Objections & Representations**

75 neighbours notified on 28.07.2021

Application advertised on 07.07.2021

No objections or representations received.

### **Consideration and Assessment:**

#### Ards and Down Area Plan 2015

The proposal lies within the development limit for Ballynahinch as depicted in the Area Plan. The Plan has identified the site as Existing Amenity / Open Space and Recreation BH23/2.

### **Proposal BH 23**

#### **Existing Amenity Open Space and Recreation**

The following areas of existing amenity open space and recreation use are designated in accordance with Planning Policy Statement 8 (PPS 8): Open Space, Sport and Outdoor Recreation and are indicated on Map No. 3/003a, Ballynahinch Settlement Map.

The site also lies within LLPA designation BH 20/LLPA 3.

### **Proposal BH 20 Local Landscape Policy Areas**

The following Local Landscape Policy Areas are designated in accordance with Policy CON 2 in Volume 1 of the Plan and as indicated on Map No. 3/003a, Ballynahinch Settlement Map and Map No. 3/003b, Ballynahinch Local Landscape Policy Areas Map.

### **LLPA 3 Lough / wetland area to rear of Ballynahinch Leisure Centre**

- Area of local amenity importance within the heart of the town with further potential as a town park;
- significant area covered in woodland and scrub vegetation, formerly an inter drumlin peat bog and lake, provides visual amenity and local nature conservation interest

The Ards and Down Area Plan 2015 states that there are opportunities to add to the existing supply of amenity space by protecting existing areas of open space and river corridors. Down District Council in conjunction with Ballynahinch Regeneration Limited and the Woodland Trust are in the process of developing an amenity area adjacent to Windmill Hill with further proposals for Lough Park.

The proposal is the embodiment of this proposal and as such, is consistent with the policy requirements of the Ards and Down Area Plan 2015.

The Strategic Planning Policy Statement for Northern Ireland / Planning Policy Statement 3 / Planning Policy Statement 8

The proposal seeks to improve upon the existing trails at Lough Park as well as adding a new stretch of boardwalk within the park. This project has been devised in consultation with the local community, who are considered to be the primary end users for the recreational facility. The proposal seeks to improve upon the existing walkways so that the amenity facility is more accessible. The proposal will bring a public community facility to the area which will further sustain development and improve wellbeing. The proposal is consistent with the Strategic Planning Policy Statement for Northern Ireland.

Policy OS1 seeks to protect open space and the proposal for the upgrade of the trails will not compromise this policy criteria. The proposal is consistent with the policy provisions of policy OS 1 of PPS 8.

As there is an existing facility at the site that attracts visitors from the neighbouring community and given the small-scale nature of the site it anticipated the site will be accessed on foot by the majority of users. Some parking is available on street, Loughside Drive for instance, however the proposal is not considered to result in an increase in users travelling from large distances and who would need dedicated parking. It is anticipated most users will walk from their homes nearby, others can make use of on street parking on the adjacent roads. I am content for the existing arrangements to continue and do not consider the proposal to necessitate separate parking provision to service the site.

The site sits somewhat close to the post medieval windmill stump in Windmill Hill Park however HED are satisfied that the proposal is satisfactory in terms of PPS6.

The proposal has been considered against PPS 2 due to the potential ecological value the site holds. There are a number of mature trees in the park and a small marshy area. A Biodiversity Checklist and Preliminary Ecological Assessment have been submitted and sent to NIEA for their consideration and response. NIEA have yet to respond to the additional information submitted however the application is being recommended **pending a positive response from NIEA.**

There is a small area of Lough Park identified as portions of predicted pluvial flooding. and, as such, Rivers Agency was consulted. They have responded with no objections in terms of the proposal however there may be potential for surface water flooding as indicated by the surface water layer of the Flood Hazard Maps (NI). As such it is the developer's responsibility to assess the flood risk and drainage impact and to mitigate the risk to the development and any impacts beyond the site. As such, the proposal is acceptable in terms of PPS 15.

The potential impact of this proposal on European Sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural



Habitats, etc.) (Northern Ireland) 1995 (as amended). The proposal would not have any likely significant effect on the features of any European Site.

The proposal is in general compliance with the SPPS, PPS 6, PPS 8, and subject to a positive response from NIEA, PPS 2.

**Recommendation: Delegated Authority is being requested to allow officers to issue an Approval pending a positive response from NIEA. Conditions as requested by NIEA will be attached.**

#### **Conditions:**

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

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

2. The development hereby permitted shall take place in strict accordance with the following approved plans: Drawing 1, Drawing 2 and Drawing 3.

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

**Any further conditions from NIEA to be added upon their response.**

#### **Informatives**

1. 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.
2. 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.
3. 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.
4. 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.

<b>Case Officer:</b>	<b>Jane McMullan</b>
<b>Authorised Officer:</b>	<b>A.McAlarney</b>
<b>Date</b>	<b>05 October 2021</b>



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

**Application Reference:** LA07/2021/1410/F

**Date Received:** 10.08.2021

**Proposal:** New, non-bitmac compacted gravel community trails for local walking

**Location:** Windmill Hill Park, Ballynahinch



**Site Characteristics & Area Characteristics:**

The site comprises a large undulating area of mature, wooded land known as Windmill Hill Park, situated on a hilly site within the development limit of Ballynahinch. The site is flanked on all sides by residential areas. The site also includes LLPA designation BH 20/LLPA 5 and contains an Archaeological site and monument – An historic



windmill tower. At present the park trails are grassy overgrown paths with little to no hard surfacing on them.

### *Existing trails*



### **Relevant Site History:**

No recent or relevant planning history on site

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

Ards and Down Area Plan 2015

Strategic Planning Policy Statement for Northern Ireland

Planning Policy Statement 8 Open Space

Planning Policy Statement 2 Natural Heritage

Planning Policy Statement 6 Planning Archaeology and Built Heritage

### **Consultations:**

NIEA – NIEA Natural Environment Division (NED) has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns subject to conditions.

HED - HED (Historic Monuments) has assessed the application and on the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

### **Objections & Representations**

107 neighbours notified on 18.08.2021

Application advertised on 25.08.2021



2 letters of objection have been received, raising objection on the following grounds:

- Will attract antisocial behaviour from various groups.
- The site is bordered by a number of residential properties who will be subject to disturbance
- This is a quiet area with mostly elderly residents living here, granting this proposal will turn this into another troubled area of Ballynahinch
- No need for additional paths in the area.
- Will lead to more vehicles using the park
- This is an attempt to have the residents give up their right to a quiet life
- The windmill will be further damaged like the summer seats which were burnt down
- Parking / access issues raised – a number of residents advised that they will not be letting work vehicles onto Windmill Lane and asked to turn back and use an entrance of Windmill Avenue instead.

An email was received from a resident, which queried the source of some of the content of the planning statement submitted with the planning application. A reply was sent containing clarification and the source of the information. There have been no further comments from this individual.

### **Consideration and Assessment:**

#### Ards and Down Area Plan 2015

The proposal lies within the development limit for Ballynahinch as depicted in the Area Plan. The Plan has identified the site as Proposed Amenity / Open Space and Recreation BH24/1.

#### **Proposal BH 24**

##### **Proposed Amenity Open Space and Recreation**

The following areas of proposed amenity open space and recreation use are designated in accordance with Planning Policy Statement 8 (PPS8): Open Space, Sport and Outdoor Recreation and are Identified on Map No. 3/003a, Ballynahinch Settlement Map.

##### **Windmill Hill**

The site also lies within LLPA designation BH 20/LLPA 5

#### **Proposal BH 20 Local Landscape Policy Areas**

The following Local Landscape Policy Areas are designated in accordance with Policy CON 2 in Volume 1 of the Plan and as indicated on Map No. 3/003a, Ballynahinch Settlement Map and Map No. 3/003b, Ballynahinch Local Landscape Policy Areas Map.

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

#### **LLPA 5 Windmill Hill**

- Scheduled archaeological monument and its surroundings – windmill stump was one site of the Battle of Ballynahinch and is a prominent local landmark visible throughout the town and along approach roads.
- Localised hill-ridge of high ground and slopes either side provides panoramic views over the town.
- Former area of estate planting now partially planted as a community woodland by the Woodland Trust; and
- Potential for recreational area with restored windmill, walkways, seating, wooded areas and tourist information on the history of the site.

The Ards and Down Area Plan 2015 states that there are opportunities to add to the existing supply of amenity space by protecting existing areas of open space and river corridors. Down District Council in conjunction with Ballynahinch Regeneration Limited and the Woodland Trust are in the process of developing an amenity area adjacent to Windmill Hill with further proposals for Lough Park.

The proposal is the embodiment of this proposal and as such, is consistent with the policy requirements of the Ards and Down Area Plan 2015.

#### The Strategic Planning Policy Statement for Northern Ireland / Planning Policy Statement 3 / Planning Policy Statement 8

The proposal seeks to improve upon the existing trails in Windmill Hill Park which are overgrown, grassy and slippery when the ground is damp. This project has been devised in consultation with the local community, who are considered to be the primary end users for the recreational facility. The proposal seeks to improve upon the existing walkways so that the amenity facility is more accessible. The proposal will bring a public community facility to the area which will further sustain development and improve wellbeing. The proposal is consistent with the Strategic Planning Policy Statement for Northern Ireland.

Policy OS1 seeks to protect open space and the proposal for the upgrade of the trails and addition of new trails will not compromise this policy criteria. The proposal is consistent with the policy provisions of policy OS 1 of PPS 8.

As there is an existing facility at the site that attracts visitors from the neighbouring community and given the small-scale nature of the site it anticipated the site will be accessed on foot by the majority of users. Some parking is available nearby adjacent streets, however the proposal is not considered to result in an increase in users travelling from large distances and who would need dedicated parking. It is anticipated most users will walk from their homes nearby, others can make use of on street parking on the adjacent roads. I am content for the existing arrangements to continue and do not consider the proposal to necessitate separate parking provision to service the site.

The proposal has been considered against PPS 2 due to the ecological value the site holds. Through consultation with NIEA and the submission of a Biodiversity Checklist and Preliminary Ecological Assessment, NIEA has no objection subject to the attached conditions which will be attached to any permission granted. I am therefore satisfied that the natural heritage interests of the site will not be compromised by the proposal.

The potential impact of this proposal on European Sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) (Northern Ireland) 1995 (as amended). The proposal would not have any likely significant effect on the features of any European Site.

#### Policy BH 1 of PPS 6

The Preservation of Archaeological Remains of Regional Importance and their Settings, states that the Council will operate a presumption in favour of the physical preservation in situ of archaeological remains of regional importance and their settings. These comprise monuments in State Care, scheduled monuments and other important sites and monuments which would merit scheduling. Development which would adversely affect such sites of regional importance or the integrity of their settings will not be permitted unless there are exceptional circumstances.

Windmill Hill contains a post-Medieval windmill stump, a regionally important site of industrial archaeology that is scheduled for protection under the Historic Monuments and Archaeological Objects Order (NI) 1995, Policy BH 1 of PPS 6. HED were consulted on the proposal. HED (Historic Monuments) has assessed the application and on the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements. They reiterate that HED has granted Scheduled Monument Consent (reference number SMC 66-19/20 DOW 022:500) for the works to be carried out. All conditions of the consent must be adhered to for the duration of the scheme. This will be secured via condition.

The proposal is in general compliance with the SPPS, PPS 8, PPS 2 and PPS 6.

#### Recommendation: Approval

#### Conditions:

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

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

2. The development hereby permitted shall take place in strict accordance with the following approved plans: Drawing 1, Drawing 2 and Drawing 3.

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

3. No development activity, including ground preparation or vegetation clearance, shall take place until a competent ecologist has been appointed as an Ecological Clerk of Works (ECoW) and the details, roles and responsibilities of the ECoW submitted to, and agreed in writing by, the Planning Authority.

Reason: To ensure potential risks to natural heritage features are minimised and to ensure effective implementation of mitigation measures.

4. All hedgerows and mature trees shall be retained, and the proposed trails routed so as to minimise any damage including to underground root systems. Where works are to be carried out in proximity to mature trees and/or hedgerows, the trees shall be protected in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction – Recommendations.  
Reason: To ensure the continuity of the biodiversity value afforded by existing trees.
5. There shall be no external lighting on the site.  
Reason: To minimise the impact of the proposal on protected species.
6. No vegetation clearance/removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a detailed check for active bird's nests immediately before clearance/demolition and provided written confirmation that no nests are present/birds will be harmed and/or there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the Planning Authority within 6 weeks of works commencing.  
Reason: To protect breeding birds.
7. All conditions of the Scheduled Monument Consent (reference number SMC 66-19/20 DOW 022:500) which has been granted for the scheme shall be carried out and shall be adhered to for the duration of the scheme.  
Reason: In order to protect the Post-Medieval windmill stump, scheduled for protection under the Historic Monuments and Archaeological Objects Order (NI) 1995, and Policy BH 1 of PPS 6.

**Case Officer:** Jane McMullan

**Authorised Officer:** Annette McAlarney

**Date** 05 October 2021





Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2020/0457/F

**Date Received:** April 2020

**Proposal:** Construction of practice pitch incorporating goals, ballstops, dugouts, site road, walking track, amenity area, improvements to existing carpark, boundary fencing, two storey pavilion incorporating changing rooms, toilets with meeting rooms over, improvements to existing entrance and visibility splays from Rostrevor Road and alterations and refurbishment of existing changing rooms.

**Location:** Lands at and immediately adjacent to St. Peters GAA Club lands, Moygannon, Warrenpoint.  
(Bounded to the north by Rath Road, to the west by Moygannon River to the east by private property and to the south by Rostrevor Road between 22 & 38 Rostrevor Road.

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

The lands outlined in red are located in the countryside, on the outer edge of the settlement development limit of Warrenpoint, in an AONB as identified in the Banbridge, Newry and Mourne Area Plan 2015.

Warrenpoint River runs along the western boundary of the site, while the Rostrevor Rd is a Protected Route. The proximity to the Shore and associated zonings and also any Listed Buildings are also noted.

These lands comprising the application extend to include the existing established grounds of St Peters GAA Club, Warrenpoint, and also the lands associated with the riding club/equestrian facilities immediately south of the GAA grounds.

The GAA Club is currently accessed via the Rath Road and includes 1 playing pitch, a car park and clubrooms.

The lands generally fall from the north boundary of the club down towards the Rostrevor Rd.

### **Site History:**

LA07/2020/0030/PAN-

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

PAN Acceptable

The original permission for the GAA club lands and associated clubrooms dates back to the 1970's (P/1973/0150 and P/1978/0553).

There have also been several previous approvals for replacement dwellings, and alterations, extensions and garages to residential properties in the immediate vicinity of the site.

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

- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Banbridge, Newry & Mourne Area Plan 2015
- PPS2 – Natural Heritage
- PPS3 – Access, Movement & Parking
- PPS6- Archaeology and Built Heritage
- PPS 8- Open Space, Sport and Outdoor Recreation
- PPS15- Planning and Flood Risk
- PPS21 – Sustainable Development in the Countryside
- DCAN15 – Vehicular Access Standards
- Parking Standards
- Building on Tradition Sustainable Design Guide

### **Consultations:**

Having account the nature of this proposal and constraints of the site and area, consultation has been carried out with a number of statutory agencies, including:

DFI Roads- Following re-consultation No objections in principle. PSDs provided.

Rivers Agency- Following re-consultation, No Objections in principle.

NIW (Strategic)- Generic response received. No objections in principle.

Environmental Health- No Objections in principle.

HED- No objections in principle.

NIEA- Following re-consultation, no objections in principle  
SES- Following re-consultation, no objections in principle.

During the processing of the application amended and additional plans and additional supporting documentation including ecological, flooding and roads info, have been submitted for consideration and assessment.

As advised above, all consultees are content with the latest proposals/info, in principle subject to conditions/informatives.

### **Objections & Representations**

Having account the extent of the red line and legislative requirements, neighbour notification was initially undertaken in May 2020 with a number of properties along Rostrevor Rd.

The application was also advertised in the local press in May 2020.

Following receipt of amended plans a further round of neighbour notification was undertaken in Sept 2020.

To date, 1 representation in opposition to the proposal and 1 representation in support of the proposal have been received. (30-09-2021).

The main issues raised in the objection received from No.37 Rostrevor Rd include:

- The proposed access is very dangerous,
- Car parking provision within the site is inadequate with the site doubling in size. The use of bike standards and public transport is encourage.
- A wall should be built along the Rostrevor Rd to reduce noise and light pollution. The existing fencing and hedging is inadequate,
- The site is prone to flooding and a query whether the site is within the flood plain.

(Note: This letter was scanned on twice whereby the system advises there are 2 objections. It is the same objection logged twice).

The issues raised will considered further below.

The representation in support for the proposal has been received from Sinead Ennis MLA.

### **Consideration and Assessment:**

#### **Banbridge / Newry & Mourne Area Plan 2015**

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations.

The site is currently within the remit of the Banbridge / Newry & Mourne Area Plan

2015 as the new council has not yet adopted a local development plan.

As outlined above, the site is located in the countryside, outside settlement limits on the above Plan and within an AONB.

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 policies as listed above.

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

As there is no significant change to the policy requirements for outdoor sport developments following the publication of the SPPS and it is arguably less prescriptive, the retained policies of PPS 8 and PPS21 will be given substantial weight in determining the principle of the proposal in accordance with paragraph 1.12 of the SPPS.

