



November 15th, 2018

Notice Of Meeting

You are invited to attend the Planning Committee Meeting to be held on **Wednesday, 21st November 2018** at **10:00 am** in the **Boardroom, Monaghan Row, Newry.**

The Members of the Planning Committee are:-

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

Agenda

1.0 Apologies.

- Councillor Harte

2.0 Declarations of Interest.

- **Item 9 - LA07/2017/1455/F - Newry, Mourne and Down District Council - Councillors Clarke and Devlin previously declared an interest.**

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

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

Minutes for Confirmation

4.0 Minutes of Planning Committee Meeting held on Wednesday 24 October 2018. (Attached)

 *Planning Committee Minutes - 24-10-2018.pdf*

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For Discussion/Decision

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

 *Addendum list - 21-11-2018.pdf*

Page 11


Development Management - Planning Applications for determination

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

Rec: REFUSAL

- A request for speaking rights has been received from Clifford McClenaghan, agent, in support of the application. - No written submission received - addendum list

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

 *LA07-2018-0085-0.pdf*

Page 12

7.0 LA07/2017/0603/O - Christopher Smith - Proposed 2 storey dwelling - Site adjacent to No. 1 John Mitchel Street, Newry. (Case Officer report attached).

Rec: REFUSAL

- This application was previously presented to Committee and a site visit was held - the application has to come back to Committee for determination

 *LA07-2017-0603-0.pdf*

Page 21

8.0 LA07/2017/1704/O - Ms Clair Ferris - Proposed 2 no. dwellings on in-fill site under Policy CTY8 - Between 16 & 20 Lough Road, Crossgar. (Case Officer report attached).

Rec: REFUSAL

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

 *LA07-2017-1704-0.pdf*

Page 28

 *Item 8 - submission of support (Clare Ferris).pdf*

Page 35

9.0 LA07/2017/1455//F - Newry, Mourne and Down District Council - proposed new bowling club pavilion to include main hall, toilets and changing facilities - adjacent to existing pavilion at Castle Park, Newcastle. (Case Officer report attached).

Rec: APPROVAL

- Addendum list

 *LA07-2017-1455-F.pdf*

Page 38

10.0 LA07/2017/1485/F - Mr J McCabe - amendments to the

previous approval R/2014/0654/F for the conversion and extension of the existing barn to form a dwelling, with an additional extension now also proposed on lands approx 250m SE of 60 Killyleagh Road, Downpatrick. (Case Officer report attached).

Rec: REFUSAL

- Addendum list

 **LA07-2017-1485-F.pdf**

Page 46

11.0 LA07/2018/0250/F - Mr G Morgan - dwelling and garage on a farm - lands 50m south of 30 Fofanny School Road, Fofannybane, Newry. (Case Officer report attached).

Rec: REFUSAL

- A request for speaking rights has been received from Sam Hawthorne, agent, in support of the application - Submission attached.

 **LA07-2018-0250-F.pdf**

Page 52

 **Item 11 - submission of support (G Morgan).pdf**

Page 59

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

Rec: REFUSAL

- Addendum list

 **LA07-2018-0378-0.pdf**

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13.0 LA07/2018/0593/0 - Dr. Winston and Betty Shaw - erection of dwelling - 24m behind 22 Mountview Road, Ballynahinch. (Case Officer report attached).

Rec: REFUSAL

- Addendum list

 **LA07-2018-0593-0.pdf**

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14.0 LA07/2017/1299/F - Patrick Small - erection of dwelling on a

farm - 58m SE of 43 Upper Burren Road, Warrenpoint. (Case Officer report attached).

Rec: REFUSAL

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

 *LA07-2017-1299-F.pdf*

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 *Item 14 - submission of support (Patrick Small).pdf*

Page 81

15.0 LA07/2018/0537/0 - James Donaldson and Roberta Heaney - proposed site for infill dwelling and domestic garage - 35m east of 63 Ballinran Road (between No. 63 Ballinran Road and 4 Ballinran New Road) Kilkeel. (Case Officer report attached).

Rec: REFUSAL

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

 *LA07-2018-0537-0.pdf*

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 *Item 15 - submission of support (Donaldson Heaney).pdf*

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For Noting

16.0 Historic Tracking Sheet. (Attached).

 *Planning HISTORIC TRACKING SHEET - UPDATED 08-11-2018.pdf*

Page 96

17.0 October 2018 Planning Committee Performance Report. (Attached)

 *October Planning Committee Performance Report.pdf*

Page 107

18.0 Record of Meetings between Planning Officers and Public Representatives. (Attached).

 *Record of Meetings report.pdf*

Page 113

19.0 October 2018 Appeals and Decisions. (Attached).

 *October 2018 Appeals and Decisions.pdf*

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Invitees

Cllr Terry Andrews	terry.andrews@nmandd.org
Cllr Naomi Bailie	naomi.bailie@nmandd.org
Cllr Robert Burgess	robert.burgess@nmandd.org
Cllr Pete Byrne	pete.byrne@nmandd.org
Cllr Michael Carr	michael.carr@nmandd.org
Mrs Dorinnia Carville	dorinnia.carville@nmandd.org
Cllr charlie casey	charlie.casey@nmandd.org
Cllr William Clarke	william.clarke@nmandd.org
Cllr Garth Craig	garth.craig@nmandd.org
Cllr Dermot Curran	dermot.curran@nmandd.org
Cllr Laura Devlin	laura.devlin@nmandd.org
Cllr Sean Doran	sean.doran@nmandd.org
Cllr Cadogan Enright	cadogan.enright@nmandd.org
Cllr Gillian Fitzpatrick	gillian.fitzpatrick@nmandd.org
Cllr Glyn Hanna	glyn.hanna@nmandd.org
Mr Liam Hannaway	liam.hannaway@nmandd.org
Cllr Valerie Harte	valerie.harte@nmandd.org
Cllr Harry Harvey	harry.harvey@nmandd.org
Cllr Terry Hearty	terry.hearty@nmandd.org
Cllr Roisin Howell	roisin.howell@nmandd.org
Cllr David Hyland	david.hyland@nmandd.org
Mrs Sheila Kieran	sheila.kieran@nmandd.org
Cllr Liz Kimmins	liz.kimmins@nmandd.org
Cllr Mickey Larkin	micky.larkin@nmandd.org
Mr Michael Lipsett	michael.lipsett@nmandd.org
Cllr Kate Loughran	kate.loughran@nmandd.org
Cllr Jill Macauley	jill.macauley@nmandd.org
Colette McAteer	colette.mcateer@nmandd.org
Cllr Declan McAteer	declan.mcateer@nmandd.org
Marian McIlhone	marian.mcilhone@nmandd.org
Patricia McKeever	patricia.mckeever@nmandd.org
Cllr Oksana McMahon	oksana.mcmahon@nmandd.org
Cllr Andrew McMurray	andrew.mcmurray@nmandd.org
Eileen McParland	eileen.mcparland@nmandd.org
Mr Roland Moore	roland.moore@nmandd.org
Cllr Roisin Mulgrew	roisin.mulgrew@nmandd.org
Cllr Mark Murnin	mark.murnin@nmandd.org
Cllr Barra O Muiri	barra.omuiri@nmandd.org
Cllr Brian Quinn	brian.quinn@nmandd.org
Cllr Henry Reilly	henry.reilly@nmandd.org
Cllr John Rice	john.rice@nmandd.org
Cllr Michael Ruane	michael.ruane@nmandd.org

Cllr Michael Savage	michael.savage@nmandd.org
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Sarah Taggart	sarah-louise.taggart@nmandd.org
Cllr David Taylor	david.taylor@nmandd.org
Cllr Jarlath Tinnelly	jarlath.tinnelly@nmandd.org
Cllr John Trainor	john.trainor@nmandd.org
Central Support Unit	central.support@nmandd.org
Cllr William Walker	william.walker@nmandd.org
Mrs Marie Ward	marie.ward@nmandd.org

NEWRY, MOURNE & DOWN DISTRICT COUNCIL

Minutes of the Planning Committee Meeting of Newry, Mourne and Down District Council held on Wednesday 24 October 2018 at 10.00am in the Boardroom, District Council Offices, Monaghan Row, Newry

Chairperson: Councillor M Larkin

Deputy Chairperson: Councillor D McAteer

In attendance: **(Committee Members)**

Councillor W Clarke
Councillor L Devlin
Councillor K Loughran
Councillor J Macauley

(Officials)

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

P/094/2018: APOLOGIES AND CHAIRPERSON'S REMARKS

Apologies were received from Councillor Hanna, Councillor Harte, Councillor Craig, Councillor Murnin and Councillor Ruane.

P/095/2018: DECLARATIONS OF INTEREST

Councillor Devlin and Councillor Clarke declared an interest in Item No. 7 LA07/2017/1455/F.

P/096/2018: DECLARATIONS IN ACCORDANCE WITH PLANNING COMMITTEE PROTOCOL PARA. 19 – MEMBER TO BE PRESENT FOR ENTIRE ITEM

There were no declarations received.

MINUTES FOR CONFIRMATION

P/097/2018: MINUTES OF PLANNING COMMITTEE MEETING HELD ON WEDNESDAY 26 SEPTEMBER 2018

Read: Minutes of Planning Committee Meeting held on Wednesday 26 September 2018. **(Copy circulated)**

AGREED: **On the proposal of Councillor Macauley, seconded by Councillor Loughran, it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 26 September 2018 as a true and accurate record.**

FOR DISCUSSION/DECISION

P/098/2018: ADDENDUM LIST

Read: Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 24 October 2018. **(Copy circulated)**

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

- **Item 7 – LA07/2017/1455/F** – Newry, Mourne and Down DC – proposed new bowling club pavilion to include main hall, toilets and changing facilities – adjacent to existing pavilion at Castle Park, Newcastle
APPROVAL
Removed due to declarations of interest having been received from Councillors Devlin and Clarke, therefore quorum not present to vote.
- **Item 8 – LA07/2018/0894/F** Dundrum Cross Community Playgroup Retrospective application for Dundrum Cross community Playgroup Facility (temporary permission) (amended description)- Dundrum Methodist Church 7-9 Manse Road, Dundrum,
APPROVAL
Removed at the request of Councillor Murnin to allow objectors to make representations.
- **Item 11 – LA07/2017/1485/F** – Mr J McCabe – conversion and extension of barn previously approved under R/2014/0654/F with additional extension to form new domestic dwelling on lands approx. 250m SE of 60 Killyleagh Road, Downpatrick.
REFUSAL
Removed at the request of Councillor McAteer for full presentation at the next Committee Meeting.
- **Item 15 – LA07/2018/0537/0** – James Donaldson and Roberta Heaney – proposed site for infill dwelling and domestic garage – 35m east of 63 Ballinran Road (between No. 63 Ballinran Road and 4 Ballinran Newy Road, Kilkeel.
REFUSAL
Removed at the request of Councillor Macauley for full presentation at the next Committee Meeting.

Councillor Clarke referred to Item 8 – LA07/2018/0894/F saying that objectors should be made aware of the protocol surrounding speaking rights and a mechanism should be put in

place for informing members of the public of the process to follow regarding requesting speaking rights at Planning Committee Meetings as they would not have an agent to represent them. This matter was referred to Planning Officials for action.

AGREED: On the proposal of Councillor McAteer, seconded by Councillor Loughran, it was agreed to approve the Officer recommendation in respect of the following applications listed on the Addendum List for Wednesday 24 October 2018:-

- **Item 6 – LA07/2017/1136/F** – Newry, Mourne and Down District Council - New car and coach park to provide approximately 52 no. additional car parking spaces and to accommodate relocation of coach parking from the existing car park. Replace existing coach parking in existing car park with car parking to provide 32 no. additional car spaces. Total additional car parking spaces proposed: 84 no. new car & coach park finishes: retaining walls; ashfelt hard standing with white lining indicating parking spaces. Approximately 8m deep strip of land times the full width of the new car park will be planted west of the new car park to provide screen planting – land approximately 32m NE of the Courtyard Buildings, Slieve Gullion Forest Park, 89 Drumintee Road, Killeavey, Newry.

APPROVAL

- **Item 18 - LA07/2018/0679/0** - Michael D O'Hare - site for dwelling - immediately to rear of 27 and 29 Dublin Road, Newry.

REFUSAL

DEVELOPMENT MANAGEMENT – PLANNING APPLICATIONS FOR DETERMINATION

P/099/2018: **PLANNING APPLICATIONS FOR DETERMINATION**

AGREED: On the advice of the Chief Planning Officer it was unanimously agreed to withdraw the following planning applications from the schedule:

- **Item 14 – LA07/2017/1299/F** - Removed from the schedule at the request of Councillor McAteer due to medical circumstances; to be presented at next Committee Meeting.

The following applications were then determined by the Committee:-

**(1) LA07/2016/0758/0 – Mr and Mrs Hickland
(Audio recorded – YES)**

Location:

Lands approximately 50m south of 56 Crawfordstown Road, Drumaness

Proposal:

New dwelling and garage

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

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

Power-point presentation:

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

Mr McKay said he had visited the site and was of the opinion that it did not appear as a visual entity within the landscape and failed to have a focal point. However he said all applications had to be considered on merit and if Members were in any doubt it would be advisable to arrange a site visit so they could assess the site in a wider context.

AGREED: On the proposal of Councillor Clarke seconded by Councillor Loughran it was agreed to defer Planning Application LA07/2016/0758/O to allow for a site visit to take place.

**(2) LA07/2017/1694/RM – Mr R Hutton
(Audio recorded - YES)**

Location:

Adjacent to junction of Vianstown Road and Bishopsbrae Road, Downpatrick

Proposal:

Replacement dwelling (off site)

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

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

Power-point presentation:

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

Ms McAlarney said the design of the proposed replacement was inappropriate for the site and its locality and did not visually integrate into the surrounding landscape, furthermore as the site was located in an AONB, the proposed application was not sympathetic to the character of the area.

Discussion took place on the design of the proposed application and Councillor Devlin proposed to defer the application to allow for discussions to take place between the agent / applicant and planning officers regarding an amended design that would be acceptable in planning terms. Councillor Macauley seconded the proposal.

AGREED: On the proposal of Councillor Devlin seconded by Councillor Macauley it was agreed to defer Planning Application LA07/2017/1694/RM for one month to allow discussions to take place between the agent /applicant and planning officials regarding an amended design that would be acceptable in planning terms.

(Break 11.00am – 11.10am)

(3) LA07/2018/0658/RM – Mrs N Little
(Audio recorded – YES)

Location:

Lands located between 58 and 60 Drumgooland Road, Loughinisland

Proposal:

Proposed infill dwelling and garage

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

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

Power-point presentation:

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

Mr Stephens referred to the site location map with the previous outline approval on this site saying planning officials had not attached a siting condition by shading a section of the accompanying stamped map and therefore he considered the dwelling could be sited anywhere within the red line of the application site. He continued, saying plot frontage analysis conducted indicated the site could accommodate two houses and it was the intention of the applicant to submit a further application for a second dwelling.

Ms McAlarney said the absence of a siting condition did not mean the application was flawed and the decision for the Committee was to determine if the siting of the proposed dwelling and garage was appropriate and if it respected planning policy in terms of plot frontage, not whether the site could accommodate two dwellings.

Ms Largey said the Committee should not stray into the realm of assessing an application that may or may not come before Committee, stressing Committee must deal with the application now in front of it.

Councillor Clarke proposed to overturn the Officer recommendation and approve planning application LA07/2018/0658/RM – Mrs N Little saying he would be content with the proposed siting of the dwelling and that all design related conditions be delegated to planning officials. The proposal was not seconded.

Councillor Larkin proposed to accept the Planning Officers recommendation to refuse this application, Councillor Loughran seconded this proposal.

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

FOR:	5
AGAINST:	1
ABSTENTIONS:	0

The proposal was declared carried.

AGREED: On the proposal of Councillor Larkin seconded by Councillor Loughran it was agreed to refuse planning application LA07/2018/0658/RM – Mrs N Little – as per the information and recommendation contained in the Case Officer report presented to Committee.

(4) LA07/2018/0661/0 – Eileen and Dermot O'Hare
(Audio recorded – YES)

Location:

Between 17a and 17b Hilltown Road, Mayobridge

Proposal:

Erection of dwelling and domestic garage

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

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

Power-point presentation:

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

Ms McParland said the proposal was not a valid infill option as there was no gap in the existing built up frontage.

Mr Young disputed this and said he considered there to be 10m of frontage on the site.

Councillor McAteer said it was difficult to determine site lines and boundaries from the photographs contained in the report and he proposed a site visit to assess the site in more detail. Councillor Devlin seconded the proposal.

AGREED: On the proposal of Councillor McAteer seconded by Councillor Devlin it was unanimously agreed planning application LA07/2018/0661/0 – Eileen and Dermot O'Hare be deferred to allow a site visit to take place in order for Committee to assess the site in more detail.

**(5) LA07/2018/0694/O – E F McClorey
(Audio recorded – YES)**

Location:

Adjacent and immediately east of No. 2 Islandmoyle Road, Cabra, Newry

Proposal:

2 No. dwellings with domestic garages on gap/infill site (amended site address)

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

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

Power-point presentation:

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

Discussion took place regarding the site frontage of the proposed dwellings and Ms McParland said the gap which measured 95m could accommodate up to three dwellings with similar frontage to neighbouring properties and that if more than two dwellings could be accommodated on the site, then it would be contrary to policy.

Mr Young said the gap measurement from building to building was 95m, however he considered the measurement of the site frontage to be 64m which would only accommodate two dwellings and be in line with planning policy.

Ms McParland said if two dwellings were built on the site, there would still be a gap that was currently the garden of No. 6 Islandmoyle Road.

Councillor Clarke proposed to accept the officer's recommendation to issue a refusal in respect of planning application LA07/2018/0694/O – E F McClorey, Councillor Larkin seconded the proposal.

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

FOR:	2
AGAINST:	3
ABSTENTIONS:	1

The proposal was declared lost.

Councillor McAteer proposed to issue an approval in respect of planning application LA07/2018/0694/O contrary to officer recommendation on the basis that the curtilage of No. 6 Islandmoyle Road was the garden and not part of an open field.

Councillor Larkin advised Councillor McAteer he would have to address the three reasons for refusal as stated in the case officer report.

Councillor McAteer replied as follows:

Refusal Reason 1: Councillor McAteer said he considered the site to be a gap site and therefore this negated the reasons outlined for refusal within the case officer report.

Refusal Reason 2: Councillor McAteer said ribbon development was already present along Islandmoyle Road.

Refusal Reason 3: Councillor McAteer said he considered the proposed development would respect the traditional pattern of existing neighbouring dwellings in the area and would not erode the rural character of the countryside.

Mr McKay advised Members they needed to give careful consideration in determining how a gap site was measured and he reminded them that all previous applications determined by the Committee had used the measurement from building to building and not from building to the edge of the neighbouring garden, as was the case in this application.

Ms Largey said the Councillor had given reasons for granting approval contrary to the officer recommendation and that whilst Planning Officers were right to state consistency was important when Members were making a decision, they did not have to be straight jacketed as long as all reasons for refusal were addressed. However she said it was important to give consistency to the public and to agents.

Councillor Devlin seconded Councillor McAteer's proposal.

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

FOR:	3
AGAINST:	2
ABSTENTIONS:	1

The proposal was declared carried.

AGREED: On the proposal of Councillor McAteer seconded by Councillor Devlin it was agreed to issue an approval in respect of Planning Application LA07/2018/0661/O – E F McClorey contrary to the information and recommendation contained in the Case Officer report presented to Committee on the basis that the proposed site could only accommodate two dwellings and not three as outlined in the case officer report and also that officers then be delegated authority to impose any relevant conditions

(6) LA07/2017/1671/F – Mr and Mrs McConnell
(Audio recorded – YES)

Location:

50m east of No. 77 Ballynahinch Road, Saintfield

Proposal:

Farm dwelling

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

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

Power-point presentation:

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

Discussion took place regarding a steel frame for an agricultural shed located on the site.

Councillor Macauley asked if a certificate of lawful development had been granted for the shed and Ms McAlarney confirmed that it had.

In response to queries from Members regarding whether the steel frame could be accepted as an agricultural building, Mr McKay replied there was no evidence of preparatory ground work having been carried out and he did not consider the steel frame to be an acceptable building. He continued, saying once the building was complete the application could then be considered on its merits.

Councillor McAteer asked for legal advice on whether the steel frame could be considered as a building.

Ms Largey said this was a judgement call for the Committee to make and they should take all circumstances into consideration.

AGREED: On the proposal of Councillor Clarke seconded by Councillor Macauley it was unanimously agreed to defer Planning Application LA07/2017/1671/F for a period of 6 months to allow for completion of the agricultural building and that officers then be delegated authority to impose any relevant conditions and issue the decision.

FOR NOTING

P/100/2018: VISITS TO PLANNING COMMITTEE MEETINGS BY DEPARTMENTAL STAFF

Read: Letter dated 3 October 2018 from DFi advising Departmental staff would be visiting Planning Committee Meetings between October 2018 and January 2019. The main purpose of the visits was to gain a broad understanding of the planning decision making processes of Councils as part of the Department's on-going oversight role of the planning system.

Councillor Larkin advised 2 Departmental staff were present and welcomed them to the meeting.

AGREED: It was unanimously agreed to note the above correspondence.

P/101/2018: HISTORIC ACTION SHEET

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

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

P/102/2018: PLANNING COMMITTEE MEETING PERFORMANCE REPORT SEPTEMBER 2018

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

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

P/103/2018: MEETINGS BETWEEN PLANNING OFFICERS AND PUBLIC REPRESENTATIVES

Read: Record of Meetings between Planning Officers and Public Representatives 2017-2018. **(Copy circulated)**

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

P/104/2018: APPEALS & DECISIONS

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

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

P/105/2018: REGISTER OF CONTACTS Q2 JULY – SEPTEMBER 2018

Read: Report detailing Register of Contacts Q2 July-September 2018. **(Copy circulated)**

AGREED: It was agreed to note the Register of Contacts Q2 July-September 2018.

The Meeting concluded at 12.20pm

For confirmation at the Planning Committee Meeting to be held on Wednesday 21 November 2018.

Signed: _____ **Chairperson**

Signed: _____ **Chief Executive**

Item 5 – Addendum List

Addendum list - planning applications with no representations received or requests for speaking rights – Planning Committee Meeting on Wednesday 21 November 2018

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

- **Item 6 – LA07/2018/0085/0** – William Lindsay – single dwelling under CTY6 – lands opposite and to the south of 18 Ringdufferin Road, Rathcuingham, Toye, Downpatrick. **REFUSAL**
- **Item 9 - LA07/2017/1455/F** - Newry, Mourne and Down DC - proposed new bowling club pavilion to include main hall, toilets and changing facilities - adjacent to existing pavilion at Castle Park, Newcastle. **APPROVAL**
- **Item 10 – LA07/2017/1485/F** – Mr J McCabe – amendments to the previous approval R/2014/0654/F for the conversion and extension of the existing barn to form a dwelling, with an additional extension now also proposed on lands approx. 250m SE of 60 Killyleagh Road, Downpatrick. **REFUSAL**
- **Item 12 – LA07/2018/0378/0** – Judith Boyle – erection of a dwelling and garage on a farm -200m south of 112 Monlough Road, Saintfield. **REFUSAL**
- **Item 13 – LA07/2018/0593/0** – Dr. Winston and Betty Shaw – erection of dwelling – 24m behind 22 Mountview Road, Ballynahinch. **REFUSAL**

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

APPLIC NO	LA07/2018/0085/O	Outline	DATE VALID	11/01/2018
COUNCIL OPINION	REFUSAL			
APPLICANT	William Lindsay Toye Downpatrick BT30 9PH	18 Ringdufferin Road	AGENT	The Bridge Studio 47A Castle Street Strangford BT30 7NF 07802458820
LOCATION	Land opposite and to the south of 18 Ringdufferin Road Rathcuuvingham Toye Downpatrick BT30 9PH			
PROPOSAL	Single dwelling under CTY 6			
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions
	1	0	0	0
	Addresses	Signatures	Addresses	Signatures
	0	0	0	0

1. The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not provided satisfactory long term evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused and it has not been demonstrated that there are no alternative solutions to meet the particular circumstances of this case.
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks long established natural boundaries to provide a suitable degree of enclosure for the building to

integrate into the landscape, and the ancillary works do not integrate with their surroundings and therefore would not visually integrate into the surrounding landscape.

4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the impact of ancillary works would damage rural character.



