



August 19th, 2021

Notice Of Meeting

You are invited to attend the Planning Committee Meeting to be held on **Wednesday, 25th August 2021** at **10:00 am** in **Mourne Room Downshire Civic Centre.**

Committee Membership 2021-2022

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

Agenda

1.0 Apologies and Chairperson's remarks.

- Apology - Cllr. Devlin

2.0 Declarations of Interest.

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

- Item 7 LA07/2018/1787/F- Cllrs. Hanna, Harte, Larkin, McAteer, McKee and Trainor can take part in the discussion/decision on this application

Minutes for Adoption

4.0 Minutes of Planning Committee Meeting held on Wednesday 28 July 2021 (Attached).

 *Planning Committee Minutes 28-07-2021.pdf*

Page 1

For Discussion/Decision

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

 *Addendum list - 25-08-2021.pdf*


Page 17

Development Management - Planning Applications for determination


6.0 LA07/2020/0661/O Land opposite and west of Nos 10 -32 Grove Gardens Killyleagh BT30 9RS Housing development. (Case Officer report attached).

APPROVAL

- A request for speaking rights has been received from Cllr. Terry Andrews on behalf of residents objecting to the application. **(Submission attached).**

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

Page 18

 *Item 6 - LA07-2020-0661-O (objection).pdf*

Page 33


 *Photos for Planning.pdf*

Page 34

7.0 LA07/2018/1787/F 23 Downpatrick Road Killough Proposed extension to existing Materials Recovery Facility Building. (Case Officer report attached).

APPROVAL

- Addendum list (Cllrs. Hanna, Harte, Larkin, McAteer, McKee and Trainor can take part in the discussion/decision on this application)

 *LA07-2018-1787-F-MRF_Addendum.pdf*

Page 36


8.0 LA07/2019/0565/F 5 Donard Park Newcastle Proposed residential project consisting of 12nr apartments including associated car parking and communal open space located off a private road at Donard Park (Amended Proposal). (Case Officer report attached).

APPROVAL

- A request for speaking rights has been received from P Knox, Ganson UK Ltd, in support of the application. **(Submission attached).**

 *LA07_2019_0565_F 5 Donard Park Newcastle.pdf*

Page 41

 *Item 8 - LA07-2019-0560-F.pdf*

Page 54


9.0 LA07/2020/0531/F Between 82A and 88 Belfast Road Saintfield Proposed Stable Block (Domestic), new access, hard standing and all associated works (Amended site description and address). (Case Officer report attached).

REFUSAL

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

 *LA07_2020_0531_F 88 Belfast Road.pdf*

Page 57

 *Item 9 - LA07-2020-0531-F.pdf*

Page 64

10.0 LA07/2021/0027/O 60m North of 67 Dechomet Road Dromara Demolition of existing vacant dwelling and erection of replacement dwelling and garage as per CTY3 PPS21. (Case Officer report attached).

REFUSAL

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

 *LA07-2021-0027-F Replacement Dechomet Rd.pdf*

Page 66

 *LA07-2021-0027-0 (applicant and agent).pdf*

Page 70


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

REFUSAL

- A request for speaking rights has been received from Luke Howard **(no written submission has been received)**
- A request for speaking rights has been received from Declan Rooney, agent and Gerard Milligan, applicant, in support of the application. **(Submission attached)**.

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

Page 85


 *Item 11 - LA07-2021-0246-F.pdf*

Page 93


12.0 LA07/2020/1208/O Northeast of 5b Mullavat Road Greenan Newry BT34 2QB Proposed 1 no. infill dwelling (amended proposal). (Case Officer report attached).

REFUSAL

A request for speaking rights has been received from Declan Rooney, agent and Joe McGovern, applicant, in support of the application. **(Submission attached)**.

 *LA07-2020-1208-O Mullavat Road.pdf*

Page 95

 *Item 12 - LA07-2020-1208-0.pdf*

Page 102


13.0 LA07/2020/0350/O 40m south of No 27 Mill Road Hilltown Proposed site for infill dwelling. (Case Officer report attached).

REFUSAL

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

 *LA07-2020-0350-O.pdf*

Page 104


 *Item 13 - LA07-2020-0350-0.pdf*

Page 111

14.0 LA07/2020/0494/F Site adjacent to and 30m NE of The Kilbroney Vicarage Forestbrook Road Rostrevor Proposed Car park and associated site works to serve existing business at Bradfor Ltd Rostrevor, using existing footway link on Forestbrook Road. (Case Officer report attached).

APPROVAL

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

 *LA07-2020-0494-F.pdf*

Page 117

 *Item 14 - LA07-2020-0494-F request speaking rights 1.pdf*

Page 135


15.0 LA07/2020/1627/F 72 Newry Road Mayobridge Newry BT34 2EU Proposed replacement dwelling. (Case Officer report attached).

REFUSAL

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

 *LA07-2020-1627-F 72 Newry Road.pdf*

Page 137


 *Item 15 - LA07-2020-1627-F.pdf*

Page 144


16.0 LA07/2021/0498/O 20m north of 14 Old Road Mayobridge Newry BT34 2HG Proposed site for infill dwelling & garage. (Case Officer report attached).

REFUSAL

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

 *LA07-2021-0498-O.pdf*

Page 146


 *Item 16 - LA07-2021-0498-0.pdf*

Page 156


17.0 LA07/2021/0395/F Adjacent to no. 17 Oakland Grove Upper Dromore Road Warrenpoint BT34 3SQ Proposed one bedroom detached dwelling and alterations to access to no. 17 Oakland Grove, Warrenpoint. (Case Officer report attached).

REFUSAL

- A request for speaking rights has been received from John Cole, agent, and Sarah Magee, applicant's daughter, in support of the application. **(Submission attached).**

 *LA07-2021-0395-F.pdf*

Page 158

 *Item 17 - LA07-2021-0395-F.pdf*

Page 167

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

REFUSAL

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

 *LA07-2020-0496-F NE of junction of Bernish and Seavers Road.pdf*

Page 169

 *LA07-2020-0496-F.pdf*

Page 173

19.0 LA07/2020/1355/F 90 metres north of 14 Upper Clontigora Road Killeen Newry Erection of replacement dwelling with detached garage. (Case Officer report attached).

REFUSAL

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

 *LA07-2020-1355-F.PDF*

Page 175

 *LA-7-2020-1355.pdf*

Page 182

20.0 LA07/2020/0893/F 60 metres south of no. 49 Ballsmill Road Glassdrumman Crossmaglen Newry Proposed erection of 2 no. detached rural infill dwelling houses and detached garages ancillary works and additional landscaping. (Case Officer report attached).

APPROVAL

- A request for speaking rights has been received from Michelle Teggart in

objection to the application. **(Submission attached).**

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

📄 *LA07-2020-0893-F South of 49 Ballsmill Road Amended.pdf* *Page 184*

📄 *Item 20 - LA07-2020-0839-F (objection).pdf* *Page 192*

📄 *Item 20 - LA07-2020-0893-F - Written Submission - J.Reel (support).pdf* *Page 194*

For Noting

21.0 Historic Actions Tracking Sheet. (Attached).

📄 *Planning HISTORIC TRACKING SHEET - Updated August 2021.pdf* *Page 197*

22.0 Planning Committee Performance Reports for July 2021. (Attached).

📄 *July 2021 Planning Committee Performance Report.pdf* *Page 203*

23.0 Current appeals and decisions July 2021. (Attached).

📄 *Current Appeals and decisions issued in July 2021.pdf* *Page 208*

Local Development Plan Items - Exempt Information

24.0 LDP: Progress Report - Quarterly Update. (Attached).

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

📄 *PC Report re LDP Progress - Quaterly Update (1st Q 2021-22).pdf* *Not included*

📄 *LDP Progress - Quarterly Update (1st Q 2021-22)(Report Appendix).pdf* *Not included*

25.0 Housing Land Availability Report. (Attached).

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

📄 *PC Report re Housing Land Availability.pdf* *Not included*

NEWRY, MOURNE & DOWN DISTRICT COUNCIL

Minutes of the Planning Committee Meeting of Newry, Mourne and Down District Council held on Wednesday 28 July 2021 at 10.00am in the Mourne Room, Downshire Estate, Downpatrick and via Microsoft Teams.

Chairperson: Councillor D McAteer

In attendance: **(Committee Members)**

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

(Officials)

Mr C Mallon	Director Enterprise Regeneration & Tourism
Mr A McKay	Chief Planning Officer
Mr A Hay	Principal Planning Officer
Mr M Oliver	Planning Officer
Ms L O'Connor	Senior Planning Officer
Ms A McAlarney	Senior Planning Officer (via Teams)
Mr M Keane	Senior Planning Officer (via Teams)
Ms N Largey	Legal Advisor
Mr F O Connor	Legal Advisor
Ms S Taggart	Democratic Services Manager
Ms C McAteer	Democratic Services Officer
Ms P McKeever	Democratic Services Officer (via Teams)

P/057/2021: APOLOGIES AND CHAIRPERSON'S REMARKS

Apologies were received from Councillor Enright.

P/058/2021: DECLARATIONS OF INTEREST

Councillor Devlin declared an interest in Item 13, Planning Application LA07/2020/1797/F saying she had previously met with the objectors.

P/059/2021: DECLARATIONS IN ACCORDANCE WITH PLANNING COMMITTEE PROTOCOL PARA. 25 – MEMBER TO BE PRESENT FOR ENTIRE ITEM

Item 7 – LA07/2019/1375/F – Cllrs. Devlin, McEvoy and McKee could not take part in the discussion/decision on this application

Item 8 – LA07/2020/1792/F – Cllrs. Devlin, McEvoy and McKee could not take part in the discussion/decision on this application.

Item 9 – LA07/2020/0299/F – Cllrs. Devlin, McEvoy and McKee could not take part in the discussion/decision on this application.

Item 10 – LA07/2020/1519/RM – Cllrs. Devlin, McEvoy and McKee could not take part in the discussion/decision on this application.

MINUTES FOR CONFIRMATION

P/060/2021: MINUTES OF PLANNING COMMITTEE MEETING HELD ON WEDNESDAY 05 MAY 2021

Read: Minutes of Planning Committee Meeting held on Wednesday 05 May 2021. **(Copy circulated)**

AGREED: **On the proposal of Councillor Hanna seconded by Councillor O'Hare it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 05 May 2021 as a true and accurate record.**

FOR DISCUSSION/DECISION

P/061/2021: ADDENDUM LIST

Read: Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 28 July 2021. **(Copy circulated).**

AGREED: **On the proposal of Councillor Hanna seconded by Councillor Trainor it was agreed to remove the following Planning Application from the Addendum List to allow for full presentation at the next Planning Committee Meeting.**

Item 12 - LA07/2020/0661/O - Land opposite and West of Nos. 10 - 32 Grove Gardens, Killyleagh - Housing development **APPROVAL**

AGREED: **On the proposal of Councillor Hanna seconded by Councillor Trainor it was agreed to approve the Officer recommendation in respect of the following application listed on the addendum list for Wednesday 28 July 2021:**

- **Item 20 - LA07/2018/0262/F** - Lands rear of No. 7-16 and the side of No. 17 Meadowvale, Newtownhamilton - Proposed housing development **APPROVAL**

**DEVELOPMENT MANAGEMENT -
PLANNING APPLICATIONS FOR DETERMINATION****P/062/2021: PLANNING APPLICATIONS (WITH PREVIOUS SITE VISITS)****(1) P/2013/0189/F****Location:**

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

Proposal:

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

Conclusion and Recommendation from Planning Official:

Refusal

Mr McKay advised Members he had decided it would be prudent to remove Planning Application P/2013/0189/ from the agenda until the legislation for holding committee meetings had received assent, which would not be until August 2021.

Councillor McAteer expressed his disappointment at the decision to remove the application from the agenda and said several attempts had previously been made to have this application heard and it was not the applicant's fault it had not yet been considered by the Planning Committee.

(2) LA07/2019/1375/F**Location:**

Lands immediately South of 17 Leitrim Road, Ballymaginaghy, Castlewellan

Proposal:

Erection of 2 dwellings

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

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

Speaking rights:

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

Michael Clarke, agent was in attendance to answer any questions.

Noted:

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

AGREED: On the proposal of Councillor Larkin, seconded by Councillor Trainor it was unanimously agreed to issue a refusal in respect of Planning Application LA07/2019/1375/F as per the information and recommendation contained in the Case Officer Report presented to Committee.

(3) LA07/2020/1792/F

Location:

75m South of 15 Sheepland Road, Ardglass

Proposal:

Dwelling and garage on a farm

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

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

Speaking rights:

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

Barry Hillen, agent was in attendance to answer any questions from Members.

Noted:

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

Issues Raised:

- Mr Hillen advised the approximate distance between the proposed dwelling and the farm structures was 63m.
- Ms McAlarney the current application offended policy and an alternative site would have to be considered separately.

AGREED: On the proposal of Councillor Hanna seconded by Councillor Larkin it was unanimously agreed to issue a refusal in respect of Planning Application LA07/2020/1792/F as per the information and recommendation contained in the Case Officer Report presented to Committee.

(4) LA07/2020/0299/F

Location:

Adj. to 7 Annadloy Road North Dunnanelly, Downpatrick

Proposal:

Single story dwelling

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

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

Speaking rights:

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

Brian Kennedy, agent was in attendance to answer any questions from Members

Noted:

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

Issues Raised:

- Mr Kennedy said the vegetation growth that had occurred implied an infringement of the site lines, however he said the site lines were clearly visible in two Google Map images.
- Ms McAlarney considered the access and splays were not in place when the application had been submitted and the foundations had not been put in the right place as per the approval granted.
- Mr Kennedy accepted that only 6m of the foundations were in the approved siting.
- Ms Largey advised Members that only a small part of the foundations correlated with the approval and the objective test to meet was if they considered this was a lawful commencement of the application, which she considered it was not.

Councillor Larkin proposed to issue an approval in respect of Planning Application LA07/2020/0299/F contrary to Officer recommendation on the basis that the poured foundations were indicative of commencement of works, 6m of the poured foundations were in accordance with the approval and he considered the access arrangements were in place within the specified timeframe.

Councillor Trainor seconded the proposal.

Ms Largey said she had significant concerns and asked if Members would consider deferring the application to allow time to consider legal advice and to speak to DfI Roads regarding the access issues.

Councillor Larkin agreed to defer Planning Application LA07/2020/0299/F.

AGREED:

On the proposal of Councillor Larkin seconded by Councillor Trainor it was agreed to defer Planning Application LA07/2020/0299/F to consider legal advice and to get clarity from DfI on the access issues.

Planning Application LA07/2020/0299/F to be tabled at the Planning Committee Meeting on 25 August 2021.

(5) LA07/2020/1519/RM

Location:

Castlewellan Road, Dromara

Proposal:

Replacement dwelling

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

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

Speaking rights:

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

Declan Rooney, agent and Sinead Marmion, applicant, were in attendance to answer any questions from Members.

Noted:

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

Issues Raised:

- Mr Rooney agreed the 10m ridge height could be lowered to 8m and the chimney breast could be internalised.
- Ms McAlarney said there was a third refusal reason which was the two-storey front porch needed be reduced to single storey.
- Councillor Larkin said he did not consider the two-storey porch to be out of character in the area.
- Ms McAlarney considered the porch to be unacceptable, the proposed dwelling would be a road side property and highly visible.
- Mr Rooney did not consider the proposed dwelling to be highly visible and he said two-storey porches were a feature in the locality.
- Ms Largey advised Members they could make their determination and delegate conditions to the officers.

Councillor Larkin proposed to issue an approval in respect of Planning Application LA07/2020/1519/RM contrary to Officer recommendation on the condition that two of the three refusal reasons be addressed: (1) The ridge height of the dwelling be reduced from 10m to 8m and (2) The chimney breast be internalised. Councillor Larkin considered the two-storey porch should be retained.

Councillor Hanna seconded the proposal.

The proposal was put to a vote and voting was as follows:

FOR:	6
AGAINST:	1
ABSTENTIONS	1

The proposal was declared carried.

AGREED: On the proposal of Councillor Larkin, seconded by Councillor Hanna, it was agreed Committee were minded to issue an approval in respect of Planning Application LA07/2020/1519/RM contrary to Officer recommendation on the basis that the ridge height of the dwelling be reduced from 10m to 8m and the chimney breast be internalised. The two-storey porch to be retained and Planning Officials be granted authority to impose any relevant conditions.

P/063/2021: PLANNING APPLICATIONS FOR DETERMINATION

The following applications were determined by the Committee.

(1) LA07/2019/1808/F

Location:

Ballykinler GAC Commons Road, Ballykinler

Proposal:

4 no. full size GAA pitches (3 of which are floodlit), spectator seating, multi-use games area (MUGA), changing rooms, fitness studio and ancillary offices, car and bus parking, pedestrian access from Marian Park, new access arrangements, relocation of traffic calming feature on Commons Rd, landscaping and associated site works. Road junction improvements of Commons Road / Tyrella Road junction and improvement works to include carriageway widening, a ghost island right turn provision with associated visibility splays, drainage, embankment re-gradation and associated road works. (Amended Description)

Conclusion and Recommendation from Planning Official:

Approval

Power-point presentation:

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

**Speaking rights:
(via Teams)**

In support:

Ms Sarah McDowell, agent and Mr Sean Og, Down GAA Secretary presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

A written submission of support was received from Cllr. Tinnelly

Colm McGurk (McGurk Architects) Architect, Sean Foy (Atkins) Transport Consultant and Rory Murtagh (Atkins) Transport Consultant were in attendance to answer any questions from Members.

Issues raised:

- The proposed development would be a training facility with only 3 – 4 modest events planned annually.
- The existing Down GAA facility located in Newry would continue to be used for major events and would still be the 'county ground'.
- There was provision for 340 car parking spaces with contingency plans for an additional 125 extra spaces.
- A comprehensive assessment had been undertaken with DfI Roads and additional safety enhancements and upgrades put in place.
- There was no potential to expand the proposed development in the future.

AGREED: On the proposal of Councillor Trainor, seconded by Councillor Murphy it was unanimously agreed to issue an approval in respect of Planning Application LA07/2019/1808/F as per the information and recommendation contained in the Case Officer Report presented to Committee.

(2) LA07/2020/1797/F

Location:

22 Ballaghbeg Park, Newcastle

Proposal:

Proposed single storey rear extension to dwelling. (Amended proposal)

Conclusion and Recommendation from Planning Official:

Approval

Power-point presentation:

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

**Speaking rights:
(via Teams)**

In objection:

James and Elaine Major, presented in objection to the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

Issues raised:

- Ms McAlarney acknowledged that although the amenity area was small, there was sufficient space left for the purposes of domestic use.
- Mr Major said the proposed extension would cover two manholes, there were overhanging issues that needed to be addressed and it would contravene the agreed covenant for the property.

- Ms McAlarney said the Planning Department was not responsible for the construction element of the build, its only concern was that it complied with Planning Policy.
- The applicant would need to obtain consent by NI Water to build over sewers.
- Ms Largey advised the issue of the covenant was a civil matter rather than a Planning one.
- Ms Largey said Council had to have regard for material considerations but that did not include civil related issues. Planning Department could only work within their parameters and other consents would have to be sought before building could commence.
- Ms McAlarney said she would be content to speak to the agent regarding the issue of the overhang in an effort to try and come to a satisfactory conclusion.

AGREED: **On the proposal of Councillor Larkin seconded by Councillor Hanna it was agreed to defer Planning Application LA07/2020/1797/F for a site visit and to allow Ms McAlarney to liaise with the agent to discuss the issue of the overhang.**

(4) LA07/2021/0058/F

Location:

East of 33 and 30 - 36 Tollymore Brae, Newcastle

Proposal:

8 no. detached dwellings and associated landscaping

Conclusion and Recommendation from Planning Official:

Approval

Power-point presentation:

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

**Speaking rights:
(via Teams)**

In support:

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

Issues raised:

- Mr Morgan advised the proposed development respected the surrounding area and was appropriate to the existing Tollymore Brae development, but he said the proposed development had bigger gardens.
- The separation distance between the houses exceeded the 20m separation distance as recommended in Creating Places.
- There was access to the 5m maintenance strip.

AGREED: **On the proposal of Councillor O'Hare, seconded by Councillor Larkin it was unanimously agreed to issue an approval in respect of Planning Application LA07/2021/0058/F as per**

the information and recommendation contained in the Case Officer Report presented to Committee.

(5) LA07/2020/1477/O

Location:

Lands immediately adjacent and West of 61 Ameracam Lane, Cranfield

Proposal:

Proposed infill dwelling

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

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

Speaking rights:

(via Teams)

In support:

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

Pat Savage, Savage Associates, Thomas Clarke, applicant and Jen Firth DAERA, also in attendance.

Issues Raised:

- Ms Largey said she was not an expert on coastal erosion however generally as a point of law, landowners would be responsible for protecting their own properties.
- Ms Firth said the onus of the development would lie with the landowner, however the landowner would have to apply for a marine licence to carry out any works required beyond the high water mark towards the low water mark.
- Ms Firth advised Members that DAERA would have to ensure they did not approve a development that was contrary to policy and the onus would be on DAERA if defences were required in the future.
- Ms Firth acknowledged a lot of work had been carried out at the Golf Course in Portrush in terms of sea defences, however, she said this could not be compared to the single dwelling proposal before the Committee.
- DAERA worked on the precautionary principle that approval should not be granted until evidence was available to support that decision.
- Ms Firth said it was difficult to justify going against the precautionary principle when dealing with a single dwelling application if it could not be justified that it would be beneficial to the public.
- Ms Firth said there was very little supporting evidence to indicate massive coastal erosion other than a slight increase in sea levels, however, the rock armour presence would indicate erosion was present or had been in the past.
- DAERA policy was that they should not be approving or repairing any more sea defences and there were examples in the UK and Wales where sea defences had not been retained or repaired.

- Ms Firth said she was almost certain DAERA had not installed the rock armoury at the site and said it may have been DfI Roads but she could not be sure.
- Mr Clarke said he had lived beside the site for 40 years and considered Cranfield Bay to be unique, in that it was fully rock armoured and therefore should not be compared to the neighbouring Fair Road as it did not have any rock armour protection.
- Mr Keane advised that DAERA had commissioned a Baseline Study in 2019 and this was ongoing, however, in the absence of documentary evidence, Planning Department deferred to DAERA who had local knowledge of coastal erosion and were the experts in this field.
- Mr Keane said different parts of the coastline were more at risk than others.
- In response to a query as to whether there was any evidence of damage to this particular area from recent storms, Ms Firth said she was not an engineer and as such she would not like to comment.
- Mr Rooney advised Members that although some areas of the coastline showed evidence of erosion, he considered this particular area did not and had been protected by the rock armoury in place.
- Mr Rooney considered this area of coastline could not be compared to Fair Road and he said he believed the marine map and baseline study contained inaccuracies.
- Ms Largey said every case was case specific.

Councillor Hanna proposed to issue an approval in respect of Planning Application LA07/2020/1477/O on the basis that he considered Cranfield Bay to be a unique location, it was a sheltered cove and the proposed dwelling would be well above sea level; the sea defences had been in place for a substantial amount of time and photographic evidence indicated no damage had occurred. Councillor Hanna said the application met all other planning requirements and the evidence provided by DAERA was low level and precautionary. Additionally, Councillor Hanna said the Officer's report indicated the decision ultimately lay with the Planning Committee.

Councillor McKee seconded the proposal saying Ref. 0668 of the NIEA document described Cranfield Beach as a relatively stable beach and he considered there to be insufficient information available in terms of coastal erosion.

Mr McKay said he considered there to be a complete absence of any objective assessment of the application by the Committee. He said Planning Department had recommended refusal on the basis they had not received information to satisfy the consultees and he said the Committee, in the absence of this information, were going to issue an approval. Mr McKay said the reasons given by Councillor Hanna were not sufficient to overturn the application when the primary concern of the Planning Department was the lack of information provided by the applicant to address the concerns set out in the policies.

In response, Councillor Hanna said there had been quite of a lot of approvals granted along this section of beach over the past 25 years and he stood by his recommendation to overturn it.

Ms Largey said the refusal reason stated there was insufficient information available to determine that this development would not exacerbate the coastal erosion issue and given Mr McKay's concerns, she asked the Committee if they would consider deferring the application to allow the agent to put representations formally to Planning and for the application to come to the August Planning Committee. Ms Largey said the test was whether there was sufficient information to determine that development would not exacerbate coastal erosion and she said Members should give significant weight to the advice from the Statutory Consultee that there was insufficient information although, they were entitled to depart from this when reaching their determination.

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

FOR:	9
AGAINST:	0
ABSTENTIONS:	2

The proposal was declared carried.

Councillor Devlin asked that it be put on record that whilst she supported the application she considered it might have been in the interests of the Committee to defer the application until next month to allow for a report to be done up as documentary evidence which would be in line with their Member training and allow them to approve the application at the August Planning Committee Meeting.

Mr McKay asked if the Committee wanted to give the Planners any direction in terms of delegating conditions.

Councillor Hanna said he was content Planning Department impose any relevant conditions with regard to construction and the work on site.

AGREED: **On the proposal of Councillor Hanna seconded by Councillor McKee It was agreed to issue an approval in respect of Planning Application LA07/2020/1477/O contrary to Officer recommendation on the basis that Cranfield Bay was a sheltered cove, the proposed dwelling would be well above sea level, no evidence of damage to the existing sea defences and the application met all other planning requirements.**

Planning Officials be granted authority to impose any relevant conditions.

(6) LA07/2020/1627/F

Location:

72 Newry Road, Mayobridge

Proposal:

Proposed replacement dwelling

Conclusion and Recommendation from Planning Official:

Refusal

AGREED: **It was agreed at the request of Councillor McAteer it was agreed to remove Planning Application LA07/2020/1627/F from the agenda and to be re-presented at a future meeting of the Planning Committee.**

(7) LA07/2020/1335/F

Location:

90 metres north of 14 Upper Clontigora Road, Killeen, Newry.

Proposal:

Erection of replacement dwelling with detached garage.

Conclusion and Recommendation from Planning Official:

Refusal

AGREED:

It was agreed to defer Planning Application LA07/2020/1355/F as the agent was unable to attend the meeting.

(8) LA07/2020/0893/F

Location:

60 metres south of No. 49 Ballsmill Road, Glassdrumman, Crossmaglen

Proposal:

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

Conclusion and Recommendation from Planning Official:

Approval

AGREED:

It was agreed at the request of Councillor McAteer to remove Planning Application LA07/2020/0893/F from the agenda and to be re-presented at a future meeting of the Planning Committee.