### **PPS21 - Sustainable Development in the Open Countryside**

Policy CTY1 states that a range of types of development are acceptable in principle in the countryside. This includes outdoor sport and recreational uses in accordance with PPS 8.

### **PPS 8 Open Space, Sport and Outdoor Recreation**

Policy OS3 of PPS 8 permits development of proposals for outdoor recreational use in the countryside where all the following criteria are met:

- (i) *there is no adverse impact on features of importance to nature conservation, archaeology or built heritage;*  
The constraints including nature conservation and natural heritage features of the site and wider area include Carlingford Lough SPA, Marine proposed SPA and RAMSAR site, Carlingford Shore SAC and Carlingford Lough SPA. Consultation has been carried out with a number of bodies during the course of the processing of the case including with HED and SES. HED (Buildings and Monuments) offer no objections, while SES also offer no objections following receipt of further information.
- (ii) *there is no permanent loss of the best and most versatile agricultural land and no unacceptable impact on nearby agricultural activities;*  
While it is noted the proposal will result in the loss of agricultural land and also encompasses a current equestrian complex, it is considered there will be no unacceptable adverse impact on nearby agricultural activities, and the loss of agricultural land will not be significant in the context of the amount of available agricultural land in the wider locality.
- (iii) *there is no adverse impact on visual amenity or the character of the local landscape and the development can be readily absorbed into the landscape by taking advantage of existing vegetation and/or topography;*



The proposed works involve the creation of a new practice pitch, adjacent to the existing pitch with goals, ballstops, dugouts, site road, walking track, amenity area, improvements to existing carpark and two storey pavilion. This site is low lying, whereby it is considered the nature of the works proposed, location of the built elements together with the landscaping proposals will ensure there is not unacceptable impact on the visual amenity of this area.

It is acknowledged the proposals including improvements at the access together with the new road and facilities will be visible from the main road and surrounding properties, however it is considered the visual impact created by the proposals will not be so significant or unacceptable due to their nature and having account the existing character and form of the area.

- (iv) *there is no unacceptable impact on the amenities of people living nearby;*

The proposed development is to serve this existing club which is long established at this location. The proposal will extend the community facilities which already form part of the character of the area. It is noted both the existing grounds and those proposed to be extended as part of this application are in proximity to residential properties.

The proposal has been fully assessed having account the amenity of nearby properties whereby it is considered there are no grounds to sustain a refusal. Environmental Health have not raised any issues.

- (v) *public safety is not prejudiced and the development is compatible with other countryside uses in terms of the nature, scale, extent and frequency or timing of the recreational activities proposed;*

As stated above the existing grounds are accessed via Rath Rd. This proposal for an additional pitch proposes to use the existing access associated with the riding club/equestrian facilities. The historical use of these grounds as a community facility (riding club/equestrian facilities) is also noted.

The existing access is to be improved/widened to 4.8m, while the existing footpath along the site frontage is also to be widened (2.4m), with splays of 4.5m by 75m provided in both directions from the access point. A hedgerow is to be provided and maintained behind the footpath.

Extensive consultation has been carried out with Transport NI as part of the processing of this case, who are content with the proposals subject to conditions.

As such, it is considered the proposal will not prejudice public safety or be incompatible with surrounding uses i.e. residential, and there are no grounds to sustain a refusal on this aspect.

- (vi) *any ancillary buildings or structures are designed to a high standard, are of a scale appropriate to the local area and are sympathetic to the surrounding*

*environment in terms of their siting, layout and landscape treatment;*

As stated there are a number of aspects to this proposal, including goals, ballstops, dugouts, site road, walking track, amenity area, carpark, fencing, planting, a new 2 storey pavilion and refurb of the existing changing rooms unit.

These are common features associated with a playing pitch and are considered acceptable.

There are currently 2 structures within these established grounds at present.

The new pavilion will be sited in the same area as the existing club rooms and will include changing rooms and gym at the ground floor with club rooms above. The size and design and siting of this pavilion is considered acceptable at this location.

The smaller existing structure is to be retained and refurbished to provide storage, plant and toilets, and will remain single storey, which is considered acceptable.

It is considered these buildings will not have any significant increased or unacceptable impact on any neighbouring property or character of the area beyond that existing. The existing boundary planting will assist in mitigating any potential impact. As previously stated Environmental Health were consulted as part of the application who offer no objections.

- (vii) *the proposed facility takes into account the needs of people with disabilities and is, as far as possible, accessible by means of transport other than the private car;*

The proposal is not considered contrary to this criterion.

- (viii) *the road network can safely handle the extra vehicular traffic the proposal will generate and satisfactory arrangements are provided for access, parking, drainage and waste disposal.*

DFI Roads have no objections to this proposal.

A TAF was submitted as part of this application which highlights this proposal is for a second playing pitch which is immediately adjacent/adjoining the existing facilities, to meet current demands.

The level of car parking to be provided is a matter for the planning authority to consider as part of its assessment of the application.

Based on the published recommended parking standards of 1 space per 3 spectators; 1 space per 3 players; 1 coach space for 4 pitches, minimum of 2 per pitch; and 1 space per 3 staff, it is estimated that there would be a requirement for approx. 70 spaces per match.

This is based on 150 spectators (50 spaces); 42 players (14 spaces); and 7 officials (3 spaces) and 10 officers (3 Spaces).

During the processing of the case amended plans were submitted showing increased levels of parking. This includes an extension to the existing car park to provide approx. 100 spaces, with an informal overflow parking area, and bus parking area also provided within the site.

The Planning Department considered that this provision of parking within the site is sufficient to cater for the proposed development and in line with published car parking standards, both during training and peak match times.

Policy OS 5 relates to noise generating sports and outdoor recreational activities. Despite the potential for noise disturbance, on balance, it is considered the proposal is not a noise generating sports and outdoor recreational activity, having regard to the types of "noise generating" activities described in Policy OS 5. The uses described in Policy OS 5 are reflective of sports that rely on the use of motorised or other noise generating equipment, unlike football -which does not involve the use of any equipment like this.

As stated above the site is located within the countryside and although PPS8 applies, as outlined above, proposals are also required to comply with other policies contained within PPS21 including CTY13 and CTY14.

Having account the existing use of the lands including boundaries, and low lying nature of the lands and use proposed together with the building works, which will be sited beside and viewed with the existing established facilities and grounds, on balance it is considered the proposals do not offend the requirements of these policies.

#### Policy CTY16

The foul sewage from the proposals are to be dealt with by treatment system, with water supply connected to the mains, as per the info provide don the P1 form.

### PPS 2 – Natural Heritage

This policy sets out the policies for proposals that have the potential to impact on our natural heritage.

As outlined above extensive consultation has been carried out as part of the processing of this case including with Rivers Agency, NIEA, SES and NIW, having account the constraints of the site and wider area.

The application site is hydrologically connected to Carlingford Lough Area of Special Scientific Interest (ASSI), (through the Moygannon River), which is of national importance and is protected by the Environment (Northern Ireland) Order 2002.

The application site was identified as having potential to contain priority species, priority habitats or other natural heritage features worthy of protection.

Following the submission of further information NIEA (Drainage and Water, Natural Environment Division), Rivers Agency, SES and NIW offer no objections in principle.

Policy NH 6 states that planning permission for a new development within an AONB will only be granted where it is of an appropriate design, size and scale for the locality. I consider the proposed development is unlikely to have an adverse impact on the AONB due to the low lying nature of the site and extent of the works proposed.

### **PPS3 Access, Movement and Parking.**

TNI were consulted as part of the proposals who offered no objections, although advised the A2 is a Protected Traffic Route.

The proposals include using the existing access onto the Rostrevor Rd, associated with the riding club/equestrian facilities, with improvement, as outlined above.

As the principle of development is considered acceptable, it is considered the proposals are in line with the requirements of PPS3 and Annex 1 (Consequential amendment to Policy AMP3 of PPS3) of PPS21, whereby they are making use of an existing vehicular access.

The existing access is to be improved/widened to 4.8m, while the existing footpath along the site frontage is also to be widened (2.4m), with splays of 4.5m by 75m provided in both directions from the access point.

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

As outlined above HED (Buildings and Monuments) have been consulted as part of the proposals who offer no objections to the proposals.

HED (Historic Buildings) advised the proposal complies with SPPS 6.12

(Development proposals impacting on Setting of Listed Buildings) of the Strategic Planning Policy Statement for Northern Ireland (SPPS): Planning for Sustainable Development and BH11 (Development affecting the Setting of a Listed Building) of the Department's Planning Policy Statement 6: Planning, Archaeology and the Built Heritage, noting the proposals are separated from any listed building and screened by mature planting.

### **PPS15 Planning and Flood Risk**

Rivers Agency initially advised that in respect of Policy FLD1, parts of the site are within the 1 in 100 year fluvial flood plain. A working strip was required for Policy FLD2. A Drainage Assessment was required for FLD3.f

Following deeming the proposal and exception to FLD1 of PPS15, a FRA and Drainage Assessment were submitted together with amended plans, whereby Rivers Agency offer no objections.



**Summary**

Taking into account the above, it is considered the proposals are policy compliant and there are no grounds to sustain a refusal, following extensive consultation with a number of bodies.

Accordingly, Approval is recommended subject to conditions.

(Note: As this is Major application it must be presented to Planning Committee in line with the Councils Scheme of Delegation)

**Recommendation: Approval****Conditions:**

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.

The development hereby permitted shall take place in strict accordance with the following approved plans:

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

A Final Construction Environmental Management Plan must be submitted by the appointed contractor to the planning authority for agreement prior to work commencing. This shall reflect all the mitigation and avoidance measures outlined in the CEMP and Site Drainage Plan prepared by Sheehy Consulting published on the planning portal 25/09/2020. The approved CEMP shall be adhered to and implemented throughout the construction period in accordance with the approved details, unless otherwise agreed in writing by the planning authority.

Reason: To ensure that the appointed contractor undertaking the work is fully appraised of all the risks associated with the proposal and to provide effective mitigation ensuring there are no adverse impacts on the integrity of European sites in Carlingford Lough.

No development activity, including ground preparation or vegetation clearance, shall commence until an Invasive Species Management Plan has been submitted to and approved in writing by the Planning Authority. The approved Plan shall be implemented in accordance with the approved details, unless otherwise approved in writing by the Planning Authority. The Plan shall include the following:

- a) Updated survey for invasive species to identify all locations on site where they occur;
- b) Details of the removal/eradication and/or treatment of identified invasive species;
- c) Details of any necessary mitigation measures to be implemented during the construction phase or thereafter to prevent the spread of invasive species;

d) Details of any follow-up management or monitoring of invasive species on the site.  
Reason: To prevent the spread of invasive plant species listed on Schedule 9 of the Wildlife (Northern Ireland) Order 1985 (as amended) and to minimise the impact of the proposal on the biodiversity of the site.

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

The Department hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. P06RevB bearing the date stamp 08 February 2021

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

The visibility splays of 4.5 metres by 75 metres at the junction of the proposed access with the public road, shall be provided in accordance with Drawing No P06RevB bearing the date stamp 08 February 2021, prior to the commencement of any other works or other development.

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

The car parking proposals as indicated in the drawings hereby approved shall be completed prior to any part of the development hereby approved coming into use, which shall be permanently retained thereafter.

Reason: To ensure sufficient provision is made for parking within the site.

The proposed planting as indicated on the plans hereby approved shall be carried out during the first available planting season in its entirety following the development hereby approved coming into use.

Reason: In the interests of visual amenity.

Replacement of any lost planting.

## **Informatives**

<p><b>Case Officer Signature: M Keane</b></p>
<p><b>Date: 30-09-21</b></p>
<p><b>Authorised Officer Signature:</b>  <b>A McKay</b></p>
<p><b>Date: 30.09.2021</b></p>

- 'I am Thomas Bell of Clyde Shanks and joined by Mr Barney Dinsmore the lead agent, and Mr Feargal McCormack, representing the club.
- We have a number of points:
  1. The club very much welcome the positive recommendation and commend the Council for progressing this application following a Proposal of Application Notification submission during the pandemic.
  2. All consultees have responded with no objection following a very successful planning application community consultation exercise.
  3. That community consultation exercise started in 2018 via a "Our Vision" steering group and an open exhibition evening in March 2020 and highlighted overwhelming support and no objection.
  4. In terms of the socio-economic benefits the proposal will result in:
    - overall capex investment of £1.5 million;
    - an enhancement of the extant playing facilities for the club's 700 members of which half are juvenile as a significant and intermediate step in realising the club vision;
    - providing access onto Rostrevor Road without having to use Rath Road which represents clear betterment.
  5. In closing and with that in mind, we respectfully ask that members support the officers recommendation and grant full planning permission.'





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

**Application Reference:** LA07/2021/0020/F

**Date Received:** 6<sup>th</sup> January 2021

**Proposal:** Proposed Barn conversion and extension to dwelling accommodation

**Location:** 30m NE of 66 Mearne Road Ballysugagh Downpatrick

**Site Characteristics & Area Characteristics:**



The site is located along the minor Mearne Road, Downpatrick. It is comprised of a 0.1-hectare portion of land which contains within it a single storey out-building / barn.



The building is positioned immediately at the roadside and as can be seen from the image above has partially rendered stone walls and a corrugated roof. The building is overgrown with vegetation but appears to be in use as a storage building.

The site within which the building sits is relatively flat and defined on the remaining boundaries by mature vegetation. No 65 Mearne Road and an associated outbuilding lie immediately to the west but outside the application site. Opposite the site lies Nos 64 and 66 Mearne Road and their associated out-buildings.

The site is located within the rural area and AONB as designated in the Ards and Down Area Plan 2015.

An archaeological site / monument DOW038:039 is located within the vicinity of the site.

#### **Site History:**

There is no previous history on the site.

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

In assessment of this proposal regard shall be given to the Strategic Planning Policy Statement (SPPS), Ards and Down Area Plan 2015, PPS21 (CTY 1, 4 and 13), PPS2, 3, 6 and 15 in addition, to the history and any other material consideration.

The application was advertised initially in the local press on 20.01.2021

The relevant neighbours of the proposal were notified on 08.02.2021

#### **Consultations:**

In consideration of the proposal it was considered necessary to consult with DfI Roads, DfI Rivers, DfC Historic Environment Division (Monuments) and Northern Ireland Water (NIW), to which no objections have been received.

#### **Objections & Representations**

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

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

The proposal seeks full planning permission for the conversion and extension of the existing building to a dwelling.

Section 45 (1) of the Planning Act (NI) 2011 requires the Planning Authority, in dealing with an application, to have regard to the local development plan, so far as material to the application, and to any other material considerations. The Ards and Down Area Plan 2015 (ADAP) operates as the local development plan for the area where the appeal site is located. The site is located outside any

settlement development limit within ADAP and is within the countryside. The ADAP has no material policies for dealing with the proposal.

The Strategic Planning Policy Statement for Northern Ireland (SPPS, published in September 2015) sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area. Paragraph 1.12 states that any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in favour of the provisions of the SPPS. It cites an example whereby the SPPS introduces a change of policy direction and/or provides a policy clarification that would be in conflict with the retained policy and states that in that instance the SPPS should be accorded greater weight in the assessment of individual planning applications.

The SPPS retains certain existing planning policy statements and amongst these is Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21, published June 2010).

Policy CTY 1 of PPS 21 sets out a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development including the conversion of a non-residential building to a dwelling in accordance with Policy CTY 4. Policy CTY 4 states that planning permission will be granted to proposals for the sympathetic conversion, with adaption if necessary, of a suitable building for a variety of alternative uses, including use as a single dwelling, where this would secure its upkeep and retention. Such proposals are required to be of a high design quality and to meet a number of identified criteria.

Paragraph 6.73 of the SPPS states that provision should be made for the sympathetic conversion and re-use, with adaptation if necessary, of a locally important building (such as former school houses, churches and older traditional barns and outbuildings), as a single dwelling where this would secure its upkeep and retention.

When looking at the emphasised wording of Policy CTY 4 and that contained in paragraph 6.73 of the SPPS, it is apparent that there is a conflict between the retained policy and the SPPS in terms of the conversion and re-use of existing buildings for residential use. Under the identified transitional arrangements in paragraph 1.12 of the SPPS, the SPPS should therefore be accorded greater weight in the assessment of this proposal.

As described above the subject building for conversion and extension is a modest out-building measuring 79sqm, with stone walls, some rendering and a corrugated roof.

While 'locally important' has not been defined in the SPPS, the Planning Authority consider that it requires the building to be of some merit and importance to its local setting making it worthy of retention and to warrant it being of 'special character or interest'.

The applicant has submitted a supporting statement which seeks to demonstrate the local importance of the building, stating that it can be identified on the Griffith Maps dating back to 1800s, it is located on a frequently used walking trail and sited close to Ballystokes Archaeology site where a bronze age, prehistoric cup and ring marked stone is located.

While the above is not disputed and the building may indeed be old, policy however, not does state all older buildings are necessarily locally important. In addition, the modest nature of the building along with its design and finishes are not of any merit or importance worthy of retention. It is acknowledged by the applicant that the site is located along a no-through road, traffic is therefore



light, consequently the site lacks visual presence and does not therefore appear as a focal point or locally important feature as claimed.