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Application Reference: LA07/2018/0085/O

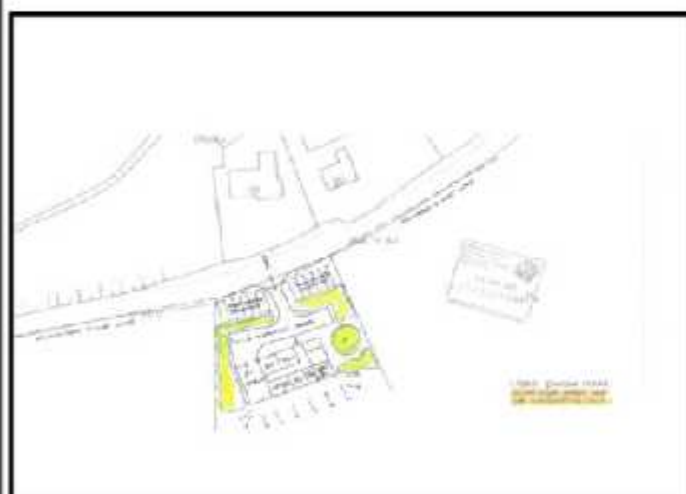
Date Received: 20.09.2017

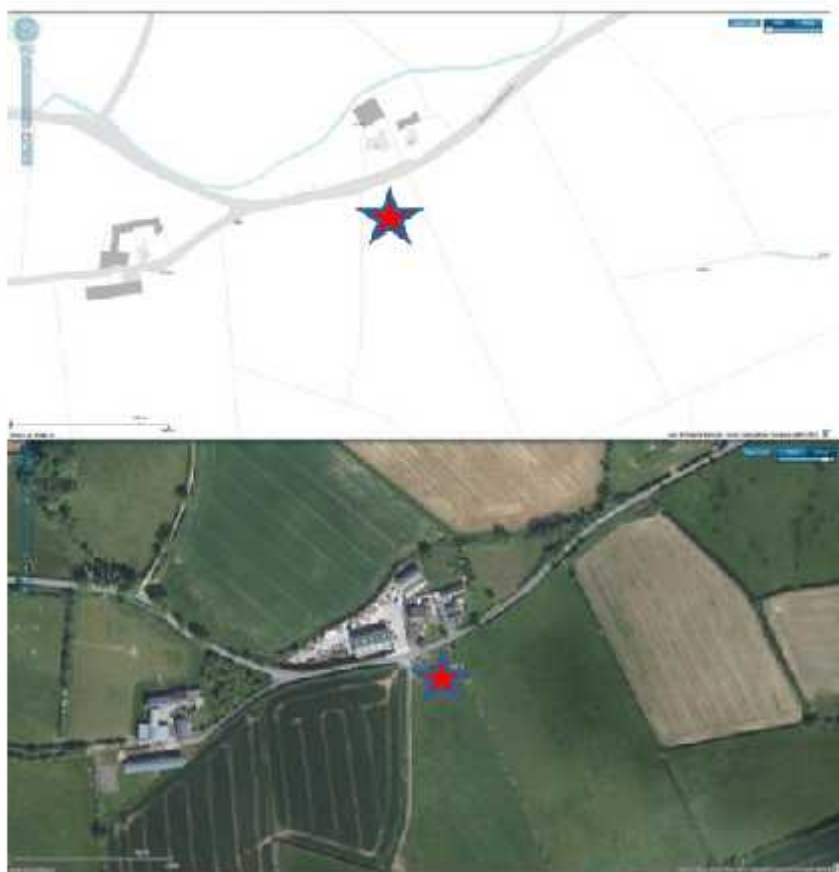
Proposal: Single dwelling under CTY 6

Location: Land opposite and to the south of 18 Ringdufferin Road
Rathcuuvingham Toye Downpatrick

Site Characteristics & Area Characteristics:

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





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

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

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

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

Consultations:

Transport NI – No objections

Objections & Representations

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

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

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

The application was advertised in the local press on 31.01.2018

Consideration and Assessment:

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

The relevant policy consideration is provided by PPS21 CTY6 which states

Planning permission will be granted for a dwelling in the countryside for the long term needs of the applicant, where there are compelling, and site specific reasons for this related to the applicant's personal or domestic circumstances and provided the following criteria are met:

(a)the applicant can provide satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused; and

(b)there are no alternative solutions to meet the particular circumstances of the case, such as: an extension or annex attached to the existing dwelling; the conversion or reuse of another building within the curtilage of the property; or the use of a temporary mobile home for a limited period to deal with immediate short term circumstances.

All permissions granted under this policy will be subject to a condition restricting the occupation of the dwelling to a named individual and their dependents.

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

Planning office have no reason to dispute the evidence submitted however it falls to consider criterion (a) above as to whether a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused.

From the evidence submitted it would appear that there are no formal care arrangements in place, with the applicant's wife and son carrying out any assistance required by the applicant.

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

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



No.18 Applicants current residence



Proposed site

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

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

CTY13

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

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



CTY14

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

CTY16

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

Recommendation: REFUSAL

Reasons

1. The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not provided satisfactory long term evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused and it has not been demonstrated that there are no alternative solutions to meet the particular circumstances of this case.
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that

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

Signed:

Date:

Signed:

Date:

APPLIC NO	LA07/2017/0603/O	Outline	DATE VALID	21/04/2017
COUNCIL OPINION	REFUSAL			
APPLICANT	Christopher Smith 2 Woodvale Bessbrook BT35 7FD	AGENT	Neil Mullen 17a Barrons Hill Camlough Newry BT35 7HJ 074 8248 1881	
LOCATION	Site adjacent to No. 1 John Mitchel Street Newry BT34 2AP			
PROPOSAL	Proposed 2 storey dwelling			
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions
	0	0	0	0
	Addresses		Signatures	Addresses
	0		0	0
			Signatures	Signatures
			0	0

1. The proposal is contrary to paragraph 6.137 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) Policy QD1 of the Departments' Planning Policy Statement 7: Quality Residential Environments and Paragraph 3.24 of Development Control Advice Note 8 in that it has not been demonstrated that the development would create a quality and sustainable residential development and it has not been shown:
 - a) that the development respects the surrounding context and is appropriate 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;

- c) that adequate provision is made for private amenity space an integral part of the development

- 2. The proposed development is contrary to paragraph 6.137 of the SPPS and Planning Policy Statement 7 Addendum 'Safeguarding the Character of Established Residential Areas' in that the proposed development is not in keeping with the overall character and environmental quality of the established residential area and the dwelling would fail to meet the internal space requirements set out in Annex A.

- 3. The proposal is contrary to Paragraph 6.137 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Planning Policy Statement 12 'Housing in Settlements' Planning Control Principle 1 in that:
 - the proposed development would erode the local character, environmental quality and residential amenity; and
 - the proposed density, together with form, scale and massing and layout of the new development is not in keeping with the adjacent housing.



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**Newry, Mourne
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Application Reference:
LA07/2017/0603/O

Date Received:
21/04/2017

Proposal:
Proposed two storey dwelling

Location:
Adjacent to number 1 John Mitchel Street, Newry

Site Characteristics & Area Characteristics:

This site is located within the settlement limits of Newry in an established residential area with a mix of dwelling styles, primarily two storey and ranging from terrace to semi-detached dwellings. The site itself comprises No.1 John Mitchell Street and its garden area, an end plot within a row of two storey terraces, close to the intersection of John Mitchel Street, Church Street, Pound Street and Temple Hill Road as shown. Given the variation in road level, the site is positioned some 2.5-3 metres below Pound Street, with an existing retaining wall within the site, which is accessed via a pedestrian gateway off John Mitchell Street.



Site and relevant surrounding history:

There are no previous planning records held in respect of this the site.

Planning Policies & Material Considerations:

- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- The Banbridge / Newry and Mourne Local Area Plan 2015 (BNMAP)
- PPS3 'Access, Movement and Parking'
- PPS6 'Planning, Archaeology and The Built Heritage'
- PPS7 'Quality Residential Environments'
- PPS7 Addendum: 'Safeguarding the Character of Established Residential Areas.'
- PPS12 'Housing in Settlements'
- DCAN 8 'Housing in existing Urban Areas'
- PPS15 'Planning and Flood Risk'
- DOE 'Creating Places: Achieving quality in residential environments'

Consultations:**DfC Historic Environment Division: Historic Monuments (17/08/2017)**

On the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

DfI Rivers Agency (04/09/2017)

No objections to the proposal. Informatives attached regarding PPS15 Policy FLD 3 Development and Surface Water (Pluvial) Flood Risk outside Flood Plains.

DfI Transport NI (30/01/2018)

Following amendments, no objections in principle to the proposal subject to attached conditions, which includes the requirement for TAS approval prior to commencement of any works approved on this site.

NI Water (11/05/2018)

No objections, standard informatives attached.

Objections & Representations

- 7 Neighbouring properties were notified on 16/08/2017 with statutory expiry period 30/08/2017;
- Application advertised in 3 local papers 10/05/2017 and 12/05/2017 (statutory publication period expired 26/05/2017)
- 0 objections or representations 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. In addition, Para 3.8 of the SPPS requires that proposed development which accords with the Plan should be approved and development which conflicts with an up-to-date plan should be refused, unless

material considerations indicate otherwise. The subject site is located within the settlement limits of Newry (NY01), an Area of Archaeological Potential (NYAAP01) and there is a designated Archaeological Site and Monument (St. Patrick's Church and Graveyard (DOW046:039) approximately 200m north-west of the site which HED:HM has commented on in respect of SPPS and PPS6 requirements. This proposal seeks outline approval for the erection of a two storey dwelling adjacent to No.1 John Mitchel Street. As there are no specific policies within BNMAP relevant to this determination, this proposal is primarily assessed against the merits of retained policies PPS3, PPS7 (and its addendum,) , PPS12, and PPS15, together with the supplementary guidance of DCAN8 and 'Creating Places' in line with SPPS requirements.

PPS7 and Addendum / PPS12 / DCAN8

Policy QD1 of PPS7 sets out nine criteria (a to i) which must be met in all new residential development. In terms of the development principle, residential development is appropriate in this surrounding context provided the additional policy requirements are met. Against criteria a) however, the topography of the site presents a challenge for any future development in terms of layout, considered together with the requirements of criteria c) in terms of private amenity space. The plot width measures 8.5m at its widest point, which includes the existing retaining wall as shown:



View of site and existing side garden to No.1 taken from Pound Street

Paragraph 5.19 of 'Creating Places' advises that an area of less than 40m² private amenity space will generally be unacceptable for any individual house. The plans provided would appear to indicate that a small area of rear and side private amenity

space can be provided. When considering the topography of the site however and the existing retaining wall, the level of *usable* private amenity space that can be provided would appear to be below these minimum requirements. In this regard, the proposal is deemed to be unacceptable against the requirements of criteria (a) and (c) of Policy QD1, in addition to paragraph 3.24 of DCAN8.

Under Policy LC1 of PPS7 Addendum, planning permission will only be granted for the infilling of vacant sites including extended garden areas such as this one, where all the criteria against Policy QD1 of PPS7 and the additional criteria (a) to (c) of LC1 are met. Given the site's limitations with the topography and retaining wall element, the proposed dwelling is considered inappropriate in terms of the pattern of development and residential character as it would result in overdevelopment of the existing garden area, which is also contrary to Planning Control Principle 1 of PPS12. Whilst this is an outline application, the minimum space requirements for this development include 70/75m² on the basis of a 3-person 2 bedroom dwelling as set out by Annex A of PPS7 Addendum. The indicative dwelling layout provided shows a ground floor area of 18m². On this basis, the dwelling falls significantly short of (minimum) internal space requirements for a two storey dwelling. The proposed density is considered to be unacceptable for this site and would compromise the character of this established residential area, contrary to Policy LC1 of PPS7 Addendum.

PPS3 – Access, Movement and Parking

An office meeting was held with the appointed agent, Planning Department and TNI to discuss TNI requirements in respect of this proposal, who advised that Technical Approval of Structures (TAS) approval is required for the proposed development, which is required for all development within the road boundary (6m of a road) or which support the public road, such as the retaining wall within this site. A 6m separation distance would therefore be required between the existing retaining wall and any new development i.e. foundations, walls etc. Nonetheless, in respect of PPS3 requirements, the proposal is acceptable in principle, subject to conditions being met, which includes TAS approval prior to commencement on site, a matter which will be negatively conditioned in the event of an approval.

PPS 15 - Planning and Flood Risk

Paragraph 6.104 of the SPPS in particular requires that the most up to date information on flood risk is taken into account when determining planning applications. DfI Rivers Agency advise that the site lies partially within a predicted flooded area though a drainage assessment is not required by policy. Rivers Agency has no objections to the proposal subject to attached informatives being adhered to.

Recommendation:

Refusal

Reasons for Refusal:

1. The proposal is contrary to paragraph 6.137 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) Policy QD1 of the Departments' Planning Policy Statement 7: Quality Residential Environments and Paragraph 3.24 of Development Control Advice Note 8 in that it has not been demonstrated that the development would create a quality and sustainable residential development and it has not been shown:

a) that the development respects the surrounding context and is appropriate 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;

c) that adequate provision is made for private amenity space an integral part of the development
2. The proposed development is contrary to paragraph 6.137 of the SPPS and Planning Policy Statement 7 Addendum 'Safeguarding the Character of Established Residential Areas' in that the proposed development is not in keeping with the overall character and environmental quality of the established residential area and the dwelling would fail to meet the internal space requirements set out in Annex A.
3. The proposal is contrary to Paragraph 6.137 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Planning Policy Statement 12 'Housing in Settlements' Planning Control Principle 1 in that:
 - the proposed development would erode the local character, environmental quality and residential amenity; and
 - the proposed density, together with form, scale and massing and layout of the new development is not in keeping with the adjacent housing.

Case Officer Signature:

Date:

Appointed Officer Signature:

Date:

APPLIC NO	LA07/2017/1704/O	Outline	DATE	03/11/2017
COUNCIL OPINION	REFUSAL		VALID	
APPLICANT	Ms Clair Ferris Millisle Newtownards BT22 2DY	Killoughy Road South	AGENT	Tumelty Planning Services 11 Ballyalton Park Ardmeen Downpatrick BT30 7BT 07768057822
LOCATION	Between 16 & 20 Lough Road Crossgar BT30 9DT			
PROPOSAL	Proposed 2 no dwellings on in-fill site under Policy CTY8			
REPRESENTATION				
S	OBJ Letters 2	SUP Letters 0	OBJ Petitions 0	SUP Petitions 0
	Adresse s	Signature s	Adresse s	Signature s
	0	0	0	0

1. The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not respect the existing development pattern along the frontage, and would, if permitted, result in the addition of ribbon development along Lough Road.



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**Newry, Mourne
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Application Reference: LA07/2017/1704/O

Date Received: Nov 2017.

Proposal:

Outline planning permission is sought for 2 infill dwellings (under policy CTY8 of PPS21), on lands between 16 and 20 Lough Rd, Crossgar.

Applicant: Claire Ferris

Location:

The site is located in the countryside off the Lough Road, between Crossgar and Killyleagh as identified in the Ards and Down Area Plan 2015. The Lough Road is considered to be a relatively minor, windy road whereby this area is pre-dominantly rural in character, although also includes several dwellings/holdings. There do not appear to be any other zonings affecting the site.

Site Characteristics & Area Characteristics:

The site is located along Lough Road and comprises an irregular shaped roadside field at present, enclosed by a grass verge, hedgerow, scattered planting and post and wire fencing.

The site is bounded by the dwelling and curtilage of no.20 to the north side and the dwelling and curtilage of no.16 and a field to the south side.

No.20 includes a sizeable dwelling whereby the curtilage extends down to and accesses onto the road, and also extends around the rear of the application site.

This dwelling at no.20 is occupied at present.

The dwelling and curtilage of no.16 is set back from the road, whereby the dwelling is vacant and the site overgrown at present. This property accesses onto a laneway. There is clear evidence of a natural stone wall and several trees some 5-10m forward of the existing dwelling which appears to define the extent of the site curtilage, thus does not extend down to adjoin the road, whereby the adjoining field then extends from this curtilage down to the road.

Site History:

A history search has been carried out for the site and surrounds whereby the most relevant history observed includes the following:

LA07/2015/1315/O- Lands between 16 and 20 Lough Rd, Infill dwelling, Outline, Refusal 29-09-16, Appeal Allowed 23-05-17, Applicant: Claire Ferris

There is also history on the adjoining lands including:

LA07/2016/0912/O- 16 Lough Rd, Replacement dwelling, Outline, Approval, 20-09-17, Applicant: Claire Ferris (Also R/99/0673)

R/2015/0122/O- Lands 60m of 16 Lough Rd, Farm dwelling, Outlined, Approval, 09-11-15, Applicant: Claire Ferris

Consultees

Having account the nature of this proposal, and location and constraints of the site consultations have been carried out with Transport NI, NI Water, Environmental Health, Rivers Agency and Shared Environmental Services, as part of this application, whereby it is considered no objections are offered in principle.

Representations

None received to date (06-04-18)

Having account the extent of the red line and current practice neighbour notification was undertaken with no.17 and 20 Lough Rd in Nov 2017, while the application was also advertised in the local press in Nov 2017.

Applicable Policy Considerations:

Ards and Down Area Plan 2015, RDS, SPPS, PPS3, PPS21 and associated supplementary guidance documents

As stated above the site is located in the countryside whereby Policy PPS21 and the recently published SPPS apply.

One of the policies retained by the recently published SPPS is PPS21, whereby it is considered there is no conflict or change in policy direction between the provisions of the SPPS and those of PPS21.

As such it is considered PPS21 remains the applicable policy context to consider the proposed development under.

In a statement to the Assembly on 1st June 2010, the Minister of the Environment indicated that the policies in this final version of PPS21 should be accorded substantial weight in the determination of any planning application received after 16 March 2006.

PPS21 sets out the planning policies for development in the countryside (any land lying outside of development limits as identified in development plans).

Policy CTY1 states there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.

This is an Outline application for 2 dwellings, whereby a P1 form, site location plan, indicative site layout plan and Design and Access Statement have been submitted. The information submitted indicates the applicant (Claire Ferris) lives at no.1 Killoughy Road South (Millisle), and owns the application site and adjoining field to the south and west of the site.

Based on the information submitted this application is for the development of a gap site to be considered under policy CTY8 of PPS21.

As stated above the site comprises a roadside plot along the Lough Road and can generally be described as being located between the dwelling and curtilages of no.16 and 20 Lough Rd, although it is noted the curtilage of no.16 does not extend down to the road, as there is a field between this property and the road.

With regards to policy CTY8, a substantial and built up frontage is defined as a line of 3 or more buildings along a road frontage.

The site history is important in assessing this application

Application LA07/2015/1315/O (Lands between 16 and 20 Lough Rd), was refused planning permission for an Infill dwelling, however the subsequent appeal was allowed. This Outline application only included a site location plan.

The sole reason for refusal stated:

- The proposal is contrary to the Strategic Planning Policy Statement for N.I (SPPS) and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along Lough Road, and does not represent a gap site within a substantially and continuously built up frontage, along a road frontage.

In allowing this appeal the Commissioner concluded that the curtilage of no.16 extends to adjoin the public road and has a frontage to it.

During the site visit the appellant stated that the remnants of a stone wall which run along the frontage of the dwelling never extended across the dwelling to separate it from road and that there was once a path to the house that led to the front garden, and that she also played in this front lawn as a child and that this land was never used for agricultural purposes.

The comments from the appellant are noted, however the aerial photographs supplied by the agent during the processing of the planning application would appear to contradict this.

However, as outlined above, the Commissioner accepted the oral evidence provided by the appellant and also considered there is no boundary feature to the front of no.16 that physically or functionally separated it from the road, and that the area to the front of no.16 reads as a front garden associated with this property. The appeal site had a frontage of approx 66m.

Application LA07/2016/0912/O (16 Lough Rd), was granted Outline permission for the replacement of no.16, which included an area shaded Yellow restricting the extent of the curtilage back some 30m from the road.

In summary there is an extant Outline permission for an infill dwelling between no.16 and 20, and an extant Outline permission for a replacement dwelling at no.16.

As outlined above the site is located between the dwelling and curtilages of no.16 and 20, which have been deemed by the PAC to each have frontages to the Lough Rd. As such it is considered the frontage associated with this application is limited to the dwellings and curtilages of no.16 and 20.

It is acknowledged there are additional dwellings further along the Lough Road, however these do not form part of this assessment as they are considered to be either located too far away following a break in the built up frontage.

It is considered No.16 and 20 extend to adjoin and provide frontages to the Lough Road, whereby no.16 includes detached outbuildings to the side.

Having account the above, including appeal decision, it is considered the application site comprises a gap site within an otherwise substantial and continuously built up frontage.

The lands comprising the application site are irregular in shape and include a frontage of approx 66m, although the depth varies due to the irregular shape. The frontage of no.16 (as accepted by the PAC) is approx 40m, while the frontage of no.20 is approx 90m.

The site layout plan provided (scale 1:500), entitled 'Information' is noted, however the scale of this drawing does not appear to be accurate and suggests a larger site frontage than that indicated on the site location plan.

The average frontage of the existing plots of 16 and 20 is 65m, which is almost identical to the red line frontage of the current application site, thus would suggest the site is only large enough and capable to accommodate 1 dwelling which would respect the existing development pattern and requirements of CTY8.

It is considered sub-dividing this site in to 2 separate plots does not respect the existing development pattern along the frontage, not only in terms of the plot frontages, but also the general plot sizes, and is contrary to policy CTY8 of PPS21.

As this is an Outline application no detailed plans have been provided, while the indicative site layout plan submitted is considered inaccurate, as outlined above. This site is considered to be relatively flat and low lying, whereby the road and lands rise to either side, whereby the site is bounded and enclosed by the established curtilages of no.16 and 20 to either side, thus no concerns are raised regarding compliance with policies CTY13 and 14.

It is also noted these dwellings will be served by a bio disc, whereby it is considered there are sufficient lands to accommodate these services with associated soak-aways.

However taking into account the above, it is considered the proposal is contrary to the policy requirements of CTY8 of PPS21, whereby the principle of 2 infill dwellings is not accepted.

Accordingly Refusal is recommended.

Recommendation: Refusal.

Reasons:

- **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.**
- **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 respect the existing development pattern along the frontage, and would, if permitted, result in the addition of ribbon development along Lough Road.**



Planning Committee Site Visit Note

REF: LA07/2017/1704/O

PROPOSAL: Proposed 2 no dwellings on in-fill site under Policy CTY8 Between 16 & 20 Lough Road Crossgar

DATE: 08 October 2018

ATTENDEES: Cllr Larkin
Cllr Ruane
Cllr Casey
Cllr McAteer
Cllr Craig
Cllr Macauley
Cllr Loughran
Annette McAlarney (Senior Planner NMDC)

Site viewed from frontages along Lough Road namely No16 and No.20, site viewed from road frontage, size of adjoining plots highlighted, size of proposed sites highlighted.

History on site highlighted ie previous finding of PAC for 1 no Infill dwelling.

Site visit concluded.

Annette McAlarney

Senior Planner
08 October 2018

Planning Committee Schedule of 21st November 2018

Planning reference: **LA07/2017/1704/O**

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

Date Valid 13 November 2017

Applicant: **Clare Ferris**

Location: **Between 16 and 20 Lough Road**

Recommendation: **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 CTY8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not respect the existing development pattern along the frontage, and would, if permitted, result in the addition of ribbon development along Lough Road

Site Description

The site is located in the countryside off the Lough Road, between Crossgar and Killyleagh as identified in the Ards and Down Area Plan 2015. The Lough Road is a minor road and the general area is considered to be rural in character, although there are several dwellings/holdings in the area of the application site.

Site History

Application LA07/2015/1315/O (Lands between 16 and 20 Lough Rd), was refused planning permission for an Infill dwelling.

This decision was appealed to The PAC and the subsequent appeal was allowed.

In allowing this appeal the Commissioner concluded that the curtilage of no.16 extends to adjoin the public road and has a frontage to it.

The commissioner also accepted that the dwelling at No16 had also been the subject of a previous approval **R/1999/0673/F** and the area outlined in that approval also extended to the public road.

In summary there is an extant Outline permission for an infill dwelling between no.16 and 20 ie **LA07/2016/0912/O**.

Assessment of reasons for Refusal

PPS 21 sets out the planning policies for development in the countryside (any land lying outside of development limits as identified in develop plans (Ards and Down Area Plan 2015)

Development in the Countryside.

There are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development, and one of policy is the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8

The application site is rectangular in shape and is located in a gap site between 2 dwellings (No 20 to the North and No16 to the South) both dwellings having associated building located in their vicinity as can be seen from ordinance survey maps and aerial photography.

No 16 is currently a vacant farm house due to the death of the applicant's mother and has benefited from the grant of a planning approval for a replacement under Planning Approval ref: **R/1999/0673/O** (now lapsed) and also has an extant consent under Planning ref: **LA07/2016/0912/O**

Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development.

An exception to Policy CTY8 states that permission will be granted for development of a small gap site sufficient only to accommodate up to a maximum of 2 houses within an otherwise substantial and continuous built up frontage.

Policy CTY8 clarifies further by stating that “For the purpose of this policy, the definition of a substantial and continuous built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.”

The main issue in relation to this proposal is not that the site is compliant with policy CTY8 as it has been the subject of a successful appeal to the PAC for one dwelling, rather it is the acceptability of two dwellings on the site each with a frontage of 35m similar to No 16 which has similar width of frontage.(See attached map 7 photograph showing measurements).

The width of frontage of No16 has not changed from the date of that PAC decision and it is argued that the width of both the proposed sites would be acceptable as compatible with that of No16.

The **2nd Reason for Refusal** also makes refers to Planning Policy CTY14 while the case officers statement clearly states that **“thus no concerns are raised regarding compliance with policies CTY13 and 14”** and a similar comment is made in the officers report in relation to the refusal reason which was overturned by the PAC in relation to one dwelling on the subject site. The writer concludes that this inclusion of a refusal based on Policy CTY14 is clearly a clerical error and should not be considered or if it is to be considered then further clarity can be sought to allow for a rebuttal at Committee stage.