(9) LA07/2020/0496/F

Location:

Approximately 105 metres NE of junction of Bernish Road and Seavers Road, Newry.

Proposal:

Consolidation of existing development to form single dwelling

Conclusion and Recommendation from Planning Official:

Refusal

AGREED:

It was agreed to defer Planning Application LA07/2020/0496/F as the agent was unable to attend the meeting.

FOR NOTING

P/063/2021: HISTORIC ACTION SHEET

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

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

P/064/2021: PLANNING COMMITTEE PERFORMANCE REPORT MAY AND JUNE 2021

Read: Planning Committee Performance Report for May and June 2021. **(Copy circulated)**

AGREED: It was unanimously agreed to note the Planning Committee Report for May and June 2021.

P/065/2021: PLANNING APPEALS AND DECISIONS

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

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

P/066/2021: CONSULTATION RESPONSE SONI "SHAPING OUR ELECTRICITY FUTURE"

Read: Report dated 28 July 2021 from Mr A McKay, Chief Planning Officer regarding a consultation response to SONI – Shaping Our Electricity Future. **(Copy circulated)**

AGREED: It was unanimously agreed to note the Council's response to the SONI 'Shaping Our Electricity Future' public consultation document.

LOCAL DEVELOPMENT PLAN (CLOSED SESSION)

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

**P/067/2021: LDP: POLICY REVIEW PAPER
- CONTROL OF OUTDOOR ADVERTISEMENTS**

Read: Report dated 28 July 2021 from Mr A McKay, Chief Planning Officer regarding the Local Development Plan – Planning Policy Review – Control of Advertisements paper and agree the proposed draft planning policies for inclusion within the draft Plan Strategy.
(Copy circulated)

P/068/2021: LDP: PLANNING POLICY REVIEW
- HISTORIC ENVIRONMENT

Read: Report dated 05 July 2021 from Mr A McKay, Chief Planning Officer regarding Local Development Plan – Planning Policy Review – Historic Environment Paper and agree the proposed draft planning policies for inclusion within the draft Plan Strategy.
(Copy circulated)

On the proposal of Councillor O'Hare seconded by Councillor Harte it was agreed to come out of closed session.

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

P/067/2021: LDP: Policy Review Paper
- Control of Outdoor Advertisements

Agreed: **On the proposal of Councillor Burgess seconded by Councillor McKee it was agreed:**

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

P/068/2021: LDP: Planning Policy Review
- Historic Environment

Agreed: **On the proposal of Councillor Larkin seconded by Councillor Trainor it was agreed as follows:**

- a) To note the LDP: Planning Policy Review – Historic Environment.**

- b) To agree the proposed draft planning policies for inclusion within the draft Plan Strategy.**
- c) To authorise the Development Plan Team to amend the proposed draft planning policies as necessary (ie, subject of further consultation engagement, sustainability appraisal, and any change to overarching regional policy) and report back to Members any substantive changes to proposed policy wording or direction.**

The meeting concluded at 3.25pm

For confirmation at the Planning Committee Meeting to be held on Wednesday 25 August 2021.

Signed: _____ **Chairperson**

Signed: _____ **Chief Executive**

Item 5 – Addendum List

Addendum list - planning applications with no representations received or requests for speaking rights – Planning Committee Meeting on Wednesday 25 August 2021

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

- **Item 7** - LA07/2018/1787/F 23 Downpatrick Road Killough Proposed extension to existing Materials Recovery Facility Building **APPROVAL**

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



Application Reference: LA07/2020/0661/O

Date Received: 6th May 2020

Proposal: Housing development

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

Site Characteristics & Area Characteristics:



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

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



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

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

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

Site History:

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

Planning Policies & Material Considerations:

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

Consultations:

DfI Roads – No objections

NIW – No objections

Historic Environment Division -No objections

Objections & Representations

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

10 letters of objection and 1 Petition have been received.

The issues raised relate primarily to

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

Consideration and Assessment:

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

RDS

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

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

Ards and Down Area Plan 2015

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

SPPS

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

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

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

Principle of development

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

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

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

Policy DES 2 of the PSRNI

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

PPS 7 – Quality Residential Environments

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PPS7 Addendum – Safeguarding the Character of Established Residential Areas.

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

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

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

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

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

PPS 8 – Open Space

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

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

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

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

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

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

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

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

PPS 12 - Housing in Settlements

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

PPS 2 – Natural Heritage Interests

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

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

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

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

PPS 6

Monuments

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

PPS 3 – Access, Movement and Parking

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

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

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

The proposal therefore complies with the requirements of PPS 3.

Assessment of Objections

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

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

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

Other Matters

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

Conclusion

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

Drawings

The Drawings considered as part of this assessment are as follows

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

Recommendation: APPROVAL

CONDITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Case Officer: C Cooney

Date: 09.06.2021

Authorised Officer: A.McAlarney

Date: 09 June 2021

**REQUEST FOR SPEAKING RIGHTS @ PLANNING COMMITTEE - 25TH AUGUST 2020 -
on behalf of the RESIDENTS OBJECTING TO APPLICATION THAT HAS BEEN
RECOMMENDED FOR APPROVAL - GROVE GARDENS , KILLYLEAGH :**

Please see attached photographs of the area / location that is before committee for their decision:

Mr Chairperson ,

I have been asked by residents to speak on their behalf at today's meeting of Planning Committee to highlight their opposition to the recommendation that has been listed to approve :

Grove Gardens like many other estates / housing that were built in the late 1950's early 60's their design did not envisage car ownership on the scale of today , multi vehicles to one property .

Several years ago residents had meetings with their local MP Jim Shannon and Cllr Walker to highlight their concerns about the lack of parking spaces here and as a result secured for them widening of the area in question to try and resolve these difficulties and even at that if the additional housing was to be put here , it would make matters a whole lot worse than what they are at present .

Health & Safety risks to the residents , in case of emergency where the likes of the Fire Brigade/Ambulance would need to attend to wasting much valuable time to deal with emergency ., the area in question is narrow and when residents have their cars parked these large and wide vehicles would have major difficulties making their way through and it would be extremely difficult to turn / manoeuvre at the very end at 32 Grove Gardens .

Parking places at present are insufficient resulting in singular traffic and in cases pedestrians having to make their way onto the road to get by .

Increased traffic to the proposed new development would result in posing further risks to residents, especially children, parents have told me that they have to keep their young ones under close supervision.

Worries / Concerns about the impact of the proposed development that this would have on the wonderful views of the local countryside including the Mourne , potential effect on property values .

Residents were under the impression that the ground belonged to the Housing Executive not Council and feel that this area in question is not suitable due to the physical layout of the ground and the level being under current road / slope .

Mr Chairperson I have also submitted photographs highlighting the lay out and evidence of traffic issues / site layout that were highlighted in my address I make this humble request that the residents views and feelings be taken into account today and would ask that the proposed decision before you be reversed . Thank You
Many thanks Terry

Cllr Terry Andrews - SDLP

Rowallane District Electoral Area

Newry, Mourne and Down District Council:







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

Application Reference:	LA07/2018/1787/F
Date Received:	20.11.2018
Proposal:	Proposed extension to existing Materials Recovery Facility Building
Location:	23 Downpatrick Road, Killough

RECONSIDERATION FOLLOWING DEFERRAL

Application was presented to the July 2019 meeting of Newry Mourne and Down Planning Committee with a recommendation to refuse based on Planning Policy Statement 15 Planning and Flood Risk and PPS 11 Planning and Waste Management.

Application was deferred by Committee who considered the application met with FLD1 of PPS 15 and to allow for consultation to take place with Rivers Agency on the Flood Risk Assessment submitted on the application

AGREED: On the proposal of Councillor Clarke, seconded by Councillor Hanna, it was unanimously agreed to defer planning application LA07/2018/1787/F, which the Committee agreed was an exception under FLD 1, to allow for the risk assessment to be considered by Rivers Agency and for the application to come back before the Committee in due course.

Following a lengthy consultation exercise with the agent and Rivers Agency, the application can now be recommended for approval on the basis that the Committee has already, at its meeting in July 2019, deemed this an exception to FLD 1 of PPS 15 and Statutory consultees are content subject to conditions.

FLD1 - Development in Fluvial and Coastal Flood Plains – DfI Rivers has reviewed the Flood Risk Addendum dated 6th August 2020, by MCL Consulting, and our comments are as follows:-

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

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

FLD2 - Protection of Flood Defence and Drainage Infrastructure - The site is bounded at the northeast by a watercourse which is designated under the terms of the Drainage (Northern Ireland) Order 1973, and known to DfI Rivers as the 'Ballygilbert Drain'. The site is bounded at the south by a watercourse which is designated under the terms of the Drainage (Northern Ireland) Order 1973, and known to DfI Rivers as the 'Ballylig Drain'. The site is bounded at the southeast by a watercourse which is designated under the terms of the Drainage (Northern Ireland) Order 1973, and known to DfI Rivers as the 'Tullinespick Drain'. An undesignated body of water lies just outside the western boundary of the site. The site may be affected by undesignated watercourses of which we have no record.

Under 6.32 of the Revised Policy PPS 15 FLD 2, it is essential that an adjacent working strip is retained to facilitate future maintenance by DfI Rivers, other statutory undertaker or the riparian landowners. The working strip should have a minimum width of 5 meters, but up to 10 meters where considered necessary, and be provided with clear access and egress at all times.

MCL Consulting has advised that it has been made aware that Ballygilbert Stream (north of the sites boundary), and the Tullinespick Stream (South east) which flows 300m from the red line boundary, are both historically maintained from the opposite bank side. The Ballylig Stream is located approximately 40m west; it is assumed maintenance occurs on the opposite bank, due to the Downpatrick Road running adjacent to it along the site's southern boundary. It is therefore not considered necessary to show any working strips.

Rivers have advised that maintenance strips are therefore not required given the above arrangements in place.

FLD3 - Development and Surface Water – DfI Rivers has reviewed the Agents Letter, by MCL Consulting, and our comments are as follows:-

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

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

Condition recommended by Rivers Agency that all the flood management and mitigation measures proposed in the Flood Risk Document, are completed in full.

Consultation was also carried out with SES given the location of the development. SES have advised that following an appropriate assessment in accordance with the Regulations and having considered the nature, scale, timing, duration and location of the project, advise the project would not have an adverse effect on the integrity of any European site either alone or in combination with other plans or projects.

In reaching this conclusion, SES has assessed the manner in which the project is to be carried out including any mitigation and a condition is required for inclusion in the permission.

Drawings considered

LA07/2018/1787/02	Site Location	16 Nov 2018
LA07/2018/1787/04	Site Layout	16 Nov 2018
LA07/2018/1787/06	Proposed Elevations	16 Nov 2018
LA07/2018/1787/07	Proposed Floorplan	16 Nov 2018
LA07/2018/1787/08	Proposed Floorplan with Stockpiles	16 Nov 2018
001	Site Drainage	01 Dec 2020
002	Storm Drainage	01 Dec 2020
003	Head Wall	01 Dec 2020
Flood Risk and Drainage Assessment V2 (Jan 2020)		31 Jan 2020

Conditions

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.
Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.
2. The development hereby permitted shall take place in strict accordance with the following approved plans LA07/2018/1787/02, 04, 06, 07, 08, 001,002,003 and Flood Risk and Drainage Plan V2 (Jan 2020) date stamped 31 Jan 2020.
Reason: To define the planning permission and for the avoidance of doubt.
3. A suitable buffer of at least 10 metres must be maintained between the locations of all refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc. and the adjacent watercourses.
Reason: To protect the connected European Sites from polluting discharges at construction phase.
4. Prior to discharge to watercourses, any surface water generated during the construction and operation phases of the development must first pass through appropriate treatment, such as oil interceptors and grit traps.
Reason: Protection of Designated Sites
5. All the flood management and mitigation measures proposed in the Flood Risk and Drainage Assessment V2 (Jan 2020) , Section 8.0 and 10.0 shall be incorporated into the development prior to its operation and shall be retained thereafter.
Reason: To safeguard against flood risk to the development and elsewhere.

Informatives

1. This permission does not alter or extinguish or otherwise affect any existing or valid right of way, crossing impinging or otherwise pertaining to these lands
2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development
3. This decision relates to planning control and does not cover any other approval which may be necessary under other legislation.
4. Regulation Unit (Waste Authorisation Team) advise should this proposal receive planning permission the site waste authorisation will need to be varied by application to NIEA. The granting of planning permission should not be construed that a waste authorisation will also be granted.
5. The applicant should refer and adhere to the recommended conditions and Informatives as set out in Standing Advice Commercial and Industrial Developments. All Standing Advice documents are available at: www.daera-ni.gov.uk/water-environmentstandingadvice
6. Water Management Unit notes from the P1 form submitted with this consultation indicates that foul sewage from this proposed development will be disposed of to the mains sewer. NIEA Water Management Unit notes however there appears to be no provision for connection to a sewerage system in the area. Water Management Unit notes there is an existing consent for Foul Sewage (TC13/02) associated with this development. The applicant should be aware that a consent may need to be reviewed if any aspect of the consent is altered (i.e. the septic tank/soak away or discharge point is moved to accommodate the new development, an increase in the volume of effluent discharged or to reflect a change in the ownership of the consented premises).
7. Water Management Unit would request that once a contractor has been appointed, a Construction Method Statement should be submitted to NIEA Water Management Unit, at least 8 weeks prior to the commencement of construction to ensure effective avoidance and mitigation methodologies have been planned for the protection of the water environment. This can be sent directly to Water Management Unit Pollution Prevention Team (nieapollutionprevention@daera-ni.gov.uk) who will be happy to advise.

Due to the close proximity of the site to watercourses, care will need to be taken to ensure that polluting discharges do not occur during the works phase. The applicant should refer and adhere to the precepts contained in Standing Advice on Pollution Prevention Guidelines.

The applicant should refer to Standing Advice on Sustainable Drainage Systems for advice on the use of Sustainable Drainage Systems on potentially contaminated land.

8. The applicant should note Discharge consent, issued under the Water (Northern Ireland) Order 1999, is required for any discharges to the aquatic environment and may be required for site drainage during the construction phase of the development. Any proposed discharges not directly related to the construction of the development, such as from septic tanks or wash facilities, will also require separate discharge consent applications. The applicant should refer to Standing Advice Discharges to the Water Environment.
9. The applicant should be informed that it is an offence under the Water (Northern Ireland) Order 1999 to discharge or deposit, whether knowingly or otherwise, any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata. Conviction of such an offence may incur a fine of up to £20,000 and / or three months imprisonment.
10. The applicant should ensure that measures are in place to prevent pollution of surface or groundwater as a result of the activities on site, both during construction and thereafter.

Appointed Officer: Annette McAlarney

Date: 29 July 2021



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2019/0565/F

Date Received: 10.04.2019

Proposal: The application is for full planning permission for a proposed residential project consisting of 12nr apartments including associated car parking and communal open space located off a private road at Donard Park.

Location: 5 Donard Park, Newcastle



Site Characteristics & Area Characteristics:

The site is located adjacent to No 5 Donard Park and is comprised of an existing roughly rectangular plot of land which is accessed via Donard Park and via an existing access which already serves a number of other residential properties as well as Donard Fold, Lawnfield Court and Shimna Integrated College. Within the red line a second access is indicated to the NW portion of the site. The north west boundary is located adjacent to the private dwelling at No 5 and is defined by a mature boundary of trees and vegetation. The remaining boundaries are defined by temporary fencing with a single storey building located to the eastern portion of the site. The existing site rises approximately two metres from the northeast to the southeast

point. The site context includes detached dwellings further to the west of the site with higher density housing to the immediate south including Mary Murray House which is 2/3 storeys in height, Donard Fold, Glenfold and Lawnfield Park. The site is located close to Donard Park.

Site History:

No history on the site.

Adjacent to the site

LA07/2017/1318/F | Demolition of existing single storey building and construction of new apartment building with associated car parking and tenant amenity space and improvements to the existing site road and footway | Mary Murray House, 8 Lawnfield, Donard Park Newcastle | Permission Granted 23.03.2018.

Planning Policies & Material Considerations:

The application site is located within the settlement of Newcastle. The site lies within LLPA 6 (Local Landscape Policy Area), an Area of Outstanding Natural Beauty (AONB).

The application is assessed using the following policies:

Ards and Down Area Plan 2015

Regional Development Strategy (RDS)

Strategic Planning Policy Statement (SPPS)

PPS 2 – Natural Heritage

PPS 3 – Access, Movement and Parking

PPS 6 – Planning Archaeology and the Built Environment

PPS 7 – Quality Residential Environments

PPS 7 – Addendum Safeguarding the Character of Established Residential Areas

PPS 15 – Planning and Flood Risk

Consultations:

NI Water – Statutory Response – WwTW are currently available to serve this proposal.

Historic Environment Division – No objections

DFI Roads – No objections to this proposal. DFI Roads note that this is on the basis that this proposal will remain private and not adopted by the Department. DFI Roads has noted the objections letters.

NIEA – Marine & Fisheries - Marine and Fisheries Division has considered the impacts of the proposal and on the basis of the information provided refers to standing advice.

NIEA Water management – Water Management Unit has considered the impacts of the proposal on the surface water environment and, on the basis of the information provided, is content with the proposal subject to the applicant referring and adhering to Standing Advice, and any relevant statutory permissions being obtained.

NIEA – Natural Environment Division – No objections subject to conditions.

Shared Environmental Services – No objections subject to conditions.

Objections & Representations

In line with statutory requirements 19 neighbours have been notified on 21.06.2019, and again with amended plans on 13.03.2020. The application was advertised in the Mourne Observer on 01.05.2019 and again with an amended proposal on 18.03.2020.

Twelve letters of objection have been received in relation to the proposal

Below is a summary of the main issues and concerns. The letters have all been read in full and are available to view on the planning portal.

- Bridge at risk of collapse due to weight of heavy traffic
- Road safety – concerns for school children, high risk of accidents at the junction
- Access for emergency services
- Parking for work vans
- unused buildings in the area could be used up first
- no footpaths and narrow road
- elderly/vulnerable walking in the area at risk of increased traffic
- density of housing is too high and results in overdevelopment of the site
- out of character
- parking

Consideration and Assessment:

The Regional Development Strategy 2035 (RDS) acknowledges that housing is a key driver of physical, economic and social change and emphasises the importance of the relationship between the location of housing, jobs, facilities, services and infrastructure. The RDS recognises that there are significant opportunities for new housing on appropriate vacant and underutilised land and sets a regional target of 60% of new housing to be located within appropriate 'brownfield' sites within the urban footprint of sites greater than 5000 population.

Ards and Down Area Plan 2015 Policy NE14 Apartments, states that, proposals for apartment development in Newcastle shall respect the architectural, streetscape and landscape character of the area and shall be in conformity with its established character in terms of:

- the set backs of properties from the street;
- the treatment of boundaries, both hard and soft;
- the structural landscape including the retention of mature trees;
- the scale of built form, particularly in terms of the height and massing when viewed from the street;
- the articulation of the roof and building lines; and
- the architectural detailing and use of materials.

The key issues in consideration of this application include:

- Principle of development
- Impact on neighbouring amenity
- Traffic and Parking
- Impact on designations
- Drainage issues

Principle of Development

The proposal involves a 'U' shaped building which fronts onto the existing lane/road to the NW and SE of the site. The overall SE elevation measures 22.2m in length with the NE and SW having returns of 9.6m and 8.4m respectively which forms a courtyard within the site. The building has elements which are three storey linking all of the NE elevation and part of the SE elevation dropping down to two storey to the SW elevation closest to No 7 Donard Park. The building has an 11m ridge height at its tallest which is the same height as the apartments at Mary Murray house which is at a higher level than the site. This drops to 8.5m at two storey. The building is over 8m from the common boundary with No 7 Donard Park and 6m (less in parts) from both the existing lane/road to the NE and SW elevations. There are 18 car parking spaces. Materials and finishes include rendered and painted walls with straw facing brick as indicated, roof to have manmade dark grey slates, windows to be dark grey uPVC with RWG aluminium gutter and uPVC downpipe.

Planning Policy Statement 7 Quality Residential Environments

The proposal is therefore assessed against the criteria under the listed criteria A-L under Policy QD1 of PPS 7

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

In consideration of this, the proposal is for a residential proposal within a predominantly residential area designed for the active elderly. The immediate area is characterised by large two storey buildings to the east and south east. The precedent of two/three storey buildings in the immediate area has already been set with the development of Mary Murray House which has already been constructed and is at a higher level than the proposal. The proposal was originally submitted for 16 apartments, however, this was deemed to be over development of the site. The scheme was then reduced to 12 apartments and the three storey element to the SW elevation was reduced down to two storeys as the development moves towards the lower density and lower scale detached dwelling further to the south west. There is a variation in the roof line and the building is split up into different sections with a uniform gable depth of 8m, and a pitched roof which is in keeping with the traditional scale and proportion of the adjacent development. The windows are vertical in emphasis and are similar to the neighbouring development. The apartment building is therefore considered to respect the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas.

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

HED have assessed the application and, are content that the proposal is satisfactory to SPSS and PPS 6 policy requirements.

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

The level of private amenity space is set by Creating places which states in the case of apartment or flat developments, or 1 and 2 bedrooomed houses on small urban infill sites, 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 around 30 sq m per unit. The appropriate level of provision should be determined by having regard to the particular context of the development and the overall design concept. Generally, developments in inner urban locations and other high-density areas will tend towards the lower figure.

Some of the ground floor apartments have doors which open onto small patio areas. Communal open space has been provided for communal use of the apartments to the south west of the site, which accounts for approx. 30% of the site's overall size and is therefore deemed to be sufficient considering its urban context. The site is also located within close proximity to Donard park and playing fields, the beach and promenade for recreational use. This element of policy has been met.

A detailed landscape plan has been submitted and should be conditioned on any planning permission granted. The onus will rest on the developer to ensure that such communal open space will be made available and subsequently retained, managed and maintained in perpetuity as such. The use of selected areas of planting will help soften the impact of the parking and overall development within this LLPA. The proposal satisfies Policy QD1 (c).

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

Neighbourhood facilities are not required as part of this development.

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

The site is located within the settlement limits of Newcastle, the development will remain private and will not be adopted. The development connects to Donard Park via the existing private road which is the way the wider site operates at present. A new 2m footpath will link the site from the NW boundary with Mary Murray House.

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

DFI Roads have been consulted and after discussion and amended plans being submitted, they have no further objections, this is on the basis that the scheme will remain private and will not be adopted. In accordance with guidance contained in chapter 20 of 'Creating Places' and based on the 'Parking Standards' document parking requirement includes 10 two bed

apartments at 1.5 spaces required and 2 one bed apartments at 1.25 spaces which totals 17.5 spaces required. A total of 18 spaces have been provided for including 1 no disabled parking space.

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

The use of different building heights, frontages and forms help create variety and interest in the layout thereby enhancing its visual character. This has been balanced by unifying elements in the design, such as careful use of colours, materials and detailing. The materials and finishes include man made slate roof, walls to be render painted, windows to be dark grey uPVC with RWG aluminium gutter and uPVC downpipe. These finishes would be appropriate to the area given that there is a mix of form, materials and detailing in the surrounding developments. The development is in keeping with the existing type form and detailing of existing residential development in the area. The proposal would therefore be in keeping with QD1 (g) and would not offend AONB Policy NH6 of PPS2 which considers new development in the designated AONB given the context.

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

The protection of the privacy of the occupants of residential properties is an important element of the quality of a residential environment and is a key consideration where new development is proposed adjacent to existing properties. It is deemed that the apartment block will not adversely affect the residential amenity of neighbouring properties nor that of future residents. Along the SE boundary, there is a 23m separation distance to Mary Murray House. To the SW there is a 32m separation distance with the detached bungalow at No 7 Donard Park. There is a mature existing hedge which separates the development with No 7 and this is to remain. There will be no unacceptable loss of residential amenity through over-dominance and loss of outlook to the residences Mary Murray House or the neighbouring properties and residential folds. Overall the design and layout will not create conflict and it is considered that the proposed development would have no adverse impact on neighbouring properties in terms of overlooking, loss of light, overshadowing, noise or other disturbances.

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

The layout has been designed in a manner which would not lead to an unsafe environment for residents.

The proposed development complies with the requirements of PPS 7 (QD1)

APPS 7

Consideration must also be given to the Policy LC1 of Addendum to PPS 7 which states that in established residential areas planning permission will only be granted for the redevelopment of existing buildings, or the infilling of vacant sites to accommodate new housing, where all the criteria set out in Policy QD1 of PPS 7, and all the additional criteria set out below are met;

(A) the proposed density is not significantly higher than that found in the established residential area;

(B) the pattern of development is in keeping with the overall character and environmental quality of the established residential area; and

(C) all dwellings units and apartments are built to a size not less than those set out in Annex A.

In consideration of the above the proposal would comply with criteria (a) of Policy LC1 of PPS7 Addendum: Safeguarding the Character of Established Residential Areas. Criteria (a) requires that the proposed density is not significantly higher than that found in the established residential area. The proposed development has been reduced from initial submission of 16 units to 12 units on a site of 0.5ha this equates to 24 units per hectare which would be of medium density. Mary Murray House contains 14 apartments on a site that is 0.6ha which equates to 23 units per hectare, so generally the site is of a similar density which has been deemed previously to be acceptable. Weight is therefore not given to the objectors concerns regarding over development of the site and high density. In this context the proposal would comply with this. The dwelling units would comply with Annex A of APPS 7.

PPS 2 Natural Heritage

Policies NH 1 – European and Ramsar Sites – International and Policy NH 3 - Sites of Nature Conservation Importance – National are relevant to the proposal.

The application site is in close proximity to the following national, European and international designated sites:

- Murlough SAC, which is designated under the EC Habitats Directive (92/43/EEC on the conservation of natural habitats and of wild fauna and flora);
- Murlough ASSI, which is declared under the Environment Order (Northern Ireland) 2002.

The planning application was considered in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service (SES) on behalf of Newry, Mourne and Down District Council which is the competent authority responsible for authorising the project and any assessment of it required by the Regulations.

SES Having considered the nature, scale, timing, duration and location of the project have concluded that, provided mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on site integrity of any European site.

The agent submitted a bat survey with the application. NED are content that no bats were observed emerging from the semi-derelict large wooden shed on site assessed as having low bat roosting potential, and the ecologist concludes that bats are not using the building for roosting.

Therefore, (NED) having considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns subject to conditions.

Policy NH 6 – AONB

Overall the proposal would not offend AONB Policy NH6 of PPS2 which considers new development the designated AONB. The proposal respects local architectural styles and patterns, traditional boundary details, retaining features such as walls, hedges, trees and local materials, design and colour.