**The proposal therefore fails to meet the initial requirements of the SPPS and will be recommended for refusal on this basis.**

Policy CTY 4 states that proposals for the conversion and reuse of existing buildings should be of high quality design and meet the criteria listed A – G.

Criteria C states that any new extensions should be sympathetic to the scale, massing and architectural style and finishes of the existing building.

The image below shows the size and scale of the extension proposed in comparison to that which is existing. It is noted that the existing ridge of the out-building is 4m while the proposed extension will have a ridge height at 3.6m.



The extension will be connected to the existing building via a glazed link. Its scale and massing, are considered to be in keeping with the modest nature of the existing building and it would represent a subordinate feature given its set down ridge height.



The Planning Authority consider that proposed is sympathetic to the scale and massing of the existing building and would therefore comply with this aspect of CTY 4.

### CTY 13

The images below are taken from various points along Mearne Road, but within the immediate vicinity of the site.



The red corrugated roof of the subject building is visible along with its modest scale. Given the above assessment of the proposed extension, it is considered that the proposal would integrate into the surrounding area.

## PPS 2

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

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

a) the siting and scale of the proposal is sympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality; and

b) it respects or conserves features (including buildings and other man-made features) of importance to the character, appearance or heritage of the landscape; and

c) the proposal respects:

- local architectural styles and patterns;
- traditional boundary details, by retaining features such as hedges, walls, trees and gates; and
- local materials, design and colour.

Considering the context, siting, design and landscaping of the proposal, and in light of the above assessment, it is considered that the scale and massing of the proposal, would be sympathetic to the special character of its locality within the AONB and for this reason it complies satisfactorily with the requirements of Policy NH 6 (a).

## PPS 3 – Access, Movement and Parking

The application seeks to access onto Mearne Road by creating a new access. Policy AMP 2: Access to Public Roads is applicable which states that planning permission will only be granted for development involving direct access, or the intensification of the use of an existing access, onto a public where

(A) Such access will not prejudice road safety or significantly inconvenience the flow of traffic

(B) The proposal does not conflict with Policy AMP3 Access to Protected Routes

Category A is applicable.

DfI Roads have indicated in their consultation response that they have no objections to the proposal.

On this basis, it is considered that the proposal is compliant with the requirements of PPS 3.

## PPS 6

As noted above, the site is located near DOW038:039 an archaeology site where a bronze age, prehistoric cup and ring marked stone is located. In assessment of the impact this proposal would have on the monument, if approved, a consultation was carried out with Historic Environment Division (HED).

HED (Historic Monuments) has assessed the application and on the basis of the information provided, has advised the Planning Authority that it is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

## PPS 15

An assessment of the constraints of the site indicated that the site is located within an area of pondage. Consequently, DfI Rivers were consulted, who have advised the Planning Authority that the development is located partially within a predicted flooded area. Although a Drainage Assessment is not required by policy, it is the developer's responsibility to assess the flood risk and drainage impact and to mitigate the risk to the development and impacts beyond the site.

### Drawings

The drawings considered as part of this assessment are

46/A3/02, 46/A1/03 Rev A and 46/A1/04 Rev A

### Conclusion

Having assessed the proposal against the various planning policies and material considerations which apply to the application it is determined that the proposal is unacceptable in planning terms.

**Recommendation:** REFUSAL

### **Reasons**

1. The proposal is contrary to the SPPS, Policies CTY 1 and CTY 4 of Planning Policy Statement 21: Sustainable Development in the Countryside, in that the building proposed for conversion is not considered as locally important and there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

**Case Officer:** C Cooney  
**Authorised Officer:** A.McAlarney

**Date:** 29 July 2021  
**Date:** 29 July 2021



## Planning Application Number – LA07/2021/0020/F

**Description of the application** – Proposed Barn conversion and extension to dwelling accommodation, 30m NE of 66 Mearne Road Ballysugagh Downpatrick

Planning Authorities recommend refusal of this Barn Conversion for one reason only; it is their opinion that the barn in question is not locally important.

This is contrary to policy, which Planning Authorities directed me to, where by Strategic Planning Policy Statement (SPPS) part 6.73 which states;

*'that in rural areas, provision should be made for the sympathetic conversion and re-use, with adaptation if necessary, of a locally important building (such as former school, houses, churches and older traditional barns and outbuildings) as a single dwelling where this would secure its upkeep and retention.'*

## Site History

This barn, located in Sabhall (Saul), meaning a Barn in English, is of much merit and could quite possibly be connected to St Patrick himself, as it was barns within the Saul area where Patrick founded his first churches in Ireland.

This barn is incredibly old and is recorded in early 1800 Griffith maps. (A map was presented and accepted by Planning as evidence)

## Precedence

Planning authorities recently approved another similar application, LA07/2020/1250/F for a barn conversion opposite 22 Tullyveery Road Killyleagh

This above barn has much similarities to the barn on the Mearne Road. Both involve the renovation of a barn recorded on First Edition Ordnance Survey Maps, with a modest extension.

In the Tullyveery Road, Killyleagh application Historic Monuments were made aware of the barns appearance in historical maps, where as in the the Mearne Road application Planning Authorities did not make Historic Monuments Aware of this fact. Consultation responses, with exception of this information, are none the less very similar;

LA07/2020/1250/F - Tullyveery Road, Killyleagh

### Archaeology and Built Heritage

HED (Historic Monuments) welcomes this conversion of a vernacular building present on the First Edition Ordnance Survey Maps. HED (Historic Monuments) has assessed the application and on the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

LA07/2021/0020/F – Mearne Road Application

### Archaeology and Built Heritage

HED (Historic Monuments) has assessed the application and on the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

## Policy

When one reviews SPPS and PPS 6 Archaeological Policy the general thrust of this document encourages the renovation and upkeep of vernacular building. (See extraction below)



## 9.0 Non-listed Vernacular Buildings

### The Importance of Vernacular Buildings

9.1. The vernacular buildings of Northern Ireland have developed as a response to local economic and social circumstances, using simple styles and largely local materials. They have a natural place in our towns, villages and smaller settlements and help give the countryside its personality. While the Department operates a general presumption in favour of the preservation of buildings listed as being of special architectural or historic interest there is growing concern about the continuing loss of those traditional buildings with historical associations and local character, which are not listed, particularly in rural areas. A report published in March 1998 by the Environment and Heritage Service entitled "A Sense of Loss" highlights the severe decline in the number of rural traditional buildings of Northern Ireland in recent years. Buildings of character which display local traditions of architecture and design are an important part of our heritage and regional identity. It is therefore sensible to sympathetically rehabilitate and improve such vernacular buildings, rather than replace them or allow them to fall derelict.'

### Local Importance

The old barn if restored and retained will;

- a) Enable the local community to hold on to their history
- b) They will retain the structurally sound stone building which has stood for at least 200 years
- c) It will provide a display of traditional Saul Stone masonry dating back to at least the mid 1800s
- d) At a time when so many old houses have been wiped from our landscape under the 'replacement dwellings' policy, the conversion of this barn would set an example to others that old buildings can be preserved and re-used.
- e) It will champion the global ethos whereby old buildings and materials should be re-used in a bid to reduce our carbon emissions / footprint.

In relation to tourism and culture it was highlighted to Planning Authorities that this building is locally more important than that of just a typical barn, owing to its location set along the popular St Patrick Way.

- Walkers completing the St Patrick Way will be able to appreciate the traditional barn when it is stripped back and restored to its former glory. The barn, when converted, will further support the walk way which is advertised as a 'public walkway where by tourists can visit unique sites, meet local people and explore the history and heritage of Saint Patrick's Country.' <https://www.saintpatrickcentre.com/friends/all-experiences>
- The barn is located within a walking hot spot. Views of the barn are much less fleeting when compared to those that one would be experienced on a typical fast-paced road.
- The barn is located on the Saint Patricks Camino route. Organised pilgrimages take place weekly and are advertised through the St Patrick Centre.
- The local pony club use the road daily and would also get to benefit from view of the restored barn. (St Patrick's Way Stables)
- The barn is sited close to the recorded and documented Ballystokes Archaeology site. As such, the site is regularly visited by historians to see 4m of cup and ring motifs etched into nearby rocks. These etchings are believed to have been created during the Neolithic times.

### Conclusion

The proposed Barn Conversion currently recommended for refusal should be overturned by Council and approved.





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

**Application Reference:** LA07/2021/0251/O

**Date Received:** 09/02/2021

**Proposal:** Single Dwelling

**Location:** Site adjacent to 57 Castlewellan Road, Newcastle



**Site Characteristics & Area Characteristics:**

The lands outlined in red form a rectangular shaped plot located the immediate north of no. 57 Castlewellan Road. The site is located along the Castlewellan Road, Newcastle (a protected route) and is comprised of a 0.4 hectare agricultural field. The site is accessed via an existing agricultural entrance directly from the Castlewellan Road. The site rests slightly lower than road level and of level topography. The site is positioned immediately adjacent a business park and a number of detached dwellings with the surrounding land to the north predominantly agricultural in use. Given the shape of the plot it has a narrow frontage to the



Castlewellan Road. The is aided by mature vegetation along the boundaries providing considerable visual screening.

The application site is located outside any settlement development limits as designated within Ards and Down Area Plan 2015. The site is located within a designated Area of Outstanding Natural Beauty and located along a Protected Route.



### Site History:

LA07/2018/0488/O - Proposed single dwelling. Site adjacent to 57 Castlewellan Road, Newcastle. Application withdrawn. Application was recommended for refusal by DC group prior to request to withdraw.

### Planning Policies & Material Considerations:

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

PPS 21 - Sustainable Development in the Countryside

CTY 1 - Development in the Countryside

CTY 2a – New Dwellings in Existing Clusters

CTY 8 - Ribbon Development

CTY 13 - Integration and Design of Buildings in the Countryside; and

CTY 14 - Rural Character



## Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside

### Consultations:

NI Water – Generic Response

DfI Roads – No objections subject to compliance with access constructed in accordance with the RS1

DfI Rivers – No objections and recommend informatives as a precautionary measure.

### Objections & Representations:

6 Neighbours within close proximity of the site were notified on 15/03/2021, an additional neighbour was identified and notified on 12/05/2021. This application was advertised in the local press on 23/02/2021 and 24/02/2021. No objections or representations have been received.

### Consideration and Assessment:

The application submitted is seeking outline planning permission for the erection of a single dwelling in the countryside. The SPPS along with PPS 21 provide the relevant planning context for determining this application.

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is currently within the remit of the Ards and Down Area Plan 2015 as the new council has not yet adopted a local development plan. The site is located outside settlement limits on the above Plan in open countryside. There are no specific policies in the Plan that are relevant to the determination of the application and it directs the decision-maker to the operational policies of the SPPS and PPS21.

The agent has submitted an accompanying Design and Access Statement, outlining that he is under the opinion that the planning application meets the policy requirements of both CTY2a and CTY8.

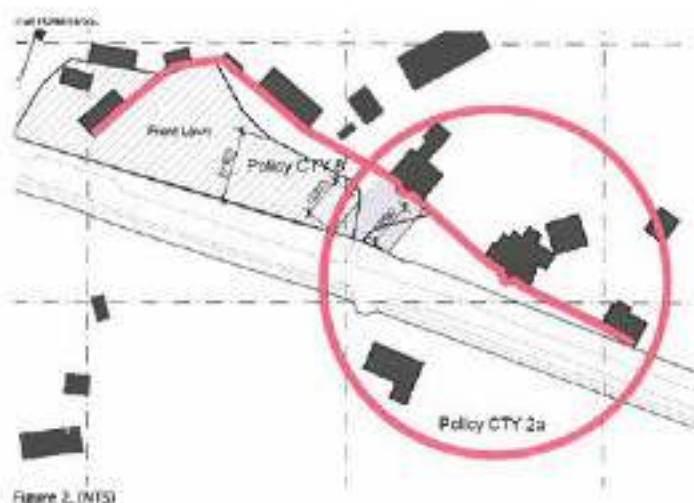
#### PPS 21 - Sustainable Development in the Countryside

Policy CTY 1 of PPS 21 identifies a range of types of development which in principal are considered acceptable in the countryside. One of these is the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8.

### Policy CTY 8

Policy CTY 8 'Ribbon Development' states that planning permission will be refused for a building which creates or adds to a ribbon of development. However, an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within a substantially and continuously built up frontage. This policy requires four specific elements to be met, the gap site must be within a substantially and continuously built up frontage, the gap must be small, the existing development pattern along the frontage must be respected and other planning and environmental requirements must be met. The policy defines a substantial and built up frontage as a line of three or more buildings along a road frontage within accompanying development to the rear.

The agent considers that the site is such a gap site for one dwelling, falling within a substantial and continuously built up frontage and suitable for a dwelling. For the purpose of the policy a line of 3 or more buildings along a frontage without accompanying development to the rear is required. The accompanying Design and Access Statement shows a concept drawing (AL(0)04), show a continuous red line that runs from no.53 Castlewellan Road to no.53 Castlewellan Road. However, this red does not run along the road frontage, as it runs along the rear and side of no. 65 and portions of the common boundary of development site to the rear.



Concept drawing (AL(0)04)

Having carried out a side visit and with close regard to what is on the ground, it is noted that the road frontage of Castlewellan Road is comprised of dwellings including no. 53, no. 57 and no. 63, with each of these plots having a road frontage. Case officers note that the former building between the subject site and no. 57 has since been demolished. The agent has stated in the Design and Access Statement that this small strip of land that once contained the demolished building has been "incorporated into the plot noted as no. 57". Having carried out a recent history search, the Council have found no approvals for such an extension of no. 57 curtilage. The Council note both planning applications associated with no. 57

Castlewellan Road (LA07/2021/0450/F and LA07/2019/0416/F), where it is clear that this strip of land is not part of the curtilage associated with no. 57. The removal of a hedge does not establish the extension of a curtilage as suggested by the agent.

There is no line of three or more buildings to constitute a substantial and continuously built up frontage, as envisaged by the policy. Accordingly, there is no gap or infill opportunity. As there is no substantial and continuously built up frontage the proposal does not meet the first test as set out in Policy CTY8.

Notwithstanding the above, of those dwellings between no. 57 and no. 63 and each plot has the following road frontage;

No 53 – 25m  
 No 57 – 31m  
 No 59 – 19m (building no longer on site)  
 No 63 – 136m  
 Subject site – 4m

On the basis of this it is considered that a substantial and continuous built up frontage is not present along this section of Castlewellan Road, given the significant separation distance of 136m between No 57 and No 63 and a further gap of 49m between Nos 53 and 57. In addition, it is clear that the current road frontage development varies in size, and the application site frontage, at 4m, is not representative of the pattern of development found immediately adjacent. The proposal does not therefore comply with CTY 8 of PPS 21.

### Policy CTY 2a

Policy CTY 1 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. Policy CTY2a sets six criteria that must all be met by the proposal. The first three relate to the nature of the cluster, the next two relate to the site itself and the final one considers residential amenity. Policy CTY2a states: "Planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

- *The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;*

The Planning office are of the opinion, that whilst there are seven dwellings within the vicinity, they are arranged in a scattered and dispersed development pattern and are not read as a cluster of development in the landscape. One would not have the sense of arriving at a cluster of development. Therefore is not considered to be a cluster of development a fundamental requirement of Policy CTY2a.



- *The cluster appears as a visual entity in the local landscape;*

There is not considered to be a cluster of development and therefore not one to appear as a visual entity in the landscape. On site, it is noted that whilst there was development within the immediate area of the site, they are considered as scattered and dispersed form of development. The proposal fails to meet the second requirement of policy.

- *The cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads.*

The agent draws reference to commercial, residential and sports development (recently approved) within the immediate vicinity including the crossroads located some 175m away from the subject site. As it has been considered that the site is not located at an existing cluster of development the proposal is fundamentally flawed. The crossroads must also be discounted, given the 175m distance from the subject site.

- *The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;*

The proposal does not comply with this aspect of the policy as only one dwelling adjoins the site, those buildings immediately adjacent and to the west of the site are comprised of light industrial buildings. The Agent has stated in the Design and Access Statement that this small strip of land that once contained the demolished building has been "incorporated into the plot noted as no. 57". Having carried out a recent history search, the Council have found no approvals for such an extension of no. 57 curtilage. The Council note both planning applications associated with no. 57 Castlewellan Road (LA07/2021/0450/F and LA07/2019/0416/F), where it is clear that this strip of land is not part of the curtilage associated with no. 57. The removal of a hedge does not establish the extension of a curtilage as suggested by the agent.

### Policy CTY13

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. The agent submitted several concept drawings showing a desire for a large two storey dwelling with a hip roof construction. This dwelling will have Georgian Character. The prevailing character consists of single storey dwellings, with first floor rooflight/dormers. The concept design submitted is not considered of an appropriate design given the surrounding context, as such an informative will be attached to the decision notice stating that the proposed site layout/elevation in the indicative drawings is considered unacceptable. As this is an outline application the siting and design would be fully determined at the Reserved



Matters stage. The proposal would comply with Policy CTY 13 subject to suitable conditions.

#### Policy CTY14

Policy CTY14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of the area. The proposal would result in a suburban style build-up of development when viewed with existing buildings and create a ribbon of development. The proposal is contrary to criterion b and d of Policy CTY14.