Conclusion

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

APPLIC NO	LA07/2017/1455/F	Full	DATE VALID	22/09/2017
COUNCIL OPINION	APPROVAL		AGENT	Estates NMDDC
APPLICANT	Newry Mourne and Down DC Council Offices Haughey House Greenbank Industrial Estate Newry BT34 2QU			Council Offices Haughey House Greenbank Industrial Estate Newry BT34 2QU 02830313222
LOCATION	Adjacent existing pavillion Castle Park Newcastle			
PROPOSAL	Proposed new bowling club pavilion to include main hall, toilet's and changing facilities			
REPRESENTATIONS	OBJ Letters 0	SUP Letters 0	OBJ Petitions 0	SUP Petitions 0
	Addresses 0	Signatures 0	Addresses 0	Signatures 0



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**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2017/1455/F

Date Received: 22.09.2017

Proposal: Proposed new bowling club pavilion to include main hall, toilet's and changing facilities

Location: Adjacent existing pavilion Castle Park Newcastle

Site Characteristics & Area Characteristics

The site lies within the settlement limits of Newcastle and adjoins the Town Centre. The site is located on lands zoned in the Ards and Down Area Plan as an Area of Existing Amenity Open Space NE 20. Located within the AoNB.

The site lies adjacent to the existing Bowling Pavilion in Castle Park. The application proposes a new Pavilion Building to include Hall, Changing rooms and Toilets. The existing Bowling Pavilion is to remain whilst a number of temporary structures (containers) will be removed.





Site History
None relevant.

Planning Policies & Material Considerations

SPPS

PPS2 Natural Heritage

PPS8 Open Space

PPS 15 Planning and Flood Risk

PPS3 Access Movement and Parking

Consultations

Rivers Agency	No Objection
Historic Monuments Division	No objection
DFI Roads	No Objection
NIW	No objection
NIEA Water Management Unit	No objection

Objections & Representations

The site was advertised in Mourne Observer 11.10.2017
33 neighbours were NN. No reps received.

Consideration and Assessment:

The proposal is assessed against the SPPS, PPS8 Open Space, PPS15 Planning and Flood Risk, PPS 3 Access Movement and Parking.

The application proposed a single storey pavilion building constructed on columns finished in grey Tegral cedar click board cladding and smooth render. Grey aluminium windows and doors and galvanised metal railings. The proposed pavilion shall replace a number of temporary structures on site and will also sit on an existing grassed area. The site will be enclosed with a 1.8m paladin fencing.

The SPPS

There is no conflict between the SPPS and PPS15 and PPS8.

PPS15 Planning and Flood Risk

The application site is located within the 1 in 100 year fluvial and 1 in 200 year Coastal Flood Plain. As such the development must be deemed an exception against Policy FLD1.

Policy FLD 1 requires

Development will not be permitted within the 1 in 100 year fluvial flood plain (AEP of 1%) or the 1 in 200 year coastal flood plain (AEP of 0.5%) unless the applicant can demonstrate that the proposal constitutes an exception to the policy.

Where the principle of development is accepted by the planning authority through meeting the 'Exceptions Test', as set out below under the Exceptions heading, the applicant is required to submit a Flood Risk Assessment for all proposals. Planning permission will only be granted if the Flood Risk Assessment demonstrates that:

- a) All sources of flood risk to and from the proposed development have been identified; and
- b) There are adequate measures to manage and mitigate any increase in flood risk arising from the development.

It is considered that the proposed development falls within the following exception.

f) The use of land for sport and outdoor recreation, amenity open space or for nature conservation purposes, including ancillary buildings. This exception does not include playgrounds for children.

The applicant has submitted a Flood Risk Assessment which has been accepted by Rivers Agency, a number of conditions will be attached referring to a Flood Emergency Management Plan to be in place in the event of a flooding incident.

In terms of Coastal Flooding, from the Tidal Shimna River and the Irish Sea, the predicted 0.5% AEP sea level at the location is **3.7m OD**. Predicted coastal flood depths at the north of the site where the development is proposed would range to a maximum of 0.55m. The proposed finished floor level of the proposed building would be 3.83m OD, thus providing a freeboard of 0.13m.

Rivers Agency have stated that this freeboard of 0.13m is below the recommended 600mm freeboard.

Similarly, in terms of the fluvial Floodplain which sits at **3.45 AOD** adjacent to the site, given the FFL of the building is 3.83m, thus providing a freeboard of 0.38m. Again below the 600mm recommended by Rivers.

The FRA accepts that "Dry access and egress from the proposed development would not be possible during the flooding of this site. Consequently there is a risk that access and egress to and from the development will not be feasible until flood waters abate"

Rivers Agency have recommended that given the 600mm freeboard is not being provided and given that the building is within the Floodplain it is imperative that a robust Flood Emergency Management Plan is in place and managed appropriately.

The applicant, NMDDC have provided a Community Flood plan which will be conditioned to the approval.

FLD 3 : Drainage Assessment received and assessed by Rivers Agency who have no reason to disagree with its conclusions.

FLD5 Reservoirs, contact has been made with the Reservoir owner and demonstrated that the condition, management and maintenance regime of the Reservoir is appropriate to provide sufficient reassurance regarding reservoir safety. This policy has been satisfied.

PPS 8 Open Space

The main objectives of PPS 8 are

- to safeguard existing open space and sites identified for future such provision;
- to ensure that areas of open space are provided as an integral part of new residential development and that appropriate arrangements are made for their management and maintenance in perpetuity;
- to facilitate appropriate outdoor recreational activities in the countryside;
- to ensure that new open space areas and sporting facilities are convenient and accessible for all sections of society, particularly children, the elderly and those with disabilities;

- to achieve high standards of siting, design and landscaping for all new open space areas and sporting facilities; and
- to ensure that the provision of new open space areas and sporting facilities is in keeping with the principles of environmental conservation and helps sustain and enhance biodiversity.

As the site is zoned as Existing Amenity Open Space then Policy OS 1 Protection of Open Space applies.

Policy OS1 states the

The Department will not permit development that would result in the loss of existing open space or land zoned for the provision of open space. The presumption against the loss of existing open space will apply irrespective of its physical condition and appearance.

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.

An exception will also be permitted where it is demonstrated that the loss of open space will have no significant detrimental impact on the amenity, character or biodiversity of an area and where either of the following circumstances occur:

(i) in the case of an area of open space of 2 hectares or less, alternative provision is made by the developer which is at least as accessible to current users and at least equivalent in terms of size, usefulness, attractiveness, safety and quality; or

(ii) in the case of playing fields and sports pitches within settlement limits, it is demonstrated by the developer that the retention and enhancement of the facility can only be achieved by the development of a small part of the existing space - limited to a maximum of 10% of the overall area - and this will have no adverse effect on the sporting potential of the facility. This exception will be exercised only once.

The current proposal does not result in the loss of open space, merely the addition of an ancillary building to serve the existing Bowling Pavilion. The new Pavilion building will be placed on an area of pre-existing hard standing and a small grassed area. The proposal does not therefore offend Policy OS1.

In terms of PPS 3 Access Movement and Parking, the application does not propose an access or increased parking as this is an existing facility with no increase in parking required.

The finishes to the Pavilion building include a Decra Roofing System, Tegral Cedral click cladding system (grey) and smooth render painted walls. PVC rainwater goods, grey aluminium windows and doors.

The scale and mass and finishes of the proposed development finishes are considered acceptable for this functional building, it is recognised that the building is located within an Area of Outstanding Natural Beauty, however given the functional nature of this building and the adjacent uses namely the existing amenity block and Council depot, the proposed development is considered acceptable.



APPLIC NO COUNCIL OPINION APPLICANT	LA07/2017/1485/F REFUSAL Mr J McCabe 62 Killyleagh Road Downpatrick BT30 9BN	Full	DATE VALID 29/09/2017 AGENT Dreem House Design 46 Scaddy Road Crossgar Downpatrick BT30 8BP 07484336245
LOCATION	Site approx. 250m south east of No 60 Killyleagh Road Downpatrick Co Down BT30 9BN		
PROPOSAL	Conversion & extension of barn previously approved under R/2014/0654/F with additional extension to form new domestic dwelling		
REPRESENTATION	OBJ Letters 0	SUP Letters 0	OBJ Petitions 0
	Adresse S 0	Signature S 0	Adresse S 0
			Signature S 0

The proposal is contrary to Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the reuse or conversion would not maintain or enhance the form, character and architectural features, design and setting of the existing building and would have an adverse effect on the character or appearance of the locality and the new extensions proposed are not sympathetic to the scale, massing, architectural style and finishes of the existing building.



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District Council

Application Reference: LA07/2017/1485/F

Date Received: Oct 2017.

Proposal:

Full planning permission is sought for amendments to the previous approval R/2014/0654 for the conversion and extension of the existing barn to a form a dwelling, with an additional extension now also proposed, on lands approx 250m south east of 60 Killyleagh Road, Downpatrick.

Applicant: Mr J McCabe

Location:

The site is located in the countryside, between Downpatrick and Killyleagh, in an AONB and Area of Constraint on Mineral Developments, as identified in the Ards and Down Area Plan 2015. It is also noted the Killyleagh Road is a Protected Route, whereby this area is predominantly rural in character. The site is also located close to the shore edge.

Site Characteristics & Area Characteristics:

The site outlined in red extends to include a barn and ruins of a former building, and an access laneway and portion of a field.

The application site and subject building is set back some 200m from the Killyleagh Road, whereby there is no existing access serving the site. The roadside field sits below road level and includes a grass verge and hedgerow although the hedgerow is below road level, whereby there is no access or laneway serving the site.

The existing buildings are not readily visible from this road due to their size, set back from the road and existing mature planting surrounding the site. There is an overgrown track leading from the existing building to the boundary with the field which extends to form the roadside boundary, however this track ends at the boundary of this field and does not continue to the road.

The building on site comprises a barn and ruins of a former building to the side. This barn is constructed in stone with natural slate roof, whereby the surrounding lands are overgrown.

Site History:

A history search has been carried out for the site and surrounds whereby the only relevant history observed includes:

R/2014/0654/F- Lands 250m SE of 60 Killyleagh Rd, Conversion and extension of vernacular building to dwelling, Full, Approval, 12-10-15, Applicant: Mr J McCabe

Consultations:

Having account the nature of this proposal and constraints of the site and area, and site history, consultation was undertaken with Transport NI, NIEA, Rivers Agency, Shared Environmental Services and Environmental Health.

As outlined above there is a recent permission for a similar proposal on this site, which remains extant, and is the fall-back position.

It is considered TNI, Rivers Agency, SES and Env Health offer no objections in principle. NIEA initially expressed concerns and requested further information, and following the submission of a Bat Roost Potential Survey and subsequent Bat Survey, in Jan and July 2018 respectively, now offer no objections.

(It is noted NED did not comment on the previously approved application, however as bats are protected species, it is considered this information must be supplied and fully considered, even though there is a previous permission on the site. In any event, the previous permission would have required to ensure no adverse impact on any bats).

Objections & Representations

Having account the extent of the red line of the application site and current practice, neighbour notification was undertaken with no.60 and 62 Killyleagh Rd in Oct 2017, while the application was also advertised in the local press in Oct 2017.

No representations have been received to date (15-08-18).

It was not considered necessary to re NN on receipt of the Bat Surveys as these were a request from NIEA and the Planning Dept.

Applicable Policy considerations:-

RDS, Ards and Down Area Plan 2015, SPPS, PPS3, PPS6, PPS21, and supplementary guidance including Building on Tradition (A Sustainable Design Guide for NI Countryside).

The SPPS came into effect in Sept 2015, whereby the provisions apply to the whole of N.I, and must be taken into account in the preparation of Local Development Plans (LDP) and are material to all decisions on individual planning applications and appeals.

As stated above the application site is located in the countryside outside any designated settlement development limit as identified in the Ards and Down Area Plan 2015, therefore the relevant policy context is provided by Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21). PPS21 is identified by the Strategic Planning Policy Statement for NI (SPPS) as a retained policy document.

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

Policy CTY4 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.

The SPPS however provides policy clarification in that it states at paragraph 6.73 that provision should be made for the sympathetic conversion and re-use, with adaption if necessary, of a locally important building as a single dwelling.

The introduction of a locally important test and the change in the wording from PPS21 indicates a deliberate intention to clarify the type of buildings considered acceptable for conversion.

The SPPS therefore offers clarity on the type of buildings that could be considered suitable for conversion. This list is not exhaustive and the onus is on the Applicant to demonstrate why a building could be considered locally important.

The transitional arrangements set out in paragraphs 1.10 to 1.13 thereof state that where the SPPS introduces a change of policy direction and/or provides a policy clarification that would be in conflict with retained policy, the SPPS should be afforded greater weight in the assessment of individual planning applications.

As outlined above there is already permission in place for the conversion and extension of the existing barn to a dwelling under R/2014/0654.

This previous application was submitted in 2014 and was considered against the provisions of PPS21 only (and not the SPPS), whereby Full permission was granted and remains extant and is material to the consideration of the current proposal.

As such, while the provisions of the SPPS are noted, there is a lawful extant permission to convert and extend the existing building to form a dwelling, which can be enacted, thus is the genuine 'fall-back' position.

It must be noted however that if there was no previous permission the principle of this conversion would likely fail the requirements of the SPPS for a locally important building.

However, in light of the above, it is considered no objections can be raised to the principle of a conversion in this instance, whereby the assessment is restricted to the amendments to this previous permission.

As part of this proposal a P1 form, Design and Access Statement, site location plan, approved plans and proposed plans have been submitted. (Several amendments were made to the design of the building in July 2018, although the footprint largely remained the same).

As stated above the site comprises an existing barn building which is set back approx 200m from the Killyleagh Road, surrounded by mature planting, with minimal presence or visual impact from any public viewpoint. There are no other dwellings in the immediate vicinity of the site which will be impacted upon by the development.

This application seeks to convert the existing barn to a dwelling together with the extension previously permitted, and also a new additional extension.

It is noted during the processing of the previously approved application it was originally sought to create a bigger dwelling however the Planning Authority had concerns with the level of works and intervention being proposed which did not maintain or enhance the form and character of the existing building as per policy CTY4 of PPS21. As such a reduced scheme was requested, and duly submitted showing the proposed new return removed which was subsequently approved.

This current application seeks to further increase the footprint of the building, both converting the existing barn, and extending it to the side in place of the existing ruins, as per the previous approval, however now also proposes creating a large new return to the front which will extend out in to the yard area.

This new return is much larger than that previously submitted and rejected as part of the previous application. Amendments are also proposed to the main building to be converted, with existing openings closed and new openings created.

It is considered the amendments and alterations to the existing building to be converted will result in the loss of original features and identity of the building.

The footprint of the new return is some 13m long and 6m wide, which is a larger footprint than that of the existing building to be converted.

Current policy clearly states that new extensions are sympathetic to the scale and massing of the existing building, however this proposed return which is larger than the existing building to be converted is clearly at odds with this policy, and is not acceptable.

As outlined above it was previously sought to provide a return to the front of the building to be converted however this was considered excessive and was rejected, however this current scheme proposes a further increase in the footprint, over and above that previously sought and rejected, whereby the building to be converted will actually be smaller than the additions. The previously approved conversion and extension comprised a 2 bedroom house with large open plan kitchen, dining and sitting room, which is considered suitable and sufficient for a proposal of this nature.

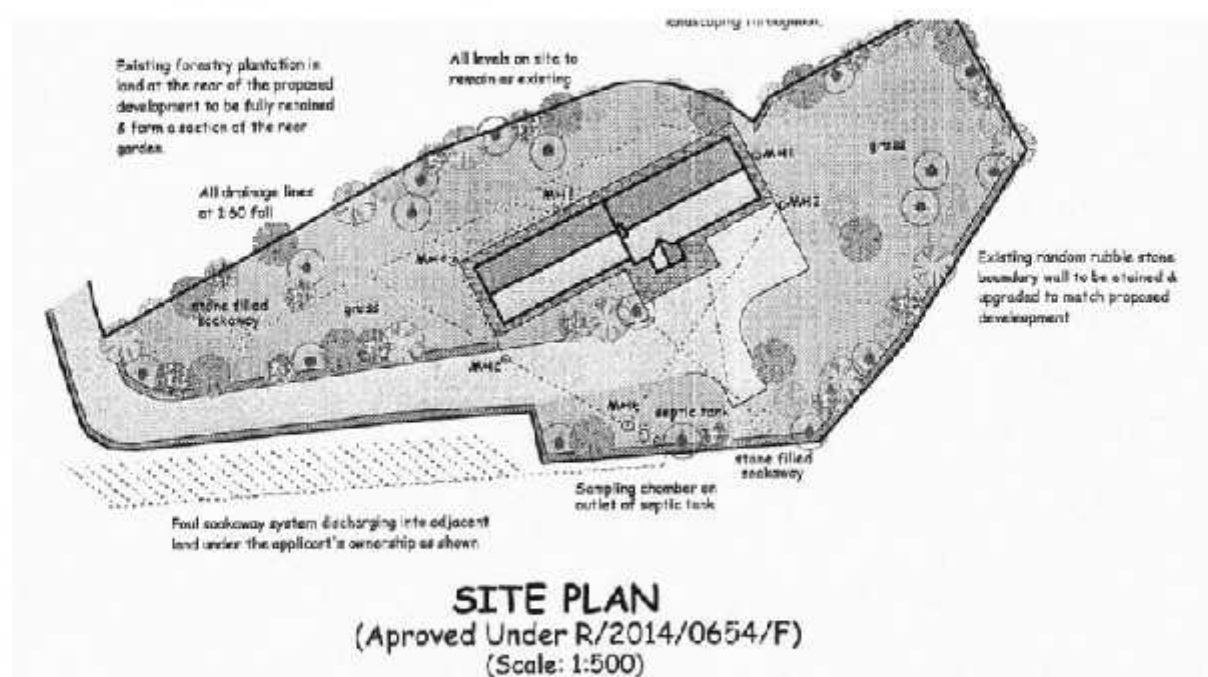
It is acknowledged that the applicant has an extant permission for conversion of the subject building pre the SPPS requirement that the building be locally important, determining weight is being attached to this. The Planning Office are not therefore refusing the application on the basis that it is not a locally important building, but it is refusing the application in terms of the new extensions being proposed against CTY4 of PPS21.

The agent has been made aware of the Planning Depts concerns, and has advised if permission is not granted on the basis of the current submission they intend lodging an appeal with the PAC.

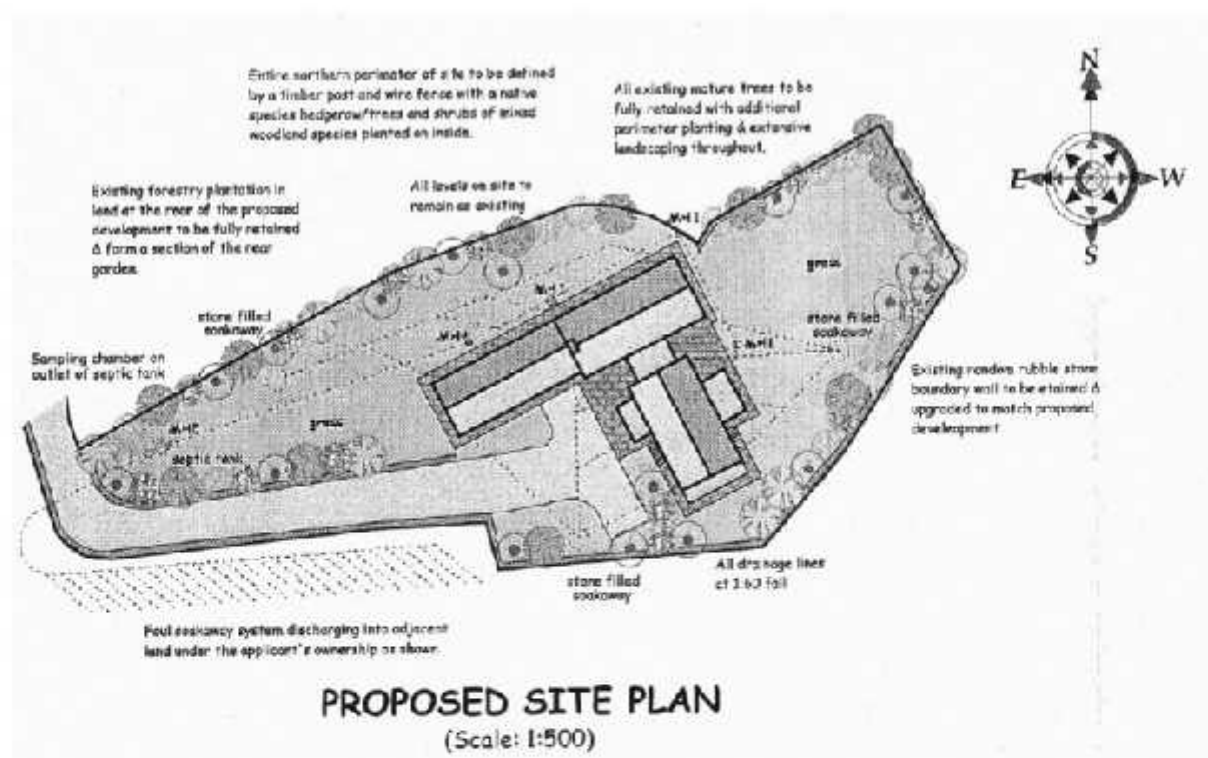
Recommendation: Refusal

- 1. The proposal is contrary to Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the reuse or conversion would not maintain or enhance the form, character and architectural features, design and setting of the existing building and would have an adverse effect on the character or appearance of the locality and the new extensions proposed are not sympathetic to the scale, massing, architectural style and finishes of the existing building.**

Previously approved site plan



Current Proposed site plan



APPLIC NO	LA07/2018/0250/F	Full	DATE VALID	05/02/2018
COUNCIL OPINION	REFUSAL			
APPLICANT	Mr G Morgan 51 Leitrim Road Hilltown Newry BT34 5XS		AGENT	Hawthorne Associates 2- 3 The Beeches Grove Road Spa Ballynahinch BT35 8RA 02897561488

LOCATION Lands 50 metres south of 30 Fofanny School Road

Cabra
Newry
BT34 5HA

PROPOSAL

Dwelling and garage on a farm

REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions
	0	0	0	0
			Addresses	Addresses
			Signatures	Signatures
			0	0
			0	0

1. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and policy CTY1 and CTY 10 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 The Strategic Planning Policy Statement Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed building would be a prominent feature in the landscape and the site lacks long established natural boundaries, relies primarily on the use of new landscaping for integration and would not visually linked or sited to cluster with an established group of buildings on a farm.

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, would be unduly prominent in the landscape.



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**Newry, Mourne
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Application Reference: LA07/2018/0250/F

Date Received: 23.02.2018

Proposal: Proposed dwelling and garage on a farm

Location: Lands 50 metres south of 30 Fofanny School Road, Fofannybane, Newry, BT34 5HA

Site Characteristics & Area Characteristics:

The application site is located off Fofanny School Road, Fofannybane. This area is rural in character with a number of farm outbuildings and rural dwellings. The site is located adjacent to no. 30 Fofanny. The application site as outlined in red is slightly rectangular in shape with very uneven topography which sees the site have a steep rise upwards from western to eastern boundary. The site is currently used for agricultural purposes.

The red line boundaries consist of a post and wire fence along the western and northern boundaries. The eastern and southern boundaries are undefined and open on to the agricultural field.

The application site is located outside any settlement development limits as designated within the Ards and Down Area Plan 2015. The site is also located within the Mourne Area of Outstanding Natural Beauty.



View of from the northern boundary along the Fofanny Road.



View of from the west of the application site

Site History:

R/2002/0248/F

Proposed replacement dwelling

Permission Granted: 22.05.2002

Planning Policies & Material Considerations:

Regional Development Strategy

Ards and Down Area Plan 2015

Strategic Planning Policy Statement of Northern Ireland

PPS 2- Natural Heritage (AONB)

PPS 3- Planning Policy Statement 3 – Access, Movement and Parking

AMP 2- Access to Public Roads

AMP 7 Car Parking and Servicing Arrangements

PPS 21- Sustainable Development in the Countryside

CTY 1- Development in the Countryside

CTY 10- Dwellings on Farms

CTY13- Integration and Design of Buildings in the Countryside;

CTY14- Rural Character

CTY16 – Development Relying on Non-Mains Sewage

Supplementary Planning Guidance:

Building on Tradition: A sustainable Design Guide for the Northern Ireland Countryside

Consultations:

Transport NI – have raised no objection to the proposed development

NI Water: Has no objections to the proposal

DAERA Downpatrick- Have stated that the Farm Business ID have merged from two businesses has been in existence for more than 6 years and have been claiming Single Farm payment.

Objections & Representations

1 Neighbour was notified on 28.02.2018 and the application was advertised on 28.02.2018. No objections or representations received.

Principle of Development

The site lies within the AONB and within the countryside as designated in the Ards and Down Area Plan 2015. There are no specific objections to the proposal with regard to the Area Plan.

PPS21- Sustainable Development in the Countryside

Policy CTY1 restricts new development in the countryside, but an exception for farm dwellings which are acceptable if in accordance with policy CTY10 of PPS 21.

CTY 10: Dwellings on Farms

The policy states that permission will be granted where all of the following criteria can be met:

- (a) the farm business is currently active and has been established for at least 6 years;
- (b) No dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and
- (c) The new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:
 - Demonstrable health and safety reasons; or
 - Verifiable plans to expand the farm business at the existing building group(s).

In regards to criteria a), DAERA has been consulted regarding the proposed development, and has stated that the farm has been in existence for more than 6 years and are currently claiming Single Farm Payment (SFP), Areas of Natural

Constraint (ANC) Payment or Agri Environment Scheme Payment. Therefore, the proposal meets the criteria.

Regarding criteria b), the applicant has submitted their farm maps, the application site can be identified within field number 4, page 2 of the farm maps provided. After conducting a planning history search of the land and applicants name and DARD no. that there have been no development opportunities sold off from the land holdings in the past 10 years. Therefore, the proposal meets the criteria.