LLPA 6 Donard Park, Donard Lodge and associated planting and Glen River Corridor.
The ADAP states:

- important tree groups within surviving area of planned landscape associated with Donard Lodge forms a buffer between heavily wooded mountain slopes and the town;
- river corridor with mature trees along river and within Donard Park are important in visual amenity terms; and
- green area of local amenity importance within easy reach of the town centre is a popular recreation and tourist attraction.

While the site falls within part of LLPA 6 at present the site is roughly-vegetated ground which has been cleared of significant trees and contains areas of broom, brambles and piles of branches and debris from earlier cleared vegetation. There is a large wooden garage/shed and a small subsidiary shed on site. At the time of the site visit these buildings were derelict. It is deemed that the proposed development will not have a detrimental impact on the LLPA given its current state. Trees within the red line to the NW of the site are being retained and a landscaping plan submitted which shows additional tree/shrub planting. The backdrop of these retained trees will ensure there is a significant buffer between the site and Donard Park and Mourne beyond, thus in visual amenity terms this would be deemed acceptable.

PPS 3 Access, Movement and Parking

PPS 3 sets out the Department's planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking. It forms an important element in the integration of transport and land use planning.

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.

The proposal provides for the required level of parking. The site is located within walking distance of the town centre and is well served by public transport. The site is also located beside a public car park at Donard Park.

The objection letters have raised concerns with regard to road safety, increased traffic issues, issues with pedestrian safety and parking. As the scheme will remain private and will not be brought up to adoptable standards, there is no requirement for the developer to adopt the

road. The Council is therefore not responsible for the management or upkeep of un-adopted or private roads.

PPS 6 – Planning, Archaeology and the Built Heritage

HED Historic Monuments has assessed the application and on the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

Other Matters

PPS 15 – Planning and Flood Risk

Rivers Agency were consulted as part of the planning process.

FLD1 - Development in Fluvial and coastal Flood Plains - The Flood Hazard Map (NI) indicates that the development **does not** lie within the 1 in 100 year fluvial or 1 in 200 year coastal flood plain.

FLD2 - Protection of Flood Defence and Drainage Infrastructure - The site may be affected by undesignated watercourses of which Rivers Agency have no record, in the event of an undesignated watercourse being discovered, Policy FLD 2 will apply.

FLD3 - Development and Surface Water

DfI Rivers has reviewed the Drainage Assessment 'Revision B' by Hanna and Hutchinson Consulting Engineers, date stamped '24 FEB 2020', and comments as follows:-

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

It should be brought to the attention of the applicant that the responsibility for justifying the Drainage Assessment and implementation of the proposed flood risk measures (as laid out in the assessment) rests with the developer and his/her professional advisors (refer to section 5.1 of Revised Planning Policy Statement 15). DfI Rivers requests that the planning authority includes a condition as part of its planning permission if granted.

FLD4 - Artificial Modification of watercourses – Not applicable to this site.

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

The application was considered in light of the above policy and a drainage assessment was submitted for the proposal. Rivers Agency have no objections to the proposal subject to a condition.

Conclusion

The application has been assessed against the various planning policies and material considerations which apply to the application and taking into account the input of the Councils consultees and all objection letters, it is determined that the proposal is acceptable in planning terms. The density is deemed to be acceptable given the context and the details of the proposed apartments, amenity space, parking, design, form, proportion, materials, finishes, boundary treatments and area of open space are in keeping with the SPPS, PPS7, PPS7 Addendum and PPS12.

Recommendation:

Approval

The plans to which this application was assessed include:

Site location Plan: A01

Site layout: 01B

Existing and proposed site plan: C01 E

Existing and proposed site sections: C02 A

Proposed Floorplans: C03 A

Proposed Elevations: C04 B

Drainage layout plan: 02C

Landscaping plan: C05

Conditions:

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

Reason: Time Limit.

2. The development hereby permitted shall take place in strict accordance with the following approved plans: A01, 01B, C01E, C02A, C03A, C04B, 02C, C05.

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

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

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

4. Prior to the commencement of any development on site, appropriate treatment such as sediment/silt traps, socks or fences, shall be installed to ensure that during construction any surface water discharged (to the Glen River) is clean.

Reason: To protect the features of Murlough SAC.

5. A clearly defined buffer of at least 10 metres shall be maintained between the location of construction works to include refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc. and any open watercourse.

Reason: To protect the features of Murlough SAC.

6. No vegetation clearance/removal of hedgerows shall take place between 1 March and 31 August inclusive, unless a competent ecologist has undertaken a detailed check for active bird's nests immediately before clearance/demolition and provided written confirmation that no nests are present/birds will be harmed and/or there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the Planning Authority within 6 weeks of works commencing.

Reason: To protect breeding birds.

7. All hard and soft landscape works shall be carried out in accordance with landscaping Plan **C05**, prior to the occupation of any part of the development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planting shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation.

Reason: In the interest of visual amenity and to ensure the provision, establishment and maintenance of a high standard of landscape.

8. No retained tree, as indicated on landscape Plan **C05**, shall be cut down, uprooted or destroyed, or have its roots damaged within the crown spread nor shall arboricultural work or tree surgery take place on any retained tree to be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Planning Authority. Any arboricultural work or tree surgery approved shall be carried out in accordance with British Standard 5837:2012 *Trees in relation to design, demolition and construction – Recommendations*.

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

9. No apartment shall be occupied until a landscape management and maintenance plan has been submitted to and approved by the Council. The plan shall set out the period of the plan; long term objectives; management responsibilities, performance measures and maintenance schedules for all areas of landscaping and open space. The landscape management plan shall be carried out as approved.

Reason: In the interest of visual amenity and to ensure the provision, establishment and maintenance of a high standard of landscape.

Informatives

1. **Bats**
The applicant's attention is drawn to The Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended), under which it is an offence:
a) Deliberately to capture, injure or kill a wild animal of a European protected species, which includes all species of bat;
b) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
c) Deliberately to disturb such an animal in such a way as to be likely to -
i. affect the local distribution or abundance of the species to which it belongs;
ii. Impair its ability to survive, breed or reproduce, or rear or care for its young; or
iii. Impair its ability to hibernate or migrate;
d) Deliberately to obstruct access to a breeding site or resting place of such an animal;
or
e) To damage or destroy a breeding site or resting place of such an animal.
If there is evidence of bat activity / roosts on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

2. **Birds**

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

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

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

any of these provisions shall also be guilty of an offence.

It is therefore advised that any tree or hedgerow loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season between 1st March and 31st August.

GPP 1: A general guide to preventing pollution

A basic introduction to pollution prevention, with signpost to other PPGs and publications. (October 2020)

GPP 5: Works and maintenance in or near water

For construction or maintenance works near, in, or over water. (February 2018).

3. Although it has been determined above if NIW infrastructure is within 20m of your proposal, consultation with NIW is required at an early design stage by means of a Predevelopment Enquiry to obtain details of the availability of existing water and sewerage infrastructure and how their proposal may be serviced if not already applied for. Under No circumstances will storm water be permitted to enter a public foul sewer. Building over a public watermain is not permitted, and only in exceptional circumstances may building over a public sewer be permitted. WWTW ASSESSMENT / STATUS: Waste Water Treatment Facilities (Newcastle WwTW) are presently available to serve this proposal.
4. Developers should acquaint themselves of their statutory obligations in respect of watercourses as prescribed in the Drainage (Northern Ireland) Order 1973, and consult the Rivers Agency of the Department of Agriculture accordingly on any related matters. Any proposals in connection with the development, either temporary or permanent which involve interference with any watercourse at the site:- such as diversion, culverting, bridging; or placing any form of structure in any watercourse, require the written consent of the Rivers Agency. Failure to obtain such consent prior to carrying out such proposals is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.
5. Any proposals in connection with the development, either temporary or permanent which involve additional discharge of storm water to any watercourse require the written consent of the Rivers Agency. Failure to obtain such consent prior to permitting such discharge is an offence under the Drainage Order which may lead to prosecution

or statutory action as provided for. If, during the course of developing the site, the developer uncovers a watercourse not previously evident, he should advise the local Rivers Agency office immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the watercourse. Where a Designated watercourse flows through or adjacent to a development site, it is considered essential that a working strip of minimum width 5m is left along the bank in order to facilitate future maintenance of the watercourse by the Rivers Agency. Actual requirement should be determined in consultation with the Agency.

6. This decision relates to planning control and does not cover any other approval which may be necessary under other legislation.
7. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
8. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

Case Officer	C. Moane	Date 07 July 2021
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Authorised Officer	A.McAlarney	Date 09 July 2021
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Date: 18th August 2021

Our ref: 19006/C

Planning application reference: LA07/2019/0565/F

Project: Proposed residential project consisting of 12nr apartments including associated car parking and communal open space located off a private road at Donard park.

WRITTEN SUBMISSION TO THE COUNCIL

The site is owned by Ganson UK, a well established Building and Civil Engineering contractor in Northern Ireland. Ganson UK's proposal is to develop a residential project consisting of 12nr apartments for active elderly including associated car parking and communal open space located off a private road at Donard Park in Newcastle. Figure 1 shows the site to be developed shaded in red. The area outlined in blue is under Ganson UK ownership. The area outlined in green is vehicle and pedestrian access to the site from the promenade.

The site is rectangular in shape and approximately 0.28 hectares in area. The site currently has 2no. accesses, with one located centrally along the eastern boundary. There is another access located to the south west corner of the site. A roadway traverses the site connecting the south west corner access to the Donard Park access.

The immediate character of the site comprises a mixture of detached dwellings to the west and higher density supported housing units to the south and east in Mary Murray House (new development recently completed), Donard Fold, Lawnfield Court and Glen Fold. These buildings are generally two/ three storeys in height. Glen River runs along the direction, west to east approx. 50 meters to the northern boundary of the site and beyond this are communal playing fields within Donard Park.

The site is accessed from South Promenade via Donard Park. This is a private road from the point of the bridge crossing Glen River at the north direction of the site.

The design ethos has been developed using the design principals and concepts that are sensitive to the existing site context. The proposed scheme has been designed to provide alternative living accommodation for the active elderly residence of 55 and over.

The proposed scheme comprises of:

- 12 no. apartment units (10 x 3 person 2 bed & 2 x 2 person 1 Bed) with 18 car parking spaces. The accommodation will comply with CAT 1 Social Housing Standards, Lifetime Homes and Secured by Design Standards. The layout of each unit can be adapted to suit Complex Needs requirement.
- Density that is suitable for the site in comparison to the surrounding area to meet the criteria of current planning policy.
- The apartments are to front towards the roadway and public amenity space to create an attractive residential area which respects the surrounding context.
- New 2m wide footpath along the development frontage provides safe passage for pedestrian to open space and between the Mary Murray House development.
- Ensure existing access road is retained with adequate visibility splays at proposed connection junction.

- Provide high quality landscape and communal open space that serve the proposed development and neighboring locality.
- The development will be designed to deter crime and promote safety, in accordance with Secured by Design.
- The building will be built to a high standard with sustainable technologies.

The proposed site is suitable for a residential development due to its location with walking distance to the local amenities. It is located within the residential area surrounded by supported housing developments and detached dwellings. The proposed development will improve the safety of pedestrians along this unadopted road with new provided footpath along the frontage of the development, enhance the characteristic of the area by the architectural style that complimenting the surrounding building context, and high-quality landscape proposal. The access to the proposed development is the third access from the bridge crossing Glen River. The traffic flow towards Donard Fold, Lawnfield Court and Mary Murray House and other detaches dwellings will remain unchanged.



Figure 1: (Site Location).



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2020/0531/F

Date Received: 17.04.2020

Proposal: The application is for full planning permission for a proposed Stable Block (Domestic), new access, hard standing and all associated works.

Location: The site is located between 82A and 88 Belfast Road, Saintfield.



Site Characteristics & Area Characteristics:

The application site is located along the Belfast Road and is a roughly rectangular roadside plot. The site is cut from a larger agricultural field and thus the SE, SW and NW boundaries are undefined. The roadside NE boundary is defined by a mature hedge. The larger agricultural field has a mature SE boundary of trees and hedging while the northern boundary with No 88 is also a mature hedge. The western boundary of the field is approx. 300m from

the roadside and due to the topography of the field is not visible from the roadside, therefore is undefined. The field slopes steeply from SW to NE towards the roadside.

Site History:

No relevant history on the site. History in the surrounding area for single dwellings and house extensions.

Planning Policies & Material Considerations:

The site is located within the countryside, outside the settlement limits, as identified in the Ards and Down Area Plan 2015.

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

- The Ards and Down Area Plan 2015
- Regional Development Strategy (RDS)
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 3: Access Movement and Parking
- Planning Policy Statement 8: Open Space, Sport & Recreation
- Planning Policy Statement 21: Sustainable Development in the Countryside
 - Policy CTY 1 Development in the Countryside
 - Policy CTY 13 Integration and Design of Buildings in the Countryside
 - Policy CTY 14 Rural Character

Consultations:

NI Water – Statutory response

DFI Roads – No objections subject to conditions **this is on the basis that this is an exception to the Protected Routes Policy**

NIEA Water management – No objections subject to informatives

NIEA Natural Environment Division – may be subject to Habitat Regulations

Shared Environmental Services – No objections

Rivers Agency - Although a Drainage Assessment is not required by the policy the developer should still be advised to appoint a competent professional to carry out their own assessment of flood risk and to construct in a manner that minimises flood risk to the proposed development and elsewhere.

Objections & Representations

In line with statutory requirements neighbours have been notified and the application has been advertised in the local press. No objections or letters of support have been received in relation to the proposal.

Consideration and Assessment:

Section 45 (1) of the planning Act 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, until such times as a Plan Strategy for the whole of the Council Area has been adopted. The LDP in this case is the Ards and Down Area plan 2015 (ADAP). There are no specific policies in the Plan relating to the proposed use therefore this application will be assessed against regional planning policy.

The Strategic Planning Policy Statement for NI Ireland (SPPS) is material to all decisions on individual applications. The SPPS retains policies within existing planning policy documents until such times as a Plan Strategy for the whole of the Council Area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in favour of the provisions of the SPPS.

Paragraph 6.73 of the SPPS provides strategic policy for residential and non residential development in the countryside.

The policy context for the development includes Planning Policy Statement 21 – Sustainable development in the Countryside (PPS 21). Policy CTY 1 of PPS 21 states that there are a range of types of development which in principle are considered to be acceptable in the countryside. Policy CTY 1 goes on to state 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.

PPS 21 - Sustainable Development in the Countryside

Policy CTY 1 states that a range of types of development are acceptable in principle in the countryside. It states that planning permission will be granted for a non residential development in the countryside in certain circumstances. One of the categories listed for non-residential development under CTY 1 is for outdoor sport and recreational uses in accordance with PPS 8. Integration and design of buildings in the Countryside CTY 13 and Rural character CTY 14 will also be considered.

PPS 8 Open Space, Sport and Outdoor Recreation

Policy OS 3 of PPS 8 deals specifically with outdoor recreation in the countryside. and the headnote states that *"The Planning Authority will permit the development of proposals for outdoor recreational use in the countryside where all the following criteria are met"*. The listed criteria refer to impact on visual amenity, conservation features, residential amenity, design, public safety and road safety.

Policy OS 3 relates to the provision of outdoor recreation in the countryside but does not distinguish between recreational facilities for personal use and larger commercial use. Therefore there is ambiguity in the policy, however, Policy OS 3 is arguably the best fit to assess this proposal as outlined in a similar appeal decision - 2010/E055.

The applicants daughter-in-law has 3 horses which are kept on her father's farm on Lusk Road, Ballygowan, Newtownards. The drive from her home at to her father's farm is approximately 25 minutes depending on traffic. She is required to drive to the horses twice daily to provide daily care and exercising. The purpose of moving the horses to the Belfast Road, Saintfield is that firstly, they will be within a five minute drive from her home which enables the feeding and checking of the horses for animal welfare and security. Secondly, there will be more available grazing pastures (10 hectare), thirdly her father has advised that due to his overflow of calves on the farm becoming more frequent the need to use the stables is more evident.

Built Heritage

there is no adverse impact on features of importance to nature conservation, archaeology or built heritage;

The proposal will not have an adverse impact on built heritage, as none have been identified in the immediate area of the site.

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

Loss of Agricultural Land

there is no permanent loss of the best and most versatile agricultural land and no unacceptable impact on nearby agricultural activities;

The proposal will not result in the permanent loss of the best and most versatile agricultural land and there will be no impact on nearby agricultural activities.

Visual Impact

there is no adverse impact on visual amenity or the character of the local landscape and the development can be readily absorbed into the landscape by taking advantage of existing vegetation and/or topography;

The proposed stable block is sited 5m metres from the existing roadside hedge along the front of the site. The block measures 24m x 11.5m with a single storey mono pitch roof which sits 5m at its highest point and 3m at its lowest point. The building accommodates 4 loose boxed areas a tack room, feed store, wash room and wash bay, with internal vehicle and trailer parking. The lower portion of the building is to be finished in smooth sand/cement rendered blockwork, with the upper walls and roof in green agricultural sheeting. measures 24m long, 11.5m wide. The external finishes include smooth render lower walls and upper walls and roof is finished in green agricultural sheeting. In addressing concerns about integration of the building on the site the agent has indicated that there is no removal of roadside hedging to the north west (Carryduff direction) visibility splay due to the tangential curve of the road. The removal to the south east (Saintfield direction) is limited to 61m as the visibility splay tapers back to the road edge and there is also a 1m verge.

The shed is located adjacent to the mature boundary to the SE, so views would be limited when coming from the south east (Saintfield direction). When coming from the opposite direction, due to the alignment of the road, views will be for longer, but will it will be the gable of the building which will be viewed with a backdrop of rising land and the mature boundary to the SE. The removal and reinstatement of 61m of roadside hedging across the road frontage against an overall distance of 160m would not be so significant to warrant its refusal based on lack of integration and this can be mitigated by replanting behind the visibility splays. It is considered that the proposal would not result in a prominent feature in the landscape. The level of hardstanding is proportional in this context and would not result in an adverse visual impact or a suburban appearance.

Residential Amenity

there is no unacceptable impact on the amenities of people living nearby;

The proposal will not unduly affect the privacy or amenity of neighbouring residents as the proposed development is located a considerable distance from the adjacent dwellings along Belfast Road. In addition, Environmental Health have stated no objection in their consultation response in regards to noise and odours.

Public Safety

public safety is not prejudiced and the development is compatible with other countryside uses in terms of the nature, scale, extent and frequency or timing of the recreational activities proposed;

The agent has stated in their supporting statement that the site will not be open for access or used by members of the public. The proposal is for private / domestic use only and existing gates and fencing will remain in place to secure the site.

Design

any ancillary buildings or structures are designed to a high standard, are of a scale appropriate to the local area and are sympathetic to the surrounding environment in terms of their siting, layout and landscape treatment;

The proposal involves the construction of a domestic stable block which is sited on the western side of the Belfast Road between No's 82A and 88. The building size and materials and finishes are described above. For a non-commercial stable block (i.e. domestic) it is a sizeable building, however, on balance the design and scale of the building is acceptable and given the context of roadside frontage development along this part of the Belfast Road it is not considered to be out of the character of the area. These types of agricultural type buildings are prevalent in the surrounding countryside.

Access

the proposed facility takes into account the needs of people with disabilities and is, as far as possible, accessible by means of transport other than the private car;

The agent states that the development is for private use by the applicant and his family.

Road Safety

the road network can safely handle the extra vehicular traffic the proposal will generate and satisfactory arrangements are provided for access, parking, drainage and waste disposal.

The Belfast Road is a Protected route. PPS3 - Clarification of Policy AMP 3 - Policy AMP 3 of that document is entitled 'Access to Protected Routes' and states that "The Department will restrict the number of new accesses and control the level of use of existing accesses onto Protected Routes ..." Annex A of PPS 21- Consequential amendment to Policy AMP 3 of PPS 3 Access, Movement and Parking - Policy AMP 3 Access to Protected Routes (Consequential Revision) provides for several exceptions for new accesses onto a protected route. Criterion (d) – Other Categories of Development states "approval may be justified in particular cases for other developments which would meet the criteria for development in the countryside and

access cannot reasonably be obtained from an adjacent minor road. Where this cannot be achieved proposals will be required to make use of an existing vehicular access onto the Protected Route."

DFI Roads requested amendments to the proposal and while the amendments submitted were deemed to be acceptable to DFI Roads in terms of the required visibility splays, this was on the basis that Planning have deemed the application an exception to the Protected Routes Policy.

There is an existing field gate which gives access to the site. There is no existing vehicular access to the site. The proposal description reads "new access". Footnote 4 on Page 21 of PP3- Access, Movement & Parking indicates that "*For the purposes of the policies in this PPS, a field gate is not an access*".

The agent considers that stabling would be deemed to be an incidental use and would not generally attract more than 2 trips per day – morning and evening. This would be much less than the 10 trips normally taken for a domestic dwelling. The agent deems that the access arrangements provided is above the standard that would normally be required for incidental use. He considers that it is a material fact that there is currently nothing to prevent the applicants using the field gate for unlimited trips with agricultural machinery presently. He states there is no history of RTAs at this location and it is a straight section of the road, with excellent visibility in both directions.

The agent states that this is an incidental use, however, since this is a stand alone building and is not an ancillary building in association with any other use or dwelling, then it has to be considered in its own right with DFI Roads requiring full vehicular standards. It has already been established that for the purposes of the policy a field gate is not an access, therefore it fails this part of the policy, and would not constitutes an exception to the policy.

PPS 21 Sustainable Development in the Countryside

CTY 8 Ribbon Development

Policy CTY 8 of PPS 21, states that "*planning permission will be refused for a building which creates or adds to a ribbon of development.*" A 'ribbon' does not necessarily have to be served by individual accesses nor have a continuous or uniform building line. Buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked. The surrounding area consists of No. 82A Belfast Road which has a dwelling and shed and No. 88 Belfast Road is located further north consists of a dwelling, outbuilding and garden nursery. The proposed stable building to does not have a common road frontage with No. 82A and No.88 Belfast Road by virtue of distance. Accordingly, the proposal is consistent with CTY 8 of PPS21.

Policy CTY 13 - Integration and Design of Buildings in the Countryside

Policy CTY13 of PPS21 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and is of an appropriate design. The site gently slopes north east to south west towards the roadside. It has already been deemed that there is no adverse impact on visual amenity or the character of the local landscape and the development can be readily absorbed into the landscape. On

balance, the rising ground and with mature vegetation to the south would provide a suitable backdrop for the proposed development to integrate into the landscape. The building would not read as prominent when travelling in either direction along the road given the high speeds travelled on the road. Reinstatement planting along the roadside would mitigate against its loss. The proposal complies with CTY 13.

Policy CTY 14 - Rural Character

Planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. In this case it is concluded that a building on the site would not be prominent in the landscape and would not result in a suburban style build-up when views from surrounding vantage points. It is therefore be deemed to be acceptable and would not have a detrimental impact to the rural character of the area.

Conclusion

The proposed stable building does not meet the exceptions test under Policy AMP 3 Access to Protected Routes (Consequential Revision) of Planning Policy Statement 3 'Access, Movement and Parking' and is therefore contrary to policy.

Recommendation:

Refusal

Refusal Reason:

1. The proposal is contrary to Policy AMP 3 Access to Protected Routes (Consequential Revision) of Planning Policy Statement 3 'Access, Movement and Parking', in that the proposal does not meet the listed criteria and the information provided would not it constitute an exception to the policy.

Case Officer

C Moane

Date 09/04/2021

Appointed Officer

A.McAlarney

Date 12 April 2021

Speaking Rights Submission

Ref - LA07/2020/0531/F –Stable Block, hard standing and access - Between 84 and 88 Belfast Road Saintfield

- There are no 3rd party objections and no objections from any of the statutory agencies.
- The planning officers are content with all aspects of the proposal apart from the specified reason for refusal, which relates to the wording of Policy AMP3 of PPS3.
- Critically DFI Roads as the competent statutory authority raise no objection to this proposal on road safety grounds (AMP2) or on Policy AMP3 – Access to a protected routes.
- The purpose/objective of AMP3 is to restrict the number of new accesses and control the level of use of existing accesses onto Protected Routes.
- However, there is an existing access directly onto the Belfast Road, which the applicants use for animals and machinery without any restrictions. No weight has been attached to this material fact.
- There is no intensification of use of the existing access, as stabling is an occasional use, but the applicant is proposing a significant upgrade to the existing access and providing a full visibility splays of 2.4m x 160m in either direction.
- This enhancement would be in the public interest of road safety and traffic progression, which is a significant material consideration.
- The Council has already previously permitted new accesses to the Belfast Road for more intensive residential development under LA07/2020/1583/F (Adjacent to Nos.76 Belfast Road), likewise the previous DOE permitted R/2010/0822/F (Adjacent to Nos.78), so the approach to this case is inconsistent.
- In this instance Planning Officers have applied the letter of the Policy AMP3, but have failed to provide reasoned analysis of the implications for the proposed development and most importantly how it will cause harm to road safety or traffic progression.
- The purpose/objective of AMP3 is to restrict the number of new accesses and control the level of use of existing accesses onto Protected Routes. Taking Policy AMP3 in the round it would be clearly advantageous to upgrade and enhance an existing access to a full standard, which is deemed to be acceptable by roads.
- The policies are there to strike a balance, not inhibit development and the letter of policy should not be slavishly adhered, especially when common sense indicates the reason for refusal is unsustainable if not unreasonable.

AGRICULTURAL | COMMERCIAL | RESIDENTIAL | RETAIL | TOURISM



65

- **Neither Annex 1 of PPS21 dated 1st June 2010 or the Clarification of Policy AMP3 in October 2006 provides a definition of an existing vehicular access.**
- **If there is any ambiguity in policy, then the applicant is entitled to have their proposal assessed on the basis of the interpretation most favourable to the applicant.**
- **When considering the access improvements, lack of road safety, lack of objection from DFI Roads, and that this access can be used irrespective of this application. I would respectfully request members overturn the recommendation to refuse and grant permission.**





Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2021/0027/O

Date Received: 7th January 2021

Proposal: Demolition of existing vacant dwelling and erection of replacement dwelling and garage as per CTY3 PPS21

Location: 60m North of 67 Dechomet Road, Dromara.

Site Characteristics & Area Characteristics:



The site is located along the minor Dechomet Road, Dromara. It is comprised of a 0.19 hectare portion of land, which contains a stone building that sits gable end to the road. The building has a corrugated roof and stone walls with two openings on the southern elevation.