#### PPS 3 - Access, Movement and Parking

DfI Roads were consulted as part of the assessment of this application. In a response dated 23/03/2021, DfI Roads have no objections to the proposal with regard to the above policy criteria subject to access being in accordance with the RS1 form. The site seeks direct access onto a protected route. Policy AMP 3 Access to Protected Routes states that planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access in the following cases – a replacement dwelling, farm dwelling a dwelling serving an established commercial or industrial enterprise, or other categories of development.

The agent seeks to make use of the existing field gate entrance along the Castlewellan Road. PPS 3 states that *for the purposes of the policies in this PPS, a field gate is not an access*. It is considered given the above assessment that the proposal does not meet the exceptions of the policy, contrary to PPS3.

#### **Recommendation:**

Refusal

#### **Refusal Reasons:**

1. The proposal is contrary to 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 Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters, in that the proposed site is not located at an existing cluster of development.

3. The proposal is contrary to Strategic Planning Policy Statement (SPPS) and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that a substantial and continuously built up frontage is not present and the proposal does not respect the existing pattern of development in terms of frontage and plot size.
4. The proposal is contrary to Strategic Planning Policy Statement (SPPS) and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along Castlewellan Road.
5. The proposal is contrary to Policy AMP 3 Planning Policy Statement Access Movement and Parking, in that the proposal would, if permitted, result in the creation of a new vehicular access onto a Protected Route for which there is no justification, the free flow of traffic and conditions of general safety would therefore be prejudiced.

<b>Case Officer:</b>	S. Maguire	<b>Date:</b> 20/07/2021
<b>Appointed Officer:</b>	A.McAlarney	<b>Date:</b> 26 July 2021



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

**Application Reference:** LA07/2021/0507/F

**Date Received:** 12/03/2021

**Proposal:** Proposed 4 No. Glamping Pods and Welcome Pod with associated car parking, site works and access

**Location:** 195m West of No. 198 Lackan Road, Kilcoo, Newry



**Site Characteristics & Area Characteristics:**

The lands outlined in red form an irregular shaped site located along Lackan Road, opposite the north eastern point of Lough Island Reavy Reservoir. The site consists of a partially unmaintained piece of land with an orientation running east to west. The site fronts onto Lackan Road and the topography rising steeply to the north. The difference in ground levels from the front to the rear of the site is approx. 25.0m. In terms of boundary treatments, the southern roadside boundary is defined by post and wire fencing, the east and west have similar treatments with a low dry-stone

wall. No defined northern site boundary. Access to the site is provided via a field gate to the east of the site.

The application site is located outside any settlement development limits as designated within the Ards and Down Area Plan 2015. The area is of typical rural character and predominately agricultural use, located within a designated Area of Outstanding Natural Beauty.

### **Site History:**

No relevant history associated with this site.

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

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 2 - Natural Heritage

NH 6 - Areas of Outstanding Natural Beauty

PPS 3 - Access, Movement and Parking

AMP 2 - Access to Public Roads

PPS 16 – Tourism

TSM 5 - Self Catering Accommodation in the Countryside

TSM 7 – Criteria for Tourism Development

PPS 21 - Sustainable Development in the Countryside

CTY 1 - Development in the Countryside

CTY 8 - Ribbon Development

CTY 13 - Integration and Design of Buildings in the Countryside; and

CTY 14 - Rural Character

Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside

### **Consultations:**

NI Water Strategic Applications – No objections

DfI Roads - No objections subject to access being constructed in accordance with submitted drawings and planning conditions.

DfI Rivers – No objection subject to recommended informatives as a precautionary measure.

Environmental Health (NM&D) – No objections



## SES - Content

### Objections & Representations:

Given the extent of the red line no neighbour notification letters were required in respect of this application. This application was advertised in the local press on 31/03/2021. No objections or representations have been received.

### Consideration and Assessment:

The submitted application is seeking full planning permission for 4 No. Glamping Pods (Type 1 & 2) and Welcome Pod (Type 3) with associated car parking, site works and access.

There will be a total of 5 pods, consisting of 3 different design types. 4 of the pods will be concentrated to the western portion of the site, with the 'welcome' pod located a lower level at the eastern boundary.

3 of the proposed units will be self-contained comprising a kitchen / dining / living area including sofa bed, a separate bedroom area containing a double bed and bunk beds and a covered veranda. One pod will have a larger design consisting of a kitchen / dining / living area including sofa bed, 2 separate bedroom areas containing a double bed and bunk beds and a covered veranda. Each of the 4 pods provide a shower room/ toilet. The 'welcome' pod is the largest of the 5 pods and will provide large communal area, washroom, disabled toilet, W/C and covered veranda. All pods will have a rectangular footprint and a gross floor space ranging from 32m<sup>2</sup>-60m<sup>2</sup>. The pods will have a modern design, featuring a mixture of different roof pitches and irregular shaped glazing. On the basis of the proposed floor plan of the buildings and the level of accommodation provided, the Planning Authority consider the units to be self-catering units and will assess them as such under the relevant policy TSM 5 and not TSM 6 for Holiday Parks.

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 Ards and Down Area Plan 2015 as the new council has not yet adopted a local development plan. The site is located outside settlement limits on the above Plan in open countryside. There are no specific policies in the Plan that are relevant to the determination of the application and it directs the decision-maker to the operational policies of the SPPS and other relevant policies.

### SPPS – Strategic Planning Policy Statement for Northern Ireland

The aim of the SPPS in relation to tourism development is to manage the provision of sustainable and high-quality developments in appropriate locations within the built and natural environment. Sustainable tourism development is brought about by

balancing the needs of tourists and the tourism industry with conserving the tourism assets.

### PPS 21 - Sustainable Development in the Countryside

Policy CTY 1 of PPS 21 permits a range of development considered to be acceptable and will contribute to the aims of sustainable development. In relation to non-residential development tourism development proposal in accordance with PPS 16 are permitted.

### PPS 16 – Tourism

Policy TSM 5 – Self-Catering Accommodation in the Countryside states that planning permission 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 application site is not located within the grounds of an existing or approved hotel, self-catering complex, guest house or holiday park. The site is located on a greenfield site located within the open Countryside.

- (b) a cluster of 3 or more new units are to be provided at or close to an existing or approved tourist amenity that is / will be a significant visitor attraction in its own right;*

It does not comprise a cluster of 3 or more new units at or close to an existing or approved tourist amenity as defined by Article 2 of the Tourism NI Order 1992 (an amenity, facility or service provided primarily for tourists, but does not include tourist accommodation). Case officers acknowledge that the application is located within the Mourne AONB, which although is considered a tourism asset, is however considered distinct from a tourism amenity.

- (c) the restoration of an existing clachan or close, through conversion and / or replacement of existing buildings, subject to the retention of the original scale and proportions of the buildings*

The proposal does involve the restoration of an existing clachan or close.

Paragraph 7.24 of PPS 16 which states TSM 5 does support self-catering development but it must be focused around existing nodes of tourist activity. This is in order to prevent random development throughout the countryside to ultimately safeguard the value of tourist assets such as the Mournes. The proposed development is in the open countryside and if approved could set a precedent for similar developments. This would create a more sporadic form of tourist development in the countryside, against the spirit of the policy and against what is considered to be sustainable development.

The Planning Authority consider that this proposal does not comply with any of the above circumstances.

All proposals for tourism development are subject to consideration under TSM 7 of PPS 16, which requires proposals to meet the Design Criteria listed A – F and General Criteria G-O.

The site is located a considerable distance from Castlewellan and Kilcoo, therefore it is anticipated that the main source of transport will be via private car. It is noted that the site is open at the roadside with only a post and wire fencing defining this boundary. The majority of the site is located in an extremely elevated position with the ground levels rising approx. 25m from road Level. Two of the larger pods (3 and 4) will be located approx. 2.0m above road level in close proximity to the public road, pods 1-3 will be located up to 16m above road level. Given the steep rising topography of this site and based on the site layout plan it is anticipated that substantial regrading and ground works will be required to accommodate this development. The need for retaining structures around each pod raises issue of visual integration into the landscape.

The site layout shows a desire to widen the existing cleared laneway to 4m which will transverse east to west through the site. From site visit it was evident that there was an agricultural type track running through the site. However, this laneway has a grass surface only sustainable presumably for agricultural vehicles. To facilitate the proposed car parks for pod 1-3 which rest approx. 15m above road level, will require substantial improvements, including a hardstand surface to enable private cars to climb the steep terrain resulting in adverse visual impacts

Officers note the laneway proposed to serve pod 4, this laneway will run essentially against the roadside boundary for a stretch of 115m with only a post and wire fence acting as a boundary. This laneway is considered detrimental to the rural character of this area.

The topography of the site means that to accommodate the development considerable intervention by way of cutting into the land will be required. The result of this cutting is that a considerable number of retaining walls are required which are regarded as out of character for this rural location. In addition, case officers have visual concerns with regards to size and scale of the glamping pods, with particular concern regarding pods 4 and 5. While it is noted that the applicant has provided a landscaping plan, it clear that the integration of the proposed buildings into the countryside would be reliant almost entirely on new planting which would take time to establish.

There are no 3rd party neighbours within close proximity to the site, therefore unlikely the proposal will cause an adverse impact on the amenity of neighbouring residents. There are no built heritage features on the site.

This application seeks to dispose of sewage via a treatment plant. Environmental health was consulted with regards to this proposal and offered no objections subject to drainage connection as proposed on the latest site layout drawing.

On the basis on the scheme submitted case officers would be under the opinion the scheme fails to satisfy (b), (c), (g) of TSM 7.

### PPS 21 - CTY 13

In assessment of the design, siting and integration of the proposal, Policy CTY13 of PPS 21 is applicable which states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.

A new building will be unacceptable where:

- (a) it is a prominent feature in the landscape; or
- (b) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or
- (c) it relies primarily on the use of new landscaping for integration; or
- (d) ancillary works do not integrate with their surroundings; or
- (e) the design of the building is inappropriate for the site and its locality; or
- (f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop;

It is considered that when travelling in both directions along Lackan Road, that site is notable due to its open presentation to the road due to the lack of screening boundary vegetation and its elevated nature rising from the road. The glamping pods will be located either in a highly elevated position or directly road side. Case officers consider the long to medium distance views on the site from Dublin Road. From this position, the site is considered extremely exposed when looking across the reservoir. Officers are of the opinion that glamping pods 1-3 will be prominent features in the lands landscape.

Officers are of the opinion the ancillary works proposed would not integrate into the landscape. As number of retaining structures are required to accommodate this development, and substantial cut and fill will be required given the steep topography of the site resulting in the proposal failing to blend with the landform. While it is noted that the applicant has provided a landscaping plan, it clear that the integration of the proposed buildings into the countryside would be reliant almost entirely on new planting which would take time to establish. I consider therefore that the proposal would not have an acceptable level of integration and would in turn increase the overall visual impact of the proposal on the area.



Policy CTY 14

Policy CTY14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of the area. The proposal would result in a suburban style build-up of development when viewed with existing buildings and create a ribbon of development. Case officers note the area of the proposed site which is approx. 0.8 hectares, presenting a road frontage of 163m along Lackan Road. The dispersed nature of the pods is considered detrimental to the rural character. A total of 5 pods at this location is considered to create a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.

Policy CTY 16

CTY 16 ensures that new developments will not create or add to a pollution problem. A sewage treatment plant is proposed, a copy of 'Consent to Discharge' must be submitted to the Planning Department prior to the commencement of development. The proposal appears to conform to Policy CTY 16.

PPS 2 - Natural Heritage

As this site is located within a designated Area of Outstanding Natural Beauty (AONB) policy NH 6- requires that new development within a designated AONB must be of an appropriate design, size and scale for the locality. The design and siting of the pods within the lands in red are considered unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.

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). In an informal response dated 21/07/2021, SES stated that having considered the nature, scale, timing, duration and location of the project it is concluded that Due to the location, scale, nature and type of proposal, no conceivable effect on any European designated site has been identified and further assessment is not required.

PPS 3 - Access, Movement and Parking

The proposal must accord with AMP2 of PPS3. DfI Roads were formally consulted and responded on 11/05/2021 with no objections to this proposal, subject to the access being constructed in accordance with the plans submitted. In view of this officers consider access arrangements to be acceptable.

**Recommendation:**

Refusal

# **Refusal Reasons:**

1. The proposal is contrary to the SPPS, Policy TSM 5 of Planning Policy Statement 16 Tourism in that the proposed development does not meet any of the listed circumstances and 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, Policy TSM 6 of Planning Policy Statement 16 Tourism in that proposed development will not create a high quality and sustainable form of tourism. The location, siting, size, design, layout and landscaping is not based on an overall design concept that respects the surrounding landscape, rural character and site context.
3. The proposal is contrary to the SPPS, Policy CTY 13 of Planning Policy Statement 21 Sustainable Development in the Countryside and Policy NH 6 of PPS 2 Natural Heritage, in that the proposed development is unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape and is considered to be a prominent feature in the landscape as it fails to blend in with the existing landform. The proposed building would rely primarily on the use of new landscaping for integration and ancillary works do not integrate with their surroundings.
4. The proposal is contrary to the SPPS, Policy CTY 14 of Planning Policy Statement 21 Sustainable Development in the Countryside and PPS2 NH6 , in that it would if permitted result in a suburban style build-up of development which would be detrimental to the rural character of the area, unduly prominent on the landscape and impact of the impact of ancillary works would damage rural character.

<b>Case Officer:</b> S.Maguire	<b>Date:</b> 21/07/2021
<b>Appointed Officer:</b> A.McAlarney	<b>Date:</b> 26 July 2021



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2021/0515/O

**Date Received:** 11/03/2021

**Proposal:** Dwelling and detached garage

**Location:** Adjacent to 9 & 11 Rockschapel Road, Downpatrick



#### Site Characteristics & Area Characteristics:

The lands outlined in red form an irregular shaped site, located between no. 09 and no. 13 Rockschapel Road. The subject site fronts onto the Rockschapel Road, with the northern boundary abuts a residential laneway (serving no. 05). The southern portion of the site lies at road level, with the northern portion resting at a considerably higher level. In terms of site boundary treatments, the southern boundary is defined by a mature hedgerow, with dense planting to the western portion of the site. There is an existing opening in the hedge along the southern boundary.



The application site is located outside any settlement development limits as designated within the Ards and Down Area Plan 2015. The area is of typical rural character and predominately agricultural use.



#### **Site History:**

R/1985/0229 - Adjacent to No 9 Rockschapel Road, Downpatrick. Dwelling. Permission Refused.

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

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

PPS 21 - Sustainable Development in the Countryside  
CTY 1 - Development in the Countryside  
CTY 2a – New Dwellings in Existing Clusters  
CTY 8 - Ribbon Development  
CTY 13 - Integration and Design of Buildings in the Countryside; and  
CTY 14 - Rural Character

Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside

### **Consultations:**

NI Water – Generic Response

DfI Roads – No objections subject to compliance with access constructed in accordance with the RS1

DfI Rivers – No objections and recommend informatives as a precautionary measure.

### **Objections & Representations:**

4 Neighbours within close proximity of the site were notified on 29/03/2021. This application was advertised in the local press on 31/03/2021. No objections or representations have been received.

### **Consideration and Assessment:**

The application submitted is seeking outline planning permission for the erection of a dwelling and garage in the countryside. The SPPS along with PPS 21 provide the relevant planning context for determining this application.

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is currently within the remit of the Ards and Down Area Plan 2015 as the new council has not yet adopted a local development plan. The site is located outside settlement limits on the above Plan in open countryside. There are no specific policies in the Plan that are relevant to the determination of the application and it directs the decision-maker to the operational policies of the SPPS and PPS21.

The agent has submitted an accompanying Design and Access Statement, outlining that he is under the opinion that the planning application meets the policy requirements of both CTY2a and CTY8.

PPS 21 - Sustainable Development in the Countryside

Policy CTY 1 of PPS 21 identifies a range of types of development which in principal are considered acceptable in the countryside. One of these is the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8.

Policy CTY 8 'Ribbon Development' states that planning permission will be refused for a building which creates or adds to a ribbon of development. However, an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within a substantially and continuously built up frontage. This policy requires four specific elements to be met, the gap site must be within a substantially and continuously built up frontage, the gap must be small, the existing development pattern along the frontage must be respected and other planning and environmental requirements must be met. The policy defines a substantial and built up frontage as a line of three or more buildings along a road frontage within accompanying development to the rear.

The agent considers that the site is such a gap site for one dwelling and garage, falling within a substantial and continuously built up frontage and suitable for a dwelling. For the purpose of the policy a line of 3 or more buildings along a frontage without accompanying development to the rear is required. The accompanying Design and Access Statement states that the subject site fronts onto Rockschapel Road in a row of 3 buildings, those 3 buildings being no. 05, no. 13 and a structure described as a shed by the agent sitting at the roadside on the application site.

Having carried out a site visit it is clear that no. 05 does not have a frontage to the Rockschapel Road and therefore cannot be considered a frontage building. The Planning Department accept that on the ground dwellings no. 09 and no. 13 have frontage onto the Rockschapel Road. The third building which the agent describes as a 'shed' is a small structure less than 2m in height with a mono pitched roof. It has been fabricated from various random materials and corrugated asbestos roofing. It is unclear as to what it may have been used for and does not appear to sit on a typical hard stand foundation. It does not have any windows or typical architectural features. The various materials used to clad the walls are weathered and almost totally overgrown in vegetation. The structure is not of a typically permanent construction.