In regards to criteria C), the proposed siting is located adjacent and south of no.30 Fofanny School Road. The active farm business ID is under Mr Gerard Morgan. A land and property search was conducted regarding the owner of no. 30 and it has been determined that the Mr Morgan does not own the dwelling and therefore cannot be considered as part of the established group of buildings on the farm.

The existing established group of buildings are located north of no.30 Fofanny School Road. Officers do not consider the application site is visually linked or sited to cluster with an established group of buildings on a farm. In the absence of demonstrable health and safety reasons or variable plans to expand the business the proposal is contrary to criteria C if CTY10.

The SPPS re-emphasises the need for the development to integrate and respect the rural character of the area.

CTY 13 – Integration and Design of Buildings in the Countryside

The proposal is also contrary to criteria A, B, C and G of CTY13 in that the proposed farm dwelling if permitted would be a prominent feature in the landscape and the site lacks long established natural boundaries, relies primarily on the use of new landscaping for integration and would not visually linked or sited to cluster with an established group of buildings on a farm. The proposal is contrary to CTY 13.

CTY 14 – Rural Character

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of the area. In this case, officers consider that the proposed dwelling is unduly prominent in the landscape. Officers consider the proposal is contrary to CTY 14.

CTY 16 – Development relying on Non Mains Sewerage

Any approval notice would contain a negative condition for the applicant to provide the Council with the consent to discharge before work commences. The proposal is in general compliance with CTY 16.

Access and Parking

The proposal must accord with AMP3 and AMP7 of PPS3. Transport NI has advised that they have no objection to the proposed development and in view of their comments I consider that the proposed development accords with policies AMP2 and AMP7 of PPS3.

Officer Recommendation

Refusal

Refusal Reasons

1. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and policy CTY1 and CTY 10 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 The Strategic Planning Policy Statement Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed building would be a prominent feature in the landscape and the site lacks long established natural boundaries, relies primarily on the use of new landscaping for integration and would not visually linked or sited to cluster with an established group of buildings on a farm.
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, would be unduly prominent in the landscape.

Case Officer Signature	
Date	
Appointed Officer Signature	
Date	

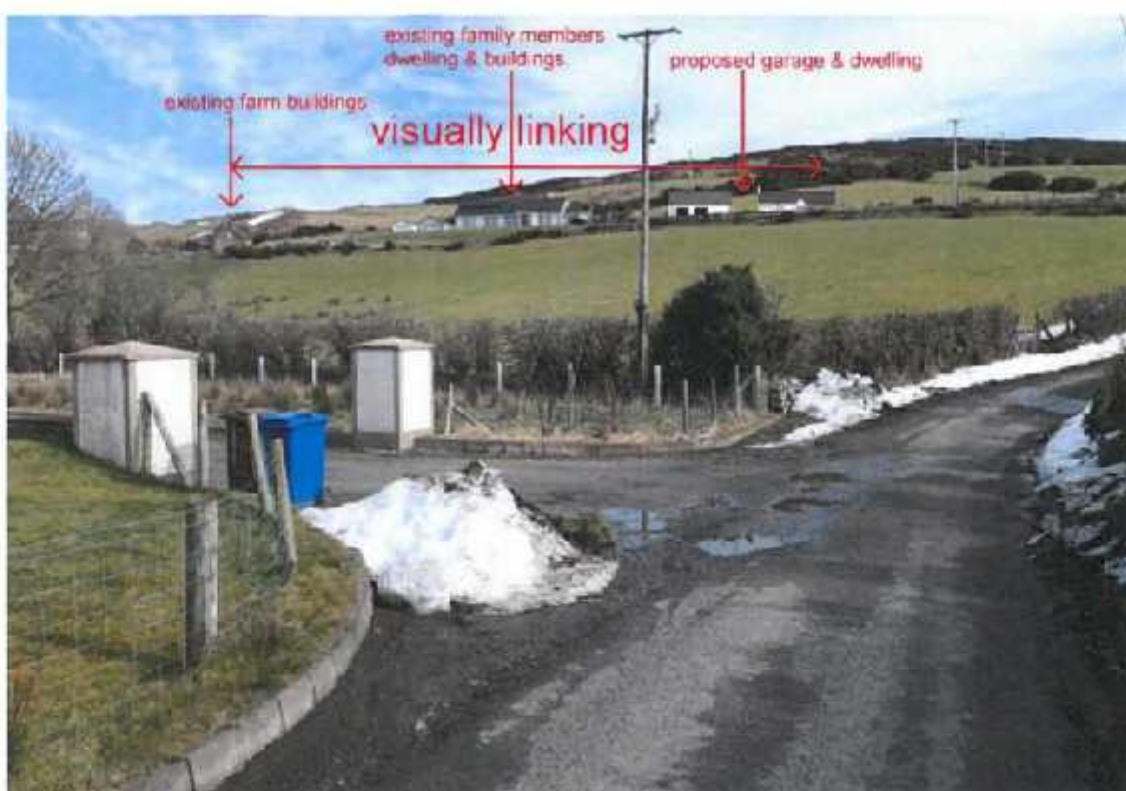
Presentation submission statement to the Planning Committee.

- The principle of a dwelling on this farm is acceptable to Council Planning.
- The dwelling number 30 as referred to within the Case Officer's report belongs to the applicant's sister Mrs R McVerry nee Rosie Morgan. (This is information already provided to the Case Officer via the submitted P1 application form). This dwelling was granted as a replacement for the original old farm house in May 2002. Members of the Morgan farming family have been in residence at this location for more than 120 years.
- Policy CTY 10 makes provision for a dwelling on a farm provided that no dwellings or development opportunities have been sold off the farm holding within 10 years of the date of application. The rational of the Officer's interpretation as to why dwelling number 30 cannot be considered as a building on this farm against which to cluster or visually link with is considered an inaccurate interpretation of Policy.
- SPPS and PPS 21 does not prevent other family members owning or residing in a farm dwelling – Policy CTY 10 advises that there is a continuing need for new dwellings on farms to accommodate both those engaged in the farm business and other rural dwellers.
- The proposed dwelling in fact has only some 15 /20 metres of gable separation between it and the existing dwelling on the farm. What Policy CTY 10 does not permit is the positioning of a new dwelling with buildings which are on a neighbouring farm holding, that is an entirely different circumstance from positioning with a family farm member's dwelling as is in this case.
- The existing farm buildings are firmly contained within a 40 -metre cartogram/radius as centred on the footprint location of the existing dwelling number 30.
- The existing dwelling number 30 is firmly contained within a 20-metre cartogram/radius as centred on the footprint location of the proposed dwelling.

Case Officer Photograph 01 titled "View of from the northern boundary along the Fofanny Road" is actually not taken on or along the Fofanny Road, it is an internal photo taken about point X (as notated on photo 02 below) viewing in a south easterly direction, it is deemed inadmissible and misleading as this is not a vantage or static view point, it does however strengthen our ascertainment of the existing high rising landscape character "back cloth canvas", against and within which the proposed dwelling will be framed.



"View of from the west of the application" - as Case Officer's photo 02.



"View of from the west of the application" Photo 02 with proposal. The proposed as figurately illustrated will not be an unduly prominent feature in the landscape by virtue of grouping and **visually linking** with the existing farm buildings and dwelling number 30, further fortified by the existing high rising landscape character "back cloth canvas", strengthened by the fact that the site is not skyline.

Compliance to Policy only requires "clustering" or "visually linking" NOT both.

The proposed as illustrated will not be a prominent feature in the landscape.

This photographic depiction demonstrating that the proposed building does not primarily rely on the use of new landscaping for integration.

Mr G Morgan

LA07/2018/0250/F

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- It is strongly contested that this proposed dwelling **both** clusters and is visually linked to the existing established buildings totally in compliance to policy.
- Albeit compliance to Policy only requires one of either "clustering" or "visually linking" NOT both.
- The proposed landscaping consists of a hedgerow and some trees which are primarily to demarcate the new curtilage in a traditional manner. The existing landscape and topography most certainly provide an excellent degree of enclosure, backdrop and screening, ensuring that proposal will integrate, the photographic illustration affirms.
- Council Planning has already granted approval for numerous applications where the same or similar issues were of consideration but deemed acceptable - examples of which are:

LA07/2017/0410/F Approved new boundary hedgerows on all 3 of the 4 of the site's boundaries.

LA07/2017/0949/O Approved with site boundary fencing and new hedge rows.

LA07/2017/1359/F Approval given for **170 metres** of new hedgerows, shrubs and trees.

LA07/2017/1529/F 75% new boundary hedgerow/s approved/given.

LA07/2017/1181/F New Hedgerow enclosure on 3 of the site's curtilage boundaries approved.

In Conclusion.

It is respectfully proposed that Committee grant approval of this application.

APPLIC NO	LA07/2018/0378/O	Outline	DATE VALID	05/03/2018
COUNCIL OPINION	REFUSAL			
APPLICANT	Judith Boyle Saintfield BT24 7EU	C/O 112 Monlough Road	AGENT	Dempsey Architects 677 Lisburn Road Belfast BT9 7GT
LOCATION	Site 200m south of 112 Monlough Road Saintfield			NA
PROPOSAL	Erection of a dwelling and garage on a farm			
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions
	0	0	0	0
		Addresses	Signatures	Addresses
				Signatures
				0

1. The proposal is contrary to SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that:

The farm business is currently active and has been established for at least six years;

The proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm

and access to the dwelling is not obtained from an existing lane;

Health and safety reasons exist to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm.

3. The proposal is contrary to SPPS and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.
4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that: the development would, if permitted, be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside.



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

Application Reference: LA07/2018/0378/O

Date Received: 05/03/2018

Proposal: Erection of a dwelling and garage on a farm

Location: 200m South of 112, Monlough Road, Saintfield, BT24 7EU



Site Characteristics & Area Characteristics:

Characteristics of site: The lands outlined in red are located approximately 200m South of No. 112 and approximately 50m North of No. 120. The topography of the site is relatively level, gradually sloping to the western boundary. The site runs adjacent to the Monlough Road, resting roughly at the midpoint between a gentle dip in the road. The site consists of open grassland, which has been carved out of a larger field. There is currently no roadside access to the site, with the only access being via a section of the field that is adjacent to the southern boundary of the site, lands which are owned by the applicant.

The boundary treatment along the roadside (eastern boundary) the site is enclosed by a 1.7m high mature hedgerow, that has been well maintained. The western boundary treatment consists of a row of mature trees that vary in species and height. The southern boundary treatment is similar to that of the western, however the boundary at the SE corner of the site has no defined boundary, that opens on to the adjoining field.

Characteristics of area: The application site is located outside any settlement development limits as designated with the Ards and Down Area Plan 2015. The area is of typical rural character and predominately agricultural use. The site is located approximately 130m east of the A7 Belfast Road.



Location of proposed dwelling & garage



View from the Monlough Road

Site History:

R/1988/0286 Between 110 and 120 Monlough Road, Lessans Saintfield. Dwelling and stables. Permission granted.

R/1988/0892. Between 110 and 120 Monlough Road, Lessans Saintfield. Bungalow, garage, stables and hayshed. Permission granted.

R/1984/0582 120 Monlough Road, Saintfield BT24 7EU Alterations to restaurant and new car park. Permission granted.

Planning Policies & Material Considerations:

The Ards and Down Area plan 2015

SPPS - Strategic Planning Policy Statement for Northern Ireland

PPS 3 - Access, Movement and Parking

AMP 2 - Access to Public Roads

AMP 7 - Car Parking and Servicing Arrangements

PPS 21 - Sustainable Development in the Countryside
 CTY 1 - Development in the Countryside
 CTY 10 - Dwellings on Farms
 CTY 13 - Integration and Design of Buildings in the Countryside
 CTY 14 - Rural Character
 CTY 16 - Development Relying on Non-Mains Sewerage

Consultations:

DAERA – The Business ID number has not been in existence for more than 6 years and subsidies have not been claimed in the last 6 years.

NI Water - Generic response

DFI Roads - No objections subject to the access being in accordance with the RS1 form.

Objections & Representations:

1 Neighbour within close proximity of the site No.120 was notified on 27/03/2018. This application was advertised in the local press on 28/03/2018. No objections or representations have been received.

Consideration and Assessment:

PPS 21 - Sustainable Development in the Countryside

Policy CTY1 restricts new development in the countryside, but makes an exception for farm dwellings, which are considered acceptable if in accordance with policy CTY10. Criteria (a) require the farm business to be currently active and to have been established for at least 6 years. DAERA advised in a consultation response dated 20/04/2018 that the associated farm has not been in existence for 6 years, and the farm business has not claimed the Single farm payment (SFP), Less Favoured Area Compensatory Allowances (LFACA) or Agri Environment Schemes within the last 6 years. This information provides the Council with the main means to determine if farm is currently active and established.

Criteria (a) affords a dwelling by those involved in the keeping and breeding of horses for commercial purposes will also be assessed under the criteria set out in this policy. Applicants will have to provide sufficient information to demonstrate a level of involvement commensurate with commercial activity over the requisite period of 6 years. Such information should include:

- a statement of commercial rateable history for the business;
- copies of appropriate Insurances;
- copies of 'Horse Passports' (if applicable); and
- any other information considered relevant to the particular case.

A request for this information was made to the agent on 25/04/18, in which the agent provided additional materials on 03/05/18. The materials submitted included various but quite limited bills and receipts, herd book and three horse passports. Case officer has carefully checked and considered the materials received, and concludes that although there has been some activity, the evidence fails to demonstrate a level of involvement commensurate with commercial activity over the requisite period of 6 years. The application fails to meet the policy requirements of CTY10(a).

Applicant cannot demonstrate the operation of a business engaged on agricultural activity or equine activity for the requisite 6 years.

The farmland has been checked for any development opportunities sold off from the holding. After an inspection of the farm maps that provided the full details of land owned by the farm which accompanied the application, the Council are content there has been no been no development opportunities sold off from the farm holding. The application therefore meets policy requirements of CTY10(b).

Criteria CTY10(c) requires that new building is visually linked or sites to cluster with an established group of buildings on the farm and where practical and access should be obtained through existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm provided there are no other sites available at another group of buildings on the far, or out-farm, and where there are either

- Demonstrable health and safety reasons; or
- Verifiable plans to expand the farm business at the existing building group(s).

The site outlined for the dwelling is located approx. 250m south west of the main farm holdings on the opposite side of the road 112 Monlough road, the registered address for the farm business. The proposed site is an open field that is absent of any buildings. Therefore it cannot be considered that the new building can be visually linked or sited to cluster with an established group of buildings on the farm.

Furthermore from looking at the site location plan, there are more suitable sites within the lands outlined in blue that may offer a possibility to visually link and cluster with an established group of buildings on the farm. Policy requires that where practical access should be obtained through existing lane. This particular site falls short of this requirement as it proposes access directly onto the Monlough Road.

The applicant stated several reasons on the P1C form stating why a dwelling on the main farm is unsuitable for health and safety reasons. After consideration Case officer determines that the reasoning provided fails to affirm appropriate and demonstrable evidence that would make exception to criteria (c).

A dwelling on a farm is required to meet all of the criteria in Policy CTY 10 for planning permission to be granted. Criterion (a) and (c) have failed to be satisfied, therefore the principle of development has not been established and therefore refusal will be recommended.

Policy CTY 13 - Integration and Design of Buildings in the Countryside, requires a new building in the countryside to be able to be integrated visually within the landscape in which it is set. The area inside the red line takes in a full agricultural

field, and no specific site has been pin pointed. As this is an outline application the siting and design would be determined at the Reserved Matters stage. However as this application is a road side site, absent of other developments, and being no defined boundary to the north and south east of the site, a dwelling and garage would be considered a prominent feature lacking integration into the landscape. As a result the proposal would rely on new landscaping for integration. Furthermore the proposed dwelling and garage is not sited to visually link or cluster with an established group of buildings on the farm and therefore also fails under CTY13.

Policy CTY 14 – Rural character requires new buildings in the countryside to not cause a detrimental change to, or further erode the character of an area. Case officer concludes that the proposal would not accord to this policy in terms of visual prominence and integration with the landscape.

Policy CTY 16 – Development relying on non-sewage waste. The application would appear to comply with this policy.

PPS 3 - Planning Policy Statement 3 – Access, Movement and Parking

DFI Roads initially responded that a sightline of 2.4m x 70m would be required at this location, requesting the applicant to amend the site outlined in red. The acting agent amended the lands outlined in red showing revised sightlines dated 30/04/2018. DFI have now confirmed that they have no objections to the proposal with regard to the above policy criteria subject to access being in accordance with the RS1 form.

Recommendation:

Refusal

Refusal Reasons:

1. The proposal is contrary to SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that:
 - The farm business is currently active (and has been established for at least six years);
 - The proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm and access to the dwelling is not obtained from an existing lane;

- Health and safety reasons exist to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm.
3. The proposal is contrary to SPPS and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.
 4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that: the development would, if permitted, be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside.

<p>Case Officer Signature:</p> <p>Date:</p>
<p>Appointed Officer Signature:</p> <p>Date:</p>

APPLIC NO	LA07/2018/0593/O	Outline	DATE VALID	19/04/2018
COUNCIL OPINION	REFUSAL			
APPLICANT	Dr Winston and Betty Shaw 11 Conor Park Ballynahinch BT24 8HN		AGENT	James Anderson 202 Belfast Road Ballynahinch BT24 8UR
LOCATION	24 metres behind 22 Mountview Road Ballynahinch BT24 8JR			NA
PROPOSAL	Erection of dwelling			
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions
	1	0	0	0
		Addresses	Signatures	Addresses
		0	0	0
			Signatures	Signatures
			0	0

1. Having notified the agent under Article 3 (6) of the Planning (General Development Procedure) Order (Northern Ireland) 2015 that additional information including 1/2500 map with sight visibility splays outlined in red is required to allow the Council to determine the application, and having not received sufficient information, the Council refuses this application as it is the opinion of the Council that this information is material to the determination of this application.
2. The proposal is contrary to SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.



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**Newry, Mourne
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District Council

Application Reference: LA07/2018/0593/0

Date Received: 19th April 2018

Proposal: Erection of Dwelling

Location: 24 metres behind 22 Mountview Road, Ballynahinch.



Site Characteristics & Area Characteristics:

The site in question is located off the Mountview Road, Ballynahinch and is accessed via an existing lane that serves dwelling no 22 Mountview Road. The site is located off the road and is currently used as what appears to be an amenity area serving dwelling no 22 Mountview Road, there are currently poly tunnels on the site and a green house. The site is relatively flat with adequate planting to the boundary of the site with the northern and southern boundaries benefitting from large deciduous trees. The site would have a level of visibility from the road.

The site is not located within any settlement limits as defined in the Ards and Down Area Plan 2015. Beyond the northern and eastern boundary is a fresh water drain. There are no other site specific constraints on the site itself noted.

Site History:

R/2003/0103/O – site adjacent to 22 Mountview Road, Ballynacarn North – proposed dwelling and garage – 06-09-2004 – granted.

R/2005/0052/O – Site adjacent to 22 Mountview Road – proposed dwelling and garage – 16-01-2008 – granted.

R/2007/0866/RM – site adjacent to 22 Mountview Road – proposed dwelling and garage – 16-01-2008 – granted.

R/2007/0297/F – Mountview road, Ballycairn – retrospective planning permission to return existing 3 car garage – granted – 05-07-2007.

R/2005/0836/F – Mountview Road, Ballycairn – retrospective planning permission to retain 3 car garage – granted – 05-07-2007

R/2005/0836/F – Mountview Road, Ballycairn North – dwelling and detached garage – 25-01-2006

R/2001/1056/O – land 90m w of 18 Mountview Road – erection of a two storey dwelling - 1-03-2002 – granted.

Planning Policies & Material Considerations:

The application is considered against Ards and Down Area Plan 2015 and in addition to this PPS2, Natural Heritage, PPS 3, Access, Movement and Parking, PPS 21 Sustainable Development in the Countryside and SPPS.

Consultations:

NI Water was consulted in relation to the application and responded with no objections.

Transport NI was consulted on the application and initially responded with a request for additional information, the agent was given the opportunity to provide this information and submitted amended drawings on 10th May 18. Transport NI was consulted again however the same information is outstanding; the agent has not addressed the request of TNI.

Objections & Representations

The application was advertised in the local press on 2nd May 2018 which expired 16th May 2018. Neighbour notification issued on 24th April and expired 8th May 2018. One objection has been received to date.

The objection was received from the owners/occupiers of no 20 Mountview Road and was on the following basis:

- The principle of development.
- Integration and design.
- Residential amenity
- Other (flooding, nature conservation and archaeology).

The objector sets out why they feel the application does not meet with relevant policy provision in relation to PPS 21, Sustainable development in the countryside (the objector

refers to the appeal site however this is a current application and not subject to appeal) and demonstrates how none of the circumstances set out in CTY 1 are met in order to merit a dwelling.

The objector also has issues with design and integration and believes that a larger two storey dwelling would be difficult to integrate and would impact on rural character. The objector also believes the development would result in a suburban type build up and impact negatively on the character of the area.

The objector also believes that the proposed development has the capacity to impact on their amenity in terms of overlooking, noise, overshadowing and dominance.

Nature conservation is also a concern for the objector given the existing planting on the site; the objector would have issue with any of the trees along the border being removed.

Consideration and Assessment

No conflict arises between the provisions of the Strategic Planning Policy Statement for NI, Planning for Sustainable Development (SPPS) and any retained policies therefore consideration is given to Planning Policy Statement 21 Sustainable Development in the Countryside.

Policy CTY 1 Development in the Countryside sets out a range of types of development which in principle are considered to be acceptable in the countryside.

It is considered most unacceptable that the agent failed to indicate which policy the application was being submitted for consideration under.

- **A dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a.**

The site is not sited within an existing cluster of development and does not meet the requirements set out in Policy CTY 2a as the existing buildings do not appear as a visual entity in the local landscape, one site is only at foundation stage and is not a building. The site is not associated with a focal point. The application site is not within an existing cluster therefore the requirement for enclosure and rounding off are no relevant.

- **A replacement dwelling in accordance with Policy CTY 3.**

There is no dwelling on the site to be considered for replacement therefore this section of policy is not applicable.

- **A dwelling based on special personal or domestic circumstances in accordance with Policy CTY 6.**

No evidence has been presented to support an application in relation to personal or domestic circumstances.

- **A dwelling to meet the essential needs of a non-agricultural business enterprise in accordance with Policy CTY 7.**

No evidence has been submitted to support an application in relation to a non-agricultural business or enterprise and there is no evidence of such a business in operation in or in close proximity to the site.

- **The development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8.**

CTY 8 states that development will be permitted of a small gap site sufficient to accommodate a maximum of two dwellings within an otherwise substantial and continuously built up frontage. The site presented does not represent a gap site as there is not considered to be a row of 3 or more buildings with a common frontage with a gap in between. What exists on site does not represent a gap site within a substantial and continuously built up frontage and therefore is not considered acceptable in terms of CTY 8.

- **A dwelling on a farm in accordance with Policy CTY 10.**

No information has been submitted to support an application in accordance with CTY 10, namely DAERA issue farm maps and a P1C form.

There are no buildings on the site to consider for conversions or extensions nor has any evidence been given to support multiple housing in terms of CTY 2 or CTY 5.

PPS 21 does refer to other types of development which will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement. No information has been submitted on the application as to the overriding need for this development in the countryside.

As the application does not meet with any of the provisions set out in CTY 1 of PPS 21 the application is not considered acceptable.

It is however noted that it is considered that a suitably designed dwelling could be accommodated on the site in accordance with CTY 13 Integration and Design in the Countryside.

It is noted that Transport NI had requested amended drawings to allow them to comment on the proposal and the agent was given 21 days to provide this information however the submission failed to address the request of TNI who repeated the request following further consultation therefore it is not considered the agent has made available all necessary information to allow full consideration of all aspects of the application.

The objection has been taken into consideration and while in agreement that there is no principle for development established it is considered a dwelling could be accommodated into the site provided it is suitably designed to integrate and not impact on neighbouring properties and on the basis that the existing planting is retained to aid integration.

Recommendation:

Refusal

Refusal Reasons:

- 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.

-
- Having notified the agent under Article 3 (6) of the Planning (General Development Procedure) Order (Northern Ireland) 2015 that additional information including 1/2500 map with sight visibility splays outlined in red is required to allow the Council to determine the application, and having not received sufficient information, the Council refuses this application as it is the opinion of the Council that this information is material to the determination of this application.

Case officer:

Authorised by:

Date:

APPLIC NO	LA07/2017/1299/F	Full	DATE VALID	23/08/2017
COUNCIL OPINION	REFUSAL			
APPLICANT	Mr Patrick Small 43 Upper Burren Road Warrenpoint BT34 3PT		AGENT	Cole Partnership 12a Duke Street Warrenpoint BT34 3JY 028 4175 3679
LOCATION	58 metres South East of 43 Upper Burren Road Warrenpoint BT34 3PT			
PROPOSAL	Erection of dwelling on a farm			
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions
	0	0	0	0
	Addresses	Signatures	Addresses	Signatures
	0	0	0	0
1.	The proposal is contrary the Strategic Planning Policy Statement for Northern Ireland (SPPS) and policy CTY 1 and CTY10 of Planning Policy Statement 21 'Sustainable Development in the Countryside,' in that the applicant has not provided sufficient information to confirm that the farm business is currently active and has been established for at least six years and that no development opportunities have been sold off or transferred from the farm holding within 10 years of the date of the application.			
2.	The proposal is contrary to policy CTY 13 of Planning Policy Statement 21 'Sustainable Development in the Countryside,' in that the proposed dwelling would be a prominent feature in the landscape.			
3.	The proposal is contrary to policy CTY 14 of Planning Policy Statement 21 'Sustainable Development in the Countryside,' in that the proposed dwelling would result in a suburban style build- up of development.			