The building is positioned below road level and is visible on approach from both directions along Dechomet Road, given the lack of boundary vegetation. The road side boundary is defined by a post and wire fence, while the remaining boundaries are currently undefined.



The surrounding land is comprised of open agricultural land, which slopes down from the site in an easterly direction.

The area is predominantly used for agriculture but there are several single dwellings dispersed throughout the area.

Site History:

LA07/2018/0482/F - 60m North of 67 Dechomet Road, Dromora - Proposed conversion of stone barn into dwelling with associated site works - PERMISSION REFUSED - 28.01.2019

Planning Policies & Material Considerations:

In assessment of this proposal regard shall be given to the Strategic Planning Policy Statement (SPPS), Banbridge, Newry and Mourne Area Plan 2015, PPS 21 (CTY 3), Building on Tradition (Guidance Document), in addition, to the history and any other material consideration.

The application was advertised in the local press on 20.01.2021

Consultations:

In assessment of the proposal a consultation was carried out with DfI Roads to which there were no objections.

Neighbour Notifications

No 67 Dechomet Road was notified of the proposal on 08.02.2021

Objections & Representations

No objections or representations have been received from neighbours or third parties of the site.

Consideration and Assessment:

The proposal seeks outline planning permission for the demolition of the existing building and erection of a replacement dwelling and garage.

The existing building is comprised of a single storey stone structure with corrugate roof, which is approximately 47sqm in size. The building is divided into two separate rooms which are currently used for agricultural purposes – an internal inspection of the structure revealed that the eastern section which is open on the southern elevation, has recently housed animals, while the western section, closest to the road and enclosed by a partial wooden door, is used for storage of farming equipment.



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

The Banbridge, Newry and Mourne Area Plan 2015 is the extant plan but does not contain specific policies for this type of development, the proposal will therefore be determined on the basis of other material considerations.

Regional planning policies of relevance to this proposal are set out in the SPPS and the retained policies contained within PPS 21, as set out in the transitional arrangements in the SPPS.

Policy CTY 1 of PPS 21 sets out a range of types of development which in principle are considered to be acceptable in the countryside and which will contribute to the aims of sustainable development. Replacement dwellings are one such type of development (CTY3).

Under Policy CTY 3, planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external

structural walls are substantially intact. The policy goes on to state that all reference to 'dwellings' will include buildings previously used as dwellings.

As indicated in the history above, the applicant previously submitted an application for conversion of this building to a dwelling, describing it within that application as a stone barn (LA07-2018-0482/F).

In this current application however, they consider the building to be a dwelling. In support of their application, the applicant has submitted a number photographs which seek to demonstrate that the building was once used as a dwelling

- Blocked up flue on the western gable
- Blocked up openings on the rear northern boundary and
- Blocked up internal doorway

While their presence is noted, they do not demonstrate that the building was a dwelling. Following inspection of the building, there is no physical evidence of a hearth or chimney stack and the external walls of the western gable have been rendered so any evidence of a flue is not apparent.

I also acknowledge the inclusion of historical maps in the submission, however I note that the map presented by the applicant shows two buildings of similar size, it is not clear therefore whether the building on site was indeed the dwelling referred to on the register.

The status of the existing structure must therefore be determined on the basis of that on site at present. It is my assessment that the building to be replaced does not exhibit the essential characteristics of a dwelling and is not therefore eligible for replacement.

The proposal therefore fails to comply with Policies CTY 1 and 3 of PPS 21 and should be recommended for refusal on this basis. Given this assessment there is no need to consider the remaining criteria within CTY 3.

Drawings

The drawing considered as part of this assessment was as follows

WW6920 P 01

Recommendation: Refusal

Refusal Reasons:

- The proposal is contrary to the SPPS and Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the building to be replaced does not exhibit the essential characteristics of a dwelling.

Case Officer: Claire Cooney

Date: 01.04.2021

Authorised Officer: Annette McAlarney

Date: 01 April 2021

Mr Chairperson, and Councillors and in support of my planning application on Dechomet Road, Dromara.

I submit these notes in parallel to the notes submitted by William of WHW Design.

I am Patrick Rooney, the client and I live next to the site. This house and lands have been in my family for over 70 years. This site is for my sister currently living at home and it our intention for it not to be sold off. I have spoken with an elderly neighbour, Pat Joe Matheson, who has informed me of some history. While he doesn't remember anyone living in the house, he said his mother did, and in fact his maternal great grandfather Bernard Hillen used to live in this house. He died in 1866.

Pat Joe also recalled my father, Charlie Rooney, plastering and re-roofing the house in the early 1950's.

Pat Joe also pointed out the well where water was fetched from right across the road and the original access from the road which was actually on the other side of the house and where the stone gate posts are still in place.

Having spoken with my neighbour, reading a planning consultant's report, looking at the historic maps and seeing the walls with brick detailing, noticing the windows, internal doors and especially the flue where clearly the chimney was, it is now very obvious that this building was a house and as such I am told meets planning to allow it to be replaced.

I respectfully ask that this application be approved.

VAT Number 201 4432 68
Company reg. nr. NI49154

WHW Design Limited
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E-mail: william@whwdesign.co.uk

Date: 21st May 2021

RE: LA07/2021/0027/O Replacement dwelling at Dechomet Road, Dromara

Mr Chair, and Councillors.

I aim to show that this building was previously a dwelling and therefore meets the Policy CTY3 and an approval ought to be granted.

I have submitted photos showing evidence of internal doors, windows and a chimney. I have submitted an extract from Griffiths Valuation proving the existence of the house on these lands. We have oral evidence obtained from a neighbour who confirmed relatives living in the house. I have included a report as an appendix from Planning Consultants highlighting similar points concluding that this building was a dwelling.

The planning department acknowledges the built up flue, openings and doorways but does not accept the point that these elements demonstrate the building was a dwelling. I would ask how many non-domestic or agricultural buildings have brick quoins, internal personnel doors and domestically scaled windows as well as a flue and chimney breast? I think it is clear that the proposal does show the characteristics of a dwelling.

The department also acknowledges the historic maps but states that there are two buildings shown on them and it is not clear whether the building on site is the house on the register. I would again highlight the evidence of the chimney flue, window and doors, the supporting conclusions within the Planning Consultants report submitted as part of a previous application, the evidence provided from the neighbour recalling family members living in the house all demonstrate that this building was the dwelling and therefore satisfying CYT3.

W H W Design Ltd



I note the client has previously made an application LA07/2018/0482/F [date of application 6th Feb 2018] for the conversion of this building to a dwelling, describing the building then as a stone barn. I was not involved in that application but became aware of it in background research. As part of that application, a specialist planning consultant, was commissioned by the then agent. Within their report point 5, they also state that the building was a dwelling house giving history on it. *Quote point 6– ‘Mr Pat Matheson, who resides opposite the site, has been able to confirm that his great grandfather, Bernard Hillen lived in the house until his death in 1866. The farm and dwelling was sold to Turleys in the late 1800’s. Part of the farm, including the house, was later purchased by the Rooney family, in the late 1940’s.’*

Point 9 Insofar as it is now clear and apparent that the subject building was previously used as a dwelling it would be appropriate to change the description of this proposal to Conversion of abandoned dwelling to dwelling with associated site works.

Point 16 refers to elements of domestic window openings, internal doorways and the chimney / fireplace.

The closing sentence in their report is ‘This building points towards a previous residential use of the building, which would make it eligible in principle, for replacement.

I also met Pat Joe Matheson, the neighbour, on site, when he confirmed his relatives lived in the house. All this evidence including the research completed previously concurs with my own findings and research with names and dates all matching that detailed in the Griffiths Valuation.

CTY3 states planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. Dwellings will include buildings previously used as dwellings. Given the evidence I believe it is clear that this building was a dwelling and therefore falls within this policy and planning approval should be granted.



I attached the following appendices.

Appendix A – Print out of Griffiths Valuation extract.

Appendix B – Print out of related map from Griffiths valuation.

Appendix C – Photos taken on site of domestic features showing internal doors, windows and chimney.

Appendix D – O'Callaghan Planning consultants report [from previous application]

Regards William Wallace, Bsc(Hons) Dip Arch ADPPA ARB RIBA

For WHW Design Limited

Build Magazines Residential Architects of the Year 2016

William Wallace

End of report



Appendix A – Print out of Griffiths Valuation extract.

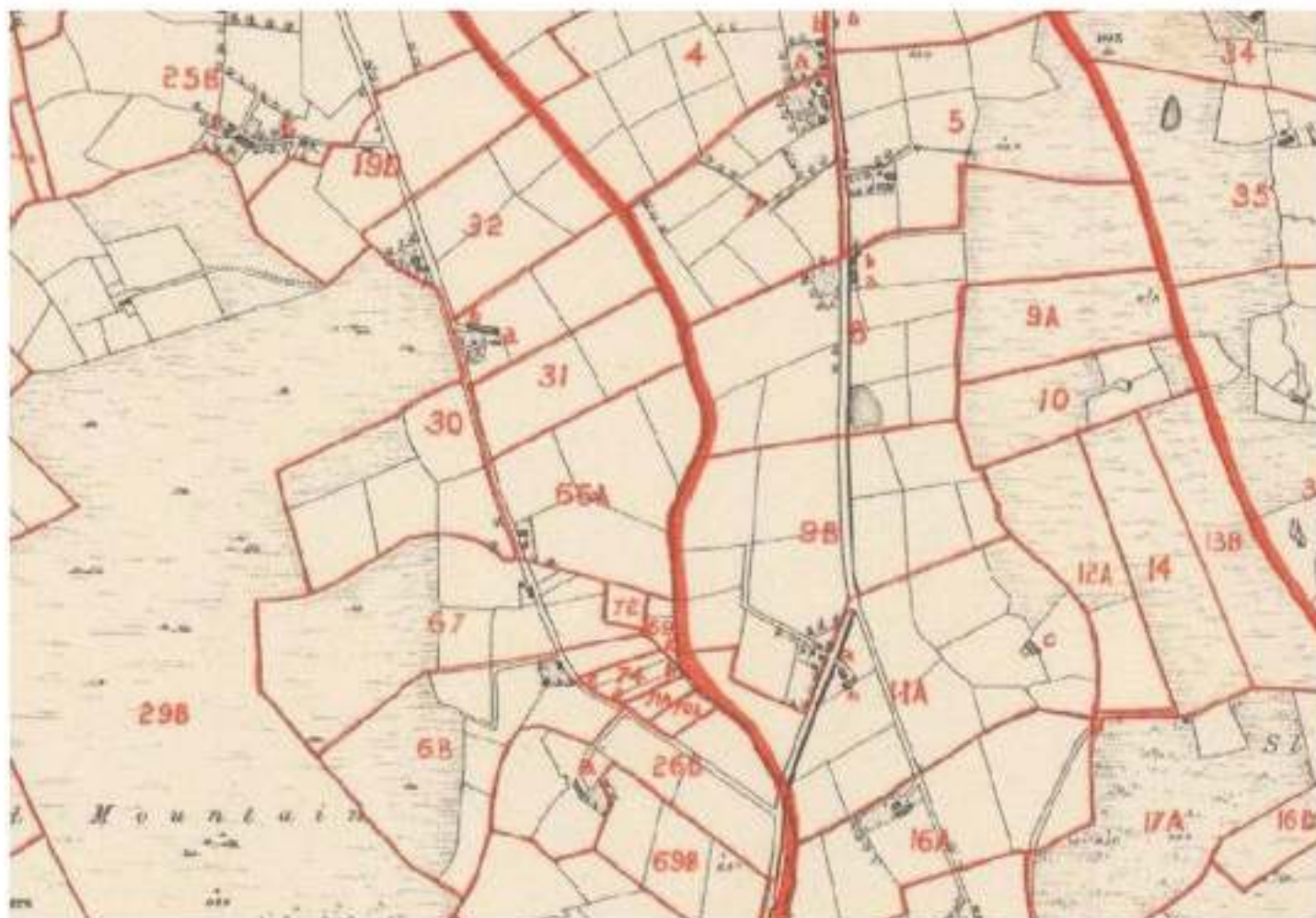
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VALUATION OF TENEMENTS.
PARISH OF DRUMGOOLAND.

No. and Letters of Reference to Map.	Names.		Description of Tenement.	Area.	Estimated Annual Valuation.		Total Annual Valuation of Rateable Property.
	Townships and Owners.	Immediate Lessees.			Land.	Buildings.	
				A. R. P.	£ s. d.	£ s. d.	£ s. d.
DEEHOMMED— <i>continued.</i>							
66 A	John Turley.	Lord A. E. Hill Trevor.	Herd's ho., off., & land.	8 3 15	7 15 0	1 0 0	15 10 0
67			Office and land.	1 2 0	1 10 0	2 0 0	
68			Land.	0 0 20	0 5 0	—	
69 A	Bernard Hillen.	Same.	House, offices, and land.	12 1 10	4 0 0	9 15 0	4 15 0
70 A	Robert McCoolas.	Same.	House, offices, and land.	10 2 10	3 10 0	0 10 0	4 0 0
71 A	James Lennon.	Same.	House, offices, & land.	0 1 8	0 7 0	—	4 15 0
72 A	John Gilmore, jun.	Same.	House, offices, & land.	4 1 35	3 15 0	0 10 0	5 5 0
73 A			House, offices, & land.	0 0 22	0 3 0	—	
74 A			House, offices, & land.	0 1 25	0 7 0	—	
75 A	John Roney.	Same.	House, offices, & land.	4 2 35	4 0 0	1 15 0	13 15 0
76 A	John Roney.	Same.	House, offices, & land.	0 1 35	0 5 0	—	0 10 0
77 A	John Malone.	Same.	Land.	0 1 20	0 10 0	—	
78 A	Mary Hillan.		Land.	0 1 20	0 10 0	—	
79 A	Anne & Mary Drenay.		House, office, & land.	4 3 35	3 10 0	—	9 0 0
80 A	John Malone.	Same.	House, office, & land.	4 3 5	4 0 0	1 10 0	0 5 0
81 A			Land.	0 1 15	0 5 0	—	
82 A			House, offices, & land.	0 0 34	0 5 0	—	
83 A	Mary Hillan.	Same.	House, offices, & land.	0 1 8	0 5 0	—	0 5 0
84 A	John Malone.	Same.	House, offices, & land.	0 1 20	0 10 0	1 10 0	5 0 0
85 A			House, offices, & land.	0 3 0	7 15 0	2 0 0	
86 A			House, offices, & land.	0 2 30	1 0 0	—	
87 A	Patrick Malone.	Patrick Malone.	House and land.	10 1 5	7 15 0	0 15 0	8 10 0
88 A	Peter Malone.		House.	—	—	0 10 0	0 10 0
89 A	Andrew Hiron.		House, offices, & land.	10 1 25	8 0 0	—	8 0 0
90 A	Michael Drenay.	Lord A. E. Hill Trevor.	House, offices, and land.	17 0 35	14 5 0	5 10 0	20 15 0
91 A			House, offices, and land.	9 0 30	5 5 0	0 15 0	6 0 0
92 A			House, offices, and land.	16 0 35	8 0 0	1 0 0	9 0 0
93 A	John Hillan.	John Hillan.	Land.	0 3 5	0 10 0	—	0 10 0
94 A	Jane Crothers.		House, offices, & land.	1 3 30	1 15 0	—	1 15 0
95 A	Jane Crothers.		House, offices, & land.	3 2 5	0 15 0	4 0 0	10 15 0
96 A	Samuel Crothers.	Same.	House, offices, & land.	0 1 15	0 5 0	1 10 0	3 0 0
97 A			House, offices, and land.	0 1 15	0 5 0	—	
98 A			House, offices, and land.	7 0 25	6 5 0	—	
99 A	John Lavery.	Same.	House, offices, and land.	8 3 30	7 5 0	1 0 0	8 5 0
100 A	John Lavery.	Same.	House, offices, and land.	8 3 30	7 5 0	1 0 0	0 15 0
101 A	Patrick Green (Peter).	Same.	Mountain.	15 1 25	2 15 0	—	0 15 0
102 A	Patrick Green (James).		Mountain.	15 1 25	2 15 0	—	0 15 0
103 A	Patrick Green (James).		Mountain.	15 1 25	2 15 0	—	0 15 0
104 A	Patrick Green (James).	Same.	House, offices, & land.	3 0 15	1 15 0	—	7 0 0
105 A			House, offices, & land.	0 1 15	0 5 0	1 0 0	
106 A			House, offices, & land.	2 2 15	2 5 0	—	
107 A	Patrick Green (Peter).	Same.	House, offices, & land.	1 3 30	1 15 0	—	10 5 0
108 A			House, offices, & land.	0 2 8	0 5 0	—	
109 A			House, offices, & land.	8 3 10	7 0 0	1 5 0	
110 A	Bernard Green.	Same.	House, offices, & land.	0 2 0	0 10 0	0 10 0	5 10 0
111 A			House, offices, & land.	4 2 20	3 15 0	—	
112 A			House, offices, & land.	0 0 20	0 5 0	—	
113 A	James Green.	Same.	House, offices, and land.	6 0 25	4 5 0	1 0 0	2 10 0
114 A	John Malcolmson (David).		House, offices, and land.	4 0 10	2 0 0	0 10 0	2 10 0
115 A	William McCully.		House, offices, and land.	—	—	—	1 7 0
116 A	Thomas Malcolmson.	Same.	Land.	31 3 30	6 0 0	—	0 10 0
117 A	Robert McCully.		Land.	31 3 30	6 0 0	—	1 7 0
118 A	John McCully.		Land.	31 3 30	6 0 0	—	0 10 0
119 A	John Malcolmson (Richard).	Same.	Land.	31 3 30	6 0 0	—	1 15 0
120 A	John Malcolmson (David).		Land.	31 3 30	6 0 0	—	0 13 0
121 A	John Malcolmson (David).		Land.	31 3 30	6 0 0	—	0 13 0
122 A	John Malcolmson (David).	Same.	House, offices, & land.	16 1 10	14 15 0	—	24 0 0
123 A			House, offices, & land.	2 2 25	1 15 0	6 10 0	
124 A			House, offices, & land.	1 2 0	1 0 0	—	
125 A	William McCully.	Same.	House, offices, & land.	6 0 15	5 10 0	—	9 0 0
126 A			House, offices, & land.	1 3 35	1 5 0	—	
127 A			House, offices, & land.	0 3 0	0 10 0	—	
128 A	Commonage.	Same.	Commonage.	0 0 32	0 5 0	1 10 0	—
129 A			Commonage.	0 3 5	—	—	
130 A			Commonage.	0 3 5	—	—	



Appendix B – Print out of related map from Griffiths valuation.



Appendix C – Photos taken on site of domestic features showing internal doors, windows and chimney.



Window opening



Chimney image
[to road]



Internal door opening



Another window
opening



Appendix D – O'Callaghan Planning consultants report [from previous application]

Newry, Mourne and Down Council
Local Planning Office
Downshire Civic Centre
Downshire Estate
Ardglass Road
Downpatrick
BT30 6GQ



14th November 2018

Dear Sir / Madam,

Ref: LA07/2018/0482/F

**Proposed conversion of stone barn into dwelling with associated site works
60m North of 67 Dechomet Road Dromora Dromore**

1. O'Callaghan Planning have been instructed by H D Design to contact the Council, pursuant to its letter to H D Design dated 31st July 2018, *inter alia*. I appreciate that some time has elapsed since that date however I understand Mr McAleer has been in contact with the Council in the intervening period albeit matters appear not to have been progressed (hence our instruction).
2. Having considered the particulars of the case we have identified a number of ways in which matters could potentially be resolved to the satisfaction of the Council and the applicant.
3. We appreciate that the starting point for an application to convert a redundant rural building into a dwelling is that it must meet the test of "local significance" as set out in the SPPS for Northern Ireland (as opposed to the lower level tests laid out within Policy CTY 4 of PPS 21).



4. In light of the fact that this application is ready for progression to the Council's planning committee, we do not consider it timely to attempt to deal with the subtle differences in the tests laid out in PPS 21 and the SPPS, with regards to proposals of this nature. However, there are a number of other material considerations that had hitherto been unknown to the Council, while other matters had not been pressed by the applicant's agent, and we trust that the Council will take this submission into account prior to progressing the application. Further, we would be grateful for an opportunity to discuss this case in person because of the significance of this new information.
5. Since this matter was first referred to us, it has become apparent that the subject building was originally a dwelling house. The applicant's agent has recently been provided with an oral history of the occupancy and the ownership of the building, going back more than 100 years. We will endeavour to present this history to you in written form, and if possible this evidence will be provided by independent persons with knowledge of the history to the building.
6. The abbreviated history to the building is that Mr Pat Matheson, who resides opposite the site, has been able to confirm that his great great grandfather Bernard Matheson lived in the building until he died in 1866. The farm and dwelling was sold to Turleys, a well known family in the area, in the late 1800s. Mr Matheson still has the receipt of the sale, for £123.00. Part of the farm, including the existing building, was later purchased by the Rooney family, in the late 1940's.
7. The last date of occupation is unknown, and it has been confirmed orally that the roof was changed in the late 1950's.
8. In order to verify the age of the building, we have enclosed a number of extracts from the PRONI Historical Maps web resource, at Appendix 1.
9. Insofar as it is now apparent that the subject building was previously used as a dwellinghouse, albeit it would appear that its residential use has been abandoned, it would be appropriate to change the description of this proposal to: **Conversion of abandoned dwelling to dwelling with associated site works.**



10. If the Council is content with this revised description, we will liaise with H D Design to ensure amended P1 forms are issued forthwith.

PAC Appeal 2018/A0031

11. In addition to the foregoing, we would draw the Council's attention to the PAC's views on rural conversions, as addressed within a recent planning appeal (2018/A0031) outside Antrim. Given the appeal has been decided so recently it is considered relevant to the case at hand.
12. Within the said appeal it was acknowledged that the SPPS does not define "locally important" although it lists examples, such as former school houses, churches and older traditional barns and outbuildings. The PAC indicated that "while these cited examples typically relate to buildings that generally have some design, architectural or historic merit, they do not represent a definitive list and there may be other factors that would result in a particular building being of importance to a locality". We believe that the same principles ought to be applied to this assessment.
13. While the appeal building was larger than the subject building, it was deemed significant enough to mention that it had been constructed "pre-famine". The Irish famine occurred between 1845 and 1849. Given the anecdotal evidence that the subject building was occupied by a Mr Matheson up until his death in 1866, this building clearly dates back to the same era as the appeal case in Co. Antrim.
14. The appeal building was finished with render. However, patches of render had been removed to reveal the building's original construction of stone walls with brick quoins. In contrast, this building's stone walls remain in their original condition for the most part, and brick detailing is apparent around a doorway.
15. The appellant stated that the appeal building was distinctive as it was originally constructed as a barn with living accommodation above. This was not contested. In this case, we have no evidence to confirm mutual usage (residential and agricultural) however this is possible if not likely in this instance.



16. We have included a number of close-up images of the building at Appendix 2. These indicate that domestic window openings have been built up, and they also illustrate that the fireplace / hearth has also been built up. If not confirming residential use outright, these would at least confirm some form of dual usage, in keeping with the Antrim appeal case.
17. By virtue of the appeal building's dimensions and design, the PAC concluded that it "would qualify as an older outbuilding as well as a barn as referred to in Policy CTY 4". We see no reason why such an understanding would not apply to this building.
18. The PAC found it significant that "providing the render is removed, as proposed, it would display architectural merit and features worthy of retention". The same undoubtedly applies to this building.
19. This scheme would secure the retention and enhancement of a rural building of merit. It would therefore constitute an environmental improvement, in common with the Antrim appeal.
20. The PAC found that "the dual residential and agricultural use of the building by local people within living memory confers a local historical significance on the building. This factor contributes to the building's local importance which would be further enhanced by its sympathetic renovation and extension". It would not be unreasonable to suggest that this application could be determined on the basis of the same principles.
21. The appointed Commissioner was content to judge for himself that the appeal building was a 'locally important building' for the purposes of Policy CTY 4 and we submit that Newry, Mourne and Down Council has powers of discretion to apply its own judgement in this case given the fact that the typologies mentioned in the SPPS are neither definitive nor exhaustive.
22. As a footnote, we are fully committed to investigating all possible outcomes in this instance. In light of the indications that this building was a dwelling, it may be considered eligible for a replacement with a new dwelling. We would be grateful if the Council could revert to us to give an indication whether this building might be eligible in principle for replacement with a new



dwelling. Notwithstanding the arguments presented in favour of the current proposal, if the Council hereinafter forms the view that the subject building was a dwelling, the applicant may be amenable to the withdrawal of this application and the submission of an application for a replacement dwelling, if the Council feels this is a more appropriate pathway towards approval.

23. I would be grateful if the Council could contact the applicant's agent or ourselves to confirm whether or not a meeting will be facilitated in these circumstances.

I look forward to hearing from you,

Yours faithfully

Colin O'Callaghan
Chartered Town Planner
Bsc Hons Dip TP MRTPI





Plate 2: Evidence of the blocking up of an internal doorway.





Plate 3: Evidence of the blocking up of the former fireplace/chimney.





Plate 4: Illustration of the structural completeness of the building. Red brick detailing around the right hand doorway is more elaborate than would have been provided if the building did not have any previous residential use. There is a possibility that disturbance to stonework to either side of the right hand door is consistent with window openings being closed up.

It is respectfully submitted that, at worst, the building, being traditional and of stone construction, would fall into the SPPS' typologies that are considered eligible for conversion. There are also sufficient traits remaining to point towards a previous residential use of the building, which would make it eligible, in principle, for replacement if not conversion to a new dwelling.





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

Application Reference: LA07/2021/0246/F

Date Valid: 4th February 2021

Proposal: 3No self-contained tourist units

Location: North west of 102 Tullybrannigan Road, Newcastle

Site Characteristics & Area Characteristics:

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

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



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

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

Site History:

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

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

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

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

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

Planning Policies & Material Considerations:

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

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

The relevant neighbours were notified of the proposal on 7th & 15th April 2021

Consultations:

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

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

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

Objections & Representations

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

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

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

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

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

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

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

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

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

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

Consideration and Assessment:

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

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

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

TSM 5 – Self Catering Accommodation in the Countryside is therefore applicable and states that planning approval will be granted for self-catering units of tourist accommodation in any of the following circumstances

- (A) One or more new units all located within the grounds of an existing or approved hotel, self catering complex, guest house or holiday;
- (B) A cluster of 3 or more new units are to be provided at or close to an existing or approved tourist amenity that is / will be a significant visitor attraction in its own right;
- (C) The restoration of an existing clachan or close, through conversion and / or replacement of existing buildings, subject to the retention of the original scale proportions of the buildings and sympathetic treatment of boundaries. Where practicable original materials and finishes should be included.