Whilst the structure may have been present at the site over a reasonable timescale, it is currently in a dilapidated state. Given its small size and scale it is barely appreciable from the road. As per appeal decision 2019/A0105 the mere fact that something has been erected on land is not sufficient to make it a building for the purposes of the policy and it is for the decision maker to determine what constitutes a building on a fact and degree basis. Given the above I consider that the subject structure cannot be regarded as a building under the policy.

There is therefore not a line of three or more buildings to constitute a substantial and continuously built up frontage, as envisaged by the policy. As there is no substantial and continuously built up frontage the proposal does not meet the first test as set out in Policy CTY8. In these circumstances (as accepted by the PAC) it is not necessary to assess such matters of development pattern, plot size, frontage width and scale of development which are deemed irrelevant.

#### Policy CTY 2A

Policy CTY2a 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. Policy CTY2a sets six criteria that must all be met by the proposal. The first three relate to the nature of the cluster, the next two relate to the site itself and the final one considers residential amenity. Policy CTY2a states: "Planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

- The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;
- The cluster appears as a visual entity in the local landscape;
- The cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads,
- The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;
- Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and
- Development would not adversely impact on residential amenity.

The Planning office are of the opinion, that whilst there are seven dwellings within the vicinity, they are arranged in a scattered and dispersed development pattern and are not read as a cluster of development in the landscape. One would not have the sense of arriving at a cluster of development. There is therefore not considered to be an existing cluster of development a fundamental requirement of Policy CTY2a.

In the Design and Access Statement the Agent referred to 'Bells Hill Orange Hall' as a community building and the focal point (immediate north of subject site). Having inspected the site it appears that this building is no longer in use. The subject building is set back from the public road, public views of this building are limited. Whilst an Orange Hall or any similar Community Building can provide a focal point for development, the current Orange Hall is not considered to represent a focal point

given the above. The staggered cross roads located some 125m away from the subject site so cannot be considered.

As it has been considered that the site is not located at an existing cluster of development the proposal is fundamentally flawed.

#### Policy CTY13

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. Whilst there would have to be some excavation and notwithstanding the openness of the site at present, there would be sufficient landscaping to provide a satisfactory backdrop for a dwelling of low elevation, a similar pattern of development exists further along the road. This is an outline application and design details are not available to assess at this stage. The proposal would comply with Policy CTY 13 subject to suitable conditions.

#### Policy CTY14

Policy CTY14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of the area. The proposal would result in a suburban style build-up of development when viewed with existing buildings and create a ribbon of development. The proposal is contrary to criterion b and d of Policy CTY14.

#### Policy CTY 16

CTY 16 ensures that new developments will not create or add to a pollution problem. A septic tank is proposed, a copy of 'Consent to Discharge' must be submitted to the Planning Department prior to the commencement of development. The proposal appears to conform to Policy CTY 16.

#### PPS 3 - Access, Movement and Parking

DfI Roads were consulted as part of the assessment of this application. In a response dated 09/04/2021, DfI Roads have no objections to the proposal with regard to the above policy criteria subject to access being in accordance with the RS1 form. The proposal can accommodate adequate curtilage parking.

#### **Recommendation:**

Refusal

#### **Refusal Reasons:**

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 CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters, in that the proposed site is not located at an existing cluster of development.
3. The proposal is contrary to Policy CTY8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not lie within a substantial and continuously built up frontage of 3 buildings and would if permitted create a of ribbon development along Rockchapel Road.

<b>Case Officer:</b> S. Maguire	<b>Date:</b> 24/06/2021
<b>Appointed Officer:</b> A.McAlarney	<b>Date:</b> 24 June 2021

Planning Application Number :

LA07/2021/0515/O

#### Description of the application -

Proposal: Dwelling and detached garage | Adjacent to 9 & 11 Rocks Chapel Road Downpatrick

Proposed decision –

Recommendation: Refusal

Refusal Reasons: 1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding 7 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 CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters, in that the proposed site is not located at an existing cluster of development.

3. The proposal is contrary to Policy CTY8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not lie within a substantial and continuously built-up frontage of 3 buildings and would if permitted create a ribbon development along Rocks Chapel Road.

#### Valid and credible planning reasons for Committee's Consideration

Policy Cty2a – Development in Clusters are determined on the following 6 criteria. We have illustrated how the policy is met in red.

- The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings; As illustrated on the map below within 150m of the Hall there are 14 buildings in the cluster, 7 of which are dwellings. Within 110m of the Hall there are 12 buildings in the cluster, 6 of which are dwellings. Within 70m of the Hall there are 7 buildings in the cluster, 4 of which are dwellings. This complies with the policy requirement of 4 buildings including 3 dwellings. Policy met.
- The cluster appears as a visual entity in the local landscape; The Planning Department contend that the cluster does not read together as a visual entity and that the Hall is not visible. When viewed, whilst approaching from the main Downpatrick Road, the Hall and the dwellings can be clearly seen together as a cluster, see attached photographs. To identify the buildings in the photographs the Hall is the grey building at the top of the hill with one chimney located further away from the blue single front door, the door is on the gable of the building. No 9 has red brick chimney's and a long dormer window to the front. No 5 has 3 white chimneys. No 11 has a stone chimney at the gable. No 3 is to the right on the last photograph. The view as a cluster is also clear when passing by the proposed site. The group of buildings appear as a visual entity therefore policy is met.
- The cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads, The cluster is centred on the focal point of Bells Hill Orange Hall which is an active community building and facility for the past 100 years. The Planning Department contend that the building is no longer in use, is set back from



the road with limited public views so discounting it as a focal point. The Hall is active and used for the purposes it was constructed; as a local community facility. An inspection inside can be arranged to prove its current use. The community activities are usually in the evening or on specific days. Policy does not require the focal point building or facility to have any level of public views nor does it refer to any set-back distance or requirement; the focal point must just exist. In any case Bells Hill Orange Hall can be seen from the Rocks Chapel Road and read in close conjunction with No's 3, 5, 11 and 9 Rocks Chapel Road as shown in the photographs and indicated on the aerial photograph and the site location map. The cluster is at the focal point and policy is met.

- The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster; The site is bound on 3 sides by No's 9, 11, 13 and the Hall and has a suitable, natural degree of enclosure; policy requirement met.
- Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside;

As above, the site is bound on 3 sides by No's 9, 11, 13 and the Hall and has a suitable, natural degree of enclosure, not extending into open countryside, the 4<sup>th</sup> boundary is with the public road; policy requirement met.

- Development would not adversely impact on residential amenity. The proposal is screened from the west and is located side-by side with No 9 therefore no issue with other residential amenity – Policy requirement met.

We therefore believe that the policy Cty2a is fully met and the application should be approved.

With regards to the Cty8 infill route the Planning Department accept that No's 9 and 13 front onto the Rocks Chapel Road. We feel that the 3rd building must not be discounted but included in the row leaving an infill gap on our site that should be approved. The planning department wish to discount the smaller of the buildings but the building has been in place for 50 years and is a permanent feature and must be counted. Inspection of this building in the row will prove that it is a legitimate building which has been in position for the past 50 years.

We respectfully request that the Committee approve this application.

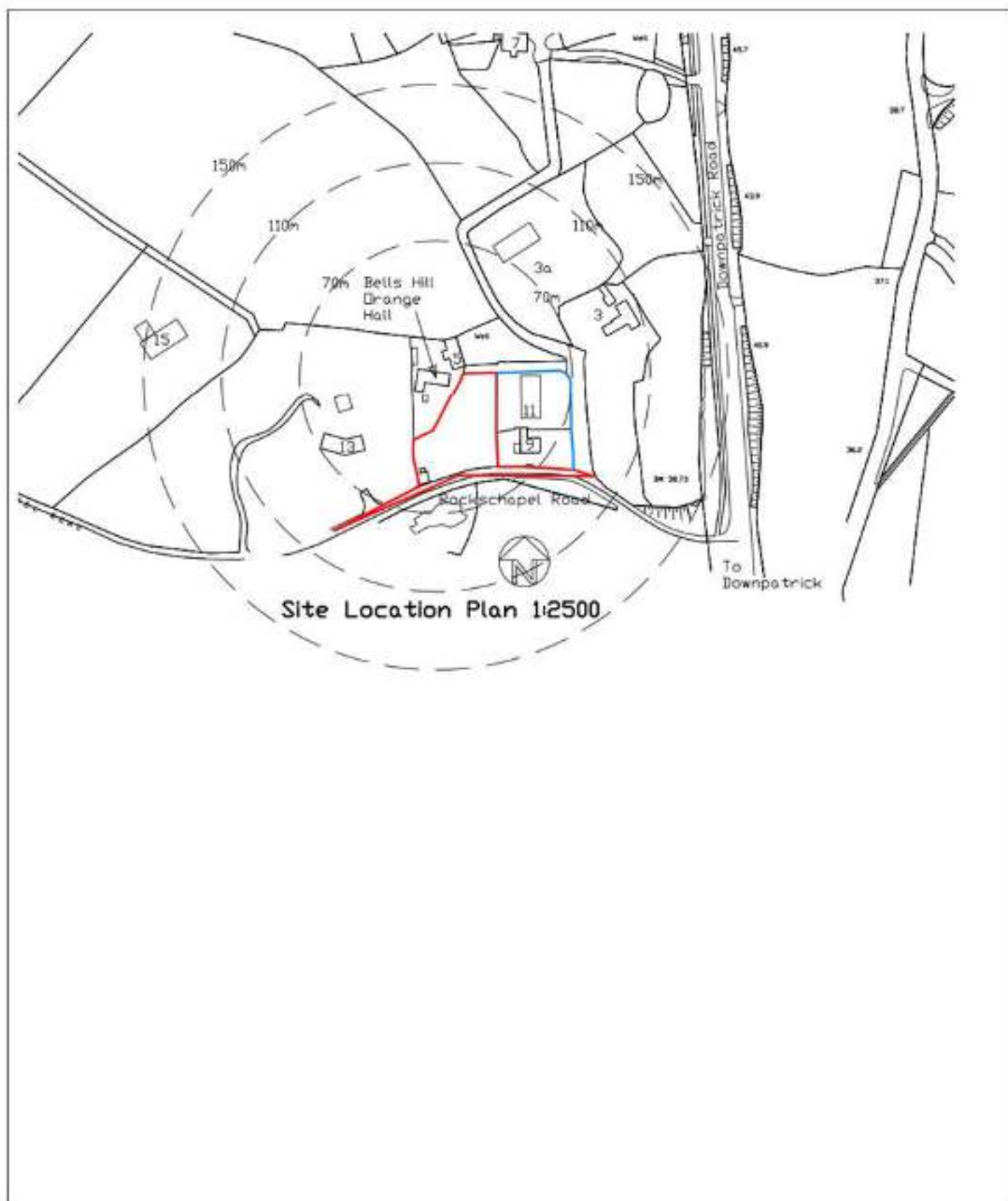


Aerial View



Planning Committee Paper

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View from South-East Approach





View from front of No 9





View From South-East Approach





View from South

**TRACKING ACTION SHEET ARISING FROM PLANNING COMMITTEE MEETINGS**

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
		<b>PLANNING MEETING – 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	<b>Await legal advice.</b>	N
		<b>PLANNING MEETING - 13 FEBRUARY 2019</b>			
LA07/2015/0149/F	Change of use of building to provide storage and distribution of fuel with alterations and new bulk fuel tank in yard – site	Withdrawn by the Planning Department to allow further consultation to be completed	A Davidson	<b>Remains under consideration</b>	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
	between 54 and 58 Edenappa Road, Jonesborough				
		<b>PLANNING COMMITTEE MEETING – 16 OCTOBER 2019</b>			
LA07/2019/0773/0	Dwelling – to rear of 71 Church Street, Downpatrick	Withdraw from the addendum list for a meeting with Planners, applicant and agent	A McAlarney	<b>Agent to submit revisions...awaited</b>	N
		<b>PLANNING COMMITTEE MEETING 26 AUGUST 2020</b>			
LA07/2019/1302/F	Provision of a dwelling with associated parking and amendment to application R/2011/0794/f to remove parking area for apartments and replace with shared amenity space - to rear of Nos 65-69 South Promenade, Newcastle.	Defer Planning Application LA07/2019/1302/F to allow the applicant to provide evidence that sight lines can be secured for this proposal.	A McAlarney	<b>Awaiting consultation response from DFI Roads on new info submitted.</b>	N
LA07/2019/1087/0	Replacement dwelling and garage - approx. 50m NE of 21 Drakes Bridge Road, Crossgar	Removed from the agenda as agent unable to attend	A McAlarney	<b>Agent has engaged Ecologist to provide outstanding info for Planning Dept</b>	N
LA07/2019/1134/0	Replacement dwelling - 90 Manse Road, Darraghcross, Crossgar	Removed from the agenda as agent unable to attend	A McAlarney	<b>Agent has engaged Ecologist to provide outstanding info for Planning Dept</b>	N
		<b>PLANNING COMMITTEE MEETING 23 SEPTEMBER 2020</b>			



Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
LA07/2020/0176/F	Proposed rural infill detached dwelling and garage – 45m north of 5 Molly Road Lower, Jonesborough	Defer for 3 months to allow time for the garage to the north of the proposed site to be built and then application to be re-considered	A Davidson	<b>Under consideration by Planning Office</b>	N
<b>PLANNING COMMITTEE MEETING – 05 MAY 2021</b>					
LA07/2017/1779/F	Lands Approx. 370m North East Of 32 Ballykilbeg Road Downpatrick Amendment to planning approval LA07/2015/0782/F. - change from Vestas 27 225kw wind turbine with rotor diameter of 27m to Vestas 52 250kw with rotor diameter of 52m	Removed from the addendum list at the request of Planning Officers	A McAlarney	<b>Under consideration by planning office</b>	N
<b>PLANNING COMMITTEE MEETING – 28 JULY 2021</b>					
LA07/2020/1797/F	22 Ballaghbeg Park, Newcastle - Proposed single storey rear extension to dwelling. (Amended Proposal)	Defer for a site visit	Annette McAlarney	<b>Site visit – 24-09-2021</b>	
LA07/2020/0299/F	Adj. to 7 Annacloy Road North Dunnamnelly, Downpatrick - Single storey dwelling	Defer for legal advice (previous site visit held)	Annette McAlarney	<b>Site visit held 12-05-2021 - on agenda for Planning meeting to be held 28-07-2021</b>	



Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
				where it was agreed to defer application pending legal advice – back on agenda for Planning Meeting on 22-09-2021 – defer again until the October Planning Meeting	
<b>PLANNING COMMITTEE MEETING 25 AUGUST 2021</b>					
LA07/2020/0661/O	Land opposite and West of Nos. 10 - 32 Grove Gardens, Killyleagh - Housing development	Site visit to be held		Site visit – 24-09-2021	
LA07/2020/1355/F	90 metres North of 14 Upper Clontigora Road, Killeen, Newry - Erection of replacement dwelling with detached garage	Defer	Andrew Davidson	Amended plans under consideration by Planning Office.	
LA07/2020/0893/F	60 metres South of No. 49 Ballsmill Road, Glassdrumman, Crossmaglen - Proposed erection of 2 no. detached rural infill dwelling houses and detached garages ancillary	Site visit to be held	Andrew Davidson	Site visit – 24-09-2021. At October Committee Meeting.	