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**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2017/1299/F

Date Received: 23 August 2017

Proposal: Erection of dwelling on a farm

Location: 58 metres South East of 43 Upper Burren Road, Warrenpoint

Site Characteristics & Area Characteristics:

The site is located behind number 43 Upper Burren Road, in a rural area. It is currently an agricultural field and is elevated from the road.

Site History:

P/2002/1686/F No 43 Upper Burren Road, Warrenpoint, Replacement dwelling, Permission granted 11 December 2002

LA07/2015/1168/F Proposed replacement dwelling and garage 58 meters SE of 43 Upper Burren Road, Permission Refused, 26 May 2016

LA07/2016/0941/F, Proposed Dwelling on Farm, 58 metres south east of 43 Upper Burren Road, Application withdrawn

Planning Policies & Material Considerations:

The Banbridge Newry and Mourne Area Plan 2015

The Strategic Planning Policy Statement (SPSS) for Northern Ireland

Planning Policy Statement (PPS) 3 – Access, Movement and Parking

Planning Policy Statement (PPS) 21 – Sustainable Development in the Countryside

Building on Tradition Design Guide

Consultations:

Transport NI – no objections

NI Water – no objection

DAERA - the Business ID number identified on the P1C form has not been in existence for more than 6 years and no payments or subsidies have been claimed by

this business in the last six years. In addition the applicant states that the reference number provided relates to the applicant's father.

Objections & Representations

2 neighbour notifications were issued on the 20 July 2017.

The application was advertised in local papers on 03 August 2017.

No objections or representations have been received in relation to this proposal.

Consideration and Assessment:

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is located outside settlement limits and is unzoned under BNMAP 2015. There are no specific policies in the plan relevant to the determination of the application so the application will be considered under the operational policies of the SPPS and PPS 21.

The SPSS, paragraph 6.73 states that "provision should be made for a dwelling house on an active and established farm business to accommodate those engaged in the farm business or other rural dwellers." It goes on to list a number of criteria:

- The farm business must be currently active and have been established for a minimum of 6 years; (For the purposes of the SPPS 'agricultural activity' is as defined by Article 4 of the European Council Regulations (EC) No. 1307/2013.)

In relation to this point, DARD have been consulted on the application and have stated that a Business ID number has not been in existence for more than 6 years and no payments or subsidies have been claimed in the last 6 years.

It therefore falls to the applicant to provide alternative evidence that the farm has been established for more than 6 years and is currently active.

A similar application was submitted in 2016 and the applicant was not able to demonstrate at that time that the farm was active and established. Information provided by the applicant as part of a previous 2016 application (LA07/2016/0941/F) stated that while Mrs B Small was the owner of the land, the land was let in conacre to a Mr McKay. In relation to the 2016 application, the applicant was not able to provide confirmation that Mr McKay had given permission for his farm ID to be used within the required timeframe. Therefore it was not possible to consult DAERA as to whether Mr McKay's farm business was active and established and no other evidence to this effect was submitted.

In relation to the current 2017 application, the applicant has stated that the land is still in the ownership of Mrs B Small and that although the farm was let out for a few years she now farms the land herself. The number provided on the P1C form does

not appear to be a farm ID number (which begins with 6) but rather another reference number. The applicant has provided some receipts for mowing and bailing. For the most part these are not addressed and do not of themselves demonstrate that the farm is currently active or that it has been established for six years. A letter from a local estate agent has also been provided stating that "lands at Upper Burren Road, Warrenpoint" have been maintained in good agricultural condition. No subsidies have been claimed. No evidence has been provided of what has been done to maintain the land in good agricultural condition. On the basis of the information provided, it has not been demonstrated that the farm meets the criteria set out in the SPSS – that the farm business is currently active and has been established for more than six years.

- No dwellings or development opportunities shall have been sold off or transferred from the farm holding within 10 years of the date of the application;

Planning permission was granted for a replacement dwelling (P/2002/1686/F) in December 2002 on lands included on the farm map provided by the applicant. No evidence has been provided to show that this development opportunity has not been sold off in the last ten years. Based on the information available on file, the proposal also fails on this criterion.

- The proposed dwelling must be visually linked or sited to cluster with an established group of buildings on the farm holding.

The proposed dwelling could be sited to group with the existing group of buildings adjacent to the site. This criterion therefore could have been satisfied if it was demonstrated that these buildings formed part of an active and established farm holding.

Paragraph 6.73 of the SPSS states that, "Dwellings on farms must also comply with LDP criteria regarding integration and rural character." No such criteria are contained in BNMAP 2015, however, the operation policies – CTY 13 and CTY 14 of PPS 21 are relevant. The proposed dwelling on the site is single storey, and makes use of traditional materials and building form. However, policy CTY 13 states that a new building in the countryside will be unacceptable where it is a prominent feature in the landscape. Although single storey, the proposed dwelling is on an elevated site and would be prominent when viewed from the Upper Burren and Greenan Roads. It therefore fails to satisfy criteria a of CTY 13. The proposal must also be considered against policy CTY 14 which states that a proposal will be unacceptable where it results in a suburban style build-up of development when viewed with existing and approved buildings. When considered alongside number 43 and the building group to the rear this proposal would result in a suburban style build up which is inappropriate to this location.

It is considered that unacceptable loss of amenity to nearby properties would not result from the proposed dwelling.

Recommendation:

Refusal

Refusal Reasons

1. The proposal is contrary the Strategic Planning Policy Statement for Northern Ireland (SPPS) and policy CTY 1 and CTY10 of Planning Policy Statement 21 'Sustainable Development in the Countryside,' in that the applicant has not provided sufficient information to confirm that the farm business is currently active and has been established for at least six years and that no development opportunities have been sold off or transferred from the farm holding within 10 years of the date of the application.
2. The proposal is contrary to policy CTY 13 of Planning Policy Statement 21 'Sustainable Development in the Countryside,' in that the proposed dwelling would be a prominent feature in the landscape.
3. The proposal is contrary to policy CTY 14 of Planning Policy Statement 21 'Sustainable Development in the Countryside,' in that the proposed dwelling would result in a suburban style build- up of development.

Case officer:

Authorised officer:

Cole Partnership
Architecture
and Project
Management
12A Duke Street
Warrenpoint
Co. Down
BT34 3JY

Re: Proposed dwelling on farm 58 metres South East of 43 Upper Dromore Road Warrenpoint.

Reasons for refusal:

- Insignificant information provided to show that the farm has been active for at least six years and that no development opportunity has been sold off in the last ten years.
- The case officers report states that “for the purposes of the SPPS ‘agricultural activity’ is as defined by article 4 of the European Council Regulation (EC) No. 1307/2013. This article confirms that *‘agricultural activity means production, rearing or growing agricultural products, including harvesting, milking, breeding animals, and keeping animals for agricultural purposes.’*”
- Information was provided to the case officer to show that the farm is currently active with the applicant cutting grass and selling silage to local farmers. The applicant also provided information to show that maintenance has been carried out on the farm. A letter from Bradley estate agents was also submitted confirming that the lands at Upper Dromore Road have been maintained in good agricultural condition. We would refer to appeal 2017/A0252. *“The appellant presented me with evidence spanning a number of years which indicates that he grows and harvests silage for sale to other farmers. In order to establish active farming the period referred to in both PPS 21 and the SPPS is described as ‘currently active’ which to my mind means ‘in the here and now’”* Information provided shows that the farm is currently active.
- No dwellings or development opportunities have been sold off or transferred from the farm holding within 10 years of the date of application. The case officer refers to replacement dwelling P/2002/1686/F, this dwelling was replacement of the farm house to which the farm is registered.
- Refusal reason 2 and 3 apply under PPS21 CTY 13 and 14. The case officer states the dwelling will be prominent from Upper Burren Road and Greenan Road under CTY13 and that it will result in sub urban style build up under CTY 14. Please see attached photographs from Upper Burren Road which show that it is impossible to see the site due to topography and mature vegetation. We would also note that the farm dwelling at this site is only visible from a small section of the Upper Burren Road.

Photograph 1: Existing farm dwelling only visible from a small section of Upper Burren Road



Photograph 2: View of site hidden by topography and mature vegetation along Upper Burren Road



Photograph 3: Site from Greenan Road will not result in sub urban style development.



- In a previous report, which has been removed from the planning portal, the case officer states, "the operation policies – CTY13 and Cty14 of PPS 21 are relevant the proposed dwelling on the site is single storey, of an appropriate scale for the site and makes use of traditional materials and building form, could be sited to group with other buildings and is accessed via an existing lane. Therefore in terms of design and integration is considered acceptable. Please see attached report which has been removed from Planning Portal.
- At no point would the proposed dwelling be visible from the Upper Burren Road due to topography and existing mature vegetation therefore would not be a prominent feature in the landscape. The proposed dwelling when viewed from the Greenan Road would not result in a sub urban style build up of development.

J. COLE
for Cole Partnership

APPLIC NO	LA07/2018/0537/O	Outline	DATE VALID	05/04/2018
COUNCIL OPINION	REFUSAL			
APPLICANT	James Donaldson and Roberta Heaney Corick Close 16 Manse Road Kilkeel BT34 4AD		AGENT	Glyn Mitchell Architectural Design 139 Ballinran Road Kilkeel BT34 4JB
				NA

LOCATION

35m East of No. 63 Ballinran Road (between No. 63 Ballinran Road and 4 Ballinran new Road)
Kilkeel
BT34 4JA

PROPOSAL

Proposed site for infill dwelling and domestic garage

REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions
	0	0	0	0
		Addresses	Signatures	Addresses
		0	0	0
			Signatures	0

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent a small gap site sufficient only to accommodate a maximum of two houses within an otherwise substantial and built up frontage and would, if permitted, result in the addition of ribbon development along Ballinran New Road.

3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted add to a ribbon of development and would therefore further erode the rural character of the countryside.



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

Application Reference: LA07/2018/0537/O

Date Received: 05/04/2018

Proposal: Proposed site for infill dwelling and domestic garage

Location: 35m East of No. 63 Ballinran Road (between No. 63 Ballinran Road and 4 Ballinran new Road), Kilkeel, BT34 4JA

Site Characteristics & Area Characteristics:

The application site is located along Ballinran New Road close to the junction with Ballinran Road. The site is irregular in shape sits at a slightly higher level than the road. The boundary along Ballinran New Road is formed by a brick wall. The site is adjoined to the west by 63 Ballinran Road and to the east by another field. The site is located within an Area of Outstanding Natural Beauty.



Application site frontage along Ballinran New Road

Planning Policies & Material Considerations:

This application will be assessed under the following policy considerations:

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

Site History:

There is no recent planning history on this site.

Consultations:

Transport NI- No objection in principle. Condition recommended.

NI Water- Generic response provided.

Objections & Representations:

Three neighbours were notified on 19/04/2018 plus an additional neighbour on 23/04/2018 and the application was advertised on 25/04/2018. No objections or representations have been received.

Assessment

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

Policy CTY 1 of PPS 21 lists a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. A number of instances when planning permission will be granted for an individual dwelling house are outlined. The Agent for this application contends that the proposal represents an infill opportunity in accordance with Policy CTY 8.

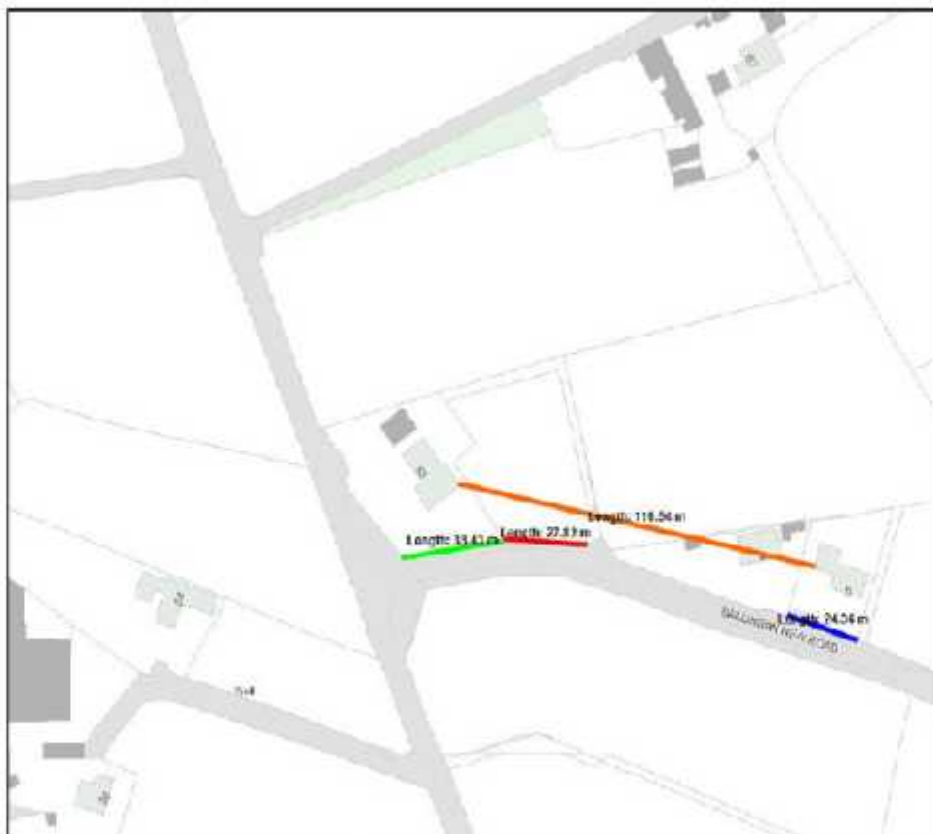
Policy CTY8 states that planning permission will be refused for a building which creates or adds to a ribbon of development, policy goes on to explain that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise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

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

- a) Identify if there is a substantial and continuously built up frontage
- b) Establish if the gap site is small sufficient only to accommodate a maximum of two houses
- c) Determine if the proposal would respect the existing development pattern in terms of size, scale, siting and plot size
- d) Assess the proposal against other planning and environmental requirements.

The application site is located along Ballinran New Road. To the west 63 Ballinran Road has a frontage along Ballinran New Road. The site is adjoined to the east by an agricultural field. Further to the east there is an existing building which is subject to live enforcement (LA07/2018/0236/CA) and an additional dwelling (No. 6) further to the east.

Due to the active enforcement under No. 4 and the absence of a Certificate of Lawfulness it cannot be considered as a building for the purposes of this policy. The distance between No 63 and No 6 measures 119.64m which does not constitute a small gap site as there are only two lawful buildings fronting onto Ballinran New Road. Therefore, there is no substantial and built up frontage as required by Policy CTY8 and the proposal fails to meet this policy.



Frontages along Ballinran New Road

Policy CTY 13 requires new buildings in the countryside to be visually integrated into the surrounding landscape. A new building will be unacceptable where it will be a prominent feature in the landscape, where it lacks long established natural boundaries or is unable to provide a suitable degree of enclosure or where it relies primarily on the use of new landscaping for integration.

There are a number of trees planted along the boundary with Ballinran Road and along the eastern and northern site boundary. However, when the site is viewed from the public road these trees offer little screening for the site and the site would rely on some new landscaping for integration. Given the presence of some landscaping it would be difficult to sustain a reason for refusal based on Policy CTY13.

Policy CTY 14 states that permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of the area. A new building will be unacceptable where it is unduly prominent in the landscape and where it creates or adds to a ribbon of development.

The proposal fails to comply with Policy CTY8 and if permitted would add to a ribbon of development along Ballinran New Road. The proposal is contrary to Policy CTY14.

Recommendation:

The proposal is contrary to Policy CTY1, CTY8 and CTY14 and is recommended for refusal.

Reasons for Refusal:

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent a small gap site sufficient only to accommodate a maximum of two houses within an otherwise substantial and built up frontage and would, if permitted, result in the addition of ribbon development along Ballinran New Road.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted add to a ribbon of development and would therefore further erode the rural character of the countryside.

Case Officer Signature:

Date:

Appointed Officer Signature:

Date:

* Subject
Request for Deferral, Rebuttal Submission and Request for Speaking
* Received on
2018-11-13 22:18:25
* From
johnlaw077@gmail.com
* To
democratic.services@nmandd.org
* CC
glyn <gjmdesign@hotmail.co.uk>
* Reason
* Status
Deferred
* Size
175 KB
* Filter
Clean
* Attachments
LA07:2018:0537:O Rebuttal for Mr Donaldson and Miss Heaney.docx 166 KB
Dear Sir/Madam,

Although I'm attaching a rebuttal submission to this email, I am also requesting that the subject planning application (ref: LA07/2018/0537/O) is deferred until a submitted Certificate of Lawfulness (Existing Development) is issued, which the Local Planning Authority (LPA) have deemed to be crucial in their consideration of the aforementioned Outline planning application.

It would be improper and prejudicial to issue a decision notice of refusal for the subject planning application while the aforementioned Certificate of Lawfulness (Existing Development) has yet to be issued. Therefore, we kindly request that the subject Outline planning application is deferred until the Certificate of Lawfulness (Existing Development) has been issued.

Although I've requested a deferral on behalf of the agent, Mr. Glyn Mitchell, please find attached the typed rebuttal submission on behalf of Mr. Donaldson and Miss Heaney, the applicants of planning application ref: LA07/2018/0537/O (site for infill dwelling and domestic garage 35 metres east of 63 Ballinran Road, Killeel).

In addition, if the subject planning application is presented to the Planning Committee on 21st November, I am emailing to request speaking rights for the agent, Mr. Glyn Mitchell, and to state that Mr. Mitchell does not want to be recorded during the Planning Committee meeting.

Kind regards,

John

Our Ref: 18/29

Your Ref: LA07/2018/0537/O



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

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

13th November 2018

Dear Sir/Madam,

Further to the above-referenced application and the Local Planning Authority's (LPA's) recommendation of refusal on three grounds, I am writing in full support of Mr. Donaldson's and Miss Heaney's proposal and rebutting, in turn, each of the LPA's reasons for refusal.

The first recommended reason for refusal states:

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

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

"The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent a small gap site sufficient only to accommodate a maximum of two houses within an otherwise substantial and built up frontage and would, if permitted, result in the addition of ribbon development along Ballinran New Road."

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

Policy CTY 8 states,

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

"An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear."

The application site occupies a position between three buildings, namely 63 Ballinran Road, 4 Ballinran New Road and 6 Ballinran New Road. Given the presence of the aforementioned buildings, and the location and overall plot size of the application site, the proposal occupies a small gap sufficient only to accommodate two dwellings within an otherwise substantial and continuously built up frontage.

A recent enforcement case was opened in relation to the aforementioned building known as 4 Ballinran New Road; please note that said building has been in existence and permanently lived within for in excess of the past five years. In this regard, Article 132 (1) of the Planning Act (Northern Ireland) 2011 states that, "Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of 5 years beginning with the date on which the operations were substantially completed."

Please note that a Certificate of Lawfulness (Existing Development) has been submitted to the Local Planning Authority (LPA), seeking a written determination that the established and permanent building at 4 Ballinran New Road is indeed lawful. An abundance of supporting evidence for in excess of the previous five years has also been attached to said submission, which clearly establishes the fact that the building was completed over five years ago and has been continuously inhabited during that timespan.

As the aforementioned building was completed over five years ago and has been inhabited constantly for in excess of the previous five years, and has not been the subject of any previous enforcement action, it is therefore deemed to be lawful in accordance with Planning Policy Statement 9: The Enforcement of Planning Control and Article 132 of the Planning Act (Northern Ireland) 2011. In this regard, it should be highlighted that it is not the Certificate of

Lawfulness (Existing Development) which deems an existing and long-established building as being immune from enforcement action but rather it is the published legislation, namely Article 132 (1) of the Planning Act (Northern Ireland) 2011. Given that the aforementioned building falls within the stated criteria of the relevant and above-quoted legislation, no enforcement action can be taken against the owners and permanent residents of the building, and it can and will remain in its current and established position.

Given that the building is immune from enforcement action, and will therefore remain in situ, there is a long-established line of three buildings along Ballinran New Road; in addition, given that the application site occupies "a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage" between the aforementioned buildings, the submitted proposal successfully meets each of the criteria contained within Policy CTY 8.

Furthermore, although the submitted proposal successfully meets the criteria of Policy CTY 8 and the building at 4 Ballinran New Road is entirely immune from any enforcement action, and should be properly considered as one of three buildings within a substantial and continuously built up frontage, if the LPA remains of the opinion that the Certificate of Lawfulness (Existing Development) is required to be issued before the building at 4 Ballinran New Road can be considered a "building", it would be improper and extremely prejudicial to issue a decision notice of refusal for the subject planning application while the aforementioned Certificate of Lawfulness (Existing Development) has yet to be issued. Therefore, we kindly request that the subject Outline planning application is deferred until the Certificate of Lawfulness (Existing Development) has been issued. Please note that given the Planning Committee of Newry, Mourne and Down District Council is meeting on 21st November, a deferral may not actually be required as the submitted Certificate of Lawfulness (Existing Development) could be issued before said meeting.

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

The third and final recommended reason for refusal states:

"The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted add to a ribbon of development and would therefore further erode the rural character of the countryside."

The LPA's considerations and potential concerns regarding ribbon development, as expressed within both the second and third recommended reasons for refusal, have been thoroughly addressed within this letter, detailing how the submitted proposal successfully overcomes the

second recommended reason for refusal. Rather than adding to a ribbon of development, the submitted proposal entirely meets the requirements of Policy CTY 8, being located within a small gap site sufficient only to accommodate up to a maximum of two dwellings within an otherwise substantial and continuously built up frontage consisting of three long-established buildings, while also respecting the existing pattern of development, and therefore consequently meets the relevant requirements of Policy CTY 14.

In addition, I must re-emphasise the fact that if the LPA is of the opinion that the Certificate of Lawfulness (Existing Development) is required to be issued before the building at 4 Ballinran New Road can be considered a "building", it would be improper and extremely prejudicial to issue a decision notice of refusal for the subject planning application while the aforementioned Certificate of Lawfulness (Existing Development) has yet to be issued.

In conclusion, for the reasons stated above, Mr. Donaldson's and Miss Heaney's application successfully meets the criteria of all relevant planning policies, and we therefore kindly request that the LPA and the Planning Committee of Newry, Mourne and Down District Council look favourably upon this policy-compliant proposal and issue a decision notice of approval.