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

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

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

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

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

CTY 13

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

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



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

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

PPS 3 – Access, Movement and Parking

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

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

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

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

PPS 2

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

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

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

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

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

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

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

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

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

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

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

PPS 15

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

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

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

FLD1 - Development in Fluvial and Coastal Flood Plains.

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

FLD2 - Protection of Flood Defence and Drainage Infrastructure.

Not applicable to this site.

FLD3 - Development and Surface Water.

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

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

FLD4 - Artificial Modification of Watercourses.

Not applicable to this site.

FLD5 - Development in Proximity to Reservoirs.

Not applicable to this site.

Consideration of Objections

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

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

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

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

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

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

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

Conclusion

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

Drawings

The Drawings considered as part of this assessment are as follows

001, 002 003

Recommendation: REFUSAL

REASON:

1. The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the SPPS and Policy TSM 5 of Planning Policy Statement 16, Tourism in that the units proposed are not provided at or close to an existing or approved tourist amenity that is / will be a significant visitor attraction in its own right.

Case Officer: Claire Cooney

Date 21.05.2021

Authorised Officer: A.McAlarney

Date 21 May 2021



Reference	LA07/2021/0246/F
Location	North west of 102 Tullybrannigan Road
Proposal	3no Tourist units

Response to Refusal Reasons

The crux of the Departments argument is that they consider the proposal is not located next to a tourism amenity which will be/is a significant attraction in its own right. Particularly, that the adjacent walking trails are not seen as a significant attraction. We disagree with this argument for a number of reasons which are outlined below.

The department have determined that the walking trails, which include Newcastle Way, Mourne Way and Ulster Way are not significant visitor attractions and have quoted a NISRA Survey of NI Visitor Attractions as the justification behind this. This however does not represent a definitive list of tourist attractions, as this survey was only issued to those attractions which charge a fee for there service, and do not account for those tourist attractions which are free to the public.

We also believe that the Departments assessment is at complete odds with the wider Newry Mourne and Down Tourism Strategy which identified outdoor adventure, including walking and hiking as a unique Mourne-Gullion experience, thereby reinforcing their significance in attracting tourists to the area. The Tourism Strategy also identified a lack of tourist accommodation to serve these experiences, therefore this proposal provides an additional 3no units to service the local economy.

Moreover, a Visitor Attraction Survey conducted in 2018 stated that the main reason for visiting Newry Mourne and Down was *"To see the beautiful scenery/landscape"* - with 28% of the respondents to this survey listing this as their reason for visiting.

Furthermore, The Newry Mourne and Down Local Development Plan Paper 7 Study on Tourism identified hiking and walking as an opportunity to enjoy the distinctive landscape. The study stated that 30% of all those visiting our Council area participate in hiking/walking. This is reinforced in paragraph 7.33 of NMD Preferred Options Paper stating *"The district offers numerous locations and opportunities for hiking and walking, with the Mournes alone containing 12 mountain peaks"*

Discover Northern Ireland, in association with Tourism NI lists walking and hiking under *"things to do"* in Northern Ireland, therefore providing a tourist attraction. This is reinforced by the local white on brown and blue/yellow tourist signs directing the walkways Newcastle Way, Mourne Way and Ulster Way.

Tourism NI only allow attractions to be sign posted if they meet a certain criterion. Within the document *Tourist Signing in Northern Ireland Applications - Guidance Notes*, TNI identified a number



of facilities and **attractions** which are eligible for signing. Within the list included scenic routes. **It is considered the above mentioned walkways are scenic routes which constitute a significant tourist attraction as they benefit from signage.**

According to countryfile.com, The Mourne Way was considered one of the best walks in Northern Ireland therefore representing a significant tourist attraction in its own right. The proposal is also located within close proximity to other walks mentioned on the list which include Tollymore Forest Park as well as various Mourne Mountain trails.

Moreover, the site is located within close proximity to many other tourist attractions, including Newcastle town itself, game of thrones filming locations and Tollymore Forest park. Many of these of which attract tourist from all of the world. These are similar to those attractions listed in the decision LA07/2020/1267/F- where walking paths, game of thrones locations, forest parks and other settlements up to 12 miles away were listed as significant tourist attractions.

Moreover, the proposed site was originally approved under Policy CTY8 for an infill dwelling. Policy CTY8 allows provision for infilling of a gap site with an appropriate economic development. 3no. tourist units would be considered economic development, considering the contribution they would bring to the local economy. This use is appropriate within this area as there are a number of other self catering units within close proximity to the site, therefore would not adversely affect the amenities of the neighbouring residents. The proposal therefore also finds support within Policy CTY8 of PPS21.

As it is widely recognised throughout Northern Ireland as well as Newry Mourne and Down that walking and hiking are a significant part of our Tourist Economy, combined with the close proximity of other tourist attractions the proposal therefore conforms to Policy TSM 5 of PPS 16 as well as Policy CTY8 of PPS21 and subsequently comply with CTY 1 of PPS21.



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**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2020/1208/O

Date Received: 02/09/2020

Proposal: Proposed 1 no. infill dwelling (amended proposal)

Location: Northeast of 5b Mullavat Road, Greenan, Newry, BT34 2QB

Site Characteristics & Area Characteristics:

The application site comprises part of a larger agricultural field adjoined to the west by 5b Mullavat Road and adjoined to the east by a separate agricultural field. The rear site boundary is undefined with the remaining boundaries formed by wire and post fencing, there is some hedgerows along the roadside and boundary with No 5B. The levels on the site rise from the roadside towards the rear. The site is located outside any defined settlement limits.



Application Site

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
- PPS3 Access, Movement and Parking
- DCAN15- Vehicular Access Standards
- PPS21- Sustainable Development in the Countryside

Site History:

- **P/1976/0225-** Proposed Site for Replacement Bungalow Greenan, Newry. Permission refused.

Consultations:

- **Historic Environment Division-** HED (Historic Monuments) has assessed the application and on the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.
- **NI Water-** Generic response provided.
- **DFI Roads-** No objections in principle subject to conditions.

Objections & Representations:

Four neighbours were initially notified of the application and it was advertised within one local newspaper with statutory expiry on 29/09/2020. The application was originally submitted as an infill application for two dwellings and included the field to the east, three objections were received raising the following concerns:

- The lands furthest to the NE of 5B Mullavat Road are not owned by the applicant but owned by us and we comprehensibly object to it and request it is withdrawn with immediate effect.
- The area is at 'tipping point' and any future development will destroy the remaining local character.
- The area is designated as green belt, the development here is contrary to the local development plan.
- The proposal would result in a suburban style build- up of development.
- Further development will increase traffic movements again detrimental to the local area.

The issues of land ownership were raised with the Agent who confirmed that the applicant owns the south western field and that notice will be served on the owner of the north eastern field. Neighbours were notified of amended certificates submitted. The land owner (via telephone) advised that a P2A Form was served but confirmed that there will be no permission or agreement given to develop on their lands.

On this basis, the Agent was requested to reduce the red line to only include lands controlled by the applicant.

A revised proposal description and plans were submitted and neighbours were again notified. No further comments or submissions were 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. This application seeks permission for an infill dwelling.

Following a site inspection and internal discussion, the Agent was advised that the Planning Department are of the opinion that the proposal does not represent a small gap site as it is considered the gap site could accommodate more than two dwellings and the site presently represents a visual break in the locality which helps maintain rural character. On this basis the proposal is likely to be recommended for refusal. The following summarised comments have been received by the Agent for consideration:

- Given the surrounding plots, that the proposed development would be broadly reflective of the plots sizes along the Mullavat Road.
- As the Planning Appeals Commission have recently established that the assessment of a gap site is not a mathematical exercise, however a planning judgement on how the site sits on the ground. When assessing the site as it sits on the ground, the frontages are comparable to the adjacent plots, and given the size, scale, siting and plot sizes, in the round this proposal conforms to the overall thrust for infill development. Appeal decision 2019/A0027 concluded that Policy CTY 8 does not necessitate duplication of adjacent plot widths in respect of proposals for infill development. This was reinforced by appeal decision; 2019/A0101 *"As I find that the appeal site would be broadly reflective of two of the three adjacent plots, I conclude that, in the round the appeal proposal would respect the plot sizes along this frontage"*. Please see attached image which demonstrates the comparable plots along the Mullavat Road. The proposed gap site is broadly reflective of three of the four adjacent plots, and would therefore satisfy policy, in line with recent PAC decisions.
- We also contend the argument that the gap site provides a visual break within the countryside. The reference to a visual break is found with para.5.34 of the Justification and Amplification text, and not within the policy headnote. As per appeal decision 2017/A0038, *"They are not found in the policy head note in reference to what can constitute an exception for infill development."* Therefore as the proposal is compliant with the headnote text of CTY8, then no further more stringent test found within the justification and amplification may be applied.

- Refer to a recent Council decision LA07/2020/1292/O was approved within a 142m gap site. The average plot width in this application was 56m. This decision was approved by the department as they considered the gap site comprised off the road frontage of 111m. The road frontage of the Mullavat Road site is approx. 85m. The average plot size approx. 40m. Therefore representing a small gap site suitable to accommodate up to a maximum of 2no dwellings.
- It is an accepted principle in planning law that were there are inconsistencies or ambiguity in policy, then the appellant is entitled to have his proposal assessed on the basis of the interpretation most favourable to the appellant (Planning Appeals Principles, 5th Edition, 2020 pg.34-36). As the above mentioned decision (LA07/2020/1292/O) was granted by using the road frontage to assess the gap site, the applicant is therefore entitled to have the gap site measured along the road frontage, as it is more favourable to him.

The Planning Departments assessment of the application is set out below. I do not accept the Agents argument that where there are inconsistencies or ambiguity in policy, then the applicant is entitled to have his proposal assessed on the basis of the interpretation most favourable. There is no ambiguity in the assessment of the proposal under CTY8 and there are numerous appeal decisions which provide further clarification on the interpretation of the policy. In terms of the assessment of LA07/2020/1292/O, each site falls to be determined on its own merits and direct comparables are rare, and I do not consider the site characteristics to be identical on both applications.

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 site is adjoined to the west by 5B Mullavat Road which contains a replacement dwelling opportunity to the rear of the site, the existing dwelling was retained for use incidental to the enjoyment of the approved dwelling. There is a gap between the curtilages of No's 5C and 5B, 5C has not been considered as part of the frontage. **The curtilage of 5B appears to cover a wider area on aerial images than on the ground. On the ground, there is a dense area of vegetation at a higher level which does not read as part of the curtilage of 5B and this separates the site from 5C. The curtilage of 5B will be assessed as it appeared on the ground and from a site visit.**

To the east the site is adjoined by an agricultural field with No's 5A, 5 and 7 comprising a row of detached dwellings located to the north east. There is considered to be three buildings which form part of a substantial and continuously built up frontage for the purposes of CTY8.

There are numerous appeal decisions which make clear that for the purposes of policy, it is the space between buildings along the road frontage which constitutes a gap. The gap between the buildings at 5A and 5B measures c.113.6m. Dwellings 5A, 5B, 5, and 7 occupy a total road frontage of **c.139.8** in length. The gap between 5B and 5A (**113.6m**) therefore comprises almost **81%** of this frontage. The break in development does not appear as a small gap but as a visual break between the separate elements of the frontage, in particular given the topography and road layout. This is similar to the approach taken under the assessment of Appeal 2019/A0238.



The average frontage of the dwellings measures c. 34.95m and it has been established that the gap between the buildings extends to 113.6m with the application site frontage measuring c. 52.7m. Whilst it is accepted that the assessment of whether or not a gap site is suitable for infill development is not merely a mathematical exercise, I am of the opinion that the gap site is not a small gap site and provides relief and a visual break between the development along the road which helps maintain its rural character. In terms of plot size, whilst the proposal may be of comparable plot size given the large site at 5B, given the large gap size, Policy CTY8 is not met when read as a whole. The infilling of this gap and the creation of ribbon development would result in a suburban style build up of development detrimental to the rural character of the area and is contrary to Policy CTY8.

Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape. This is an outline application where details of design are not available, if this application were to be approved, conditions restricting the dwelling to single storey with a low ridge height could ensure compliance with Policy CTY13.

The site is of sufficient size that it could accommodate a new dwelling and allow for sufficient separation from the common boundary with No 5B to ensure there would be no unacceptable impact on the privacy or amenity of existing or potential future residents.

Policy CTY14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As outlined above, the proposal creates a ribbon of development between the separate elements of frontage along Mullavat Road and would result in a suburban style build up of development which conflicts with criterion b and d of Policy CTY14.

Planning Policy Statement 3

DFI Roads have been consulted on the application and are content subject to conditions. Third party comments have been received raising concerns relating to land ownership and increased traffic movements on a minor road. The application site area has been amended to remove the field to the east and notice has been served on the appropriate landowner. I am content on the basis of the plans submitted, that whilst visibility splays may cross adjoining lands, no works are required to take place outside lands controlled by the applicant. DFI Roads have been consulted as a statutory consultee and are content that the proposed access will not prejudice road safety or significantly inconvenience the flow of traffic.

However notwithstanding this issue, the application is considered unacceptable for the reasons outlined above.

Recommendation: 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 Paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside as the application site not constitute a small gap site within a line of three or more buildings in the countryside, does not meet other planning and environmental requirements and would, if permitted, result in the creation of ribbon development along Mullavat Road.

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

4. This refusal notice relates to the following plans: 01B, 02B.

<p>Case Officer Signature: E. Hart</p> <p>Date: 24/06/2021</p>
<p>Appointed Officer Signature: M Keane</p> <p>Date: 25-06-21</p>



Reference	LA07/2020/1208/O
Location	North east of 5b Mullavat Road
Proposal	Proposed infill dwelling

Response to Refusal Reasons

We believe that the proposal conforms to Policy CTY8 for the following reasons;

The Department have accepted that there is a substantial and continuously built up frontage. The dispute is whether the gap site is a small gap site suitable to accommodate up to two houses while respecting the existing pattern of development along the frontage.

The PAC have recently adopted a more flexible approach to determining what is a gap site. Policy CTY8 does not require duplication of adjacent plots, only to be broadly reflective of the development pattern (**2019/A0027; 2019/A0101**).

A recent Council decision determined that the gap site is measured along the roadside frontage (**LA07/2020/1291/O**). This application was approved within a 142m building to building gap site. The average plot width in this application was 56m. This decision was approved by the department as they considered the gap site comprised off the **road frontage of 111m**.

The development pattern present is a range of plot sizes along the frontage which vary from 25m to 51m. The gap between buildings is 112m of which the gap site is 85m of that gap. This could sufficiently accommodate two plots whilst respecting the development pattern. The distance between the siting of the existing buildings along the frontage ranges from 7m to 41m. The original layout submitted illustrates that the siting of the two proposed dwellings would have a distance of 32m and 20m to No.5b and No.5a respectively and a distance of approx.20m between each proposed building which is in keeping with the spectrum of distances between buildings within the existing development pattern along the frontage. This is the approach the PAC took in a recent decision **2020/A0035**.

The road frontage of the Mullavat Road site is approx. 85m. The average plot size approx. 40m. Therefore, by adopting the approach taken by the Council in the above decision, further reinforcing that the application site represents a small gap site suitable to accommodate up to two dwellings.

With regards to the visual break, as referenced by the case officer, the PAC have concluded that this reference is made only within the justification and amplification text, and not within the policy headnote. Decision **2017/A0038** states (referring to visual breaks) *"They are not found in the policy head note in reference to what can constitute an exception for infill development."* Therefore, as the



proposal is compliant with the policy headnote of CTY8, then to apply further restricted measures found within the justification and amplification text are unintentionally misplaced.

The Department referred to appeal decision 2019/A0238 as support for this argument, however having considered the contents of this appeal, we do not consider it comparable, as this was an application for a single infill dwelling, with a frontage of 20m within a building-to-building distance of 130m, and a roadside frontage of 82m. It was accepted by all parties that this development could fit more than 2no dwellings within the gap site. When considering the application before us, with a frontage of 51m, between a building-to-building distance of 112m, and a roadside frontage of 85m, it is clear that a maximum of 2no. dwellings could be accommodated within this gap site.

As the application is considered a small gap site, suitable to accommodate up to a maximum of two dwellings, the proposal therefore conforms to Policy CTY14 criteria b and d, in that it does not result in a suburban style build- up of development and it does not create or add to a ribbon of development.

For the reasons set out above, we respectfully request that the Committee overturn the Case Officers recommendation and that the application is approved.



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**Newry, Mourne
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District Council

Application Reference:

LA07/2020/0350/O

Date Received:

27.02.2020

Proposal:

Proposed site for infill dwelling

Location:

40m south of No 27 Mill Road, Hilltown

Site Characteristics & Area Characteristics:

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

The site is located south of No. 27 Mill Road and north of the 'Old Mill'. The site can be accessed off the eastern side of Mill Road through the access to No. 27 via a metal gate. The site is currently unused and is defined by a wooden fence and hedgerow along the north and western boundaries and hedgerow and mature trees along the east and southern boundaries. There is an outbuilding sited along the northern boundary of the site. There are limited views of the site due to the natural screening and existing buildings screening the site to the north; with critical views being predominantly when travelling south along the Mill Road. The topography of the site slopes gently downwards NW to SE. The adjacent dwelling (No. 27) is a detached 2 storey with associated outbuildings. The 'Old Mill' south of the site is derelict and overgrown with ivy. The external walls appear to be intact, however there is no roof.

Planning Policies & Material Considerations:

This application will be assessed under the following policy considerations:

- Strategic Planning Policy Statement (SPPS)
- Banbridge, Newry and Mourne Area Plan (2015)

- PPS 21: Sustainable Development in the Countryside
- PPS 3: Access, Movement and Parking
- PPS 15: Planning and Flood Risk
- DCAN 15: Parking Requirements

Site History:

There is no planning history for this site. There is history for the lands adjacent to the site that are relevant to the 'Old Mill'.

P/2001/0124/O - Opposite 20 Mill Road Hilltown County Down - Replacement of mill with dwelling and garage – Permission granted, 27.03.2001

P/2004/1364/O - 120 metres north east of no. 17 Mill Road, Hilltown, Co Down, BT34 5UZ – Site for dwelling and garage – Permission granted, 06.12.2005

P/2006/0975/RM - Opposite and to the east of 20 Mill Road, Hilltown – Erection of replacement dwelling and garage – Permission granted, 16.11.2006

Consultations:

DfI Roads – No objections subject to conditions

NI Water – Generic Response

Rivers – No objections subject to conditions

HED – Content

Objections & Representations:

Neighbours notified: 09.03.2020

Advertised: 18.03.2020

No objections or representations received.

Assessment

Proposal

The proposal is an outline application for the erection of a dwelling and detached garage on an infill site between No 27 Mill Road to the north and the 'Old Mill' to the south of the site. No floorplans or elevations have been submitted with this application, these would be required at reserved matters stage.

Principle of Development

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

determination of the application and it directs the decision-maker to the operational policies of the SPPS and the retained PPS21.

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

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

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

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

This approach will be followed below.

A substantial and continuously built up frontage is defined as including a line of 3 or more buildings along a road frontage without accompanying development to the rear. The site in question sits along the Mill Road, south of No. 27 Mill Road and north of the 'Old Mill'. It is considered that No. 27 and the adjacent existing farm building to the south have road frontage, therefore there is a line of 2 buildings along a road frontage. As part of this application, the 'Old Mill' is proposed as being the 3rd building along the road frontage.

During the site visit carried out 4th June 2020, it was noted that the 'Old Mill' is currently derelict and overgrown with ivy. It was noted that the external walls were intact, however there was no roof – pictured below.



The agent was advised that the 'Old Mill' does not constitute a building and therefore there were not 3 buildings along the road frontage and thus no infill opportunity on 3rd July 2020. The agent submitted further information 22nd July outlining that the 'Old Mill' was once given permission as a replacement dwelling and stated that "policy CTY3 is clear that a dwelling is a building. The policy text continues to emphasise that, as a minimum, the structural walls should be substantially intact, but it does not require the roof to be in place. It is clear therefore that an existing dwelling does not need to have a roof for it to be deemed suitable for replacement under policy CTY3. The logical corollary is that a dwelling (which is a building) does not need to have a roof for it to be considered a 'building'. It is important to note here that this application is for a proposed infill dwelling and will therefore be assessed under CTY 8. There is no existing dwelling on the subject site, therefore Policy CTY 3 is not applicable.

In regards to defining what a building is, it is important to note that there is a difference between CTY 3 and CTY 8 and what is considered acceptable. For a replacement, the dwelling to be replaced needs to have 4 substantial walls intact and no roof is needed. Whereas, when a building is being considered as part of the built up frontage under CTY 8, by rule of thumb the Oxford Dictionary definition of what a building is applies: "a structure such as a house or school that has a roof and walls".

Appeal 2014/A0002 outlines that "for the purposes of this policy which refers to a 'built up frontage', the word building should be given its natural, everyday meaning...Foundations and footings do not constitute a building and a possible future building cannot be taken into account as it does not exist at this time".

Therefore the planning history for the 'Old Mill' as outlined in the letter from the agent is irrelevant and cannot be considered as a material consideration.

Moreover, appeal 2016/A0129 outlines that "the possibility of future buildings cannot be taken into account given the wording of the policy. What falls to be assessed is what lawfully exists on the ground at the time of the decision." It is evident from the 2 site visits carried out (3rd June 2020 and 24th July 2020) that the 'Old Mill' has fallen in to disrepair. The letter from the agent included an old picture of the Mill with roof rafters in place. However, as mentioned in the appeal above, what lawfully exists on the ground at the time of the decision is what is to be assessed; and at this current time there is no roof in place.

In this case, there are only 2 buildings along the frontage that can be taken into account, No. 27 Mill Road and the existing farm building to the south of No. 27. Thus, the appeal site is not within a substantial and continuously built up frontage and there is no existing built up frontage on either side in order for the site to be a gap site. For the reasons stated, the site does not represent an exception to the policy and the proposal therefore fails to satisfy Policy CTY8. In this circumstance, such matters of development pattern, plot size, frontage width and scale of development are irrelevant.

Design, Scale, Size and Massing

Policy CTY8 also requires that infill dwellings meet other planning and environmental requirements. Paragraph 6.70 of the SPPS confirms that *"All development in the countryside must integrate into its setting, respect rural character and be appropriately designed."* These considerations must be assessed under policies CTY13 and CTY14 of PPS21.

Policy CTY13 (a-f) permits a building in the countryside that can be visually integrated into the surrounding landscape and it is of an appropriate design. Criterion (g) of CTY13 refers to dwellings on a farm and is not applicable to the proposal.

The subject site is defined by hedgerow and mature trees along the south and eastern boundaries and a low wooden fence and hedge row along the north and western boundaries. It is considered that the site is well screened by existing mature boundary treatments, as well as being screened by the existing buildings north of the site. It is considered that the proposal complies with Policy CTY 13 in that a new dwelling would not would not be considered to be a prominent feature in the landscape given the prevailing environment and existing mature natural boundaries as outlined above. It will not rely heavily on new landscaping. I am satisfied that the proposal meets the criteria laid out in Policy CTY 13.

Policy CTY14 (a-e) permits a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. The proposed site is currently in use as an agricultural field. As noted above, the proposed dwelling will not be unduly prominent in the landscape, making the most of the existing natural boundary treatments to assist with integration. It is not considered that the proposal, when taken cumulatively with the other development along the road, will result in a suburban style build-up, nor will it create or add to ribbon development. On this basis, the proposal is considered to be acceptable.

Access and Transportation

Policy AMP2 of PPS3 states that planning permission will only be granted for a development proposal involving direct access onto a public road where such access will not prejudice road safety. Paragraph 5.16 of Policy AMP2 makes reference to DCAN 15 which sets out the current standards for sightlines that will be applied to a new access onto a public road. DfI Roads have been consulted and are content with the proposal subject to conditions.

PPS 15: Planning and Flood Risk

The subject site abuts the River Bann to the east and lies within the Reservoir Inundation Zone therefore PPS 15 applies. DfI Rivers were consulted and responded 7th May 2020.

In regards to Policy FLD 1, Rivers' advised that the Flood Maps indicates Strategic Floodplain extent comes up to/straddles at least the eastern boundary of the site. It was advised to attach a condition to the application ensure that when the full planning application is submitted in the future that, the applicant takes great care to position the eastern boundary fence of the site so not to encroach on the floodplain. Other relevant conditions/informatives were indicated.

Under FLD 2, a 5m maintenance strip is required. It should be marked up on a drawing and be protected from impediments (including additional tree planting, hedges, permanent fencing and sheds), land raising or future unapproved development by way of a planning condition to provide clear access and egress at all times.

The proposal does not exceed the threshold to require a Drainage Assessment under FLD 3.

Policy FLD 4 is not applicable.

As the site lies within a potential area of inundation emanating from Spelga Dam Reservoir FLD 5 applies. Within their response, it was outlined that DfI Rivers is in possession of information confirming that Spelga Dam Reservoir has 'Responsible Reservoir Manager Status'. Consequently DfI Rivers has no reason to object to the proposal from a reservoir flood risk perspective.

As outlined above, the concerns from DfI Rivers in accordance with PPS 15 can be managed by attaching relevant conditions, therefore it is considered that the proposal complies with the relevant policies within PPS 15.

Recommendation:

Refusal

Reasons for Refusal:

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

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

2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the site does not represent a small gap site within a substantial and continuously built-up frontage.

Case Officer Signature: Eadaoin Farrell

Date: 10/08/2020

Appointed Officer Signature: M Keane

Date: 12-08-2020

James Loughlin Planning Application LA01/2020/0350/O.

Location: 40m South of No 27 Mill Rd, Hilltown, County Down.

I, James Loughlin, the Applicant wish to appeal this decision of the Planning officer to recommend a refusal of my Application and put forward the following points in support of my appeal.

Areas in issue.

PPS21. Without stating specifically how, the Planning Officer has recommended a refusal as the Application is deemed contrary to CTY1 of PPS21 in that it does not show the development is essential. I disagree and say that the requirement for an Application being essential is only when an Application cannot come within any of the CTY (Countryside Development) criteria as per PPS21. I will set out below how the Application comes within the criteria of PPS21 and specifically CTY 8 and therefore why the need for essential is not required.

I would point out as per the refusal recommendation, it is noted that the Application meets a number of wide-ranging general criteria such as design, size and massing in that I undertake that the proposed build will visually integrate into its prevailing surrounding environment. The proposal also meets safe access & sightlines and it is also noted Planning and Flood Risk raised no objections from DFI Roads, NI Water. The Rivers Agency provided the usual conditions were met for this type of build. The Applicant of course agrees to be bound by any such conditions. There were no objections from any neighbours. The land has also been held by my family for 80 plus years.