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
	works and additional landscaping				
LA07/2020/0496/F	Approx 105m NE of junction of Bernish Road and Seavers Road, Newry - Consolidation of existing development to form single dwelling	Site visit to be held	Andrew Davidson	Site visit – 24-09-2021. At October Committee Meeting.	
LA07/2021/0246/F	Immediately north-west of 102 Tullybrannigan Road Newcastle Proposed 3no. self contained tourism units.	Site visit to be held	Andrew Davidson	Site visit – 24-09-2021	
LA07/2021/0498/O	20m north of 14 Old Road Mayobridge Newry BT34 2HG Proposed site for infill dwelling & garage	Site visit to be held	Mark Keane	Site visit – 24-09-2021	
<b>PLANNING COMMITTEE MEETING 22 SEPTEMBER 2021</b>					
LA07/2020/1854/O	Infill dwelling 40m NW of 169 Bryansford Road Kilcoo	Site visit to be held	Annette McAlarney		
LA07/2021/0358/O	Proposed erection of outline rural detached infill dwelling house and detached domestic garage Located approximately 50 metres south east of no. 91 Maphoner Latbirget Mullaghbawn	Taken off the schedule – to be re-presented at the October Meeting	Andrew Davidson	At October Committee Meeting.	
<b>END</b>					

## Newry, Mourne & Down District Council – September 2021

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### 1. Live Applications

MONTH 2021/22	NEW APPLICATIONS	LIVE APPLICATIONS	LIVE APPLICATIONS OVER 12 MONTHS
April 2021	206	1,195	232
May 2021	204	1,238	228
June 2021	172	1,219	236
July 2021	176	1,190	224
August 2021	152	1,174	226
September 2021	182	1,175	226

### 2. Live Applications by length of time in system

Month 2020/21	Under 6 months	Between 6 and 12 months	Between 12 and 18 months	Between 18 and 24 months	Over 24 months	Total
April 2021	770	193	81	54	97	1,195
May 2021	818	192	76	53	99	1,238
June 2021	777	206	82	43	111	1,219
July 2021	787	179	79	44	101	1,190
August 2021	754	194	84	49	93	1,174
September 2021	737	212	87	44	95	1,175

### 3. Live applications per Case Officer

Month 2021/22	Average number of Applications per Case Officer
April	83
May	85
June	89
July	83
August	75
September	67

## Newry, Mourne & Down District Council – September 2021

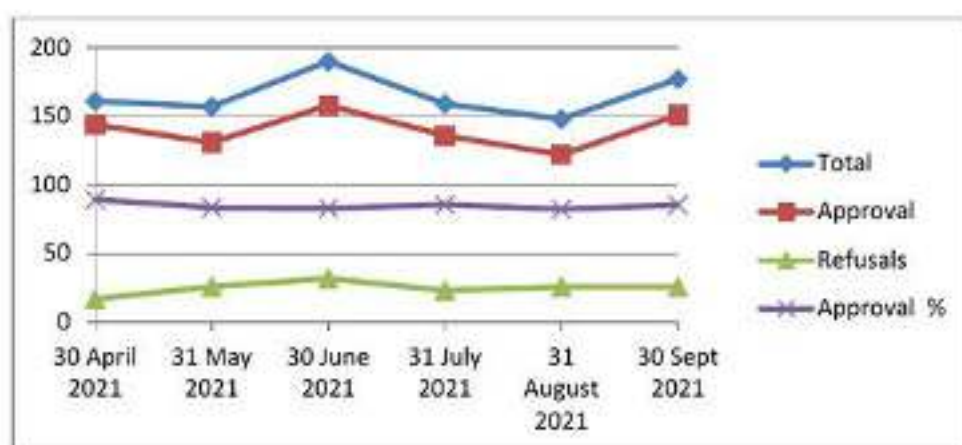
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### 4. Decisions issued per month

Month 2021/22	Number of Decisions Issued	Number of Decisions Issued under delegated authority
April	161	155
May	157	146
June	190	184
July	159	150
August	148	145
September	177	166

### 5. Decisions Issued YTD

Month 2021/22	Number of Decisions Issued	Breakdown of Decisions	
April	161	Approvals (144)	89%
		Refusals (17)	11%
May	318	Approvals (275)	86%
		Refusals (43)	14%
June	508	Approvals (433)	85%
		Refusals (75)	15%
July	667	Approvals (569)	85%
		Refusals (98)	15%
August	815	Approvals (691)	85%
		Refusals (124)	15%
September	992	Approvals (842)	85%
		Refusals (150)	15%





## Newry, Mourne & Down District Council – September 2021

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### 6. Enforcement Live cases

Month 2021/2022	<=1yr	1-2 yrs	2-3 yrs	3-4 yrs	4-5 yrs	5+yrs	Total
April	285	133	127	122	62	101	830
May	291	134	122	128	64	104	843
June	267	132	121	136	60	102	818
July	269	134	114	137	68	102	824
August	266	132	107	133	71	103	812
September	279	136	103	129	71	102	820

### 7. Planning Committee

Month	Number of Applications presented to Committee	Number of Applications Determined by Committee	Number of Applications Withdrawn/ Deferred for future meeting	Number of Officer recommendation overturned
8 April 2021	14	11	3	3
5 May 2021	16	8	8	3
2 & 30 June 2021 (Meetings cancelled)	-	-	-	-
28 July 2021	15	7	8	2
25 August 2021	15	9	6	6
22 September 2021	13	10	3	5
<b>Totals</b>	<b>73</b>	<b>45</b>	<b>28</b>	<b>19</b>

### 8. Appeals

Planning Appeal Commission Decisions issued during period 1 July 2021 to 30 September 2021

Area	Number of current appeals	Number of decisions issued	Number of decisions Allowed	Number of decisions Dismissed	Withdrawn
Newry & Mourne	17	0	0	0	0
Down	27	3	1	2	1
<b>TOTAL</b>	<b>44</b>	<b>3</b>	<b>1</b>	<b>2</b>	<b>1</b>

## Newry, Mourne & Down District Council – September 2021

### Statutory targets monthly update - August 2021 (unvalidated management information)

#### Newry, Mourne and Down

Major applications (target of 30 weeks)					Local applications (target of 15 weeks)				Cases concluded (target of 39 weeks)			
	Number received	Number decided/ withdrawn <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	2	-	0.0	0.0%	172	143	16.6	43.4%	44	19	69.8	52.6%
May	2	1	35.4	0.0%	161	137	17.2	41.6%	31	30	57.0	66.7%
June	1	1	49.8	0.0%	183	173	16.8	42.8%	38	41	85.8	46.3%
July	0	-	0.0	0.0%	127	136	17.0	41.2%	38	27	85.2	51.9%
August	0	-	0.0	0.0%	137	140	17.1	38.6%	35	67	0.0	53.7%
September	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
October	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
November	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
December	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
January	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
February	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
March	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
Year to date	5	2	42.6	0.0%	780	729	17.0	41.6%	186	184	76.0	53.8%

Source: NI Planning Portal

#### Notes:

1. CLUDS, TPOS, NMCS and PADS/PANs have been excluded from all applications figures

## Newry, Mourne & Down District Council – September 2021

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2. *The time taken to process a decision/withdrawal is calculated from the date on which an application is deemed valid to the date on which the decision is issued or the application is withdrawn. The media have the potential to inflate the mean, leading to a result that may not be considered as "typical".*
3. *The time taken to conclude an enforcement case is calculated from the date on which the complaint is received to the earliest date of the following: a notice is issued; proceedings commence; a planning determined by sorting data from its lowest to highest values and then taking the data point at the 70th percentile of the sequence.*

## Current Appeals

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**AUTHORITY** Newry, Mourne and Down

<b>ITEM NO</b>	<b>1</b>	<b>PAC Ref:</b>	2019/A0159
<b>Planning Ref:</b>	LA07/2019/1313/	<b>DEA</b>	Newry
<b>APPELLANT</b>	EDB Construction Ltd		
<b>LOCATION</b>	58 Armagh Road Newry		
<b>PROPOSAL</b>	Demolition of existing building and erection of apartment development		

**APPEAL TYPE** DC - Non Determination of a Planning Application

**Appeal Procedure** **Informal Hearing** **Date Appeal Lodged** 13/11/2019

**Date of Hearing**

**Date Statement of Case Due for Hearing**

**Date Statement of Case Due - Written Representation**

**Date of Site Visit**

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<b>ITEM NO</b>	<b>2</b>	<b>PAC Ref:</b>	2019 /A0248
<b>Planning Ref:</b>	LA07/2019/1130/	<b>DEA</b>	The Mournes
<b>APPELLANT</b>	Mr James Rogan		
<b>LOCATION</b>	Site Adjacent To 33 Dunwellan Park Newcastle		
<b>PROPOSAL</b>	New end terrace Dwelling with associated site works		

**APPEAL TYPE** DC- Refusal of Planning Permission

**Appeal Procedure** **Date Appeal Lodged** 10/03/2020

**Date of Hearing**

**Date Statement of Case Due for Hearing**

**Date Statement of Case Due - Written Representation**

**Date of Site Visit**

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## Current Appeals

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<b>ITEM NO</b>	<b>3</b>		
<b>Planning Ref:</b>	LA07/2017/1559/	<b>PAC Ref:</b>	2020/A0002
<b>APPELLANT</b>	EDB Constructions Ltd	<b>DEA</b>	Newry
<b>LOCATION</b>	58 Armagh Road Newry		
<b>PROPOSAL</b>	Demolition of existing dwelling and erection of 7 No. 2 bedroom apartments (7 in total) (change of description)		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	16/07/2020
<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>4</b>		
<b>Planning Ref:</b>	LA07/2019/1021/	<b>PAC Ref:</b>	2020/A0003
<b>APPELLANT</b>	Mrs E Fitzsimons	<b>DEA</b>	Rowallane
<b>LOCATION</b>	53A Saintfield Road Crossgar		
<b>PROPOSAL</b>	Retention of building in substitution of previous approval LA07/2015/1224/F		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	16/07/2020
<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

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<b>ITEM NO</b>	<b>5</b>	<b>PAC Ref:</b>	2020/A0045
<b>Planning Ref:</b>	LA07/2019/0573/	<b>DEA</b>	Slieve Gullion
<b>APPELLANT</b>	Mills Smyth		
<b>LOCATION</b>	95 Aughnagurgan Road Altnamackan		
<b>PROPOSAL</b>	Newrv Proposed demolition of all existing buildings and replace with dwelling house and garage.		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	10/09/2020
<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>PAC Ref:</b>	2020/A0066
<b>Planning Ref:</b>	LA07/2019/1819/	<b>DEA</b>	Slieve Croob
<b>APPELLANT</b>	William Henry McMaster		
<b>LOCATION</b>	42a Cherryhill Road Spa		
<b>PROPOSAL</b>	Retirement bungalow		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	21/09/2020
<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

251

<b>ITEM NO</b>	<b>7</b>		
<b>Planning Ref:</b>	LA07/2019/1575/	<b>PAC Ref:</b>	2020/A0073
<b>APPELLANT</b>	Mr Gerard Rice	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	8 Corcreeghy Road Newry		
<b>PROPOSAL</b>	Retrospective application for the extension of curtilage to include retaining wall, in-filling with inert material, fencing and associated landscaping. Existing Firework containers relocated and form utilisation of car parking.		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	23/09/2020
<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>8</b>		
<b>Planning Ref:</b>	LA07/2020/0836/	<b>PAC Ref:</b>	2020/A0103
<b>APPELLANT</b>	Mr Dodds	<b>DEA</b>	Rowallane
<b>LOCATION</b>	Adjacent And South Of 40 Craigy Road Craignasasonagh Saintfield		
<b>PROPOSAL</b>	Erection farm animal shelter and wintering shed		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	12/11/2020
<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

252

<b>ITEM NO</b>	<b>9</b>	<b>PAC Ref:</b>	2020/A0124
<b>Planning Ref:</b>	LA07/2019/1119/	<b>DEA</b>	Slieve Croob
<b>APPELLANT</b>	John McKay		
<b>LOCATION</b>	75 Mill Hill Castlewellan		
<b>PROPOSAL</b>	2 semi-detached dwellings and 1 detached dwelling		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Date Appeal Lodged</b>	25/01/2021	
<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>10</b>	<b>PAC Ref:</b>	2020/A0126
<b>Planning Ref:</b>	LA07/2020/0027/	<b>DEA</b>	Downpatrick
<b>APPELLANT</b>	Judy Meharg		
<b>LOCATION</b>	7 Rocks Road Ballyhornan Downpatrick		
<b>PROPOSAL</b>	Wooden hut on a raised deck (retrospective)		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Date Appeal Lodged</b>	22/01/2021	
<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

253

<b>ITEM NO</b>	<b>11</b>		
<b>Planning Ref:</b>	LA07/2020/0802/	<b>PAC Ref:</b>	2020//A0130
<b>APPELLANT</b>	Greg Kirkpatrick Esq	<b>DEA</b>	Rowallane
<b>LOCATION</b>	Approx. 50m S E Of No 80 Monlough Road Saintfield		
<b>PROPOSAL</b>	Farm Dwelling and Garage		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	02/02/2021
<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>Planning Ref:</b>	LA07/2020/1072/	<b>PAC Ref:</b>	2020/A0142
<b>APPELLANT</b>	Chris Ball	<b>DEA</b>	Downpatrick
<b>LOCATION</b>	67 St Patricks Avenue Downpatrick		
<b>PROPOSAL</b>	Change of use from commercial/office to a 2 bedroom dwelling		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	15/02/2021
<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

254

<b>ITEM NO</b>	<b>13</b>		
<b>Planning Ref:</b>	LA07/2020/1485/	<b>PAC Ref:</b>	2020/A0145
<b>APPELLANT</b>	Leo McGrenaghan	<b>DEA</b>	Slieve Croob
<b>LOCATION</b>	Land Adjacent To 32 Teconnaught Road Downpatrick		
<b>PROPOSAL</b>	Dwelling House		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	12/02/2021
<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>14</b>		
<b>Planning Ref:</b>	LA07/2020/0939/	<b>PAC Ref:</b>	2020/A0155
<b>APPELLANT</b>	John Markey	<b>DEA</b>	Slieve Gullion
<b>LOCATION</b>	110msouth Of 11a Ballintemple Road Meigh Newry		
<b>PROPOSAL</b>	Farm Dwelling with Garage		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	15/03/2021
<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

255

<b>ITEM NO</b>	<b>15</b>		
<b>Planning Ref:</b>	LA07/2018/0293/	<b>PAC Ref:</b>	2020/A0156
<b>APPELLANT</b>	Paul McEvoy	<b>DEA</b>	Rowallane
<b>LOCATION</b>	Opposite 49 And Adjacent To 56 Darragh Road Darraghcross		
<b>PROPOSAL</b>	Erection of housing development consisting of 3 pairs of semi-detached dwellings, 1 detached chalet dwelling and 1 detached bungalow fronting Darragh Road.		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	15/03/2021
<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>	LA07/2018/1616/	<b>PAC Ref:</b>	2020/C002
<b>APPELLANT</b>	David Trevor Shields	<b>DEA</b>	The Mournes
<b>LOCATION</b>	Approximately 35 Metres South East Of 8 Ballinran New Road Kilkeel		
<b>PROPOSAL</b>	Retention of 2no. existing pig sheds with underground slurry tanks, 3no. feed silos and gravel yard, and extension to western gable of shed at rear of site, with loading bay.		
<b>APPEAL TYPE</b>	DC- EIA Determination - app ES is required		
<b>Appeal Procedure</b>	<b>Formal Hearing</b>	<b>Date Appeal Lodged</b>	11/08/2020
<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

<b>ITEM NO</b>	<b>17</b>	<b>PAC Ref:</b>	2020/E0001
<b>Planning Ref:</b>	LA07/2019/1600/	<b>DEA</b>	Slieve Croob
<b>APPELLANT</b>	Mr Paul Cunningham		
<b>LOCATION</b>	5c Teconnaught Road Downpatrick		
<b>PROPOSAL</b>	Existing dwelling		
<b>APPEAL TYPE</b>	DC- Refusal of CLUD		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	16/07/2020
<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>18</b>	<b>PAC Ref:</b>	2021/A0006
<b>Planning Ref:</b>	LA07/2018/1601/	<b>DEA</b>	Newry
<b>APPELLANT</b>	Mr K O'Hagan		
<b>LOCATION</b>	55 Stream Street Newry		
<b>PROPOSAL</b>	RT34 1H.1 Proposed demolition of existing building and construction of 2 No. apartments		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	18/05/2021
<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

257

<b>ITEM NO</b>	<b>19</b>		
<b>Planning Ref:</b>	LA07/2020/0258/	<b>PAC Ref:</b>	2021/A0008
<b>APPELLANT</b>	Johnny Farrell	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	49a Greenan Road Newry		
<b>PROPOSAL</b>	Co Down Retention of construction access with new improved sight lines- previously approved under P/2011/0702/F		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	20/08/2021
<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>Planning Ref:</b>	LA07/2020/1568/	<b>PAC Ref:</b>	2021/A0009
<b>APPELLANT</b>	Mr & Mrs Pat Hayes	<b>DEA</b>	Slieve Croob
<b>LOCATION</b>	To The Rear And Immediately South West Of 62 Crawfordstown Road		
<b>PROPOSAL</b>	Drumaness Retrospective extension to domestic curtilage, construction of garden feature and greenhouse along with all associates hard and soft landscaping.		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	18/05/2021
<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

258

<b>ITEM NO</b>	<b>21</b>		
<b>Planning Ref:</b>	LA07/2020/1187/	<b>PAC Ref:</b>	2021/A0013
<b>APPELLANT</b>	Norman Harvey	<b>DEA</b>	Rowallane
<b>LOCATION</b>	Approx. 25m South Of 32 Kilmore Road Crossgar		
<b>PROPOSAL</b>	Dwelling		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	19/05/2021
<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>22</b>		
<b>Planning Ref:</b>	LA07/2019/1390/	<b>PAC Ref:</b>	2021/A0020
<b>APPELLANT</b>	Elizabeth Cherry	<b>DEA</b>	Rowallane
<b>LOCATION</b>	Approx. 78m South Of 94 Lisbane Road Ballynahinch		
<b>PROPOSAL</b>	Proposed erection of a shed		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	19/05/2021
<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>23</b>		
<b>Planning Ref:</b>	LA07/2020/1360/	<b>PAC Ref:</b>	2021/A0022
<b>APPELLANT</b>	Charlie Magennis	<b>DEA</b>	The Mournes
<b>LOCATION</b>	Base And Morelli's 71-73 Central Promenade Newcastle		
<b>PROPOSAL</b>	Proposed erection of temporary retractable awning and lightweight structure		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	09/06/2021
<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>	LA07/2020/0920/	<b>PAC Ref:</b>	2021/A0028
<b>APPELLANT</b>	Michael McCarthy & Jarleth McCart	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	North East And Adjoining No 9 Rock Road Newry		
<b>PROPOSAL</b>	Dwelling on a Farm with Domestic Garage		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	08/06/2021
<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