Yours faithfully,

John Law BSc (Hons.) Dip. TP

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
LA07/2017/1326/F	Peter Morgan – dwelling and garage on a farm – 30m south of 28 Bog Road, Kilcoo	PLANNING MEETING – 09 MAY 2018 Agreed at August 2018 meeting to defer planning application for further discussion between agent/applicant and Senior Planning Officers on new information submitted	Annette McAlarney	Application considered at August 2018 meeting – agreed to defer application for further discussion between agent/applicant and Senior Planning Officers on new information submitted. Due for discussion with CPD	N
P/2014/0427/0	Joseph McGivern – site for dwelling to the rear and south of 2 Berkley Grove, Warrenpoint	Remove from the agenda to allow for further discussion with Planning Officers	Jacqui McParland	Agent has submitted additional information to address roads issues Sept 2018 Reconsult TNI.	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
LA07/2017/1624/0	Thomas Stevenson – replacement dwelling -50m NW of 18 Turlough's Hill, Annalong	Defer Planning Application LA07/2017/1624/0 to allow time for the agent to provide more documentary evidence regarding issues raised by Committee Members including the need for a health and safety report on access through the farmyard and also the case of need for the applicant to be living close to the farm.	Jacqui McParland	Agent has submitted a H&S Report. No additional case for need submitted. Dept has requested this again – 11 th June 2018. This is still not forthcoming. I have instructed case officer to write up based on information available and bring back as refusal.	N
LA07/2017/1721/F	Millvale Services Ltd – proposed parking for neighbouring Millvale Service Station – Millvale Road, Bessbrook	Defer Planning Application LA07/2017/1721/F to allow for a Health and Safety Report / Road Traffic Report to be conducted as soon as possible and report back to Committee for further consideration of the application.	Pat Rooney	21 day letter issued to agent requesting the said information. Expiry date for info is 9.7.18. Application deferred at meeting on 29	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
				August 2018 until issues raised by SPO have been considered and Planning Officers are to liaise with the agent/applicant at the earliest possible opportunity	
LA07/2017/1030/0	Michael Tinnelly - site for 100 bedroom hotel and spa - 200m east of No. 25 Greenpark Road, Rostrevor.	PLANNING MEETING – 6 JUNE 2018 Defer application so that the agent/applicant/Planning Consultant can meet with the SPTO to identify what outstanding information has to be submitted to allow Planners and HED to make an informed assessment and opinion on the application. As it is a major application it be brought back to the Committee in due course	Jacqui McParland	Held meeting on the 14 th June with agent. Discussed what was required. Allowing 28 days for submission. Information submitted mid- August. Currently out for consultation with HED. Site Meeting	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
LA07/2018/0398/0	Shea McNulty - proposed infill gap site for a new dwelling and detached garage - lands between No. 5 and 5a Cons Lane, Newry	Application removed from the schedule for further consideration by Planners	Andrew Davidson	with Agent and HED taking Place 31 st Oct 2018. Application deferred at Pl. Meeting on 29-08-2018 to allow for further discussions between applicant/agent and planning officers re: potential for other in-fill or agricultural opportunities. Awaiting information from the agent in terms of sites owned by the applicant so that the Planning Department can assess the potential for any planning	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
				approvals on these sites.	
		PLANNING MEETING – 4 JULY 2018			
LA07/2018/0394/F	NIHE (South Region) – proposed single storey front, side and rear extension – 1 Seaview, Ardglass	Defer application for further discussion between agent and planning officers in relation to green space and design issues – if the opinion remains a refusal the application to be brought back to Committee for determination	Annette McAlarney	Revisions received. Will issue as approval once NN expires on 18 October 2018. Approval Notice Issued.	N
		PLANNING MEETING – 1 AUGUST 2018			
LA07/2017/1261/0	Thomas Mageean – proposed dwelling and garage – site abutting 20 Junction Road, Saintfield	Defer application to enable the Council's Legal Advisor to consider issues raised regarding ownership of the application site (Mr Thomas Mageean); the farm business in the name of Mr Bernard Mageean, who takes land in conacre from his brother and this farm business being altered by adding the applicant as an additional member of the business and in so doing have the applicants buildings at No. 20 Junction Road included within the farm business criterion © of CTY10	Annette McAlarney	Await legal advice.	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
LA07/2017/1494/0	John Murnion –proposed one and a half storey dwelling and detached domestic garage – opposite and north of No. 43 Bryansford Road, Stang, Hilltown	Defer application for further discussion between agent/applicant and planning officers in relation to concerns expressed that land at 72 Kilkeel Road, Hilltown, which is the main farm holding, can only be accessed by an existing laneway of which the applicant only has right of way and could not therefore provide sight lines which may be required. Clarification to be sought on this to determine if a site could be achieved at this address and also discussions on the proposed off-site location.	Annette McAlarney	Agent has submitted supporting info which has to be considered. Further discussion required with enforcement regarding approvals on the lane.	N
PLANNING MEETING – 29 AUGUST 2018					
LA07/2017/0821/0	Mr C Kane - Proposed off site replacement dwelling and garage - 123 Magherahamlet Road, Moneywabane, Ballynahinch.	Defer application for further discussion between agent/applicant and planning officers re: new information submitted and issues raised at the Planning Committee Meeting	Annette McAlarney	Issues raised at Planning Committee referred to the outcome of an application	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
				which has yet to be submitted to planning. In line with Committee wishes we have to await the submission of this application and its conclusion before returning to consider the current deferred application.	
LA07/2018/1704/0	Ms Claire Ferris – Proposed 2 no. dwellings on in-fill site under Policy CTY8 – Between 16 & 20 Lough Road, Crossgar	Defer for a site visit	Annette McAlarney	Site visit held on 8-10-2018 Return to Committee 21 Nov 2018	N
LA07/2017/0603/0	Christopher Smith - Proposed 2 storey dwelling - Site adjacent to No. 1 John Mitchel Street, Newry.	Defer for a site visit	Jacqui McParland	Site visit held on 8-10-2018 Return to Committee 21 Nov 2018	N
		PLANNING MEETING – 26 SEPTEMBER 2018			
LA07/2017/0449/F	Tony Cunningham – proposed 2 No. dwellings	Defer for further discussions between the agent and Planning	Jacqui McParland		N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
	(further amendments) – vacant ground between Dromore Heights and Cloughmore View and east of No. 4 Dromore Heights, Upper Dromore Road, Warrenpoint	Officers on the submission of a scheme for a development on the site that would be acceptable in terms of density and layout and that officers be delegated authority to impose relevant conditions and issue the decision			
LA07/2018/0698/0	Niamh D'Arcy – Dwelling house (infill) adjacent to and west of No. 4 Ballykeel Road, Mullaghbawn, Newry	Defer for a site visit	Andrew Davidson	Site visit to be held on 16-11-2018	N
LA07/2018/0401/0	Mr and Mrs Colm Cunningham - Proposed site for infill dwelling and domestic garage (amended address) 60m south of No. 24 School Road, Ballymartin, Kilkeel	Defer for a site visit	Jacqui McParland	Site visit to be held on 16-11-2018	N
		PLANNING MEETING – 24 OCTOBER 2018			
LA07/2018/1455/F	Newry, Mourne and Down DC - proposed new bowling club pavilion to include main hall, toilets and changing facilities - adjacent to existing pavilion at Castle	Removed from addendum list as there were insufficient Councillors for a quorum and take back to the November Planning Meeting	Annette McAlarney	Return to Nov 2018 Committee	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
LA07/2018/0894/F	Park, Newcastle. Dundrum Cross Community Playgroup - retrospective application for Dundrum Cross Community Play Group Facility (temporary permission) (amended description) - Dundrum Methodist Church 7-9 Manse Road, Dundrum.	Removed from the addendum list at the request of Councillor Murmin to allow objectors to make representations	Annette McAlarney	Requires further consideration on foot of additional information submitted prior to Oct 2018 Committee	N
LA07/2017/1671/F	Mr and Mrs McConnell - farm dwelling - 50m east of No. 77 Ballynahinch Road, Saintfield.	Defer for 6 months to allow for the completion of an agricultural building on site and delegate authority to Planning Officers to issue the decision	Annette McAlarney	Review April 2019 re construction of shed.	N
LA07/2018/0758/0	Mr and Mrs Hickland - new dwelling and garage - lands approximately 50M south of 56 Crawfordstown Road, Drumaness	Defer for a site visit	Annette McAlarney	Proposed date – 23-11-2018 (awaiting confirmation)	N
LA07/2017/1485/F	Mr J McCabe - conversion and extension of barn previously approved under R/2014/0654/F with additional extension to form new domestic dwelling on lands approx 250m SE of 60	Removed from the addendum list at the request of Councillor McAteer for full presentation at the next Committee meeting	Annette McAlarney	November 2018 Committee	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
	Killyleagh Road, Downpatrick				
LA07/2017/1694/RM	Mr R Hutton - replacement dwelling (off site) - adjacent to junction of Vianstown Road and Bishopsbrae Road, Downpatrick.	Defer to allow the opportunity for the agent/applicant to avail of one more office meeting with Planners and submit one additional set of amended plans for a dwelling in line with what was originally on site. Delegate authority to Planning Officers to issue the decision	Annette McAlarney	Set up meeting with Agent	N
LA07/2017/1299/F	Patrick Small – erection of dwelling on a farm – 58m SE of 43 Upper Burren Road, Warrenpoint	Removed from the schedule at the request of Councillor McAteer to be brought back to the next Committee Meeting for full presentation	Jacqui McParland	November 2018 Committee	N
LA07/2018/0537/0	James Donaldson and Roberta Heaney – proposed site for infill dwelling and domestic garage – Ballinran Road, Kilkeel	Removed from the addendum list at the request of Councillor Macauley for full presentation at the next Committee meeting	Jacqui McParland	November 2018 Committee	N
LA07/2018/0661/0	Eileen and Dermot O'Hare - erection of dwelling and domestic garage - between 17a and 17b Hilltown Road, Mayobridge.	Defer for a site visit	Jacqui McParland	Proposed date – 23-11-2018 (awaiting confirmation)	N

Newry, Mourne & Down District Council – October 2018

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1. Live Applications

MONTH 2017/18	NEW APPLICATIONS	LIVE APPLICATIONS	LIVE APPLICATIONS OVER 12 MONTHS
April	129	914	222
May	141	916	217
June	141	909	225
July	150	960	231
August	114	913	244
September	141	958	263
October	168	971	272

2. Live Applications by length of time in system

Month 2017/18	Under 6 months	Between 6 and 12 months	Between 12 and 18 months	Between 18 and 24 months	Over 24 months	Total
April	510	182	79	33	110	914
May	506	193	78	33	106	916
June	483	201	84	33	108	909
July	540	189	90	34	107	960
August	482	187	99	34	111	913
September	511	184	108	45	110	958
October	529	170	114	46	112	971

Newry, Mourne & Down District Council – October 2018

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3. Live applications per Case Officer

Month 2017/18	Average number of Applications per Case Officer
April	51
May	49
June	48
July	51
August	48
September	56
October	61

4. Decisions issued per month

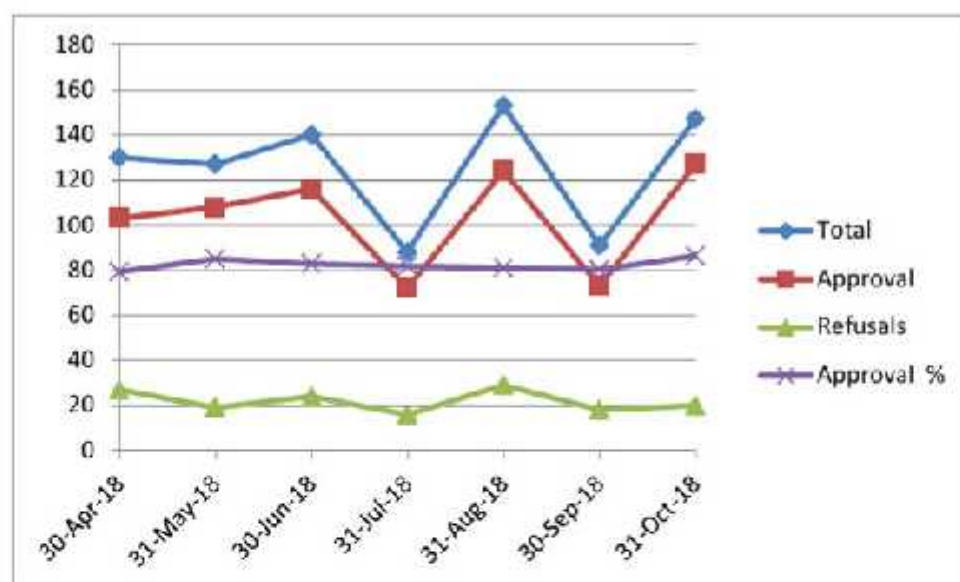
Month 2017/18	Number of Decisions Issued	Number of Decisions Issued under delegated authority
April	130	111
May	127	119
June	140	130
July	88	78
August	153	141
September	91	83
October	147	141

Newry, Mourne & Down District Council – October 2018

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5. Decisions Issued YTD

Month 2017/18	Number of Decisions Issued	Breakdown of Decisions	
April	130	Approvals (103)	79%
		Refusals (27)	21%
May	257	Approvals (211)	82%
		Refusals (46)	18%
June	397	Approvals (327)	82%
		Refusals (70)	18%
July	485	Approvals (399)	82%
		Refusals (86)	18%
August	638	Approvals (523)	82%
		Refusals (115)	18%
September	729	Approvals (596)	82%
		Refusals (133)	18%
October	876	Approvals (723)	83%
		Refusals (153)	17%



Newry, Mourne & Down District Council – October 2018

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6. Enforcement Live cases

Month 2017/18	<=1yr	1-2 yrs	2-3 yrs	3-4 yrs	4-5 yrs	5+ yrs	Total
April	305	220	101	77	84	124	911
May	325	208	105	81	84	125	928
June	331	224	106	82	82	130	955
July	332	226	113	82	82	135	970
August	365	246	110	85	73	150	1,029
September	373	250	125	81	76	156	1,061
October	389	239	142	77	80	160	1,087

7. Planning Committee

Month	Number of Applications presented to Committee	Number of Applications Determined by Committee	Number of Applications Withdrawn/ Deferred for future meeting
11 April 2018	25	20	5
9 May 2018	17	10	7
6 June 2018	13	5	8
4 July 2018	14	6	8
1 August 2018	12	8	4
29 August 2018	13	4	9
26 September 2018	14	8	6
24 October 2018	13	4	9
Totals	121	65	56

8. Appeals

Planning Appeal Commission Decisions issued during September 2018

Area	Number of current appeals	Number of decisions issued	Number of decisions Allowed	Number of decisions Dismissed	Withdrawn
Newry & Mourne	17	5	0	3	2
Down	7	3	1	1	1
TOTAL	24	8	1	4	3

Newry, Mourne & Down District Council – October 2018

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Statutory targets monthly update - up to September 2018 (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 recieved	Number decided/ withdrawn ¹	Average processing time ²	% of cases processed within 30 weeks	Number recieved	Number decided/ withdrawn ¹	Average processing time ²	% of cases processed within 15 weeks	Number opened	Number brought to conclusion ³	"70%" conclusion time ³	% of cases concluded within 39 weeks
April	0	2	110.4	0.0%	100	109	14.0	52.3%	50	6	170.2	66.7%
May	0	2	67.3	0.0%	115	118	16.9	43.2%	51	14	48.3	64.3%
June	1	1	20.2	100.0%	135	132	15.1	50.0%	49	25	49.2	60.0%
July	0	-	0.0	0.0%	109	81	15.2	49.4%	39	6	61.9	66.7%
August	0	-	0.0	0.0%	111	136	15.6	47.8%	39	5	34.6	80.0%
September	0	-	0.0	0.0%	117	82	14.9	50.0%	34	3	105.8	33.3%
October	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
November	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
December	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
January	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
February	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
March	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
Year to date	1	5	48.6	20.0%	687	658	15.4	48.6%	262	59	52.0	62.7%

Source: NI Planning Portal

Notes:

1. CLUIDS, TPOS, NMCS and PADS/PANs have been excluded from all applications figures

2. The time taken to process a decision/withdrawal is calculated from the date on which an application is deemed valid to the date on which the decision is issued or the application is withdrawn that may not be considered as "typical"

Newry, Mourne & Down District Council – October 2018

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3. *The time taken to conclude an enforcement case is calculated from the date on which the complaint is received to the earliest date of the following: a notice is issued; proceedings commence values and then taking the data point at the 70th percentile of the sequence.*

Record of meetings between Planning Officers and Public Representatives 2018-2019

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DATE OF MEETING	PLANNING OFFICER'S NAME/S	PUBLIC REPRESENTATIVE'S NAME
23/04/2018	A McAlarney	Cllr W Walker Cllr Andrews
27/04/2018	A McAlarney	Cllr Burgess
30/04/2018	A McAlarney	Cllr Walker
30/04/2018	A McAlarney	Cllr Fitzpatrick
10/05/2018	A McAlarney	Colin McGrath MLA
31/05/2018	A McAlarney	Cllr Rice
04/06/2018	A McAlarney	Cllr McMurray
29/06/2018	G Kerr	Cllr B Quinn
10/07/2018	G Kerr / P Smyth	Cllr B Quinn
17/07/2018	A McAlarney	Colin McGrath
09/08/2018	G Kerr / P Smyth	Cllr B Quinn
14/08/2018	A McAlarney	Cllr walker
04/09/2018	G Kerr	Cllr Tinnelly
07/09/2018	A McAlarney	Colin McGrath
12/09/2018	A McAlarney	Cllr walker Cllr Andrews
18/09/2018	A McAlarney	Cllr Walker Cllr Andrews
20/09/2018	A McAlarney	Cllr Rice
03/10/2018	A McAlarney	Cllr W Clarke
18/10/2018	A McAlarney	Cllr Enright
29/10/2018	A McAlarney	Cllr Walker Cllr Andrews

Current Appeals

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AUTHORITY Newry, Mourne and Down

ITEM NO	1	PAC Ref:	2017/A0168
Planning Ref:	LA07/2017/0687/	DEA	The Mournes
APPELLANT	Steven And Diane Campbell		
LOCATION	30m North Of 94 Greencastle Road Kilkeel		
PROPOSAL	RT34.4DF Infill site for new dwelling and garage in existing cluster (amended plans)		

APPEAL TYPE DC- Refusal of Planning Permission

Appeal Procedure **Written Reps with Site Visit** **Date Appeal Lodged**

Date of Hearing

Date Statement of Case Due for Hearing

Date Statement of Case Due - Written Representation

Date of Site Visit

ITEM NO	2	PAC Ref:	2017/A0178
Planning Ref:	LA07/2017/0786/	DEA	Slieve Croob
APPELLANT	Walter Watson		
LOCATION	4 Drumnaquoile Road Castlewellan		
PROPOSAL	Replacement dwelling and detached garage		

APPEAL TYPE DC- Refusal of Planning Permission

Appeal Procedure **Date Appeal Lodged** 04/12/2017

Date of Hearing

Date Statement of Case Due for Hearing

Date Statement of Case Due - Written Representation

Date of Site Visit

Current Appeals

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ITEM NO	3		
Planning Ref:	LA07/2016/0952/	PAC Ref:	2017/A0213
APPELLANT	D & M Downey	DEA	Newry
LOCATION	113-117 Dublin Road Newry		
PROPOSAL	RT35 ROP Sub-division of part of existing bulky goods retail warehouse (No 115) to provide 3 No. ground floor class A1 retail units with new shopfronts (the 3 No. units to operate without compliance with the bulky goods condition on approval P/1993/0605); and western extension of site area		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	18/01/2018
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	4		
Planning Ref:	LA07/2016/1407/	PAC Ref:	2018/A0027
APPELLANT	Richard Newell	DEA	The Mournes
LOCATION	75A Glassdrumman Road Annalong		
PROPOSAL	Go Down Proposed extension of curtilage of existing dwelling house and retention of existing Domestic Boat House and Yard		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	30/05/2018
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	5		
Planning Ref:	LA07/2016/1276/	PAC Ref:	2018/A0029
APPELLANT	Mr D Boal	DEA	Rowallane
LOCATION	3 Main Street Ballynahinch		
PROPOSAL	Subdivision of existing retail unit to 2No. Retail Units and Change of Use to 4No apartments with extension to first floor to provide 2No. Apartments		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	01/06/2018
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	6		
Planning Ref:	LA07/2017/1192/	PAC Ref:	2018/A0030
APPELLANT	Tranquility Ireland	DEA	Newry
LOCATION	97 Fathom Line Fathom Lower (Main Portion)		
PROPOSAL	Retention of change of use of domestic dwelling and garage to three short term holiday let accommodation with alterations		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps with Site Visit	Date Appeal Lodged	01/06/2018
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	7		
Planning Ref:	LA07/2017/0969/	PAC Ref:	2018/A0046
APPELLANT	Mr Peter Clerkin	DEA	Crotlieve
LOCATION	160m South Of 106 Leitrim Road Hilltown		
PROPOSAL	Proposed retention and extension of farm shed (amended address)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	11/07/2018
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	8		
Planning Ref:	LA07/2017/0492/	PAC Ref:	2018/A0050
APPELLANT	East Coast Coaches	DEA	Crotlieve
LOCATION	70 Metres East Of 72 Rathfriland Road Newry		
PROPOSAL	Temporary permission for hard standing (area to be used for the parking and turning of coaches associated with existing bus and taxi depot)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	17/07/2018
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	9		
Planning Ref:	R/2014/0079/F	PAC Ref:	2018/A0054
APPELLANT	Mr Brendan Maginn	DEA	The Mournes
LOCATION	Approx 285m South West Of No 63 Dundrine Road Castlewellan		
PROPOSAL	Retention of as constructed 225 kw wind turbine with a tower height of 39.5m (to supersede previous wind turbine approval ref R/2010/0555/F)		
	(Additional surveys/info received)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	30/07/2018
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	10		
Planning Ref:	LA07/2018/0645/	PAC Ref:	2018/A0058
APPELLANT	Mr William McDonnell	DEA	Crotlieve
LOCATION	Opposite 60 Derryleckagh Road On Aughnagun Road Newry		
PROPOSAL	Change of house type and garage from previously approved under planning ref. P/2007/0735/RM		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	02/08/2018
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	11		
Planning Ref:	LA07/2017/1802/	PAC Ref:	2018/A0064
APPELLANT	Mrs Bridget Hasson	DEA	Slieve Gullion
LOCATION	80m North East Of No 50 Malahy Conlon Park Cullaville Road Cullaville		
PROPOSAL	Proposed infill dwelling and domestic garage		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	10/08/2018
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	12		
Planning Ref:	LA07/2017/1394/	PAC Ref:	2018/A0066
APPELLANT	Mr B And Mrs A Gibney	DEA	Slieve Croob
LOCATION	80m East Of 89 Demesne Road Edendarriff Ballynahinch		
PROPOSAL	Dwelling and garage on a farm		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	10/08/2018
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

120

ITEM NO	13		
Planning Ref:	LA07/2018/0747/	PAC Ref:	2018/A0079
APPELLANT	Joan Henderson	DEA	Crotlieve
LOCATION	200m South East 21 Levallyreagh Road Rostrevor		
PROPOSAL	Newry/ Proposed replacement dwelling		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	05/09/2018
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	14		
Planning Ref:	LA07/2018/0464/	PAC Ref:	2018/A0080
APPELLANT	Mary Slane	DEA	Newry
LOCATION	Between No. 34 And 38 Seafin Road Killeavy		
PROPOSAL	Meigh Dwelling and garage (amended address)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	05/09/2018
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	15		
Planning Ref:	LA07/2018/0220/	PAC Ref:	2018/A0085
APPELLANT	Mr & Mrs H Coulter	DEA	Rowallane
LOCATION	50m SE Of 7 Old Saintfield Road Creevycarnonan		
PROPOSAL	Proposed 2 no infill dwellings, detached garages and site works		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	17/09/2018
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	16		
Planning Ref:	LA07/2017/0701/	PAC Ref:	2018/A0086
APPELLANT	J&J McKibbin	DEA	The Mournes
LOCATION	Land 60m North East Of No. 181 Moyad Road Kilkeel		
PROPOSAL	Erection of self-catering tourist accommodation, light industrial units and associated site works.		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	18/09/2018
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

122

ITEM NO 17
Planning Ref: LA07/2018/0865/
APPELLANT Mr And Mrs C Parke
LOCATION 25 Oldtown Lane
 Annalong
 BT34 4XF
PROPOSAL

PAC Ref: 2018/A0100
DEA The Mournes

APPEAL TYPE DC- Refusal of Planning Permission

Appeal Procedure **Date Appeal Lodged** 05/10/2018

Date of Hearing

Date Statement of Case Due for Hearing

Date Statement of Case Due - Written Representation

Date of Site Visit

ITEM NO 18
Planning Ref: LA07/2017/0290/
APPELLANT Mr & Mrs McMurray
LOCATION 110 M South Of No 52 Carsonstown Road
 Saintfield
 BT24 7EP
PROPOSAL Single Storey 200sqm house with Outbuilding - garage and stores

PAC Ref: 2018/A0117
DEA Rowallane

APPEAL TYPE DC- Refusal of Planning Permission

Appeal Procedure **Date Appeal Lodged** 24/10/2018

Date of Hearing

Date Statement of Case Due for Hearing

Date Statement of Case Due - Written Representation

Date of Site Visit

Current Appeals

123

ITEM NO	19		
Planning Ref:	LA07/2018/0554/	PAC Ref:	2018/A0123
APPELLANT	Mr Craig Baxter	DEA	Crotlieve
LOCATION	No. 5 Ringbane Road Ringbane		
PROPOSAL	Newry/ Change of use from private swimming pool to commercial swimming pool, retention of extension to same and extension to site curtilage		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	25/10/2018
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	20		
Planning Ref:	LA07/2017/0691/	PAC Ref:	2018/A0124
APPELLANT	Mr & Mrs G Cunningham	DEA	The Mournes
LOCATION	Lands Adjacent To And North East Of 346 Newry Road Kilkeel		
PROPOSAL	RT34 4SF Proposed detached retirement dwelling and garage (additional plans)		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	26/10/2018
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	21	PAC Ref:	2018/AO021
Planning Ref:	LA07/2018/0166/	DEA	Slieve Gullion
APPELLANT	Sean Nugent		
LOCATION	60m East Of 86 Slatequarry Road Cullyhanna		
PROPOSAL	Retention of existing farm shed		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	15/05/2018
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	22	PAC Ref:	2018/E0017
Planning Ref:	LA07/2018/0363/	DEA	Rowallane
APPELLANT	Mr And Mrs S Thompson		
LOCATION	19A Rathcunningham Road Toye Derrypatrick		
PROPOSAL	Use of 19A as a dwelling separate from 19		

APPEAL TYPE	DC- Refusal of CLUD		
Appeal Procedure		Date Appeal Lodged	28/06/2018
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	23		
Planning Ref:	LA07/2018/0373/	PAC Ref:	2018/E0022
APPELLANT	James Purdy	DEA	Crotlieve
LOCATION	78b Upper Dromore Road Warrenpoint		
PROPOSAL	Car bodywork repairs and construction sealants distribution.		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	11/07/2018
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	24		
Planning Ref:	LA07/2018/0467/	PAC Ref:	2018/E0027
APPELLANT	Mr James And Kevin Donnelly	DEA	Newry
LOCATION	Lands Approximately 110 Meters West Of No. 240 Dublin Road Killeen		
PROPOSAL	Newry New agricultural building which complies with the Planning (General Permitted Development) Order (Northern Ireland) 2015 in particular respect to Part 7 - Agricultural Buildings and Operations - Class A - Permitted Development and is development that does not require		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	15/06/2018
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			



Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
F: 028 9031 2536
E: info@pacni.gov.uk

Appeal Reference:	2018/A0026
Appeal by:	John Mackin
Appeal against:	The conditional grant of outline planning permission.
Proposed Development:	Replacement Dwelling
Location:	72 Ballyvalley Road, Mayobridge
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2015/0461/O
Procedure:	Written Representations with Accompanied Site Visit on 6 September 2018
Decision by:	Commissioner Mandy Jones, dated 18 October 2018.

Decision

The appeal in connection with the off – site replacement is dismissed.
Conditions 4 and 5 are amended in so far as: the area for the siting of the dwelling shaded blue on the approved plan is extended and the area for the curtilage shaded orange is extended.