Please refer to the documents from NM&DDC, which includes Mapping and sets out the history and background for the recommendation to refuse this Application.

Small Gap Site with continual frontage & the definition of "buildings".

The main issue in question for this Application is whether the Old Mill constitutes a "building". The Planning officer's recommendation was to recommend a refusal based on what I say is a narrow and restrictive application of the definition of buildings. The Planning officer determined the In Fill or Small Gap Site criteria of 3 buildings was not met, as the Old Mill is not a "building". The reason provided was that the Old Mill no longer retains its roof. I strongly disagree with this recommendation and will set out my reasoning why below.

It is noted from the PPS21 Regulations (and in particular CTY8) that in order to be deemed an In Fill or Small Gap Site, a minimum of 3 buildings is required to meet the criteria. The Committee will note, this requirement once stood at 6 buildings and is now reduced to 3. This shows the Planning Service and the Regulator has adopted a more liberal approach to the criteria for In Fill Sites or Small Gap Sites, thus encouraging the use of In Fill sites in rural areas within Northern Ireland. This is an open recognition by both local government and Planning Services of the need to ease planning restrictions and accommodate rural development as per PPS21.

On review of the recommendation to refuse, it is noted importantly that, the Planning officer in fact concedes that under CTY3, (Replacement Dwelling Applications) there is no

requirement for a roof for a property to be deemed a "building".

CTY3 specifically excludes any mention of roof in order to define a building. There is no definition anywhere in the Regulations that requires a structure to have a roof in order to come within the meaning of the word "building". In fact, I would go even further to say that nowhere in the PPS21 Regulations (or its preceding Regulations) is there a requirement for a roof or the condition of any building a factor in determining if it is or is not deemed to be a building. The Regulations are silent on this requirement. Had the Regulator wanted to insert wording defining the stage and condition of a building, then this would have been included in the definitions as set out in Appendix 1. It is expressly excluded in keeping with the spirit and aims of the Regulators in drafting PPS21.

I also would refer the Committee to The Planning Act (NI) 2011 Section 250, wherein "Buildings" is deemed any structure or erection or any part of a building (my emphasis). There is no requirement in this legislation for a roof to be in situ for structure to be deemed a "building".

The Applicant will further put forward that the Old Mill is indeed a building, as it was previously granted permission for a replacement dwelling. The Planning Officer states this is "irrelevant". That simply put, cannot be the case and I would strongly disagree as to the relevance of this. The approval of previous permission cannot be deemed irrelevant and must be considered in this Application. In order for such planning to be granted in the first instance, the property in question which was to be replaced had to be deemed a "building" on order to ground the Application for replacement. I would argue that the application of the definition of "buildings" is not in the Regulations and that it is an onerous and restrictive definition if applied in this case of any Application for In Fill or Gap sites in rural areas, especially when read in conjunction with aims and objectives of PPS21.

However, whilst conceding CTY3 does not require a roof to be approved, the Planning officer countered this by saying CTY3 is not the appropriate criteria for this Application and that in this case, CTY8 applies instead. A reference is made by the officer to the Oxford Dictionary to define "buildings". I disagree with this approach and respectfully submit this is at odds with the wording and spirit of the Regulations and in particular the aims and objectives of CTY3, CTY8 & CTY 10, CTY 13 & CTY 14 of PPS 21.

The Planning Officer then cites an Appeal of 2014/A0002 in support of the definition of buildings. I have reviewed this decision and puts forward that, that particular Application by Mr Lynch was advanced on the basis of trying to claim he met the numerical criteria of 3 buildings by claiming the foundations alone in a new build entitled him to claim that this met the status of a building. To use this in support of a recommendation for refusal is a substantial leap by the Planning Officer and the facts of that Appeal are wholly at odds and distinct from my current Application. The Lynch Application (2014/A0002) did not have any walls but merely was only constructed to foundations level and advanced no further for quite some time. It was also at 120-meters distance from the next building. On that basis it is wholly distinct and therefore cannot be compared to the Old Mill building in the current Application before this Committee. In this case, there is nowhere near that distance and I would refer the Committee to the Map in this regard setting out the close proximity in the proposed dwelling.

I would also refer the Committee to the successful Appeal of Application 2019/A0064, where an unfinished building without any roof was deemed to form part of a substantially built-up

frontage and deemed to qualify as a building.

I would therefore argue that the Old Mill is by all intents and definitions a "building" for the purposes of the PPS21 Planning Regulations and thus bringing the Application within the remit of a Small Gap Site.

Summary

I respectfully submit that this Application should not be refused. On a procedural point, I say that the concession by the Planning Officer on the numerous CTY policies and in particular CTY3, would also rule of the necessity for the requirement of essential as reasoning as per objection 1.

The interpretation of the wording applied by the Planning Officer was narrow and restrictive and at odds with the aims of PPS21 and The Planning Act of 2011.

It is argued that the structure is a "building" and meets the criteria and objectives of PPS21 and indeed the aims of the various CTY8 requirements. There are no objections from statutory bodies or any neighbours and the proposal is in keeping with the spirit and requirements of a modest countryside development. It is in line with other Approvals and Appeals granted before this Council. I would like to thank you for your time in considering this Appeal.

Yours sincerely,

James Loughlin

COMMITTEE BRIEFING NOTE

Application Reference: LA07/2020/0350/F

Proposal: Proposed Site for Infill Dwelling

Location: 40m south of No.27 Mill Road, Hilltown

REASON FOR REFUSAL

The Planning Department asserts that the proposal fails to satisfy PPS21 policy CTY8 because the site is not deemed to fall within a substantial and continuously built up frontage, which is defined as *"a line of 3 or more buildings along a road frontage without accompanying development to the rear."* The Council accepts that there is a line of 2 buildings along a road frontage but contends that the 3rd building (the 'Old Mill') is not a building for the purposes of policy CTY8 because it does not have a roof.

The Council is satisfied that the proposal meets the requirement of all other relevant planning policy and guidance. The only issue for consideration is whether the 'Old Mill' is a building for the purposes of policy CTY8.

THE 'OLD MILL'

The old mill building was formerly a dwelling and historic map records show a building in this location as far back as 1900. Indeed, permission was granted on this site under permissions P/2001/0124/O and P/2006/0975/RM for the erection of a replacement dwelling and it was not disputed during the processing of those applications that the existing old building was a dwelling for the purposes of the policy in place at that time.

In the intervening period the building has become overgrown with ivy, but the external structural walls are evidently intact, which is confirmed by Planning Officers. Photographs at **Appendix 1** show the building as it is now (Image 1) and a Google Street View Image (Image 2) shows how the building looked in 2009, and as such how it would look today should the ivy be removed (aside from the rafters no longer being in place).

DEFINITION OF A BUILDING

The Planning Officer Report refers to the oxford dictionary definition of a building being *"a structure such as a house or school that has a roof and walls"*. However, there is nothing in planning policy or legislation which dictates that a dwelling (or building for that matter) must have a roof for it to be

considered a 'building'. The definition of a building as defined by Section 250 of the Planning Act (NI) 2011 must be given precedence: "[a building] includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building". The legal definition of a building includes 'a structure...or any part of a building' and clearly does not stipulate that it must have a roof. The structure in question evidently satisfies the legal definition of a building, being a significant part of a former dwelling with the external walls intact.

CTY3 (REPLACEMENT DWELLINGS) – DEFINITION OF A DWELLING

A building does not need to have a roof to be defined a 'building' in planning policy terms - policy CTY3 relating to replacement dwellings provides further context on this. The opening sentence in the headnote text of policy CTY3 states *"Planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact"* (my emphasis). Policy CTY3 is clear that a dwelling is a building. The policy text continues to emphasise that, as a minimum, the structural walls should be substantially intact, but it does not require the roof to be in place. A dwelling (which is a building) does not therefore need to have a roof for it to be considered a 'building'.

SUPPORTING PRECEDENT – PERMISSION LA07/2018/0785/O

We would also refer to planning application LA07/2018/0785/O, which was refused by Newry, Mourne and Down District Council (NMDDC) and subsequently granted permission on appeal (2019/A0064). Although not a central issue in the case, the infill opportunity relied upon a dwelling under construction to form part of a substantially built up frontage within which the application site was proposed. In assessing whether the dwelling under construction was a building the Council concluded in its Case Officer Report: ***"Directly south-east of the site, there is a dwelling under construction, which at the time of writing (December 2018) has been constructed to roof level and for the purposes of this test, qualifies as a building"***. NMDDC evidently therefore concluded that a partially erect dwelling with no roof in place is a building that meets the requisite test set out under PPS21 policy CTY8.

It is inconsistent therefore that the Council is now relying on the oxford definition of a building to support its reason for refusing this application, when it very obviously did not during its assessment of LA07/2018/0785/O.

CONCLUSION

The subject building meets the definition of a 'building' as set out in planning policy and legislation. All external walls are evidently intact, and the absence of a roof is not fatal in determining whether it is a building for the purposes of policy CTY8 - this is supported by this Council's assessment of application LA07/2018/0785/O.

The proposal satisfies the requirements of all relevant planning policy and guidance and should be granted planning permission.

APPENDIX 1

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The 'Old Mill' – Present Day



The 'Old Mill' – 2009





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

Application Reference:

LA07/2020/0494/F

Date Received:

20.03.2020

Proposal:

Proposed Car park and associated site works to serve existing business at Bradfor Ltd Rostrevor, using existing footway link on Forestbrook Road

Location:

Site adjacent to and 30mNE of The Kilbroney Vicarage Forestbrook Road Rostrevor

Site Characteristics & Area Characteristics:

The site is within the development limits of Rostrevor as designated under the Banbridge, Newry and Mourne Area Plan 2015 (BNMP 2015). The site also lies within Mournes Area of Outstanding Natural Beauty, a Local Landscape Policy Area (RR09) and a Site of Local Nature Conservation (NC 03/151). The application site is located within the grounds of The Vicarage at Kilbroney Centre which is a grade B1 listed

building and in close proximity to Benvenu (Grade B1), the site is presently grassed open space. The site is affected by a Tree Preservation Order.

The application site is accessed off the SW side of Forestbrook Road. A post and wire fence defines the south and western boundaries of the site and there are existing mature trees located along the eastern and northern site boundaries.



Application site

Planning Policies & Material Considerations:

This application will be assessed under the following policy considerations:

- The NI Regional Development Strategy 2035
- Strategic Planning Policy Statement (SPPS)
- Banbridge, Newry and Mourne Area Plan (2015)
- PPS 3- Access, Movement and Parking
- DCAN 15- Vehicular Access Standards
- Parking Standards
- PPS 8- Open Space, Sport and Outdoor Recreation
- PPS6- Planning, Archaeology and the Built Heritage

Site History:

P/2010/0354/F- Proposed development of 4 no detached dwellings and garages, residential accommodation block to accommodate 20 bedrooms, alterations to existing rectory and Rowan Building, construction of activity hall along with new access and associated site works at The Kilbroney Centre, 15 Kilbroney Road, Rostrevor. Approved 7th February 2011.

This application approved a community hall on the current application site. This community hall can still be built on this site as development of the 4 detached dwellings commenced lawfully before the expiry date.

NIEA Historic Buildings Unit were consulted on this application and advised that the proposed was contrary to Policy BH11 of PPS6 and that the development would, if permitted, adversely affect the setting of a listed building under Article 42 of The Planning (NI) Order 1991 Kilbroney Vicarage Rostrevor by reason of:

- The reconfiguration of the drive and loss of the front gardens is significant and its loss of such an extent cannot but be detrimental to the special interest and character of the setting to the listed building and results in the loss of the original approach to the building.
- The proposed dormitory block massing and width does not echo the outbuilding shape that has previously been approved on the site which is considered to be more appropriate.
- The proposed new roadway and Community Hall facility further breaks up the natural landscape setting and the setting of the listed building is further compromised.

The case officers report recognised that the proposal was contrary to Policy BH11 and stated:

"Although this policy is a material consideration in the determination of this proposal, other material considerations are also important. In this case the community benefits demonstrated outweigh the fact the proposal is contrary to PPS6." The Statement of Community Benefit provided stated that the proposed sports/ activity hall will provide an opportunity for the local community to avail of indoor sports/ play area which will not only provide health promotion within the community but will also encourage the opportunity for interaction through parish sports days and other community based events, the quantitative loss of open space, which is currently unutilised, will be offset by the introduction of an activity hall and a high volume of activities which can be offered within one hall i.e. a greater intensity of use.

In terms of Policy OS1 of PPS8 the case officer recognised that the Department will not permit development that will result in the loss of open space unless it has been clearly demonstrated that the development will bring substantial community benefits that decisively outweigh the loss of the open space. The support information was considered to justify the loss of open space and the proposal was deemed to comply with PPS 7.

It was noted that the site is effected by a Tree Preservation Order and that "Although the scheme will result in the loss of 3-4 protected trees, the loss is perhaps compensated by the fact the Kilbroney Centre engages in educational programmes for young children involving the maintenance and management of woodland which includes a programme of on-going tree planting of indigenous species such as oak and ash trees." The DC Group sheet states that while the proposal will impact on the existing TPO, such impact will be minimal and therefore acceptable.

LA07/2018/1669/F - Site Adjacent to and North East of The Kilbroney Vicarage, Forestbrook Road, Rostrevor - Detached Dwelling and Garage – Permission refused, 10.07.2019.

This application was on the same site as this application and proposed a detached dwelling. As outlined above, there is extant approval for a community hall on this site as well. This application was refused as the proposal:

1. Was deemed contrary to Policy OS1 of Planning Policy Statement 8 'Open Space, Sport and Outdoor Recreation' as the proposal will result in the loss of existing open space and is not considered an exception which will bring substantial community benefits that decisively outweigh the loss of the open space.
2. Failed under paragraph 6.12 (setting) of Strategic Planning Policy Statement for Northern Ireland and is contrary to Policy BH11 (Development affecting the Setting of a Listed Building) of Planning Policy Statement 6- Planning Archaeology and the Built Heritage in that it would, if permitted, adversely affect the setting of a listed building.
3. Was deemed contrary to Policy CVN3 of the Banbridge/ Newry and Mourne Area Plan 2015 as the proposal would adversely affect the intrinsic environmental value and character of Local Landscape Policy Area RR 09 (Rostrevor).
4. Was deemed contrary to Policy QD1 of Planning Policy Statement 7 'Quality Residential Environments' as it would result in unacceptable damage to the local character and environmental quality of the area.

Consultations:

DfI Roads – No objections

HED – 16.07.2020 – Although content in principle with the proposal to introduce a new car park to the site, we require further information in order to fully assess the scheme under the above policies. Please provide the following:

- Details of the proposed car park lighting. Please note that tall floodlights similar in height to streetlamps are considered to have a negative visual impact in the setting of a listed building.
We advise that bollard style lighting would be compliant under the above policies.

08.09.2020 - HED (Historic Buildings) acknowledges receipt of the additional information dated stamped 13 August 2020 and are content with the proposed 2.27m high cast iron lamp posts. HED (Historic Buildings) considers the proposal satisfies the policy requirements of SPPS 6.12 and BH11 PPS6, without conditions.

Rivers – No objections

NIEA – 07.09.2020 - Water Management Unit has considered the impacts of the proposal on the surface water environment and on the basis of the information provided is content with the proposal subject to conditions. NED has considered the information currently available, and advise that further information should be sought in relation to priority and protected species before a decision is made on the application.
08.03.2021 - Using the information submitted, NED acknowledges that a site walkover was undertaken by the Ecologist in September 2020 and no evidence of badger or otters were found. NED is content that using this information the proposed development is unlikely to significantly impact these species subject to conditions.

NED also outlined that the proposal has the potential to result in polluting impacts of the designated sites through surface water runoff being contaminated by oil and that there is potential for the proposal to be a pollution source during the construction phase and advise that appropriate buffers are maintained between works and all watercourses found on site. NED provided conditions to alleviate these concerns:

- Prior to discharge to watercourses, any surface water generated during the construction and operation phases of the development must first pass through appropriate treatment, such as hydrocarbon interceptors.
- A suitable buffer of 10m between the location of refuelling, storage of oil/fuel/substrate/construction materials/machinery, concrete mixing and washing areas and any surface drain on site or adjacent to the application site.

SES (informally) – An informal consultation was sent via email to SES to determine if a formal consultation was required. SES responded 30.09.2020 to outline: Due to the location, scale, nature and type of proposal, there could be no conceivable effects on the Ramsar/SPA as there are no viable environmental pollution pathways. Therefore further consultation was not required.

Objections & Representations:

Neighbour notification: 29.06.2020. Following the site location being uploaded onto the Portal, neighbour notification letters were re-issued 19.08.2020.

Advertisement: 19.05.2020. Following the site location plan being uploaded onto the Portal, the application was re-advertised 25.08.2020.

Several letters of objections were received from 8 different addresses. They are as follows:

11.07.2020 - Capt. and Mrs Malachy Quinn ,19 Kilbroney Road, Rostrevor.
Dr and Mrs Patrick Loughran, 17 Kilbroney Road, Rostrevor.
Mr and Mrs Paul Hagerty, 15 Kilbroney Road, Rostrevor, BT343BH

The main points in this letter are:

- A car park would have a destructive impact on the conservation of this area... This natural habitat gives a defining character and promotes a sense of place, it supports the previously mentioned wildlife and adds colour and seasonal interest to the area. The loss of this open space would be detrimental to the area and the neighbourhood;
- The proposed site is within extremely close proximity to a listed building, if permitted this car park would adversely affect the setting of the listed building;
- We have serious concerns regarding the volume of traffic this would generate;
- Another concern relates to the very real possibility of this carpark becoming a gathering spot for local youths.
- We would also like to reference the fact that planning was refused on this site in 2019 (Ref: LA07/2018/1669/F). If this site was deemed unsuitable for a single dwelling with only one or two vehicles, how can it be conceived to be suitable as a car park?

Within this letter, it was outlined that the residents wish to be in attendance at any meeting, to be given an opportunity to discuss this matter with the bodies who will ultimately make a decision on this application.

A letter was sent to the 3 addresses above to notify the occupiers of amended plans being received. In this case it was the fact that the site location plan had been uploaded onto the Portal.

A second letter of objection was received from the same 3 addresses outlining their concerns in regards to the lack of acknowledgement of their concerns in respect to possible environmental impact, noise disruption, loss of privacy or the possibility of the space becoming a haven for anti social gatherings.

A letter dated 26th October was sent to the 3 addresses to inform the occupiers that a Biodiversity Checklist had been submitted by the agent and that NIEA had been re-consulted and their response will appear on the Portal for public viewing.

Upon receipt of NIEA's response, another letter dated 9th March 2021 was sent to the 3 addresses directly answering the concerns/questions outlined within their first letter. No further responses have been received to date (11.03.2021).

14.09.2020 – Mr Hugh Burns, 7 Forestbrook Park, Rostrevor

- This a residential area & our concern is it would attract anti social behaviour.
- The letter you send out dated 29th June was delivered to No 1 Forestbrook Park, the occupant of this house is deceased & we infact never received any notification regarding this despite living adjacent to proposed site.

An email was sent to Mr Burns 19th September advising him that No. 1 Forestbrook Road is sited at the edge of the estate and therefore touches the red line boundary, however his property No. 7 is within the housing estate and does not touch the red line boundary, therefore a neighbour notification was not required. No further correspondence was received.

15.09.2020 – Mr Richard Byrne, 5 Forestbrook Park, Rostrevor

- It is strange that given my property looks directly toward this proposed carpark nor me or my neighbours were given any notification surrounding this application.
- Looking into the historical data surrounding planning applications on this piece of land it is clear the previous refusal reasons will continue to feature even with this application.
- It is my considered opinion this application will be more destructive to the surrounding area of natural beauty and more importantly the application will have a negative visual and environmental impact on the Grade B1 listed building which sits in a very close proximity to the proposed car park.

16.09.2020 – Mr Andrew Farrell, 6 Forestbrook Park, Rostrevor

- Anti social behaviour that is currently taking place at its existing carpark in the Forestbrook avenue area

16.09.2020 – Mr Karl Gibbons, 2 Forestbrook Park Rostrevor

- I have not seen an environmental report on the impact on wildlife or fauna or vehicle emissions.
- Car park capacity and overflow provision for vehicles
- Layout of car park
- I feel this car park would have a severe negative effect on values and character of the properties in my neighbourhood.
- I also believe that congestion will be created on the Forestbrook Rd/Newtown Rd junction as it is only 30 metres from the Vicarage entrance.

03.10.2020 – Ms Ellen McVeigh, 8 Forestbrook Park, Rostrevor

- Historically this site has had approval denied for a single dwelling (LA07/2018/1669/F) on the basis that the site is located within Local Landscape Policy Area (LLPA) RR09. Kilbroney Vicarage with associated views and settings is listed as one of the features and areas which contribute to the environmental quality, integrity and character of the area. The proposal is considered to be contrary to Policy CVN3 as it will adversely affect the intrinsic environmental quality and character of the LLPA.
- In addition, HED have stated in the previous application that development to this site is not considered to be compliant to PPS6 as it will be detrimental to the setting to listed buildings under Policy BH11 of PPS6.
- In addition to the above, previous proposals have been considered to be contrary to Policy OS1 and have been refused on the grounds that the loss of open space is not substantially outweighed by the community benefits. I believe the same holds true for a private car park.

- It is my belief that these objections are still valid for the current application.
- Furthermore, the currently used car park is subject to anti social behaviour at weekends and I feel this issue will just be moved rather than solved by this proposal.
- The junction between Forestbrook Road and Newtown road already has traffic issues, it is impossible for 2 cars to pass at the corner of 5 Newtown road and with a high volume of cars leaving the car park this could easily cause a bottleneck where cars are unable to enter Forestbrook Road, causing a tailback on the Newtown and Kilbroney Roads and could potentially cause issues for emergency services access.

All of the above points made within the letters of objections will be considered throughout the assessment below.

Correspondence was received by Cllr Jarlath Tinnelly querying the neighbor notifications that were issued. An email was sent to Cllr Tinnelly 28th September 2020 by a Senior Planner addressing these concerns advising that it appears that all correct properties were notified, and no further action would be required.

Assessment

Proposal

The application is for full permission for the creation of a new Car park and associated site works to serve existing business at Bradford Ltd Rostrevor, using existing footway link on Forestbrook Road. The proposed car park will provide 60 parking bays and will be accessed along the north-eastern boundary of the site via the existing tarmacked 'driveway' that leads directly to The Vicarage at the Kibronney Centre.

A 1.5m high 200x200 timber post with a 1.5m high lockable metal security gate will be erected at the entrance of the car park. As requested by HED, 2.27m high cast iron lamp posts will be placed around the car park to provide sufficient lighting; and as suggested by NIEA, no Lighting shall be directed towards the woodland edges. All existing boundaries are to be retained and a native species hedge planted along the NW and SW boundaries. The proposal does not affect any of the existing trees along the eastern boundaries, these are to remain untouched. The car parks surface will consist of a grass reinforced pavement system.

Principle of Development

The site is located within the development limits of Rostrevor as set out in BNMAP 2015. The site is within a Local Landscape Policy Area, an Area of Outstanding Natural Beauty, a Site of Local Nature Conservation and within the curtilage of a listed building.

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. There are no specific policies in the plan that are relevant to the determination of the application, so the application will be considered under the operational policies.

PPS 2: Natural Heritage

Planning permission for new development within an AONB will only be granted where it is of an appropriate design, size and scale for the locality and all criteria of Policy NH 6 of PPS 2 is met. It is considered that the proposal is compliant with NH 6 due to the low impact, modest scale and the fact that the proposal retains the open nature and visual amenity of the countryside by retaining the existing boundary treatments and supplementing with hedgerow. This site is at a lower level than the road and as a consequence, it is well screened from public viewpoints. The proposal also utilises sustainable materials.

PPS3: Access, Movement and Parking

The subject site is accessed off Forestbrook Road via an existing entrance to Kilbroney Centre. As the proposal is for the erection of a car park, Policies AMP 9 and 10 apply.

The proposed car park is for 60 car parking spaces. The car park will be used by the employees of Bradfor Limited which is located east of the site at Forestbrook Mill. The Design and Access Statement submitted alongside the application outlines that employee numbers have increased from 60 in 2010 to 110 today which in turn has resulted in increased pressures upon a limited number of parking spaces available for employee parking. The agent advises that there is currently a total of 34 parking spaces (Council owned car park and Bradfor Ltd spaces) serving 110 people which has resulted in employees having to park in surrounding residential neighbourhoods.

As mentioned above, the application site is at a lower level than the adjacent Forestbrook Road and benefits from extensive natural screening of the site (as shown below) which is to be retained and in places supplemented with native species.



It is considered that the proposal respects the character of the local landscape and it will not adversely affect visual amenity. A 1.5m high 200x200 timber post with a 1.5m high lockable metal security gate will be erected at the entrance of the car park which will ensure the car park is secure. An existing public footpath runs directly from the application site to Bradfor Ltd premises.

The agent supplied pictures of cars parked throughout adjoining residential neighbourhoods. (The site visit was carried out 17th July 2020 when Covid-19 restrictions were in place therefore a true reflection of the issue of cars being parked along the roadside was not seen). It is considered that the provision of 60 parking spaces will essentially eliminate the need for employees to park throughout the residential areas and therefore it is considered that the car park will not significantly contribute to an increase in congestion. The car park will be for the private use of Bradfor Ltd employees only will also eliminate any possibilities on increased congestion. The predominant land use is residential. The site is within the curtilage of a listed building – the effect of the car park on the listed building will be considered under PPS 6. The car park will provide safe parking for employees of Bradfor Ltd will is a long established local business; therefore, the use of this site as a car park is considered acceptable. Moreover, DfI Roads were consulted and have no objections to the proposal.

PPS 6: Planning, Archaeology and the Built Heritage

Policy BH 11 states that any proposals for development which by its character or location may have an adverse effect on the setting of listed buildings will require very careful consideration by the Department. HED were consulted and although content in principle with the proposal to introduce a new car park to the site, further information (proposed car park lighting) was required in order to fully assess the scheme under the above policies. HED issued a response 8th September 2020 advising that they are content with the proposed 2.27m high cast iron lamp posts. HED (Historic Buildings) considers the proposal satisfies the policy requirements of SPPS 6.12 and BH11 PPS6, without conditions.

Moreover, it must be noted that there is extant permission on this site for a community hall. It is considered that a car park would have considerably less impact on the setting of the adjacent listed building.