260

<b>ITEM NO</b>	<b>25</b>		
<b>Planning Ref:</b>	LA07/2020/1077/	<b>PAC Ref:</b>	2021/A0031
<b>APPELLANT</b>	Mr Eammon McAteer	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	12 Cullion Road Mayobridge RT34 2HIJ		
<b>PROPOSAL</b>	Improvements to existing lorry parking area, erection of a building for the maintenance of lorries and collection and compacting of cardboard, polystyrene for transfer to re cycling centers		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	25/05/2021
<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>	LA07/2021/0146/	<b>PAC Ref:</b>	2021/A0032
<b>APPELLANT</b>	Paul Wilson	<b>DEA</b>	Slieve Croob
<b>LOCATION</b>	75 Dromore Road Ballykine Upper Ballynahinch		
<b>PROPOSAL</b>	Erection of replacement dwelling, detached garage and conversion of existing dwelling to stables		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	25/05/2021
<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

<b>ITEM NO</b>	<b>27</b>		
<b>Planning Ref:</b>	LA07/2021/0096/	<b>PAC Ref:</b>	2021/A0033
<b>APPELLANT</b>	Mr Bailey	<b>DEA</b>	Rowallane
<b>LOCATION</b>	18a Drumgivan Road Drumgivan Ballvnahinch		
<b>PROPOSAL</b>	Extension and renovation of Schoolhouse to domestic dwelling		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	25/05/2021
<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>28</b>		
<b>Planning Ref:</b>	LA07/2020/0770/	<b>PAC Ref:</b>	2021/A0034
<b>APPELLANT</b>	Jamie McDonald	<b>DEA</b>	Newry
<b>LOCATION</b>	Lands Approx. 40m NE Of 29 Clontigora Hill Newry		
<b>PROPOSAL</b>	Infill dwelling and garage, associated landscaping and site works		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	25/05/2021
<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

262

<b>ITEM NO</b>	<b>29</b>		
<b>Planning Ref:</b>	LA07/2020/0115/	<b>PAC Ref:</b>	2021/A0046
<b>APPELLANT</b>	Brendan Ferris	<b>DEA</b>	Slieve Croob
<b>LOCATION</b>	110 Southwest Of 50 Crawfordstown Road Downpatrick		
<b>PROPOSAL</b>	Retrospective change of use of agricultural building to gym		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	28/06/2021
<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>30</b>		
<b>Planning Ref:</b>	LA07/2020/0079/	<b>PAC Ref:</b>	2021/A0049
<b>APPELLANT</b>	M Farrell	<b>DEA</b>	Newry
<b>LOCATION</b>	Lands Approximately 50m North West Of No. 53 Ayalogue Road Newry		
<b>PROPOSAL</b>	Dwelling and garage on gap site		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	14/06/2021
<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

<b>ITEM NO</b>	<b>31</b>		
<b>Planning Ref:</b>	LA07/2020/1828/	<b>PAC Ref:</b>	2021/A0051
<b>APPELLANT</b>	Richard Hall	<b>DEA</b>	Slieve Croob
<b>LOCATION</b>	Adjacent And Immediately North Of 42 Old Belfast Road Dundrum Newcastle		
<b>PROPOSAL</b>	Infill site for dwelling with domestic garage		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	16/06/2021
<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>32</b>		
<b>Planning Ref:</b>	LA07/2021/0616/	<b>PAC Ref:</b>	2021/A0052
<b>APPELLANT</b>	Andrew Davis	<b>DEA</b>	Downpatrick
<b>LOCATION</b>	East And Adjacent To 4 Turmennan Road Crossgar		
<b>PROPOSAL</b>	Dwelling at a crossroads/cluster in compliance with PPS21 CTY2a		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	21/06/2021
<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

264

<b>ITEM NO</b>	<b>33</b>		
<b>Planning Ref:</b>	LA07/2021/0302/	<b>PAC Ref:</b>	2021/A0058
<b>APPELLANT</b>	Anne Mullan	<b>DEA</b>	Rowallane
<b>LOCATION</b>	20 Darragh Road Crossgar		
<b>PROPOSAL</b>	Retention of dwelling as annexe to 20 Darragh Road, Crossgar, with construction of new garage link (Retrospective)		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	28/06/2021
<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>34</b>		
<b>Planning Ref:</b>	LA07/2020/0387/	<b>PAC Ref:</b>	2021/A0074
<b>APPELLANT</b>	Mr C O'Connor	<b>DEA</b>	Slieve Croob
<b>LOCATION</b>	59 Drumnaquoile Road Castlewellan		
<b>PROPOSAL</b>	Change of house type and siting in substitution to Planning permission LA07/2018/1590/F		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	21/07/2021
<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>35</b>		
<b>Planning Ref:</b>	LA07/2021/0450/	<b>PAC Ref:</b>	2021/A0075
<b>APPELLANT</b>	Paul Smith	<b>DEA</b>	The Mournes
<b>LOCATION</b>	57 Castlewellan Road Newcastle		
<b>PROPOSAL</b>	Artist studio and study to existing dwelling, for domestic use associated with the dwelling		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	28/07/2021
<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>36</b>		
<b>Planning Ref:</b>	LA07/2020/1830/	<b>PAC Ref:</b>	2021/A0083
<b>APPELLANT</b>	Briege McComiskey	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	Approx 160m North West Of No.26 Leode Road Hilltown		
<b>PROPOSAL</b>	Newry Erection of dwelling and domestic garage on a farm		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	03/08/2021
<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

266

<b>ITEM NO</b>	<b>37</b>		
<b>Planning Ref:</b>	LA07/2020/1702/	<b>PAC Ref:</b>	2021/A0088
<b>APPELLANT</b>	Mr Hewitt	<b>DEA</b>	Rowallane
<b>LOCATION</b>	North West And Adjacent To 59 Glasswater Road Creevycarnon		
<b>PROPOSAL</b>	<del>Crossbar</del> Erection of Sheltered Accommodation for the Elderly		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	11/08/2021
<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>38</b>		
<b>Planning Ref:</b>	LA07/2020/0936/	<b>PAC Ref:</b>	2021/A0092
<b>APPELLANT</b>	Mr James Hughes	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	Mountview Business Park Rathfriland Road		
<b>PROPOSAL</b>	<del>Newrv</del> Replacement free standing vertical sign with logos to both faces		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	17/08/2021
<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

267

<b>ITEM NO</b>	<b>39</b>		
<b>Planning Ref:</b>	LA07/2021/0055/	<b>PAC Ref:</b>	2021/A0105
<b>APPELLANT</b>	Heather & Stephen Verner	<b>DEA</b>	Rowallane
<b>LOCATION</b>	Adjacent & 40m North Of 22 Tullyveery Road Killyleagh		
<b>PROPOSAL</b>	Dwelling and garage		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	17/09/2021
<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>40</b>		
<b>Planning Ref:</b>	LA07/2021/0790/	<b>PAC Ref:</b>	2021/A0107
<b>APPELLANT</b>	Mr & Mrs Wayne Garrett	<b>DEA</b>	Rowallane
<b>LOCATION</b>	135m South Of 58 Carsonstown Road Saintfield		
<b>PROPOSAL</b>	Single dwelling and garage		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	14/09/2021
<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

268

<b>ITEM NO</b>	<b>41</b>		
<b>Planning Ref:</b>	LA07/2020/1834/	<b>PAC Ref:</b>	2021/A0112
<b>APPELLANT</b>	Mr & Mrs Christopher Kelly	<b>DEA</b>	Slieve Croob
<b>LOCATION</b>	Approx. 200m SE Of No. 36 Mountain Road Ballynahinch		
<b>PROPOSAL</b>	Dwelling on a Farm		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	28/09/2021
<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>42</b>		
<b>Planning Ref:</b>	LA07/2020/1906/	<b>PAC Ref:</b>	2021/E0010
<b>APPELLANT</b>	Eamonn McAteer McAteer Recyclin	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	Lands At And To The Rear Of No. 12 Cullion Road Mayobridge		
<b>PROPOSAL</b>	Newrv Existing area, yard and access, for storage, parking and circulation of vehicles associated with McAteer Recycling Ltd, and all associated site works and infrastructure		

<b>APPEAL TYPE</b>	DC- Refusal of CLUD		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	10/06/2021
<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

269

**ITEM NO** 43  
**Planning Ref:** LA07/2020/0622/ **PAC Ref:** 2021/E0013 LDC  
**APPELLANT** Mr Robert Hollywood **DEA** Slieve Gullion  
**LOCATION** Located Upon Lands Approximately 100 Meters North West Of No.34 Church Road  
**PROPOSAL** Shean  
 The use of the building is agricultural and used for agricultural storage purposes associated with the existing farm enterprise

**APPEAL TYPE** DC- Refusal of CLUD  
**Appeal Procedure** Written Reps with Site Visit **Date Appeal Lodged** 09/06/2021  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

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**ITEM NO** 44  
**Planning Ref:** LA07/2020/1532/ **PAC Ref:** 2021/E0014 LDC  
**APPELLANT** Ms Colleen McGinnis **DEA** Crotlieve  
**LOCATION** Lands At No.33B Ballyvally Road Ballyvally  
**PROPOSAL** Mavohridge  
 The applicant is seeking a Certificate of Lawfulness (COLEUD) for an existing use or development in relation to an existing access arrangement, hardcore access laneway, 2 No ancillary oil tanks and boiler enclosure, ancillary 1 No detached timber garage, ancillary hard  
**APPEAL TYPE** DC- Refusal of CLUD  
**Appeal Procedure** Written Reps **Date Appeal Lodged** 09/06/2021  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

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# Appeal Decision

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<b>Appeal reference:</b>	2019/A0155
<b>Appeal by:</b>	Mr Anthony Flanagan
<b>Appeal against:</b>	The refusal of full planning permission.
<b>Proposed development:</b>	Two storey side and rear extension to provide ancillary accommodation (Retrospective)
<b>Location:</b>	152 Ballylough Road, Castlewellan
<b>Planning authority:</b>	Newry, Mourne and Down District Council
<b>Application reference:</b>	LA07/2019/0181/F
<b>Procedure:</b>	Informal Hearing and Commissioner's site visit on 16 September 2021
<b>Decision by:</b>	Commissioner Mandy Jones, dated 20 September 2021

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## Decision

1. The appeal is allowed and full planning permission is granted subject to the conditions set out below.

## Reasons

2. The main issues in this appeal are whether the extension is subordinate and supplementary to the main dwelling and whether it detracts from the appearance of the host property and the character and appearance of the surrounding area.
3. Section 45(1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations. Section 6 (4) states that where regard is to be had to the Development Plan, the determination must be made in accordance with the Plan unless material considerations dictate otherwise. The Ards and Down Area Plan 2015 ( ADAP ) is the statutory development plan for the area until replaced by a Local Development Plan. The appeal site is outside any settlement development limit and is within the open countryside. The site falls within an Area of Constraint on Minerals Development. The ADAP does not contain any specific policy in respect of the appeal proposal.
4. The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' ( SPPS ) outlines the transitional arrangements that will operate until such times as the local Council adopts a Plan Strategy for the whole of the Council area. During the transitional period, both the SPPS and retained Planning Policy Statements ( PPSs ) will apply.

5. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in favour of the provisions of the SPPS. Where the SPPS introduces a change of policy direction and / or provides a policy clarification that would be in conflict with the retained policy the SPPS should be accorded greater weight. However, where the SPPS is silent or less perspective on a particular planning policy matter than retained policies this should not be judged to lessen the weight to be afforded to the retained policy. There is no conflict between the provisions of the SPPS and PPS 7 (Addendum.) As no Plan Strategy has been adopted in Newry, Mourne and Down District Council, the retained policy applicable to this appeal is Planning Policy Statement 7 ( PPS 7 ) (Addendum) Residential Extensions and Alterations.
6. The appeal is for retrospective development for a two storey extension to the side of a single storey dwelling. The original dwelling is a single storey detached dwelling set within a large square shaped plot with a site area of approx. 0.4 hectares. It is accessed from the Ballylough Road via a concrete lane shared with neighbouring residents. No 152 is approx. 300m along the concrete lane from the Ballylough Road.
7. The extension has 2 floors and is one and half storey in height. The single storey host dwelling has a ridge height of 5m and the ridge height of the extension is 6.1m. The footprint of the single storey host dwelling is approx. 18m x 8.7m with a floor space of 158 m<sup>2</sup>. Accommodation comprises of 4 bedrooms with associated living space within a linear floor plan. The footprint of the extension is 80 m<sup>2</sup> across two floors (160 m<sup>2</sup> in total). The L shaped extension is attached to the gable of the host dwelling and sits at right angles with its gable facing forward directly adjacent to the front elevation of the host dwelling. The gable frontage of the extension is 5m. The overall depth of the extension is 13.9m and wraps around the gable elevation of the host dwelling extending approx. 4.5m along its rear elevation.
8. The submitted floor plans of the extension show one bedroom, study and store on the first floor and lounge, games room, hall and bathroom on the ground floor. There are no internal links between the host dwelling and the extension and the extension is accessed only from the rear.
9. PPS 7 (Addendum), Policy EXT 1 Residential Extensions and Alterations states that Planning permission will be granted for a proposal to extend or alter a residential property where all of 4 criteria are met. Criterion (a) requires that the scale, massing, design and external materials of the proposal are sympathetic with the built form and appearance of the existing property and will not detract from the appearance and character of the surrounding area. The Council's objections relate to Criterion (a). There are no objections to the remaining 3 criteria.
10. The Council have raised critical views from the concrete lane with long range views from Ballylough Road and School Road. I agree with the Council that the concrete laneway constitutes a public viewpoint as it serves 4 dwellings.
11. Travelling the Ballylough Road towards the Oasis Centre, due to the oblique nature of views towards the appeal site and speed of traffic on this road; the considerable set back of the extension and dwelling; its backdrop of a large agricultural building, rising ground and mature belt of vegetation and intervening



- vegetation, I consider that the extension and the host dwelling would be barely perceptible in the landscape. This would also be the case with any views from School Road which is further away. I would not consider these long range views to be fatal to the proposal.
12. In terms of medium range views, turning off the Ballylough Road onto the concrete laneway, the host dwelling and extension can be viewed straight ahead in the distance within the wider landscape. Views are only available travelling along the lane for a short distance until the topography of the lane quickly dips and the proposal becomes out of sight until its access point. A large agricultural building sits to the rear of the development with a backdrop of rising ground and belt of mature vegetation. From this short section of lane given the backdrop, intervening vegetation and extensive panorama I consider that the extension set against the host dwelling again is barely perceptible in the landscape and would not consider these medium range views to be fatal to the proposal.
  13. In terms of the shorter range views, from the concrete lane views are available into the site only from the access point due to mature roadside screening and site boundary vegetation. The extension and host dwelling are viewed obliquely from this point on slightly elevated ground and the side gable elevation of the extension ( 14m ) is completely screened from view – as such, the full massing of the side elevation is not appreciated from this viewpoint. Only the south eastern corner of the extension and front gable elevation and a small portion of the front elevation of the host dwelling are perceptible.
  14. The front elevation of the host property is 18m wide and the front elevation of the extension is 5m wide. Although the ridge height is 1.1 m higher than the ridge height of the host dwelling I consider that the juxtaposition of the extension against the host dwelling does not detract from the appearance of the existing property. I do not consider the extension to appear dominant against the host dwelling given its narrow front gable relative to the main dwelling and restricted viewpoints. The ridge line appears to simply step down in scale and massing across the frontage and, in my opinion, is not discordant.
  15. The roof pitch and materials match the existing dwelling and patterns of fenestration is similar. Currently, the external finish of the extension is unfinished blockwork and I consider that when rendered and painted to match the host dwelling, it will read as an integral part of the overall dwelling. A condition can be attached to secure its completion.
  16. The surrounding area is undulating open countryside – which is predominantly agricultural with extensive belts of mature vegetation and some scattered residential dwellings within well screened and defined plots. The residential dwellings are a mix of single storey, one and half storey and two storey dwellings. A dwelling with different ridge lines is not out of place in this rural context. Due to the nature of views and level of screening I do not consider that the extension detracts from the appearance and character of the surrounding rural area.
  17. As such, I consider the extension complies with criterion (a) of Policy EXT 1 of PPS 7 and the Council's first reason for refusal is not sustained.



18. The description of the proposal refers to 'ancillary accommodation.' The justification and amplification of Policy EXT 1 refers specifically to ancillary accommodation within paragraphs 2.8 to 2.11. Paragraph 2.9 states that to be ancillary, accommodation must be subordinate to the main dwelling and its function supplementary to the use of the existing residence. Such additional accommodation should normally be attached to the existing property and be internally accessible from it, although a separate doorway access will also be acceptable.
19. Para 2.10 states that the construction of a separate building, as self-contained accommodation, within the curtilage of an existing dwelling house will not be acceptable, unless a separate dwelling would be granted permission in its own right.
20. The extension is attached to the main dwelling. Both share service utilities within the site, drainage systems and have the same postal address, curtilage and driveway. The extension comprises additional living and bedroom accommodation to the main house and I was told that the family use the kitchen facilities in the main house. The case officer's report stated that it appeared that 'the room referred to as games room was to be finished as a kitchen.' However, at my site visit I did not see any kitchen fit out and no such drainage points, extraction points or electrics which would be required to service a kitchen space. As set out the extension would not function as separate living accommodation as there are no kitchen facilities. I am satisfied that the function of the extension is ancillary and supplementary to the main house and a condition would ensure that the accommodation would remain ancillary to the main dwelling. There is no 'front door' to the extension with the access at the rear and although there is no internal link through to the main house, I note paragraph 2.9 accepts a separate doorway to such extensions. I do not consider the absence of an internal link to be fatal. As I have found the extension to be subordinate and supplementary to the main dwelling the Council have not sustained their second reason for refusal.
21. I conclude that the Council has not sustained its objection's under Policy EXT1 of PPS7 (Addendum) and both reasons for refusal are not sustained. The appeal is allowed and full planning permission is granted subject to conditions outlined below.