Reasoning

1. The main issues in this appeal are whether the proposal for an off – site replacement dwelling would have a detrimental impact on visual amenity and rural character of the area.
2. Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the local development plan, so far as material to the application, and to any other material considerations. The appeal site is located within the rural area as designated within the Banbridge, Newry and Mourne Area Plan 2015. The site is also located within the Mournes Area of Outstanding Natural Beauty (AONB) There are no policies in the Plan of relevance to the appeal proposal.
3. The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) which came into effect in September 2015, is material to all decisions on individual planning applications and appeals. The SPPS retains policies within existing planning policy documents until a new Plan Strategy for the whole council area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy or when the SPPS is silent or less prescriptive on certain policies. There is no conflict or change in policy direction between its provisions and those of Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS 21) regarding

replacement dwellings. Therefore, PPS 21 provides the policy context for this appeal.

4. Outline planning permission (LA07/2015/0461/O) for a replacement dwelling was granted on 26th February 2018 subject to a number of conditions. The planning appeal form indicated that the appeal is against conditions 3, 4 and 5.

Condition 3: The proposed dwelling shall have a ridge height of less than 5 metres above finished floor level.

Reason: To ensure that the development is not prominent in and satisfactorily integrated into the landscape in accordance with the requirements of Planning Policy Statement 21 and the Strategic Planning Policy Statement.

Condition 4: The proposed dwelling shall be sited in the area shaded blue on the approved plan date stamped 11th June 2015.

Reason: To ensure that the development is not prominent in & satisfactorily integrated into the landscape in accordance with the requirements of Planning Policy Statement 21 and the Strategic Planning Policy Statement.

Condition 5 : The curtilage of the proposed dwelling shall be as indicated in orange on the approved plan date stamped 11th June 2015

Reason: To ensure that the amenities incidental to the enjoyment of the dwelling will not adversely affect the countryside.

5. Within PPS 21, Policy CTY 3 – Replacement Dwellings and paragraph 6.73 of the SPPS requires that replacement dwellings are sited within the established curtilage of the existing dwelling, unless either (a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or (b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits.
6. There were no arguments regarding the principal of the replacement dwelling. I was told by the Council that as part of the application the appellant identified an alternative site for the new dwelling some 110m south east of the dwelling to be replaced. This was on the basis that the building to be replaced is located within a working farmyard and would not be suitable for a dwelling.
7. The Council considered this site to be unacceptable as a dwelling would have a visual impact considerably greater than the existing building which is nestled within an existing farm complex and was therefore contrary to Policy CTY3. It was also considered by the Council that a dwelling on this site would be prominent and would lead to ribbon development which would be contrary to CTY 13 and CTY 8 of PPS 21 and Policy NH 6 of PPS 2 which deals with development within Areas of Outstanding Natural Beauty.

8. In assessing the application the Council accepted that the established curtilage of the existing dwelling was too restricted to accommodate a modest sized dwelling. It was considered that a suitable site in accordance with PPS 21 and the SPPS could be achieved within the red line in an area immediately north of the building to be replaced. It was contended by the Council that the site could accommodate a dwelling appropriately sited and designed without detriment to the landscape, heritage or amenity. This would provide a larger curtilage while minimising the impact of the new dwelling. Accordingly, the Council identified a suitable site and conditioned the replacement to be located within this area to the north of the existing building to be replaced.
9. The farm complex comprises of a linear grouping of farm buildings including the existing building to be replaced. The grouping is sited close to the Ballyvalley Road. The conditioned replacement site abuts the complex and is directly to the north. Within this site the ground levels rise steadily from the road across to the east. There is substantial roadside vegetation and the northern and eastern boundaries are undefined. The appellant's drawings show a dwelling set back 10 m from the road where the ground begins to rise more steeply, cutting into the slope with a 3m retaining wall to the rear of the dwelling. The RSI form requires visibility splays of 2.4 x 70m via the existing entrance point in the farm complex which will require the removal of the roadside hedging and trees across the site frontage.
10. The appellant's preferred off site replacement is south of the farm complex and is approximately 50m from the most southern gable of the complex and approximately 110m from the dwelling to be replaced. A laneway sits to the north of this site. It is contended by the appellant that this site is preferable as it has a line of mature trees to its northern boundary and a number of mature trees along the roads which would remain even with providing the required visibility splays. Drawings submitted indicate a site measuring 45m x 50m and the possible siting for a dwelling 21.33 m back from the road and the ffl 4.38m above the road. The ground levels rise steadily from the road to the east.
11. I would consider that when viewed from the Ballyvalley Road, given the removal of the roadside vegetation to create an access, a dwelling sited as proposed within the preferred site on elevated ground would appear particularly prominent, notwithstanding that some trees will remain along the site frontage. It would have a visual impact considerably greater than the existing building to be replaced which is on lower ground and nestled within the exiting farm complex. Travelling the road in either direction, a dwelling on this site would also be visually separated from the farm complex unlike the conditioned siting to the north in which a dwelling would visually relate and cluster with the complex of farm buildings. I do not agree with the appellant that a dwelling on the preferred off site location would be better integrated than the conditioned siting.
12. In terms of the conditioned siting, I would agree with the Council that a dwelling could be sited closer to the road on lower ground which would not require a 3m high retaining wall to the rear as indicated on the appellant's sections. Even if, retaining wall structures were required they would be screened by the dwelling and the visual impact mitigated. Although, frontage vegetation will have to be removed to facilitate visibility splays, I note condition 8 requires all new boundaries to be defined by a timber post and wire fence with new planting of native species hedgerows and trees.

13. As a dwelling on the preferred siting would have a visual impact significantly greater than the existing building to be replaced, it is contrary to Policy CTY 3. As I have concluded that it would be a prominent feature in the landscape it is also contrary to CTY 13.
14. Policy CTY 8 – Ribbon Development states that planning permission will be refused for a building which creates or adds to a ribbon of development. Paragraph 5.32 states that ribbon development has consistency been opposed and will continue to be unacceptable. I consider that that a dwelling on the preferred site would lead to ribbon development by extending road frontage development to the south, which is detrimental to the character, appearance and amenity of the countryside and contrary to PPS 8. The impact on rural character given the context is unacceptable within the AONB and is also contrary to Policy NH6 of PPS 2. Accordingly, the Council's objections are sustained.
15. The Environmental Health Consultation recommended that the proposed dwelling is situated 75m from farm buildings and that the applicant should be made aware that the occupants of the proposed dwelling may experience noise, odour and pests from the nearby farm. I note that this distance is only a recommendation. The conditioned siting, in fact, removes the proposed dwelling from the farm complex. As the proposed dwelling is for farmer / family member I would attach less weight to this guidance as they would be well aware of the farming operations of the holding.
16. The appellant requested that in the event that the off site replacement is not permitted that ' the visibility requirements are reduced to 65m with a 2.4m setback along the entire frontage to allow for access to the site without passing through the farmyard '. Condition 9 of the approval requires a scale plan at 1:500 to be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached RSI form. This requires splays of 2.4m x 70m. Development Control Advice Note 15 : Vehicular Access Standards at Table B, sets out the y – distance requirements. The 70m y- distance required is based on speeds on the priority road of up to 37 mph. The Ballyvalley Road is straight and narrow and travelling the road at my site visit and observing motorists, I would concur with this analysis. I consider the required splays to be necessary and justified in the interests of road safety and convenience of road users. No justification was given by the appellant of why the required splays should be relaxed. I am unclear of how he intends to achieve access to the site without passing through the farmyard – this arrangement was not illustrated on any drawings.
17. The appellant argues that the presence of a slurry pit within one of the buildings in the complex and taking the access through a working farm yard will present health and safety issues. Although the new access is through the farm yard I would agree with the Council that these issues can be managed and mitigated through working practices. I consider that neither of these arguments override the visual objections of the dwelling on the preferred siting.
18. The curtilage identified in orange measures 38m (width) x 24m (depth). The area for the siting of the dwelling measures 28m (width) x 18m (depth). The appellant requested that, if the alternative siting was dismissed, the curtilage area depth to be increased from 24m to 35 m and the siting area depth increased from 18m to 27m. At the site visit the Council had no objections to this amendment and I consider this to be acceptable.

19. Condition 3 requires a ridge height of less than 5 metres above finished floor level. Although an appeal against this condition was identified in the appeal forms, the appellant provided no further evidence in connection with this. Given the massing and scale of the adjacent farm complex, the sloping nature of the site and the levels relative to the road, I consider that this condition is well founded and necessary to ensure that a dwelling is not prominent in and is satisfactorily integrated into the landscape. Disputes regarding communications with the Council during the application stage are outside the remit of this appeal.
20. In conclusion, as I have found the Council's objections to be sustained in relation to the preferred off site replacement the appeal must fail.

Conditions 4 and 5 are varied to read:

4.The proposed dwelling shall be sited in the area shaded blue (and hatched) on the approved plan date stamped 11th June 2015.(PAC 1)

5.The curtilage of the proposed dwelling shall be as indicated in orange (and cross hatched) on the approved plan date stamped 11th June 2015' (PAC 1)

This decision relates to the following:

- PAC 1; Site Location Plan, scale 1:2500 date stamped granted 26.02.2018.

COMMISSIONER MANDY JONES

2018/A0026

List of Documents

Planning Authority: 'A' Statement of Case

 'B' Rebuttal

Appellant: 'C' Statement of Case including drawings.

 'D' Rebuttal

2018/A0026

Appearances at the Accompanied Site Visit

Newry, Mourne and Down District Council
Planning Authority: Gareth Murtagh

Appellant: Aiden Cole (agent)
J Cole
J Mackin



Ref: Proposed replacement
 Planning Act (NI) 2011
 No.72 Ballyvalley Road, Mayobridge, for, Mr J. Mackin.

PAC 1

Granted

Subject to conditions (if any) as set out on

Decision form No. L199120150461

Date 26/02/2018

Cole Partnership.
 Architecture &
 Project Management
 12A Duke Street,
 Warrenpoint,
 028 417 53679



Scale 1 : 2500
 Date 14-05-2015
 Drg 2802LP
 O.S. Plan 267-14SE
 C.C.R. Licence No. 45



Appeal Decision

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Appeal Reference:	2018/A0029.
Appeal by:	Mr Daryl Boal.
Appeal against:	The refusal of full planning permission.
Proposed Development:	Subdivision of existing retail unit to 2 no. retail units and change of use to 4 no. apartments with extension to first floor to provide 2 no. apartments.
Location:	3 Main Street, Ballynahinch.
Planning Authority:	Newry, Mourne & Down District Council.
Application Reference:	LA07/2016/1276/F.
Procedure:	Written Representations with Commissioner's Site Visit on 18 September 2018.
Decision by:	Commissioner Mark Watson, dated 25 October 2018.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Appellant submitted an amended design with his Statement of Case in response to the Council's concerns in respect of lack of private amenity space. The amendment comprised the addition of 3 balconies. One of these is for a first floor apartment on the eastern elevation, whilst the other two balconies would be added onto the rear of the two ground floor apartments, though given the sloping nature of the site, those balconies still be elevated above street level at the rear of the site. The addition of the balconies would not represent a matter that had not been before the Council given the issue of amenity space had already been raised. No issue has been raised in respect to Section 59 of the Planning Act (NI) 2011. However, the admissibility of the amended plans in respect to potential third party prejudice must now be considered. Irrespective of what particular views would be available from these additional balconies, they would nevertheless represent a change to the appeal development that potential third parties would be unaware of and would be unable to comment on. I consider that third parties unaware of the amended design would be prejudiced if it was to be accepted. The amended design is inadmissible and I shall confine my assessment to the scheme as was originally submitted to the Council.

Reasons

3. The main issues in this appeal are whether or not the appeal development would:
 - provide sufficient private amenity space; and
 - provide an acceptable level of on-site parking.

4. The appeal site comprises No. 3 Main Street, a large two storey, double fronted building situated along the southern side of Main Street. It is presently used for furniture sales. The building has an extension that runs south-eastwards towards the rear of the plot. There is a walled yard area to the rear of the building. It is bounded to the eastern side by a narrow pedestrian entry that allow access to the rear of the terrace of properties on that side. A gated, vehicular width entry to the western side of No. 3 affords access to a private car park at the rear of the adjacent bank building. Adjacent and south-east of the appeal site is a large public car park, accessed off Windmill Street. There are also a number of on-street parking bays on both sides of Main Street. The site lies in a predominantly commercial part of Ballynahinch town centre, with a mix of retail and service uses.
5. The appeal development seeks to subdivide part of the ground floor of No. 3 into two retail units, whilst converting the remainder of the existing building into 4 apartments. A new extension to the rear of the building at first floor level would provide 2 further apartment units. Each of the 6 apartments would be 2 bedroomed. 4 unassigned car parking spaces within the site curtilage are proposed. The Appellant also proposes a series of measures to encourage the use of public transport and cycling. The submitted Travel Plan states that residents of the appeal development will be provided with a 6 month Smartlink Travel card to promote the use of public transport. A voucher of equivalent value to assist with purchase of a bicycle is also to be offered to all residents in place of the Smartlink card should they wish, with the appeal development including secure cycle storage facilities within it. A promotional pack of information pertaining to public transport information and cycling information will also be provided, along with the appointment of a Travel Plan Co-ordinator.

Policy Context

6. Section 45(1) of the Planning Act (NI) 2011 requires that regard must be had to the local development plan (LDP), so far as material to the application. Section 6(4) of the Act requires that where in making any determination under the Act, regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The LDP in this case is the Ards and Down Area Plan 2015 (ADAP). In it the appeal site lies within the settlement limit and town centre of Ballynahinch. Part of the site lies within the Primary Retail Core (PRC) and its entirety within an Area of Archaeological Potential. The appeal development would not be at odds with the PRC or any other policies or designations within the ADAP. The Council raised no objections to the principle of development, but rather to its lack of private amenity space and the level of on-site parking provision.
7. In regard to the appeal development there is no conflict or change in policy direction between the provisions of the Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) and those of Planning Policy Statement 7 – Quality Residential Environments (PPS7), Planning Policy Statement 12 – Housing In Settlements (PPS12) and Planning Policy Statement 3 – Access, Movement and Parking (PPS3). The policy provisions of PPS7, PPS12 and PPS3 remain applicable to the appeal development.

Private amenity space

8. Paragraph 4.12 of the SPPS states that other amenity considerations arising from development, that may have potential health and well-being implications, include design considerations, impacts relating to visual intrusion, general nuisance, loss of light and overshadowing. The provision of amenity space within a proposed new development is a design consideration that falls within the ambit of this section of the SPPS. Specific policy relating to the provision of private open space in residential development can be found in Policy QD1 of PPS7. It states that planning permission will be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. It goes on to state that all such proposals will be expected to conform to a series of criteria. Criterion (c) is that adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Guidance in *Creating Places* recommends that in the case of apartments or flat developments private communal open space will be acceptable in the form of landscaped areas, courtyards or roof gardens. These should range from a minimum of 10 sq m per unit to 30 sq m per unit. The guidance states that generally developments in inner urban locations and other high-density areas will tend towards the lower figure. There is clearly flexibility in respect the level of provision, but the thrust of the guidance is that it is anticipated that all new residential units are provided some level and form of private amenity space.
9. The appeal development includes amenity space for two of the six proposed apartments in the form of patio areas to the rear of the relevant units. These areas are acceptable in both quantitative and qualitative aspects. However, the other four apartments will have no private amenity space. Regardless of the appeal site's location in the town centre, I am not persuaded that it is acceptable that these other apartments have no private amenity provision at all. I am not persuaded that this would allow for a quality residential environment which adequately provides for open space and landscaped areas as an integral part of the development. The Design Concept Statement and other supporting evidence submitted with the application would not persuade me otherwise.
10. The Appellant made reference to another decision made by the Council (ref. R/2013/0532/F) which granted permission in November 2015 for 16 apartments and 1 townhouse on High Street, Ballynahinch. Whilst that development was granted permission without any private amenity space and I note it also occupied a town centre location, I am not persuaded that it would be in the public interest to perpetuate poor decision making by permitting further development without adequate private amenity space. That decision would not justify the setting aside of the objection in this case. I find that criterion (c) of Policy QD1 of PPS7 is not met and given the critical nature of this deficiency, the policy read as a whole. For the same reasons it would not meet the related element of the SPPS. The Council's first reason for refusal is sustained.

Parking provision

11. The Council considered that the appeal development did not provide sufficient in-curtilage parking provision. The Appellant considered that the submitted Travel Plan and measures contained therein along with the site's town centre location justified the reduction, with only 4 in-curtilage, unassigned spaces being provided by the appeal development. The Appellant also pointed to the existing on-street parking

capacity and that in the nearby public car park. The Appellant considered that these factors taken together justified the proposed reduced parking provision within the appeal development. Reference was made by both parties to Policy HS1 of PPS12 – Living Over The Shop. It states that planning permission will be granted for residential use above shops and other premises subject to the provision of a suitable living environment and adequate refuse storage space. It goes on to state that a flexible approach will be applied to car parking provision having regard to the circumstances of each case. Policy AMP7 of PPS3 states that development proposals will be required to provide adequate provision for car parking and appropriate servicing arrangements. It goes on to state that beyond areas of parking restraint identified in a development plan, a reduced level of car parking provision may be acceptable in a number of circumstances, including where the development is in a highly accessible location well served by public transport and where the development would benefit from spare capacity available in nearby public car parks or adjacent on-street car parking. Criterion (f) of Policy QD1 of PPS7 also requires that adequate and appropriate provision is made for parking.

12. The appeal site does not lie in an area of parking restraint. The presence of two bus stops in close proximity to the appeal site, as well as another within a walking distance of several minutes, is demonstrative that regular public transport services would be available for occupants of the appeal development. The appeal site's town centre location is highly accessible and well served by public transport. The measures contained in the Travel Plan seek to encourage use of public transport and cycling and would do so effectively through its implementation, which could be secured by planning condition in the event of permission being granted. The availability of reasonable levels of on-street and public car park capacity in close proximity to the appeal site is such that it would benefit from spare capacity available in those parking locations. I note that DFI Roads raised no objections to the appeal development, subject to the Council's Planning Department being satisfied with the reduction. Whilst I note the level of reduced parking provision for the development approved under application R/2013/0532/F, it is not determining in this case as each application must be assessed on its own merits. However, taking all these other factors together, I am persuaded that the proposed reduced level of on-site parking provision would be justified in this case.
13. For the reasons given above the appeal development would comply with criterion (f) of Policy QD1 of PPS7 and the related provisions of the SPPS. It would also meet Policy AMP7 of PPS3. The Council's second reason for refusal is not sustained.

Conclusions

14. For the reasons given above I find that the appeal development would not comply with Policy QD1 of PPS7 read as a whole, as well as the relevant element of the SPPS. Whilst reference to Planning Control Principles 1 and 3 of PPS12 were referred to by the Appellant, these are not operational policies for the consideration of development proposals, but rather reiteration of housing principles in the Regional Development Strategy. Whilst they are material to decisions on individual planning applications and although the appeal development may comply with the principle and thrust of PCP1 and PCP3, these matters would not in themselves justify the appeal development. Whilst the appeal development may provide increased housing stock for Ballynahinch which would be available to young people and

represent a more efficient use of the site, these matters would not outweigh the objection to the development. The Council's first reason for refusal is sustained and is determining. The appeal must fail.

This decision relates to the following drawings submitted with the application:-

DRAWING NUMBER	TITLE	SCALE	DATE
LA07/2016/1276/1	Location Map	1:1250	Apr 16
LA07/2016/1276/2	Site Analysis & Parking Availability	1:1000	Apr 16
LA07/2016/1276/3	Existing Floor Plans, Section & Elevations	1:100	Apr 16
LA07/2016/1276/4	Proposed Elevations	1:100	Apr 16
LA07/2016/1276/5	Floor Plans & Site Layout	1:100 & 1:250	Apr 16

COMMISSIONER MARK WATSON

List of Documents

Planning Authority:-	'A'	Statement of Case & Appendix (N, M & D DC)
Appellant:-	'B'	Statement of Case & Appendices (Headland Design)
	'C'	Rebuttal Statement (Headland Design)



Appeal Decision

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Appeal Reference:	2018/A0027
Appeal by:	Mr Richard Newell
Appeal against:	Refusal of Full Planning Permission
Proposed Development:	Proposed extension of curtilage of existing dwelling house and retention of existing domestic boat house and yard.
Location:	75A Glassdrumman Road, Annalong.
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2016/1407/F
Procedure:	Written Representations with Commissioner's Site Visit on 4 th October 2018
Decision by:	Commissioner Helen Fitzsimons on 5 th October 2018.

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether the proposed development would :-
 - Conflict with the provisions of a Local Development Plan (LDP);
 - Be sympathetic to the built form and appearance of the existing dwelling;
 - Detract from the appearance and character of the surrounding area; and
 - Compromise the use of a right of way.
3. The appeal site is located within the settlement limits of Annalong as designated by Policy AN01 of the Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) the LDP plan which operates in the area. BNMAP offers no specific policy or guidance pertinent to the appeal site. However, it is located adjacent an area zoned for housing under Policy AN02 of the LDP.
4. The extension of curtilage proposed is 15m deep x 31m wide an additional area of some 465m which represents in excess of 27% of the existing curtilage. The Council argued that such a proposal could prejudice the ability of plan designation AN 02 to deliver the objectives of BNMAP. Policy SETT 2 of the plan strategy is clear that 'where land is proposed for a specific use, then any proposals should be primarily composed of that use but may be accompanied by a complementary use'. It adds that 'development proposals on zoned land will be considered in the context of all prevailing regional planning policy and with any relevant Plan Policies and Proposals, including, where specified, key site requirements. In general this means that where land is proposed for a specific use, then any proposals should be primarily composed of that use but may be accompanied by a

complementary use. For example, housing developments be accompanied by education, health, community and cultural uses, open space/recreation use, and in some cases, a local convenience shop. Key site requirements have been used where appropriate to specify such uses and identify unacceptable land uses.

5. There are no KSRs in Policy AN02 that specify such uses and identify unacceptable land uses. Whilst this is so, policy SETT 2 does give an indication of what the plan considers to be a complementary use however, the list is not exhaustive, and there is nothing to indicate that a boat house and yard associated with an adjoining residential use is not a complementary use.
6. At the time of the preparation of BNMAP the land subject to designation AN02 had extant planning permissions (P/2005/0219/O and a subsequent 'renewal' of same P/2008/1180/O) which were considered to be 'committed housing' that is 'includes dwellings which have either been completed since 1 August 2003, are under construction or have yet to be implemented' and the designation which was predicated on the basis of this would have envisaged the delivery of ten houses to meet the overall objectives of housing delivery in Annalong. The planning permissions have now expired and there is no other planning permission in their place. The appellant submitted a site layout to indicate how the land zoned under Policy AN 02 could be developed to provide ten houses, with the boathouse and yard in situ. However, this is indicative only and has not been endorsed by the Council with a grant of planning permission and there is no guarantee that 10 dwellings could be accommodated on the designated land. Notwithstanding this, the Council have not given me any evidence as to how a shortfall in housing numbers on this land would significantly compromise the delivery of adequate housing provision and as a consequence undermine the ability of BNMAP to meet its objectives. The Council has not sustained its objection based on BNMAP and its second reason for refusal is not upheld.
7. I see no reason why a domestic curtilage within an existing urban area cannot be extended and objections by the Council regarding the extension of the curtilage of the host property are not determining. Given this I do not need to consider the appellant's arguments regarding siting of the boathouse.
8. The first addendum to Planning Policy Statement 7 'Quality Residential Environments' (PPS 7) entitled 'Residential Extensions and Alterations' is material in this appeal. Policy EXT 1 'Residential Extensions and Alterations' of the Addendum to PPS 7 states that planning permission will be granted for a proposal to extend or alter a residential property where all of four stated criteria are met. The Council raised objections under criterion (a) 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.
9. Paragraph A11 'Garages and other associated buildings' of Annex A of the Addendum says that they should be subordinate in scale and similar in style to the existing property taking account of materials, the local character and the level of visibility of the building from surrounding views.'
10. The appeal site is accessed via a laneway that serves 7 dwellings of varying heights and design. It protrudes into a swathe of agricultural land to its west, which

contains a large earth bund, and is owned by the appellant. No 75A Glassdrumman Road is a two storey smooth rendered dwelling painted cream and of modern design. To the rear of the dwelling is a concrete yard some 298sq.m in size. The boathouse, which is in situ, measures some 9.9m x 6.9m and is 4.2m high. It is constructed of corrugated metal with a roller shutter door on its front elevation, and has the appearance of an industrial building.

11. Views of the boathouse its relationship to and impact on the appearance of the existing property and surrounding area are from a public car park south of the appeal site; Glassdrummond Road; and Mullartown Park.
12. Views of the boathouse from Mullartown Road are limited by the earth bund and vegetation and are not significant. The boathouse can be seen from the drive way of No 75 Glassdrumman Road and the driveway of the host property. It appears as an incongruous feature due to its scale massing and design; and resultant appearance of an industrial buildings and it is out of keeping with the host property.
13. No. 75 Glassdrumman Road, also a two storey dwelling, rendered in cream and modern in design, has a substantial rear extension, which abuts the boundary of its curtilage. This extended dwelling sits comfortably within its surroundings and reinforces the residential nature of this part of the settlement, particularly when seen from the public car park. From a significant area within the public car park a large portion of the boathouse is visible, it appears, at times, to almost abut the extension to No 75 Glassdrumman Road and because of design and materials; and resultant industrial appearance, it appears as a discordant feature and detracts from the appearance and character the surrounding area.
14. None of the significant views of the appeal proposal are limited to the extent that it could be considered acceptable within its surroundings. The boathouse is not sympathetic with the built form and appearance of the existing property and it detracts from the appearance and character of the surrounding area. Criterion (a) of Policy EXT 1 of the Addendum to PPS 7 is not met.
15. This appeal is distinguishable from planning permission LA07/2017/0864/F at 72 Strangford Road, Chapeltown for proposed extension of 'site curtilage and construction of new garage, boat house and garden store' as the Council considered views of that proposal to be so limited as not to cause unacceptable harm.
16. I note that the appellant has offered to insert a gate within the proposed boundary fencing and this would facilitate the continued use of the existing right of way referred to by the objectors. The objectors concerns are not determining is this appeal.
17. As the appeal proposal offends criterion (a) of Policy EXT 1 of the Addendum to PPS 7 the appeal must fail and the Council has sustained its first reason for refusal.