PPS 8: Open Space, Sport and Outdoor Recreation

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

The Policy goes on to state that an exception will be permitted where it is clearly shown that redevelopment will bring substantial community benefits that decisively outweigh the loss of the open space.

Although the site is not zoned as Open Space within BMNP 2015, the previous planning history on the site has assessed the site as open space and therefore I will consider the relevant policy below.

Within the Design and Access Statement the agent has outlined:

"This application seeks to provide a car park that shall be utilised by Bradfor Ltd which is a highly successful local business which has outgrown its site. As a result of its success, the business has grown in size and this growth has resulted in increased pressure upon current car parking arrangement. As a consequence of this current car parking provision is seen to be totally inadequate with a number of cars having to park within adjacent residential areas. This has had a negative impact in relation to local road safety and residential amenity levels. It is therefore considered that the development as proposed would provide substantial benefits to the local community by virtue of removing parked cars from residential neighbourhoods and thus improving residential amenity and road safety levels. It is considered that this community benefit outweighs the loss of public space which the proposal would result in."

The agent submitted an additional letter which outlined that the application site is currently used for agricultural purposes only i.e. grazing for sheep and currently provides no community benefit. During the day of the site visit there was a 'Private Property' sign up which supports the agent's claim that the site is not for public use. The agent also went on to outline that Kilbroney Parish Church (legal owners) have no further interest to use the site and that they have been given the authority to sell the site to raise monies for ongoing repairs to the Church. The agent also suggests that the purchase of the land (depending on planning approval being granted) by Bradfor Ltd would generate funds for restoration works to the roof of Kilbroney Parish Church which could be considered a benefit to the local community.

It is acknowledged that the proposed car park is for private use only by the employees of Bradfor Ltd and therefore the car park itself could not bring community benefits, however other factors should also be considered. Although there is approval on the site for a community centre (HED were opposed to the development of a building on this site but are content with a proposed car park), the agent has provided a letter stating that the legal owners of the site do not have any intentions to build this community centre and that the board of the Kilbroney Centre no longer exist. The Department acknowledge that the development of a car park on this site would have less of a visual impact than a building. As mentioned above, the site is not zoned as open space in the relevant Plan, however planning history for the site has assessed the land as open space over the years. All relevant consultations have been issued to ensure that the natural and built heritage/features of this site is retained. I am content that the proposal will not harm the natural and built heritage of the site due to the sympathetic design and materials used. I am also satisfied that the new car park will improve the parking situation in and around the adjacent residential areas.

Policy CVN 3

The application site is located within Local Landscape Policy Area (LLPA) RR09. Kilbroney Vicarage with associated views and settings is listed as one of the features and areas which contribute to the environmental quality, integrity and character of the area. The application is for a car park. No buildings are proposed. All existing boundaries are to be retained and a native species hedge planted along the NW and SW boundaries. The proposal does not affect any of the existing trees along the

eastern boundaries, these are to remain untouched. The car parks surface will consist of a grass reinforced pavement system. It is considered that the proposed car park will not adversely affect the intrinsic environmental quality and character of the LLPA.

Finally, it should be noted that there is extant permission on this site for a community hall. It is considered that a car park would have considerably less impact on the intrinsic environmental quality and character of the LLPA than the approved community hall.

Tree Preservation Order

There is a row of TPO protected trees located along the southern boundary of the site. The agent submitted an amended site layout drawing J659/P02A showing all trees protected under the TPO and numbered accordingly, which shall all be retained. The root protection area of the trees have been outlined in green and the area within this zone to be kept as a grass strip. A protective barrier 2.3m high (as shown on Drawing No. J659/P02A) shall be erected around the base of all trees to be retained on site and no construction traffic, fire, materials or debris will be permitted within this zone of protection. This will be reinforced by way of condition.

While it is noted there has been local opposition to this proposal it is considered there are no grounds to sustain a refusal. Accordingly Approval is recommended subject to conditions.

Recommendation: Approval

Summary: The proposal complies with Policies NH 6 of PPS 2, BH 11 of PPS 6, AMP 2, 9 and 10 of PPS 3 and CVN 3.

In line with the Council's Scheme of Delegation this application will require to be presented to the Planning Committee in that more than 6 objections (8 different addresses) have been received.

Conditions:

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

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

2. The development hereby permitted shall take place in strict accordance with the following approved plans: J659/P01 and J659/P02A.

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

3. Prior to discharge to watercourses, any surface water generated during the construction and operation phases of the development must first pass through appropriate treatment, such as hydrocarbon interceptors.

Reason: To ensure the development hereby permitted does not have the potential to result in polluting impacts of the adjacent designated sites through surface water runoff being contaminated by oil.

4. A suitable buffer of 10m between the location of refuelling, storage of oil/fuel/substrate/construction materials/machinery, concrete mixing and washing areas and any surface drain on site or adjacent to the application site should be maintained.

Reason: To maintain appropriate buffers between works and all watercourses found on site so that the development hereby permitted does not have the potential to be a pollution source during the construction phase.

5. No lighting shall be directed towards the woodland edges.

Reason: To minimise the impact to the foraging and commuting behaviours of bats.

6. The proposed street lights as shown on Drawing No. J659/P02A shall be 2.27m high cast iron lamp posts in accordance with the lighting specification document date stamped 13th August 2020.

Reason: To ensure the proposal does not have a negative visual impact on the setting of a listed building.

7. All existing mature trees and vegetation within and around the entire site boundaries shall be retained intact. No trees or vegetation shall be lopped, topped or removed.

Reason: In the interests of visual amenity and to maintain screening between the dwelling and neighbouring dwellings.

8. All landscaping comprised in the approved details of landscaping shown on Drawing No. J659/P02A shall be carried out in the first planting season following the commencement of the construction of the development hereby approved and any trees or shrubs which, within a period of five years from the completion of the development, die are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of visual amenity.

9. Prior to works commencing on site, all trees within the TPO along the southern boundary of the site numbered 1, 5, 6, 8, 9, 11,12, 14, 15, 16, 18-23, 26-32, 34-36, 38, 42-45, 47-106, 112, 114, 116, 117, 120-122, 124-132 & 135 as shown on Drawing No. J659/P02A shall be protected by appropriate fencing in accordance with British Standard 5837:2005. Nothing shall be stored or placed in any area fenced in accordance with this condition and the

ground levels within those areas shall not be altered, nor shall any excavation be made or any other works carried out, or fires lit without the written consent of the Department.

Reason: To protect the biodiversity value of the site, including protected species.

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

Reason: To protect the biodiversity value of the site, including protected species.

Informatives:

- This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
- This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
- The applicant must adhere to the recommended conditions and informatives as set out in the following DAERA Standing Advice guidelines; Discharges to the Water Environment and Pollution Prevention.
- Due to the proximity of the site to a watercourse, the applicant must refer and adhere to all the relevant precepts contained in Standing Advice Pollution Prevention Guidance paying particular regards where further information is to be found on works and maintenance in or near water.
- Water Management Unit's Pollution Prevention Team will be happy to advise to provide any pollution prevention advice the applicant requires. The appointed contractor can liaise with Water Management Unit Pollution Prevention Team at nieapollutionprevention@daerani.gov.uk.
- Water Management Unit recommends the installation of an oil interceptor for car parks with 50+ spaces to prevent oil from on-site activities leaving the site. Guidance on this can be found in Pollution Prevention Guideline (PPG) 03 - Use and design of oil separators in surface water drainage systems, for further advice regarding the installation and maintenance of oil interceptors/separators which can be found at the link given below.
http://www.netregs.org.uk/library_of_topics/pollution_prevention_guides/all_ppgs.aspx
- The applicant should note discharge consent, issued under the Water (Northern Ireland) Order 1999, is required for any discharges to the aquatic environment and may be required for site drainage during the construction and operational phases. Any proposed discharges not directly related to the

construction of the development, such as from septic tanks, wash facilities or the Car Park Interceptor, will also require separate discharge consent applications. For further detail on this please contact NIEA discharge consents team at Industrialconsents@daera-ni.gov.uk

- The applicant should refer to in Standing Advice Discharges to the Water Environment. All standing advice referred to in this response unless otherwise stated can be found at the following link www.daera-ni.gov.uk/water-environment-standingadvice
- The applicant should be informed that it is an offence under the Water (Northern Ireland) Order 1999 to discharge or deposit, whether knowingly or otherwise, any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata. Conviction of such an offence may incur a fine of up to £20,000 and / or three months imprisonment.
- The applicant should ensure that measures are in place to prevent pollution of surface or groundwater as a result of the activities on site, both during construction and thereafter.
- The applicant's attention is drawn to the following link, for standing advice on protection of the water environment: Standing advice for development that may have an effect on the water environment
- The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:
 - kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the badger (*Meles meles*);
 - damage or destroy, or obstruct access to, any structure or place which badgers use for shelter or protection;
 - damage or destroy anything which conceals or protects any such structure;
 - disturb a badger while it is occupying a structure or place which it uses for shelter or protection.
- Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.
- If there is evidence of badger on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.
- The applicant's attention is drawn to The Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended), under which it is an offence:
 - a) Deliberately to capture, injure or kill a wild animal of a European protected species, which includes all species of bat;
 - b) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;

- c) Deliberately to disturb such an animal in such a way as to be likely to –
 - I. affect the local distribution or abundance of the species to which it belongs;
 - II. Impair its ability to survive, breed or reproduce, or rear or care for its young; or
 - III. Impair its ability to hibernate or migrate;
 - d) Deliberately to obstruct access to a breeding site or resting place of such an animal; or
 - e) To damage or destroy a breeding site or resting place of such an animal.
- If there is evidence of bat activity / roosts on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.
- The applicant's attention is drawn to Article 4 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:
 - kill, injure or take any wild bird; or
 - take, damage or destroy the nest of any wild bird while that nest is in use or being built; or
 - at any other time take, damage or destroy the nest of any wild bird included in Schedule A1; or
 - obstruct or prevent any wild bird from using its nest; or
 - take or destroy an egg of any wild bird; or
 - disturb any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or
 - disturb dependent young of such a bird.
- Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.
- It is therefore advised that any tree or hedgerow loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season (e.g. between 1st March and 31st August).
- Developers should acquaint themselves of their statutory obligations in respect of watercourses as prescribed in the Drainage (Northern Ireland) Order 1973, and consult the Rivers Agency of the Department of Agriculture accordingly on any related matters.
- Any proposals in connection with the development, either temporary or permanent which involve interference with any watercourse at the site:- such as diversion, culverting, bridging; or placing any form of structure in any watercourse, require the written consent of the Rivers Agency. Failure to obtain such consent prior to carrying out such proposals is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.
- Any proposals in connection with the development, either temporary or permanent which involve additional discharge of storm water to any watercourse require the written consent of the Rivers Agency. Failure to obtain such consent prior to permitting such discharge is an offence under the

Drainage Order which may lead to prosecution or statutory action as provided for.

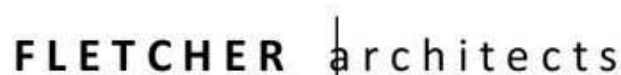
- If, during the course of developing the site, the developer uncovers a watercourse not previously evident, he should advise the local Rivers Agency office immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the watercourse.
- Where an undesignated watercourse flows through or adjacent to a development site, it is strongly advised that a working strip of appropriate width is retained to, in future, enable riparian landowners to fulfil their statutory obligations/responsibilities.

Case Officer Signature: Eadaoin Farrell

Date: 16.06.2021

Appointed Officer Signature: M Keane

Date: 17-06-21



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BY EMAIL

BF / J659 / 17 August 2021

Newry, Mourne & Down Council
Planning Office
Monaghan Row
Newry, Co Down
BT35 8DL

TITLE:

**PROPOSED CARPARK AND ASSOCIATED SITE WORKS TO SERVE EXISTING
BUSINESS AT BRADFORD LTD, ROSTREVOR USING EXISTING FOOTWAY LINK ON
FORESTBROOK ROAD AT SITE ADJACENT TO AND 30M NORTH EAST OF THE
KILBRONEY VICARAGE, FORESTBROOK ROAD, ROSTREVOR**

PLANNING REF: LA07/2020/0494/F

Dear Sir

I refer to the above planning application, which is to be discussed at the Council's planning committee meeting on Wednesday 25 August 2021. The application has been recommended for approval.

The application is for full planning permission for a carpark and associated site works. The application site is currently used for agricultural purposes, i.e., grazing for sheep and currently provides no community benefit.

From Bradford Ltd's perspective, the purchase of the land depends upon it gaining planning approval for the car park as requested. In turn, the funds generated will aid with continued restoration works to the roof of Kilbroney Parish church which is considered to provide a key and additional benefit to the local community.

In respect of the benefit this will provide to the local community, please note:

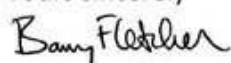
- Bradford is a family business which has been based in Rostrevor for over 25 years. In that time, it has grown into a very strong business, working as a key supplier to the major aircraft interiors company, Collins Aerospace, which has a large operation in Kilkeel, also within the Council area.
- The business, under the Managing Director's leadership, has evolved to become an exemplar in the manufacturing of high-quality products for both the aviation fit-out and medical sectors. Over the past 25 years, Bradford has contributed more than £40M directly into the local economy, providing dozens of employees with high grade skills through training and development.

- Despite economic impacts of BREXIT and COVID19, the owners are ambitious and have mature plans for further growth in the coming 24 months.
- There is limited space at the site, with only nine car parking spaces available; The company has been seeking a solution to the parking problem around the factory, which is situated in a residential area in Rostrevor.
- Currently cars are parked on the local streets in the adjacent residential areas; a situation that is not satisfactory for residents and employees alike. A dedicated car park would not only relieve the burden of the residents, reduce the traffic on the nearby streets, making the area much safer and facilitate employees at their work.

Finally, the planning approval for this car park is the only viable long-term solution to the parking problem in addition to allowing Bradfor Ltd to expand the current site. The car park is a necessity to the future sustainability of Bradfor in its current location.

We would be grateful if the planning committee would take the above into consideration in determination of this application with a recommendation to approve.

Yours sincerely



Barry Fletcher RIBA

Director, Architect

FLETCHER ARCHITECTS (N.I.) Ltd



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2020/1627/F

Date Received: 09/11/2020

Proposal: Proposed replacement dwelling

Location: 72 Newry Road, Mayobridge, Newry, BT34 2EU

Site Characteristics & Area Characteristics:

The application seeks to replace an existing dwelling located along Newry Road approximately 0.5m outside the settlement limit of Mayobridge. The dwelling has a hipped roof and appears single storey from the front elevation but has a one and half storey rear projection. There is an existing grassed garden area to the front and side of the dwelling. Access can be gained to the east of the dwelling and parking and turning is available at the large area of hardstanding the rear. the dwelling forms part of a row of three dwelling which read as bungalows. The site is located outside any defined settlement limits, within an Area of Outstanding Natural Beauty and in close proximity to Edenmore Cashel (DOW 047:079), a regionally important archaeological monument.



Planning Policies & Material Considerations:

This application will be assessed under the following planning policies:

- Strategic Planning Policy Statement for Northern Ireland
- Banbridge/ Newry and Mourne Area Plan (2015)
- Planning Policy Statement 21- Sustainable Development in the Countryside
- Planning Policy Statement 3- Access, Movement and Parking
- Planning Policy Statement 2- Natural Heritage
- Planning Policy Statement 6- Planning Archaeology and the Built Heritage

Site History:

- *LA07/2019/0048/F*- Single storey extension to provide new kitchen/dining/living together with rear extensions to provide new bedroom/en-suite and porch. Permission granted 23/05/2019.

Consultations:

- *DFI Roads*- If the proposed dwelling to be replaced could be reasonably occupied at present or following minor modification and there is no intensification to the existing access, DFI Roads has no further objection to this application. The B8 is a protected traffic route and Planning must be satisfied that this proposal is an exception to the policy. 72 Newry Road is an occupied dwelling and further consultations with DFI Roads were not necessary.
- *Historic Environment Division*- HED (Historic Monuments): The proposal is contrary to Policy BH 1 of PPS 6 and paragraph 6.8 of the SPPS in that the development, if permitted, would have an adverse impact upon the integrity of the setting of Edenmore Cashel (DOW 047:079) - a regionally important Scheduled Monument.

Objections & Representations

One neighbour was notified on 11/12/2020 and the application was advertised within one local newspapers (expiry 08/12/2020). No objections or representations have been received.

Strategic Planning Policy Statement for Northern Ireland

Paragraph 1.12 of the SPPS states that where the SPPS introduces a change of policy direction and/or provides a policy clarification that would be in conflict with the retained policy the SPPS should be accorded greater weight in the assessment of individual planning applications. However, the SPPS does not introduce a change of policy direction nor provide a policy clarification in respect of proposals for residential development in the countryside. Consequently the relevant policy context is provided by the retained Planning Policy Statement 21- Sustainable Development in the Countryside. Policy CTY1 of PPS21 sets out a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.

PPS21- Sustainable Development in the Countryside

Policy CTY1 of PPS21 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development. It states that planning permission will be granted for a replacement dwelling in accordance with Policy CTY3.

On 18th February 2021 correspondence was issued advising that the Planning Department are of the opinion that the proposal fails to meet Policy CTY3 of PPS21 in that it would have a visual impact significantly greater than the existing building. Amended plans were requested to reduce the proposal so that it is compliant with Policy CTY3.

The Agent requested a meeting and stated that Policy CTY3 also refers to integration and would contend that the proposed dwelling easily integrates into the site for the following reasons;

1. The site is not in a sensitive area. It is located on a main road and surrounded with an eclectic mix of dwellings both 2 storey and single storey. The site should be considered in the context of the surrounding development.
2. As well as dwellings the area has a number of commercial operations visually linked to the site most notably the large supermarket and petrol filling station.
3. The existing dwelling is surrounded by outbuildings and trees so the new dwelling would not be visible when travelling from Newry and be screened with adjacent dwellings (both single and 2 storey when approaching from Mayobridge)
4. The existing dwelling has an portion to the rear which has first floor development.
5. The existing dwelling utilises an existing access onto the public road so there will be no associated works to create an upgraded access which I itself can have a major visual impact.
6. The proposed dwelling is to be set back further than the existing dwelling.
7. Policy CTY3 specifically uses the term "significantly greater" and our proposal in not. Along this section of the Newry Road it would merely be seen as a new dwelling replacing an old one on a mature site.

A meeting was facilitated on 04/03/2021 between the Planning Department, Agent and Applicant. The issues above were discussed, and it was agreed that the Planning Department would review draft plans prior to formal submission. Comments from Historic Environment Division were outstanding at this time.

On 9th March 2021 the Agent advised that the applicant is willing to reduce the ground level of his site in order to accommodate the proposed dwelling. A drawing was attached showing the existing dwelling on site with the proposed dwelling superimposed with a floor level approx. 1.2m lower. Comments were requested on this plan and the Agent stated should the Planning Department still be unhappy with the proposal in this heavily built up area then he would ask that the application is recommended for refusal so we can approach local elected representatives and in turn get the application before the Planning Committee.

On 16th April 2021 the Agent was advised that the application was brought for further discussion and the planning department remain of the opinion that the proposal fails to meet Policy CTY3 of PPS21 in that it would have a visual impact significantly greater than the existing building. In addition, HED (Historic Monuments) advised that the proposal is contrary to Policy BH 1 of PPS 6 and paragraph 6.8 of the SPPS in that the development, if permitted, would have an adverse impact upon the integrity of the setting of Edenmore Cashel (DOW 047:079) - a regionally important Scheduled Monument. On this basis, the proposal will likely be recommended for refusal.

It was requested that the applicant/ agent advise if they wish to proceed with the proposal as submitted or submit both hard copies and PDF copy of amended plans no later than Friday 23rd April 2021. After this time, the application will be progressed based on information currently available as per the Council's Scheme of Delegation. On 16th April the Agent advised that he would speak to the applicant and reply the following week. To date, no further correspondence or plans have been submitted and the application will be progressed based on information submitted to date.

In order to comply with Policy CTY3, applications must meet the following criteria:

- *Dwelling to be replaced must exhibit the essential characteristics of a dwelling (as a minimum all external structural walls substantially intact)*

The building has the essential characteristics of a replacement dwelling and is fully intact and occupied.

- *Proposed dwelling must be sited within the established curtilage of the existing building (Curtilage is defined as the immediate, usually defined and enclosed area surrounding an existing or former dwelling house) unless (a) the curtilage is so restricted that it could not reasonably accommodate a modest size dwelling, or (b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits.*

The replacement dwelling is proposed to be sited partly on the footprint of the existing dwelling but the front elevation will be 2m back from the existing front elevation. The dwelling will be sited within the curtilage of the existing building which is acceptable.

- *The overall size of the new dwelling must integrate into the surrounding landscape and have no significantly greater visual impact than the existing building.*

The existing dwelling has the appearance of a single storey dwelling from the front elevation with a simple storm porch and single window opening each side. The dwelling forms part of a row of three dwellings which have the appearance of bungalows from the roadside. The one and half storey rear portion is not visible from the public road.

The proposed replacement dwelling is two storey with a ridge height of 8m and a frontage elevation extending to 15.3m in width. The proposal occupies a significantly larger footprint than the existing dwelling and the scale, massing and height of the proposal would result in a significantly greater visual impact and appear as dominant in the landscape.

- *The design of the replacement dwelling should be of a high quality appropriate to its rural setting.*

The design of the dwelling is not appropriate for the rural site and would appear as prominent in the landscape particularly on approach from Mayobridge.

- *All necessary services must be available or can be provided without significant adverse impact on the environment or character of the locality*

Necessary services could be provided without significant adverse impact on the environment or character of the locality.

- *Access to the public road must not prejudice road safety or significantly inconvenience the flow of traffic.*

DFI Roads are content with the access proposed and that it will not prejudice road safety or significantly inconvenience the flow of traffic.

The proposal is contrary with the criterion of Policy CTY3.

Policy CTY13

Policy CTY 13 states that permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and is of an appropriate design. As detailed above, the proposal would represent a significantly greater visual impact than the original dwelling and would appear as prominent in the landscape on approach from Mayobridge. The design is inappropriate for the site and its locality. The site could not provide sufficient enclosure to allow a dwelling of this size and scale to integrate into the landscape. The proposal is considered to be contrary to criterion a,b and e of Policy CTY13.

Policy CTY14

Policy CTY14 relates to rural character and states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As detailed above, it is considered that a building on the application site would be unduly prominent in the landscape which is contrary to criterion a of Policy CTY14.

Planning Policy Statement 6

The proposed development is in close proximity to Edenmore Cashel (DOW 047:079), a regionally important archaeological monument scheduled for protection under the Historic Monuments and Archaeological Objects (NI) Order, 1995. Policy BH 1 of PPS 6 and paragraph 6.8 of the SPPS refer in this case. Historic Environment Division have been consulted on the application and have advised of the following:

Policy BH 1 states "Development proposals which would adversely affect such sites of regional importance or the integrity of their settings will not be permitted unless there are exceptional circumstances."

Edenmore Cashel (DOW 047:079) is a well preserved regionally important Scheduled Monument dating to the Early Medieval period. It is significant due to the quality and extent of its surviving remains making it unique in the local historic landscape. Although overgrown in areas the remains of the monument are substantial consisting of a continuous stone faced bank enclosing an interior approximately 34m in diameter.

The monument sits in an agricultural field adjacent to a dwelling and outbuilding of low ridge height and modest massing. The interior of the monument is lined with trees while a bank of trees lies outside the perimeter to the south-east. This rural landscape character contributes to the distinctive character of the setting of this regionally important monument and facilitates the integration of the existing adjacent development within the surrounding historic landscape.

HED (Historic Monuments) consider that the proposed development would adversely affect the integrity of the monuments setting. The adjacent buildings and surrounding agricultural field and planting contribute to the rural character of the monument's setting, which is also characterised by an absence of any neighbouring development of considerable scale or mass. The proposed scheme is to replace the existing storey-and-a-half dwelling with a two-storey dwelling of larger mass. Whilst the replacement dwelling is largely in-situ it does encroach further west towards the monument. The height and scale of the proposed dwelling would have a dominating effect, both visually and physically, on the immediate setting of the cashel. The magnitude of adverse visual effect is increased due to increased proximity and the local topography with the monument and dwelling situated on the same ground level.

Due to these adverse effects upon the integrity of the setting of this monument, The proposal is contrary to Policy BH 1 of PPS 6 and paragraph 6.8 of the SPPS in that the development, if permitted, would have an adverse impact upon the integrity of the setting of Edenmore Cashel (DOW 047:079) - a regionally important Scheduled Monument.

Planning Policy Statement 2- Natural Heritage

Policy NH6 relates to areas of Outstanding Natural Beauty and states that planning permission will only be granted where it is of an appropriate design, size and scale for the locality and sympathetic to the special character of the Area of Outstanding Natural Beauty. There are a number of dwelling and uses within the wider area and I don't think a reason of refusal in terms of the impacts on the special character of the AONB could be sustained.

Recommendation: Refusal

Reasons for Refusal:

1. The proposal is contrary Para 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:
 - the proposal would have a visual impact significantly greater than the existing building and the overall size of the new dwelling would not allow it to integrate into the surrounding landscape.
 - The design of the replacement dwelling is not of a high quality appropriate to its rural setting
2. The proposal is contrary to 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
 - The site would be unable to provide a suitable degree of enclosure for the building to integrate into the landscape
 - The design of the building is inappropriate for the site and its locality and therefore would not visually integrate into the surrounding landscape
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:
 - the building would, if permitted, be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside.
4. The proposal is contrary to Policy BH 1 of PPS 6 and paragraph 6.8 of the SPPS in that the development, if permitted, would have an adverse impact upon the integrity of the setting of Edenmore Cashel (DOW 047:079) - a regionally important Scheduled Monument.
5. This refusal notice relates to the following plan: 2512-L, 2512-SP01, 2512/SK04 (Proposed Elevations and Floor Plans).

Case Officer Signature: E. Hart

Date: 05/05/2021

Appointed Officer Signature: M Keane

Date: 05-05-21

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Delegated Application List w/c:	Planning Application Number :	Requested by:
10 MAY 2021	LA07/2020/1627/F	CLR MICKEY RUANE

PLEASE NOTE THAT SUBMISSIONS SHOULD BE ON THIS FORM AND LIMITED TO TWO PAGES. ANY ADDITIONAL INFORMATION BEYOND TWO PAGES WILL BE DISREGARDED.