### **Conditions**

1. The extension hereby permitted shall not be occupied at any time other than for the purposes ancillary to the residential use of the dwelling known as 152 Ballylough Road, Castlewellan.
2. Within 6 months of this decision, the external walls of the extension shall be rendered and painted the same colour as the host dwelling.

This decision approves the following drawings:-

Pac 1	Site Location Plan @ 1:2500	Council stamped drg 01	Date received 4 Feb 2019	Date refused 5 July 2019
Pac 2	Existing Elevations drg no. BLY152 -3	Council stamped drg 02	Date Received 4 Feb 2019	Date refused 5 July 2019
Pac 3	Existing Floor Plans drg no. BLY152-02	Council stamped drg 03	Date received 4 Feb 2019	Date refused 5 July 2019
Pac 4	Pre – Existing Plans & Elevations drg no. BLY15 -01	Council stamped drg 04	Date received 4 Feb 2019	Date refused 5 July 2019

**COMMISSIONER MANDY JONES**

**List of Appearances at Remote Hearing**

Planning Authority:- Kira Cunningham (Newry, Mourne and Down District Council)

Appellant :- Ryan Flanagan (Appellant's son)  
Miguel Martinez (Appellant's agent)

**List of Documents**

Planning Authority:- 'A' Statement of Case

Appellant: - 'B' Statement of Case



# Appeal Decision

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<b>Appeal Reference:</b>	2021/A0012
<b>Appeal by:</b>	Mr N Wylie
<b>Appeal against:</b>	The refusal of full planning permission
<b>Proposed Development:</b>	Retrospective application for 15m lattice tower, including mast and cabin with security fencing and pedestrian access gate.
<b>Location:</b>	Transmission site at Hamilton's Folly, approximately 295m SE of 20 Mountain Road Ballynahinch
<b>Planning Authority:</b>	Newry and Mourne District Council
<b>Application Reference:</b>	LA07/2020/1053/F
<b>Procedure:</b>	Written representations and Commissioner's site visit on 14 September 2021
<b>Decision by:</b>	Commissioner McShane, dated 24 September 2021.

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## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. The drawings submitted with the application are scaled. However, there is a mismatch between the annotated measurements and scaled measurements; the decision is based upon the former.

## Reasons

3. The main issues in this appeal are:
  - whether an existing mast or structure could be shared; and
  - compliance with the 1998 International Commission on Non-Ionizing Radiation Protection (ICNIRP) guidelines for public exposure to electromagnetic fields.
4. Section 6 (4) of the Planning Act (NI) 2011 requires that the determination of proposals must be in accordance with the local development plan (LDP), unless material considerations indicate otherwise. The Ards and Down Area Plan 2015 (ADAP) operates as a LDP. The appeal site is located outside any settlement development limit designated in the plan. There are no plan policies pertinent to this specific proposal, therefore I turn to other material considerations.
5. The Strategic Planning Policy Statement for Northern Ireland (SPPS) is material to all decisions on individual planning applications and appeals. The guiding principle of the SPPS, set out at Paragraph 3.8, is that sustainable development should be permitted having regard to the development plan and all other material



- considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.
6. The aim of the SPPS in relation to telecommunications is to facilitate the development of such infrastructure in an efficient and effective manner, whilst keeping the environmental impact to a minimum.
  7. Paragraph 6.239 of the SPPS indicates that the regional strategic objectives for telecommunications include ensuring that, where appropriate, new telecommunications development is accommodated by mast and site sharing; and ensuring that the visual and environmental impact of telecommunications and other utility development is kept to a minimum.
  8. Paragraph 6.243 indicates that in particular, planning authorities should take account of the potential effects of new telecommunications development, and any necessary enabling works, on visual amenity and environmentally sensitive features and locations.
  9. Paragraph 6.244 states that applications for the development of telecommunications equipment should be required to be accompanied by a statement declaring that when operational the development will meet the ICNIRP guidelines.
  10. The appeal site is located in the countryside, Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21), which is identified by the SPPS as a retained policy document, provides the regional policy context.
  11. Policy CTY 1 of PPS 21 states that there are a range of types of development, which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. It points out that planning permission will be granted for non-residential development in the countryside in specific circumstances. This includes telecommunication development in accordance with Planning Policy Statement 10: Telecommunications (PPS 10).
  12. The aim of PPS 10, set out in Paragraph 1.3, is to ensure that new telecommunications infrastructure, such as masts, antennas and associated equipment can be developed in a way that continues to provide NI with world class telecommunication services, while at the same time minimising the impact of new or replacement equipment.
  13. Policy TEL 1 of PPS 10 is entitled 'Control of Telecommunications Development'. The policy states that the Department will permit proposals for telecommunications development where such proposals, together with any necessary enabling works, will not result in unacceptable damage to visual amenity or harm to environmentally sensitive features or locations. Developers will therefore be required to demonstrate that proposals for telecommunications development, having regard to technical and operational constraints, have been sited and designed to minimise visual and environmental impact. Proposals for a new mast will only be considered acceptable where it is reasonably demonstrated that the sharing of an existing mast or other structure has been investigated and is not feasible or a new mast represents a better environmental solution than other

options. As with the SPPS, TEL1 requires that a proposal when operational will meet the ICNIRP guidelines for public exposure to electromagnetic fields.

14. The appeal site is located on Guinness Mountain, topped by Hamilton's Folly, which is within the Mourne Area of Outstanding Natural Beauty (AONB). The elevated appeal site is accessed via a laneway that services a fenced Northern Ireland Water (NIW) compound that is located at a higher elevation, approximately 50m from the appeal site. The NIW compound includes a covered reservoir and a 30m high lattice tower, antennas, radio dish and radio building (R/2007/0336/F and R/2012/0605/F).
15. The Appellant (Air Fibre Ltd), a wireless broadband provider that supplies services through its own network, shared the existing mast at Hamilton's Folly for a number of years prior to the erection of the appeal development. The Appellant states that the new mast is necessary as continuing to share the existing mast, which is owned and operated by NI Water, is financially unviable, given the level of costs charged by the provider. The Appellant argues that the new mast is a much more affordable and commercially viable option and would mean that one operator would not have a monopoly to provide space at extreme charges. It is argued that Air Fibre having its own independent site would benefit the area as lower costs would allow for a viable fibre roll out.
16. Paragraph 2.3 of the SPPS points out that the planning system operates in the public interest of local communities and the region as a whole. It does not exist to protect the private interests of one person against the activities of another. The question to be addressed is whether the appeal development would unacceptably affect amenities and the existing use of land that ought to be protected in the public interest. In this context, financial considerations relating to market competition between different operators is not a matter of determining weight.
17. The appeal site is located east of Slieve Croob (534m), which lies as a northern outlier to the Mourne Mountains. The Appellant argued that the location of the new mast allows a much better line of sight "around the side of Slieve Croob that the existing tower cannot provide". However, no line of sight (LOS) maps were provided to substantiate the Appellant's assertion. The contours of Slieve Croob and the location of the appeal development relative to the existing mast do not lend support to the Appellant's claim. A passing reference was made to how the appeal mast would provide a link to existing parts of the Appellant's network not easily linked via the existing mast. However, no LOS maps were provided to substantiate this. It has not been reasonably demonstrated, having regard to technical and operational constraints that the sharing of an existing mast or other structure has been investigated and is not feasible.
18. The Appellant states that the site of the compound for the new mast was chosen in order to minimise the works necessary to bring services to it, including electricity. It is claimed that to reduce the visual and environmental impact, the height of the new mast is restricted, it is located to sit in the shadow of the existing mast that serves as a backdrop to it and the security fencing is painted green. However, there is no indication that consideration was given to site sharing as referred to in Paragraph 6.239 of the SPPS. I have not been persuaded that the new mast / site represents a better environmental solution, rather it constitutes an additional mast

in a location recognised for its visual amenity. The Council's objection to the appeal development in this respect is well founded.

19. The Appellant submitted a declaration indicating that the appeal development will abide by and meet the ICNIRP guidelines. As the health safeguards set by the International Commission guidelines for public exposure would be met, and given that no issue was raised in relation to cumulative impact, the Council's objection in this respect is not sustained.
20. The Appellant claimed that the granting of planning permission for a similar development sets a precedent for the approval of the appeal development (LA09/2017/0385/F). However, I have not been persuaded that the two cases are directly comparable. In any event, each appeal must be assessed on its individual merits on the basis of its site specific circumstances.
21. The Appellant's concerns about the processing of the application by the Case Officer are matters for him to raise directly with the Council.
22. With the exception of its objection based upon the ICNIRP guidelines, the Council has sustained its reason for refusal based upon the SPPS and Policy Tel 1 of PPS 10. Accordingly, the appeal is dismissed.

This decision is based upon the following drawings:

- LPA Drwg No.01: Block Plan
- LPA Drwg No.02: Tower and Security Compound Elevations
- LPA Drwg No.03: Fencing for Security Compound
- LPA Drwg No.04: Site Location Plan

**COMMISSIONER MCSHANE**

**List of Documents**

Planning Authority:-	"LPA 1" Statement of Case and Appendix
Appellant:-	"APP 1" Statement of Case and Appendices
	"APP 2" Rebuttal Statement





# Appeal Decision

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<b>Appeal Reference:</b>	2020/A0148.
<b>Appeal by:</b>	Mr Derek McNeill.
<b>Appeal against:</b>	The refusal of outline planning permission.
<b>Proposed Development:</b>	Infill site for dwelling and domestic garage.
<b>Location:</b>	Adjacent to 71 Edendarriff Road, Ballynahinch.
<b>Planning Authority:</b>	Newry Mourne & Down District Council.
<b>Application Reference:</b>	LA07/2020/1376/O
<b>Procedure:</b>	Written Representations with Commissioner's Site Visit on 16 September 2021.
<b>Decision by:</b>	Commissioner Mark Watson, dated 24 September 2021.

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## Decision

1. The appeal is dismissed.

## Reasons

2. The main issues in this appeal are whether or not the proposed development would:
  - be acceptable in principle;
  - result in ribbon development; and
  - adversely impact on the rural character of part of the countryside.
3. The Ards and Down Area Plan 2015 (ADAP) operates as the statutory local development plan (LDP) for the proposal. In it, the site lies within the countryside and there are no policies or designations within the ADAP pertinent to the appeal development. The ADAP is not material to the case before me. As there is no conflict or change in policy direction between the provisions of the Strategic Planning Policy Statement for Northern Ireland (SPPS) and those of Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS21), in line with the transitional arrangements set out in the SPPS, the policy provisions of PPS21 remain applicable to the proposed development.
4. The appeal site comprises a portion of a grassed agricultural field, a section of concrete yard and an area of gravelled hardstanding to the south of a detached dwelling at No. 71 Edendarriff Road. No.71 lies off a long concrete laneway approximately 200m to the west of the public road. The section comprised of yard and hardstanding is relatively flat whilst the field portion slopes upwards to the west. There is a trampoline and other children's play equipment in the field portion immediately adjacent to the hardstanding. The eastern site boundary is comprised of a high metal palisade fence that joins to a mature conifer hedge that defines the remainder of that boundary. The northern site boundary is partly defined by mature hedge along the field portion, with the remainder undefined where it traverses the

concrete yard area. The western site boundary and part of the southern boundary are also undefined. No. 71 and its garage are tightly grouped together, with a maintained garden area to the north and east of the dwelling. There is a large industrial style shed adjacent and south of the appeal site. It has concrete block walls, with the upper wall sections and roof finished in corrugated metal sheeting. Immediately adjacent and west to that shed is a monoplane roofed enclosure accommodating a mobile home and yard area. The laneway is gated adjacent to the large shed, though it provides access some distance further south to an approved dwelling which has not yet been fully erected. The appeal site lies in a rural area characterised by one off dwellings and a number of groupings of farm buildings.

5. 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 the countryside in six cases. One of these is the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY8. It follows that if the development complies with CTY8 it will comply with Policy CTY1 of PPS21.
6. Policy CTY8 of PPS21 states that planning permission will be refused for a building which creates or adds to a ribbon of development. Policy CTY8 states that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. The policy states that for its purposes, 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. Supplementary guidance on the assessment of infill sites is contained in Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside.
7. The Appellant made the case that the appeal site was a policy compliant gap site situated between the large shed to the south and No. 71 and its detached garage to the north. During the processing of the planning application which is the subject of this appeal, the Council considered the appeal site did not lie within a line of buildings along a frontage, as the large shed did not have planning permission. However, since then the Council subsequently granted a Certificate of Lawfulness of Existing Use or Development (CLEUD) in respect of the shed (ref. LA07/2021/0209/LDE). The description for the shed in that CLEUD was that the shed was constructed and is used for domestic purposes only. The Council's final position is that the site does lie within a line of 3 buildings that have a frontage to the laneway. Its objection however relates to the plot size and that a dwelling on the site would not respect the existing pattern of development along the frontage.
8. None of the three buildings have separate or defined frontages onto the laneway. They are all in domestic use, further reinforcing the fact that they all lie within the curtilage belonging to No. 71. I am not persuaded that Policy CTY8 applies to land and buildings within a single curtilage along a laneway, where the development sought would also be at least partially placed within that same singular curtilage.



Despite the Council's acceptance that the appeal site lies within a line of three buildings with a frontage to the laneway, the appeal site is not a gap site for the purposes of the policy and the first test within Policy CTY8 is not met.

9. Notwithstanding the above, in the interests of completeness I turn to the Appellant's case for compliance with Policy CTY8. The Appellant calculated the overall frontage comprising the 3 buildings and appeal site to be approximately 74m in length, measured building end to building end. This gives an average plot size of approximately 18.5m for 4 buildings placed along the frontage. The frontage of the appeal site plot is approximately 20m in length, thus, in the Appellant's opinion, the appeal proposal would respect the pattern of development. However, this is a somewhat contrived and artificial result given the buildings in question all lie within a singular curtilage and do not have separately defined plots. Additionally, No. 71 and its garage sit immediately next to one another with approximately 1m separation between them, with a garden area extending to the north of the dwelling. Thus, the concept of an average plot size of approximately 18.5m for 4 buildings along the frontage bears little relation to the actual disposition of the buildings and consequent development pattern evident on the ground.
10. The assessment against Policy CTY8 is not simply a mathematical exercise. Whether or not a gap site is suitable for infill development in accordance with Policy CTY8 is a matter of planning judgement taking into account what one ascertains on the ground. The disposition of the large shed in relation to No. 71 and its garage, two buildings which are tightly grouped next to one another, is such that despite the site being a 'small gap', a dwelling sited as suggested by the Appellant would fail to respect the development pattern and read as being shoehorned into that gap. I am reinforced in this opinion by the Appellant's suggestion that a dwelling on the site should be sited further west and 'back' into the site, away from the existing buildings, in order for there to be sufficient space. Though there is no requirement in the policy for rigid adherence to an established building line, the suggested siting in this case further points to the unsuitability of the gap itself to accommodate the appeal development whilst respecting the existing development pattern.
11. Even if accepting the Appellant's proposition that the appeal site is a small gap site in line with Policy CTY8, for the reasons given above the development would nevertheless fail to respect the existing development pattern along the frontage in terms of size, scale, siting and plot size. The second test within Policy CTY8 of PPS21 is not met. The Appellant's assessment, including that in the submitted Design and Access Statement, would not persuade me otherwise.
12. Irrespective of the design and siting of the proposed dwelling and garage, there would be a strong visual linkage between the existing buildings and the appeal development, resulting in additional ribbon development along the laneway. For the reasons given above, the appeal development is contrary to Policy CTY8 of PPS21 and the related provisions of the SPPS. The Council's second reason for refusal is sustained as specified above.
13. Policy CTY14 of PPS21 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to or further erode the rural character of an area. I have already concluded that the appeal development would result in further ribbon development. To that extent the appeal development would further erode the rural character of the area. The appeal

development is contrary to Policy CTY14 of PPS21 read as a whole and the related provisions of the SPPS. The Council's third reason for refusal is sustained.

14. As the proposed development does not meet Policy CTY8, it does not meet Policy CTY1 of PPS21 and the related provisions of the SPPS. Even though there would be sufficient space in the site to accommodate a sewage treatment unit and soakaway, this would not outweigh the objections to the appeal development. There are no overriding reasons why the development is essential and could not be located in a settlement. The Council's first reason for refusal is sustained.
15. The Council's reasons for refusal have been sustained to the extent specified and are determining. The appeal must fail.

This decision is based on the 1:2500 scale Site Location Plan numbered A4133 submitted with the application.

**COMMISSIONER MARK WATSON**





**List of Documents**

Planning Authority:-	'A'	Statement of Case & Appendix (NM & D DC)
Appellant:-	'B'	Statement of Case & Appendix (D. Burgess)