This decision is based on the 1:2500 scale site location plan; 1:500 scale site plan; 1:100 scale floor plan and elevations; and 1:500 scale proposed site plan.

COMMISSIONER HELEN FITZSIMONS

2018/A0027

List of Documents

Planning Authority: - C1 Written Statement and Appendices

Appellant: - A 1 Written Statement and Appendices
A 2 Comments and Appendices



Appeal Decision

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Appeal Reference:	2018/A0050
Appeal by:	East Coast Coaches
Appeal against:	The refusal of full planning permission
Proposed Development:	Temporary permission for hard standing (area to be used for the parking and turning of coaches associated with existing bus and taxi depot)
Location:	70m east of No.72 Rathfriland Road, Newry
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2017/0492/F
Procedure:	Hearing on 17 th October 2018
Decision by:	Commissioner Diane O'Neill, dated 1 st November 2018

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether the proposal would:
 - be acceptable in principle
 - result in a detrimental change to the rural character of the countryside
 - integrate into the surrounding landscape
 - adversely affect the intrinsic character and environmental value of the special features of the LLPA
 - prejudice road safety
3. Section 45 (1) of the Planning Act (NI) 2011 requires the Commission, in dealing with an appeal, to have regard to the local development plan, so far as material to the application, and to any other material considerations. The Banbridge/Newry and Mourne Area Plan 2015 (BNMAP) operates as the local development plan for the area where the appeal site is located. The site is located within the countryside outside the development limit of Newry and within a local landscape policy area (Designation NY 122-LLPA Rathfriland Road/Hilltown Road); BNMAP Policy CNV 3: Local Landscape Policy Areas is therefore applicable. No specific guidance is given in the plan in relation to economic development in the countryside. The proposal therefore must also satisfy prevailing regional policy requirements.
4. The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area. The SPPS retains certain existing planning policy statements and guidance; amongst these are Planning Policy

Statement 3: Access, Movement and Parking (PPS 3), Planning Policy Statement 4: Planning and Economic Development (PPS 4), Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) and Development Control Advice Note 15: Vehicular Access Standards (DCAN 15) which provide the relevant regional policy context for the appeal proposal.

5. The appeal site is located along the roadside of the Rathfriland Road on the outskirts of Newry. It is opposite the appellant's residence at No.72 Rathfriland Road which is also located outside the development limit. The appellant has a coach and taxi business which operates out of No.72 Rathfriland Road. At the time of my site visit there were eleven operational coaches, two cars, three mini-buses, two un-roadworthy coaches, one low-loader lorry trailer containing straw bales, one lorry cab and numerous black bales of silage located on the appeal site. A concurrent planning application (LA07/17/0493) was submitted with the current appeal development for a residential and taxi/coach hire depot at No.72 Rathfriland Road. To date, the planning authority has not issued any decision or formulated any recommendation on that proposal. Concern in relation to the processing of the concurrent planning application is beyond the remit of the current appeal and is a matter for the appellant to address directly with the planning authority. The Clanrye River and the Crown Mound Motte and Bailey are located to the east of the appeal site.
6. Policy PED 2 of PPS 4, which is the basis of the second reason for refusal, deals with economic development in the countryside and states that such proposals will be permitted in accordance with the provisions of a number of policies including Policy PED 3 which relates to the expansion of an established economic development use. Policy PED 2 states that all other proposals for economic development in the countryside will only be permitted in exceptional circumstances.
7. There has previously been an enforcement notice appeal (2015/E0055) relating to land opposite No.72 Rathfriland Road, which includes the current appeal site, in reference to the unauthorised change of use of lands from agriculture to the parking of vehicles; creation of hardstanding to form a yard; creation of an access; creation of an earthen bank; change of use of agricultural land for the storage of inert material; change of use of agricultural land for the storage of building materials; and change of use of agricultural land for the storage of end of life vehicles. That appeal decision was issued on 10th October 2016. Appeal 2015/E0055 concluded that on the balance of probabilities it is more likely than not that the appellant's business was established at No.72 Rathfriland Road prior to 1st September 2010. However, at the current appeal hearing the planning authority disputed that conclusion as they considered that it had not been demonstrated that all of the buildings at No.72 Rathfriland Road had been in use for five consecutive years and no Certificate of Lawfulness of Existing Use or Development (CLUD) had been granted in order to establish the extent of the established area. Irrespective that the conclusion in 2015/E0055 was not substantially contested by the planning authority and the planning authority's reference to Policy PED 3: expansion of an established economic development use in the countryside within its third reason for refusal, given: that the previous case was an enforcement appeal; that whether there is an established economic development is contested by the planning authority; and in the absence of a CLUD which could have been sought during the two year period since that decision, it is not appropriate for me

to conclude either way as to whether there is an established economic use at No.72 Rathfriland Road.

8. The appeal development is for a temporary hard surfaced parking area in order to accommodate 14 commercial buses. Whilst the hard standing area is already in place and is being used for such purposes, it is proposed to close up the existing access at the southern point of the site and create a new access opening further north. The planning authority, supported by DfI Roads, stated that visibility splays of 4.5m x 80m are required in both directions in order to provide a safe access arrangement.
9. DfI Roads stated that the average speed along the road was 40 mph. Within the written evidence the appellant stated that the speed was 37mph. At hearing whilst the appellant accepted that the average speed was 40mph when travelling southerly along the road towards Newry it was argued that traffic on the other side of the road would be slower. The DfI Roads' calculation that there were greater than 3000 vpd on the priority road was not disputed by the appellant. The appellant however disputed the necessity of the 4.5m x 80m visibility splays standard. Whilst 4.5m x 80m could be achieved to the right of the access towards Rathfriland, only 4.5m x 55m or 2.4m x 63m could be achieved to the left hand side towards Newry as the appellant does not control the adjacent southern field. It was however argued that 2.4m x 80m could however be achieved to the left hand side if the measurement was taken 0.8m from the road edge or 4.5m x 80m could be achieved if taken 1m from the road edge.
10. Although DCAN 15 is guidance, PPS 3 states that DCAN 15 sets out the current standards for sightlines, radii, gradient etc. that will be applied to a new access onto an existing public road. As acknowledged in paragraph 5.17 of PPS 3, it may not always be practicable to comply fully with the appropriate visibility standards with such standards, like all material considerations, needing to be assessed in light of the particular circumstances of the individual case. It adds that exceptionally a relaxation in standards may be acceptable in order to secure other important planning objectives. Visibility standards, however, are not to be reduced to such a level that danger is likely to be caused.
11. As highlighted by paragraph 2.1 of DCAN 15, good visibility is essential to enable drivers emerging from a minor road to see and be seen by drivers proceeding along the priority road. In order to do this, visibility is required within the visibility splayed area. The appellant argued that the sight lines could be measured from a point 0.8m from the edge of the carriageway in order to achieve a y-distance 80m visibility splay to the left hand side of the access. They considered this to be a less important side given that traffic would normally be approaching from the right. However, irrespective of the fact that it is a temporary proposal, paragraph 2.1 of DCAN 15 states that the x-distance is measured along the centre-line of the minor road from the edge of the running carriageway of the priority road. Given the dimensions of a bus and the fact that it would be slower to emerge from the access than a car, the argument that a bus driver would have greater visibility due to the flat front of the bus would not justify setting aside the well established practice of measuring from the edge of the carriageway. The measurement from the edge of the carriageway is also necessary in both directions given the possibility of someone overtaking another vehicle and hence travelling on the wrong side of the carriageway.

12. In terms of whether the x-distance should be 2.4m or 4.5m, it was considered by DfI Roads that the proposed access traffic flow would be at the lower end of between the 60 & 1000 vpd category thus requiring the minimum x-distance to normally be 4.5m. Table A in DCAN 15 states that it may be reduced to 2.4m but only if traffic speeds on the priority road are below 37mph and danger is unlikely to be caused. Given that 14 buses would be located on site and the varied nature of the appellant's business' clients including school services, I find it more likely that the traffic flow from the proposed access would be over rather than under 60 vpd. Although traffic coming out of Newry would be leaving an urban setting with reduced speed limits, at this location, which is outside the 40mph speed limit, vehicles would be starting to build up speed and could be looking to pass a slower vehicle on this relatively straight stretch of road. Coming from the northern Rathfriland direction, traffic would be permitted to be travelling at the national speed limit before reaching the 40mph city speed limit. I therefore consider the claim that the average traffic speed in both directions is 40mph to be reasonable as opposed to the unsubstantiated suggestion of 37mph. This speed is therefore above the 37mph specified in DCAN 15 in relation to calculating the required x-distance. Given the slower moving nature of the vehicles that would be using the access, I am not persuaded that a danger would be unlikely to be caused by reducing the x-distance to 2.4m. The normal standard of 4.5m should therefore be applied. Given the access flow, speed and volume of traffic on the priority road, the y-distance of 80m sought by the planning authority is therefore appropriate.
13. Whilst the appellant suggested that a negative condition could be attached requiring that the required visibility splays of 4.5m x 80m in both directions be put in place, this would not be appropriate given that the development is already operating from the site and the usage of a substandard access by commercial vehicles, even for a temporary period, could be prejudicial to road safety. The evidence in relation to the breaking distance of an average family car does not persuade me that the proposed access would not prejudice the safety or convenience of road users as other factors would come into play such as the reaction time of drivers which DfI Roads stated is accounted for in DCAN 15. Given that the access, even if for a temporary period, cannot achieve the required visibility splays of 4.5m x 80m in both directions, the fifth reason for refusal has been sustained.
14. Policy PED 9, which is the basis for the fourth reason for refusal, states that a proposal for economic development use, in addition to the other policy provisions of PPS 4, will be required to meet all of thirteen criteria. The planning authority raised objection to six of the criteria in that the development would have an adverse impact on the environment by virtue of (a) being incompatible with the surround land use; (c) adversely affecting features of built heritage; (h) being unable to provide adequate access arrangements; (j) unsatisfactory site layout and landscaping arrangements; (k) being unable to provide appropriate boundary treatment and means of enclosure and; (m) unsatisfactory measures to assist integration into the landscape.
15. Given that the proposed access would be unsatisfactory, the development would fail to meet criterion (h) of Policy PED 9. The appellant estimated that providing the required visibility splays of 4.5m x 80m would require the removal of all the

vegetation to the south of the access point including 22m of the neighbour's roadside vegetation. On the northern side of the access, it was estimated that 25-28m of roadside vegetation would have to be removed. Irrespective of the fact that the relatively recent planting behind the roadside ditch could remain, the removal of this considerable amount of vegetation would significantly open up views of the appeal development when travelling along this stretch of the Rathfriland Road. Irrespective of whether the appeal site lacked enclosure by vegetation prior to the development occurring and despite the earthen banks and existing planting that has been carried out by the appellant on the boundaries, the buses are already visible and dominant on the appeal site. Given the significant amount of vegetation required to be removed to facilitate a safe access arrangement and irrespective of the offer to do additional planting including in an adjacent field, it would be unable to provide appropriate boundary treatment, means of enclosure and would not be satisfactorily integrated into the landscape. The development would appear prominent and have a dominant adverse impact in the landscape. Any new planting would take a significant amount of time to mature and there would be no certainty that planting more mature vegetation would successfully establish. The proposal would therefore also fail to meet criteria (j), (k) and (m) of Policy PED 9.

16. As it is unknown whether any future area plan would include this area within the development limit of Newry, it has to be judged against the Banbridge/Newry and Mourne Area Plan 2015 (BNMAP) which presently operates as the local development plan for the area. The appeal site is located within BNMAP Designation LLPA NY 122: LLPA Rathfriland Road/Hilltown Road. BNMAP Policy CVN 3, which relates to LLPAs, states that within such areas planning permission will not be granted to development proposals that would be liable to adversely affect their intrinsic environmental value and character. It is stated that LLPAs are designated by the plan to help protect the environmental assets within or adjoining settlements. They include: archaeological sites and monuments and their surroundings; listed and other locally important buildings and their surroundings; river banks and shore lines and associated public access; attractive vistas, localised hills and other areas of local amenity importance; and areas of local nature conservation importance, including areas of woodland and important tree groups. In terms of Designation NY 122, the plan states that the features or combination of features that contribute to the environmental quality, integrity or character of the area are: the Crown Mound Motte and Bailey, its setting and views; area of nature conservation interest, including river corridor and associated vegetation.
17. When travelling in a southerly direction along the Rathfriland Road towards Newry, there is an appreciation of the Crown Mound Motte and Bailey and its setting. Whilst not everyone may appreciate what the feature is, it contributes to the environmental quality, integrity and character of this edge of settlement area. Although the appellant's brother may own the neighbouring land and thus control and prevent public views from the Motte and Bailey, views towards it are still possible from this section of the Rathfriland Road for those driving, walking or residing in this area. Whilst the appellant argued that there was no objection from DfC Historic Environment Division, their consultation response however stated that they were unable to provide comment as the proposed hard standing had already been constructed. It was argued by the appellant that there are earth banks and vegetation on the appeal site boundaries, that the feature is elevated and that no

- buildings are proposed. However, despite these arguments, the commercial and dominant nature of the appeal development, whose access would require the removal of a significant portion of its roadside screening, would interrupt and interfere with this relatively unspoilt view and setting of the Crown Mound Motte and Bailey from the Rathfriland Road. The other commercial premises referred to by the appellant are located on the opposite side of the road, are within the development limit and are not located or viewed within the same context. Whilst it was argued that a LLPA designation does not preclude development, the policy states that planning permission will not be granted to development proposals that would be liable to adversely affect their intrinsic environmental value and character. Accordingly, the sixth reason which relates to Policy CNV 3 and the objection in relation to criterion (c) of Policy PED 9 have been sustained.
18. The appellant argued that there were a number of exceptional circumstances which would justify the granting of the temporary proposal. It was stated that the business contributes to the local economy for example in terms of turnover, salaries and bringing people to the area; that there is a need for such a service for instance by Translink, NI Railways, local schools, clubs and other organisations; that they require time in order to find alternative premises; that Invest NI control the majority of the employment land within Newry; that there is a need to be in proximity to the business' administrative and maintenance premises at No.72 Rathfriland Road.
 19. In terms of Invest NI's control of employment land, this was highlighted in the Preferred Options Paper (POP) (June 2018) for the area which states that they control 52ha out of the 96ha of employment land located in Newry. However, the POP identifies the quantity and distribution of employment land as key issues within the District. It suggests a range of options available to address these issues together with defining the Council's Preferred Options including uplifting the overall amount of land zoned for employment use by 20%. The POP is however only the first formal stage in the preparation of the new Local Development Plan for the area and therefore is of little weight when considering the appeal development. Whilst the appellant may not be eligible to occupy Invest NI land and although there may be an overarching issue in terms of employment land provision within the area to be addressed by the forthcoming development planning process, in this case only unsubstantiated references were made to the appellant carrying out searches for alternative sites.
 20. Although the appellant's fleet is registered to No.72 Rathfriland Road, the enforcement notice required the permanent cessation of the parking of buses, mini-buses, coaches and any vehicles associated with the appellant's business on the site within 60 days from when the notice took effect. He was therefore aware for a considerable period of time of the necessity to make alternative arrangements for the business. Whether this relocation would result in a down-sizing of the business, reduction in staff and the level of service that it could provide to its customers are financial matters for the business and do not outweigh the objections to the development. It is also noted that there is no decision on the proposal at No.72 and at any rate, even if granted, it is not viewed by the appellant as a permanent solution as it would not accommodate all of the existing business needs therefore making an alternative site necessary if the business is to remain at its current size or expand. Although it was argued that the appeal site is only disconnected from the premises at No.72 by a public road, it is still located in a

countryside location outside the development limit, with no development located to the north, east or south of the site. Whilst the current physical infrastructure and associated investment made on the appeal site is not transferrable, this was a risk that was taken by the appellant when it was decided to carry out development without the necessary planning permission being in place. It is matter of preference should the appellant consider that the relocation of the business would necessitate them moving from their place of residence.

21. An argument was presented that temporary consent was granted for an electronic sign adjacent to Newry Cathedral. Whilst comprehensive details of this case were not provided, it is noted that this decision was originally by a different decision maker (the former Department of the Environment). The planning authority, who are entitled to reach their own decision on a development, now state that they honoured the remaining duration of the consent following its quashing by the courts given that Belfast City Hall are said to have had a temporary screen in place for approximately 10 years. The sign has since been removed. I therefore do not consider this to be a comparable case to the appeal development.
22. Therefore, despite the various arguments presented including that the development is of a smaller scale than that considered under 2015/E0055, the wish to operate a legitimate expanding business with approximately 10 employees, the requirements of the operator's licence, duration of the temporary permission, lack of general bus provision and parking in Newry, it has not been demonstrated that there are exceptional circumstances which outweigh the fact that the development would be unable to provide a safe access arrangement, would have an adverse impact on the countryside environment due to its unacceptable impact on the Crown Mound Motte and Bailey and lack of integration into the local landscape. Accordingly, as the development is contrary to Policy PED 2 of PPS 4, the second reason for refusal is sustained.
23. Even if it were accepted that the development would be an expansion of an established economic development use at No.72 Rathfriland Road, irrespective of the space requirements of the commercial vehicles, the increase by approximately 100% would be a major increase in the site area of the enterprise. It has already been concluded that the development would be of a scale and nature that would harm the rural character and appearance of the local area. There is no persuasive evidence that the enterprise could not be relocated or that the development would make a significant contribution to the local economy which would outweigh the adverse impact on the rural environment and road safety. There would therefore be no policy support for the development under Policy PED 3 of PPS 4.
24. The appeal is therefore not one of the specified types of development considered to be acceptable in the countryside under Policy CTY 1. Policy CTY 1 also states that other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement. The arguments presented, individually or cumulatively, do not amount to overriding reasons why the development is essential and needs to be located at this rural location. I conclude that the proposal is unacceptable in principle and contrary to Policy CTY 1 of PPS 21. Accordingly, the first reason for refusal and the objection to criterion (a) of Policy PED 9 is sustained.

25. It was argued that it defeats the purpose of a temporary proposal if it is required to meet the policy requirements for a permanent development. However, it has been judged that the appellant's circumstances do not warrant the granting of the development even on a temporary basis. As the first, second, fourth, fifth and sixth reasons for refusal are sustained, the appeal must fail.

This decision is based on the following drawings:-

Drawing 01 1:2500 site location plan dated received by the planning authority on 24th March 2017

Drawing 02 Rev 1 1:500 site layout dated received by the planning authority on 23rd August 2017

COMMISSIONER DIANE O'NEILL

List of Appearances

Planning Authority
(Newry, Mourne and Down District Council):-

DfI Roads

Appellant (East Coast Coaches):-

Ms Jacqueline McParland
Ms Lisa Grant
Mr Ronan Loughlin

Mr Patrick Connolly
Mr Sean Connolly
Mr Colin O'Callaghan
(O'Callaghan Planning-
Agent)

List of Documents

Planning Authority
(Newry, Mourne and Down District Council):-

Appellant (O'Callaghan Planning-Agent):-

Statement of Case (PA 1)

Statement of Case (A 1)



Appeal Decision

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Appeal Reference:	2017/A0178
Appeal by:	Mr Walter Watson.
Appeal against:	The refusal of full planning permission.
Proposed Development:	Erection of a replacement dwelling and detached garage.
Location:	4 Drumnaquoile Road, Castlewellan.
Planning Authority:	Comhairle Ceantair an Iúir, Mhúrn agus an Dúin - Newry, Mourne and Down District Council.
Application Reference:	LA07/2017/0786/F
Procedure:	Written representations and Commissioner's site visit on 27 th September 2018.
Decision by:	Commissioner Damien Hannon, dated 5 th November 2018.

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 proposal is acceptable in principle in the countryside and whether it would have an adverse impact on the setting of a listed building.
3. The appeal site lies within the open countryside, outside any settlement development limit, as designated in the Ards and Down Area Plan 2015 (ADAP), which operates as the relevant Local Development Plan (LDP). The LDP however, contains no provisions specific to proposals for replacement dwellings in the countryside.
4. The relevant policy context is provided by Planning Policy Statement 21- Sustainable Development in the Countryside (PPS 21), Planning Policy Statement 6 – Planning, Archaeology and the Built Heritage (PPS 6) and the Strategic Planning Policy Statement for Northern Ireland (SPPS). No conflict arises between the provisions of PPS 21 and the SPPS in respect of issues raised by this appeal.
5. 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 would contribute to the aims of sustainable development. The appellant

argued that the proposal was acceptable as replacement dwelling in accordance with Policy CTY 3.

6. The appeal site encompasses a group of buildings, set within an agricultural field and located some 50m to the east of Drumnaquoile Road. The group, set in an 'L' shaped formation, comprises a cottage, a two storey stone barn and a more recently constructed lean to, corner structure, linking the other two buildings.
7. Policy CTY3 sets out the circumstances whereby permission will be granted for the replacement of an existing dwelling in the countryside. It states that the retention and sympathetic refurbishment, with adaptation if necessary, of non-listed vernacular dwellings in the countryside, will be encouraged in preference to their replacement. The policy however, also states that permission for a new dwelling will be granted if the existing dwelling does not make an important contribution to the heritage, appearance or character of the locality.
8. Although currently vacant, the existing structures represent a good example of a small scale farm group dating in part back to 1860's. The cottage is of more recent construction (Post 1925). Nonetheless, with its linear form, simple design, modest dimensions, pitched roof and chimney along the ridge line, this cottage, while not listed, is nonetheless of vernacular design. However, with picture windows in its front elevation, rendered walls and a corrugated iron roof, the existing dwelling has an unremarkable appearance, is of limited architectural merit and in my view does not make an important contribution to the heritage, appearance or character of the locality.
9. Policy CTY3 states that in such cases, the retention of the existing structure will be accepted where it is sympathetically incorporated into the layout of the overall development scheme. The proposal however, does not seek retention of any of the buildings on the site. Providing the existing buildings are removed and an appropriate landscaping scheme secured by condition, no objection was raised in respect of the design of the proposed dwelling which incorporates the use of natural slate roofing and a combination of white render and stone clad walls. In these circumstances therefore, I conclude that the proposal constitutes the acceptable replacement of a non-listed vernacular dwelling in the countryside in accordance with Policy CTY 3 and therefore Policy CTY 1 of PPS 21. The council's objection to the proposal in principle and its first reason for refusal, based on policies CTY 1 and CTY 3 of PPS 21 and the SPPS is not sustained.
10. The council raised objection on the grounds that the proposal would adversely affect the setting of a nearby listed building, namely No. 2 Drumnaquoile Road 'Kinelarty'. Policy BH 11 of PPS 6 states that development which would adversely affect the setting of a listed building will not normally be permitted.
11. Kinelarty is a 1½-storey, two bay, water attendants dwelling incorporating the use of contrasting yellow bricks in its detailing. It is located fronting the Drumnaquoile Road at a point some 90m south east of the appeal site. Kinelarty is a dwelling situated within its defined curtilage and separated from

the appeal site by a field. Although both Kinelarty and the appeal group are intervisible from the road, I do not regard the appeal group as in any way essential to character, design or function of the listed building. In these circumstances I do not consider the appeal site and its buildings to form part of the setting of Kinelarty. The Council's objection on the grounds that the development would adversely affect the setting of a listed building is not well founded and its second reason for refusal based on Policy BH 11 of PPS 6 is not sustained.

12. In the absence of sustained objection the appeal succeeds and planning permission is granted.

Conditions

- (1) The development shall be begun before the expiration of five years from the date of this permission.
- (2) The landscaping scheme involving retention of existing hawthorn hedging along the laneway and roadside boundary together with new planting as indicated on the 1:500 scale Site Plan received by the council on 30th August 2017 and numbered 02 by them, shall be implemented prior to occupation of the dwelling and shall be permanently retained. Trees or shrubs dying, removed or becoming seriously damaged shall be replaced in the next planting season with others of a similar size and species unless the council gives written consent to any variation.
- (3) The dwelling and outbuildings, indicated for removal on the 1:500 scale Site Plan received by the council on 30th August 2017 and numbered 02 by them shall be demolished and all resultant rubble removed from the site prior to the commencement of any development.

This decision approves the following drawings:-

1:250 Scale Location Map received by the council on 23 May 2017 and numbered 01 by them.

1:500 scale Site Plan received by the council on 30th August 2017 and numbered 02 by them.

1:50 scale Elevations received by the council on 30th August 2017 and numbered 03 by them.

1:50 scale Floor Plans received by the council on 30th August 2017 and numbered 04 by them.

1:50 scale Garage Plans received by the council on 30th August 2017 and numbered 06 by them.

COMMISSIONER DAMIEN HANNON

2017/A0178

List of Documents

Planning Authority:-	COU 1	Statement of Case
Appellant:-	APP 1 APP 2	Statement of Case Comments