Description of the application – PROPOSED REPLACEMENT DWELLING AT 72 NEWRY ROAD, MAYOBRIDGE , NEWRY, BT34 2EU
Proposed decision (including reasons if the decision is refusal) – REFUSAL FOR THE FOLLOWING REASONS.

1. The proposal is contrary to Para 6.73 of SPPS for Northern Ireland and policies CTY1 and CTY3PPS21, Sustainable Development in the Countryside in that:
 - The proposal would have a visual impact significantly greater than the existing building and the overall size of the new dwelling would not allow it to integrate into the surrounding landscape.
 - The design of the replacement dwelling is not of a high quality appropriate to its rural setting.
2. The proposal is contrary to Policy CTY13 of PPS21, Sustainable Development in the Countryside, in that:
 - The proposed building would be a prominent feature in the landscape.
 - The site would be unable to provide a suitable degree of enclosure for the building to integrate into the landscape.
 - The design of the building is inappropriate for the site and its locality and therefore would not visually integrate into the surrounding landscape.
3. The proposal is contrary to Policy CTY14 of PPS21 in that:
 - the buildings would if permitted, be unduly prominent in the landscape and would therefore result in a detrimental change in the rural character of the countryside.
4. The proposal is contrary to Policy BH1 of PPS6 and paragraph 6.8 of the SPPS in that the development, if permitted, would have an adverse impact upon the integrity of the setting of Edenmore Cashel (DOW 047:079) – a regionally important Scheduled Monument.
5. The refusal notice refers to the following plan: 2512-L, 2512-SP01, 2512-SK04 (Proposed Elevations and Floor Plans).

Set out the valid and credible planning reasons why this application should be referred to Committee (including reference to relevant planning policies) –

1. Reason 1. Here Planning have set out 2 criteria which they deem not to have been met. I would refer to the photograph on the Case Officers report which highlights the existing trees either side of the proposal which are equal to and greater in height to the proposed dwelling so we would contend that the proposal would integrate into this mature and existing site. The second criteria refers to the design of the house in this rural setting. We would argue that this house design has been previously approved in many areas of Newry, Mourne & Down. This particular stretch of the Newry Road has experienced severe development pressure and has all types of development including large commercial, 2 storey dwellings and an eclectic mix of other house types.
2. Reason 2. This reason for refusal is basically the same as Reason 1. The proposed dwelling would not be a prominent feature in the landscape. The site is not a new green field, there is an existing access, dwelling and sheds and again we would refer to the Case Officers photograph which shows the existing trees either side. We would also refer to the Case Officers Report where they concede that the proposal would only be visible when approaching from Mayobridge and indeed this is only possible for a distance of 500m along this part of the road. The interpretation of CTY13 in this instance has been taken literally and should be assessed with consideration of para 5.58 of CTY13 which reads "Landscapes vary, and this needs to be taken into account. The determination of whether a new building integrates into the landscape is not a test of invisibility: rather it requires an assessment of the extent to which the development of the proposed site, including the necessary site works, will blend in unobtrusively with its immediate and wider surroundings."
3. Reason 3. Here again this reason is essentially the same as the concerns raised in Reasons 1 & 2. As there is an existing dwelling, shed and outbuildings how can a new dwelling be detrimental change to the rural character of the area. The rural character of this portion of the Newry Road has been eroded over the years and the existing housing stock and commercial buildings have no prevailing character to define the area.
4. Reason 4. Regarding Edenmore Cashel we acknowledge that adjacent to the site is a Scheduled Monument. Indeed the cashel has been owned and maintained by the Morgan family for many years. When approaching from Mayobridge there is no awareness or views of the cashel due to the existing buildings and trees so we contend that from this approach there is no impact whatsoever on the integrity of the monument. As for the approach from Newry

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the cashel is set behind the proposed dwelling and Planning have already conceded that there will be no visual impact when travelling towards Mayobridge.

5. Reason 5. This is not a reason for refusal as such as it refers to the drawings attached to the application.

Set out why this application should be determined by Committee rather than officers –

We wish the application to be considered at Committee as in our opinion the application has been assessed using the policies literally with no regard to the existing setting and the development pattern in the area. There is only one photograph in the report (and this actually proves there are trees either side of the site which will create an adequate enclosure for the proposed dwelling). Within Policies CTY1 and CTY3 there is reference to where a proposal would have "a visual impact significantly greater than the existing building" We maintain that although the proposed building is larger than the existing dwelling the impact would not be "significant" as the access to the site would remain untouched and the mature site could easily hold the proposed dwelling.

We would argue that the policies have been interpreted negatively by Planning and to bring the application before local Council members will allow the issues to be debated more positively and in so allow a local business owner the opportunity to redevelop his site. We contend that this part of the Newry Road is highly developed with an eclectic mix of dwellings and commercial buildings and as such is not a sensitive rural location. As for the cashel the site to be developed has an existing house, yard and buildings which as it is block any views when travelling from Mayobridge and likewise the view of the cashel is totally unaffected when travelling towards the village.

We feel that there is sufficient information at hand for the Committee to overrule the recommendation made by Planning but should through the course of the discussions a site visit be deemed necessary then we would welcome this to give all concerned the opportunity to view development along the Newry Road and the locality. This would enable them to get a feel for what has been historically acceptable by Planning in this area.



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

Application Reference:

LA07/2021/0498/O

Date Received:

15.03.2021

Proposal:

Proposed site for infill dwelling & garage

Location:

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

Site Characteristics & Area Characteristics:

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

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

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

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



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



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



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



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



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

Planning Policies & Material Considerations:

This application will be assessed under the following policy considerations:

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

Site History:

No planning history for this site.

There is planning history for No. 16 Old Road.

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

Consultations:

DfI Roads – No objections subject to conditions

Water – Generic response

Rivers – No objections

Objections & Representations:

Neighbour notification: 14.04.2021

Advertisement: 31.03.2021

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

Assessment

Proposal

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

Principle of Development

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

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

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

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

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

This approach will be followed below.

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

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





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

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

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

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

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

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

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

Design, Scale, Size and Massing

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

The policy provides 7 criteria that should be met:

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

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

The proposal complies with CTY 13.

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

The policy provides 5 criteria that should be met:

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

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

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

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

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

The proposal fails to comply with Policy CTY 14.

Impact on Amenity

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

Recommendation:

Refusal

Reasons for refusal:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the site does not represent a small gap site within a substantial and continuously built-up frontage.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted (b) result in a sub-urban style build up of development when viewed with existing and approved buildings and would (d) add to a ribbon of development along the laneway; and would therefore result in a detrimental change to further erode the rural character of the countryside.

Case Officer Signature: Eadaoin Farrell

Date: 16.06.2021

Appointed Officer Signature: M Keane

Date: 22-06-21

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Delegated Application List w/c:	Planning Application Number :	Requested by:
28 June 2021	LA07/2021/0498/O	CLR KAREN McKEVITT

PLEASE NOTE THAT SUBMISSIONS SHOULD BE ON THIS FORM AND LIMITED TO TWO PAGES. ANY ADDITIONAL INFORMATION BEYOND TWO PAGES WILL BE DISREGARDED.

Description of the application – PROPOSED site for infill dwelling & Garage 20m north of 14 Old Road, Mayobridge, Newry

Proposed decision (including reasons if the decision is refusal) – REFUSAL FOR THE FOLLOWING REASONS.

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of PPS21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of PPS21, Sustainable Development in the Countryside in that the site does not represent a small gap within a substantial and continuously built-up frontage.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY14 of PPS21, Sustainable Development in the Countryside in that the building would if permitted (b) result in a sub-urban style build up of development when viewed with existing and approved buildings and would (d) add to a ribbon of development along the laneway; and would therefore result in a detrimental change to further erode the rural character of the countryside.

Set out the valid and credible planning reasons why this application should be referred to Committee (including reference to relevant planning policies) –

1. Reason 1. The site under consideration was applied for under CTY8 as an infill opportunity. Should the other reasons for refusal be overturned at Committee then **there is an overriding reason** as to why the development is essential in the countryside and this reason for refusal cannot be sustained.
2. Reason 2. In the Case Officer Report it has been assumed that the lane on which the application site is located terminates at a gate into adjacent to No 16 Old Road. This gate does not indicate the end of the lane but is in place for security. The lane as indicated on the location map loops around No14 Old Road and as such the frontage of the site is onto the lane. Also, the Case Officer has conceded that the lane onto which the application site is located in their opinion stops at No16 and in so doing has a frontage to the lane. There is no reference in the Case Officers report to 4 appeals which I provided details of in my Concept Statement and are all relevant to the application site. Other reference has been made to my Concept Statement but the omission of this critical information means that a fair assessment has not been made of the site.
3. Reason 3. This reason is sub divided in to 2 parts.

The first part states that the development would result in a sub-urban style of development. This reason is not sustainable in that if the development were to be approved it would in effect add to and round off a traditional clachan form of housing stock in the countryside. The existing clachan comprises at present of 3 dwellings and around 6 associated outbuildings. Indeed, in the Case Officers assessment of CTY14 they state "It is considered that the

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proposal would respect the traditional pattern of settlement exhibited in the area as there is a mixture of adjacent plot sizes"

Planning have also stated that "the 2 sheds have frontage onto the lane as does the dwelling at No16 hence their own criteria has been met.

There are also a number of flaws in the Case Officers report in that they have (despite being advised to the contrary) assumed there are 2 laneways and not a loop at the end of the lane. This is totally incorrect.

Planning have also stated that the site is "behind" the shed which is north of No14. This is totally incorrect.

The second part states that the site would add to a ribbon of development. Here again as the site is a small gap as previously stated this is not a sustainable reason and the Policy has been incorrectly interpreted in both parts of this reason for refusal.

Set out why this application should be determined by Committee rather than officers –

We wish the application to be considered at Committee as in our opinion the application has been assessed using the policy literally with no regard to the location and the development pattern in the area. As part of the application in my Concept Statement I have referred to 4 Appeals which are relevant to this application but there is no reference to these appeals in the Case Officers report and yet the Case Officer has used an Appeal they deem to be relevant as part of their assessment. Here there is a total lack of administrative fairness in that Planning have been selective in their use of Appeal decisions to assess the application. The Case Officer has made an assumption as to the location of the end of the lane and has ignored the information provided as to the route of the lane. This must be addressed and debated by the Committee.

We would argue that the policies have been interpreted negatively by Planning and to bring the application before local Council members will allow the issues to be debated more positively and in so allow a local person reside in the area he was brought up in. There are incorrect assumptions and contradictions in the Case Officers report. The selective use of Appeal decisions has also meant the application has not been fairly assessed and the Committee must be given the opportunity to explore the lack of administrative fairness.

Should through the course of the discussions a site visit be deemed necessary then we would welcome this to give all concerned the opportunity to view development on the lane.



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

Application Reference:

LA07/2021/0395/F

Date Received:

01.03.2021

Proposal:

Proposed one bedroom detached dwelling and alterations to access to no. 17 Oakland Grove, Warrenpoint

Location:

Adjacent to no. 17 Oakland Grove Upper Dromore Road Warrenpoint BT34 3SQ

Site Characteristics & Area Characteristics:

The site is located within the settlement limits for Warrenpoint as designated under the Banbridge, Newry and Mourne Area Plan 2015 (BNMP 2015). The site is within an Area of Outstanding Natural Beauty.

The application site is located within Oakland Grove housing development and comprises the side garden of No. 17 which is a semi-detached 2 storey dwelling. There application site currently provides parking for No. 17 and there is also a large

garage within. The southern boundary is defined by a metal fence while the eastern boundary is defined by a wooden fence.



No. 17 Oakland Grove



*Application site and garage within. Common boundary between application site and No. 1.
Rear garden of No. 1 abuts application site*

Planning Policies & Material Considerations:

This application will be assessed under the following policy considerations:

- Strategic Planning Policy Statement (SPPS)
- Banbridge, Newry and Mourne Area Plan (2015)
- PPS 3: Access, Movement and Parking
- PPS 7: Quality Residential Environments
- PPS 7 (Addendum): Safeguarding the Character of Established Residential Areas
- PPS 12: Housing in Settlements

Site History:

No planning history for site.

Consultations:

Roads- No objections subject to conditions

Water- Generic response

HED- Content

Objections & Representations:

Neighbour notification: 13.04.2021

Latest advertisement expiry date: 16.03.2021

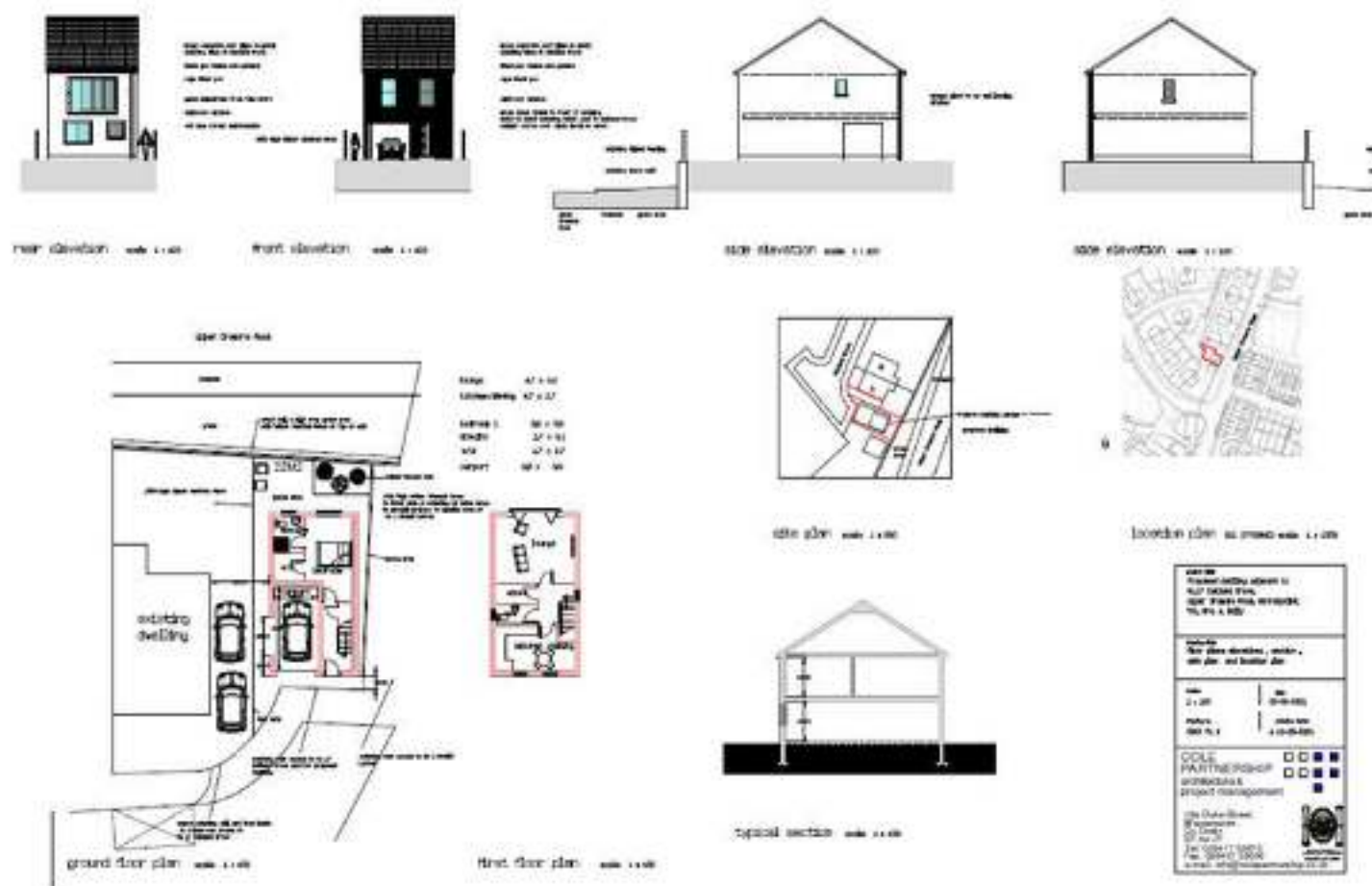
No objections or representations were received to date (16.06.2021).

Assessment**Proposal**

The proposal is for the demolition of an existing garage and the erection a new one-bedroom dwelling. The proposed dwelling will be located SW of No. 17 Oakland Grove abutting the rear garden of No. 1 Oakland Grove. The proposed dwelling will be 2-storey. The proposal also involves creating a new access to No. 17 and 2 new parking spaces to the side of the dwelling to serve No. 17. The proposal leaves No. 17's rear amenity space reduces to approx. 57m². The proposed private amenity space to the rear of the 1-bedroom dwelling measures approx. 22m². A 1.8m high timber sheeted fence is proposed between the rear boundary of No. 17 and the application site. A new 1.8m high timber sheeted fence is proposed to inner side of the existing 1.2m high metal fence along the common boundary between the application site and No. 1 Oakland Grove.

The proposed dwelling has a footprint of approx. 51m² and the ridge height is 8.5m. The dwelling will have a bedroom and en-suite on the ground floor with a car port and a lounge, kitchen/dining area, store and toilet on the first floor.

Proposed external finishes include: brown brick finish to front of dwelling to match existing brick used in Oakland Grove and wet dash render painted white to finish rest of dwelling, white PVC windows, black PVC rainwater goods and brown concrete roof tiles to match existing within Oakland Grove. The proposal is shown below.



- a) Oakland Grove is characterised by 2-storey semi-detached dwellings of which some have single and 2 storey side extensions. All dwellings within the development appear uniform (with the exception of side extension) in terms of size, massing, design and materials. The plot sizes within Oakland Grove are similar in site (with the exception of end plots) and are rectangular in shape. No. 17 Oakland Grove benefits from an end plot which has provided a large side garden. The proposal to demolish the associated garage within this side garden and to develop a 2-storey detached dwelling would appear to be out of character of the area in terms of scale, proportions and massing. Para 4.8 of PPS 7 states *"The Department considers that analysis of context is particularly important for **infill housing**, backland development or redevelopment schemes in established residential areas. while such development can usefully contribute to housing supply, great care will be needed to ensure that the individual or cumulative effects of such development proposals do not significantly erode the character and amenity of existing areas, for example through **inappropriate design or overdevelopment**."* It is considered that the development of this side garden with a detached 2 storey dwelling will essentially result in overdevelopment and cramming of the site and therefore fails to comply with criterion (a).
- b) There are no features in the immediate vicinity of the site which requires retention.
- c) The proposal will reduce the rear/side private amenity space of No. 17 to approx. 57sqm. This is considered acceptable. The proposed private amenity space of the detached dwelling is approx. 22sqm. Guidance within Creating Places includes *"Garden sizes larger than the average (70sqm) will generally suit dwellings designed for use by families, while smaller areas will be more appropriate for houses with 1 or 2 bedrooms or houses located opposite or adjacent to public or communal open space. **For any individual house however an area less than around 40 sq m will generally be unacceptable.**"*

Creating Places goes on to outline *"In the case of apartment or flat developments, or **1 and 2 bedroomed houses on small urban infill sites**, 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 around 30 sq m per unit. The appropriate level of provision should be determined by having regard to the particular context of the development and the overall design concept.**"*

The rear garden sizes within Oakland Grove measure from approx. 70sqm up to approx. 200sqm for the larger end plots. The Department consider that the level of private open space proposed for this dwelling (22sqm) does not reflect the low density nature of the existing development and surrounding dwellings and therefore does not comply with criterion (c).

- d) Given the nature, location and scale of the proposal, there is no requirement to provide local neighbourhood facilities.
- e) Given the nature, location and scale of the proposal, there is no requirement to provide a movement pattern. Traffic calming measures were also not required for this proposal.
- f) An integral car port has been proposed to provide parking for 1 vehicle within the curtilage of the proposed dwelling. Para 4.36 of PPS 7 outlines "In instances where car parking is proposed within the built fabric of a building, such as apartment development, this will only be acceptable where it will not result in a negative impact on the street scene at ground level." It is considered that the proposed integral car port does not respect the character of the surrounding development and would undoubtedly have a negative impact on the street scene. Moreover, Creating Places does not outline the require car spaces for a 1-bedroom detached dwelling however provides guidance for 1-bedroom terraced dwellings - 1.75 spaces. It is considered the proposal does not comply with criterion (f) in that adequate and appropriate provision for parking has not been made.

Also, as part of the application, amended parking provision and access to No. 17 has also been proposed. DfI Roads were consulted and have no objections.

- g) The proposed materials are the same as those used on the adjacent existing dwellings. The scale and density of the proposed dwelling is not considered to respect the form and local character of Oakland Grove. The proposal fails to comply with criterion (g).
- h) There are neighbouring dwellings immediately NE and SW of the application site, Nos. 17 and 1 Oakland Grove respectively.

The proposed dwelling is approx. 1m from the common boundary between No. 17 and 0.7m at most from the common boundary (rear garden) of No. 1. Due to the orientation of No. 1, the rear garden abuts the application site. The side gable wall will be a maximum of 0.7m from the rear garden of No. 1 with a ridge height of 8.6m. It is considered that the separation distance between the proposed dwelling and the rear boundary of No. 1 is unacceptable and will result in issues of dominance and would adversely impinge on the immediate aspect or outlook from No. 1.

The proposed separation distance of 0.7m from the common boundary and 8.6m ridge would result in the neighbouring occupiers perhaps feeling 'hemmed in' by the development. There is one upper floor window serving a landing area that faces towards No. 1. This window can be conditioned to be obscurely glazed to alleviate any overlooking concerns.

The same issue is relevant for No. 17 in terms of dominance resulting from the close proximity of the gable wall to common boundaries as the building line for the proposed dwelling is staggered back from No. 17. There is one upper floor window proposed on the side gable wall facing towards No. 17, however this will serve a

bathroom and will be obscurely glazed. It is not thought the proposal would result in a loss of light or overshadowing of No. 17. The proposal fails to meet criteria (h).

- i) This proposal meets this criteria.

It is evident from the points outlined above that the proposal does not meet all the criteria of Policy QD1.

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

- a) Planning Control Principle 1 advises that "When considering an increase in housing density in established residential areas, great care should be taken to ensure that local character, environmental quality and amenity are not significantly eroded and that the proposed density, together with the form, scale, massing and layout of the new development will respect that of adjacent housing and safeguard the privacy of existing residents." The application site is the side garden of No. 17 Oakland Grove. A number of end houses benefit from a large side garden. It is considered that the proposed density is higher than that found in the established residential area which would result in the erosion of local character, environmental quality and amenity to an unacceptable level. The proposal fails to comply with criterion (a).
- b) The proposal to demolish the associated garage within this side garden and to develop a 2-storey detached dwelling would appear to be out of character of the area in terms of scale, proportions and massing. It is considered that the pattern of development is not in keeping with the overall character and environmental quality of the established residential area. The proposal fails to comply with criterion (b).
- c) The proposed dwelling is to be built to a size not less than those set out in Annex A of Policy LC 1.

This proposal fails to meet all of the criteria in Policy LC1.

The Department's stance of the proposal was relayed to the agent in an email dated 11th May 2021. The agent submitted a letter 13th May 2021 refuting the concerns by way of guidance within Creating Places:

- 22 M2 of private amenity space has been provided to the rear of the proposed dwelling. Creating places states on page 52 "*In the case of apartment or flat developments, or 1 and 2 bedroomed houses on small urban infill sites, 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 around 30 sq m per unit.*" Our proposal has 22 M2 of private

amenity space which would be a higher standard than *private communal open space* which meets this criterion. **This point has been addressed above.**

- Total car parking required 1.75 spaces. (1 in-curtilage car parking space with 0.75 car parking outside the curtilage of the site). We contend that there is adequate on streetcar parking to provide the 0.75 space required. **During my site visit, there were already a number of cars using on-street parking for the existing dwellings within Oakland Grove. The adjacent turning point was full.**

Moreover, I received an email from the agent 11th June 2021 with an indicative site plan showing a proposed 'granny flat extension'. The agent suggested that "the impact of any extension on the existing house would cut light from the kitchen area of the existing dwelling and add to the massing of the existing block of semi-detached dwellings. The amenity space of the existing dwelling would not be as good a shape." **I can only assess the application that has been submitted and cannot give comment on the proposed granny flat.**

Summary: The proposal does not comply with Policy QD1 of PPS 7 and LC1 of the Addendum to PPS 7 and is therefore considered unacceptable in this urban context. The proposed development will result in overdevelopment and cramming of the side garden of No. 17. No objections or representations were received.

Recommendation: Refusal

Reasons for refusal:

1. The proposal is contrary to the Strategic Planning Policy Strategy for Northern Ireland and to Planning Policy Statement 7: Quality Residential Environments in that it is contrary to Policy QD 1 in that: (a) the proposed dwelling is not considered to be appropriate to the character of the site; (c) adequate provision has not been made for private open space; (f) adequate and appropriate provision has not been made for parking; (g) the design of the development does not draw upon the best local traditions of form; and (h) the design and layout will create conflict with adjacent land uses and there is unacceptable adverse effect on existing properties.
2. The proposal is contrary to the Strategic Planning Policy Strategy for Northern Ireland and to Planning Policy Statement 7 Addendum: Safeguarding the Character of Established Residential Areas in that it is contrary to Policy LC 1 in that: (a) the proposed density is higher than that found in the established residential area; and (b) the pattern of development is not in keeping with the overall character and environmental quality of the established residential area.

Informatives:

This refusal notice relates to Drawing Nos; 3212 PL 1 RevA

<p>Case Officer Signature: Eadaoin Farrell</p> <p>Date: 16.06.2021</p>
<p>Appointed Officer Signature: M Keane</p> <p>Date: 17-06-21</p>

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

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Proposed one bedroom detached dwelling and alterations to access to No.17 Oakland Grove Warrenpoint. Ref: LA07/2021/0395/F

This application is for a one bedroom detached dwelling adjacent to No.17 Oakland Crescent Warrenpoint with amended access to 17 Oakland Grove. Our Client Mrs. Anne Kelly lived at No.17 Oakland Grove from 1986 – 2004. Mrs Kelly's husband unfortunately passed away in 2001 and Mrs Kelly felt unable to reside at no.17 Oakland Grove and sold the family home to her daughter Sarah in 2004.

Mrs Kelly has lived at a number of rented properties in the area and presently lives in an apartment in Mourne Wood Rostrevor. Mrs Kelly wishes to move back to Warrenpoint where three of her daughters live for family support. Mrs Kelly wants to maintain her independence and her daughter Sarah has agreed, subject to planning approval, to give her mother a section of her garden where there is presently a garage to build a one-bedroom dwelling.

An application was submitted on the 1st of March 2021 and recommended for refusal on the 16th of June 2021. The application was determined under policy QD1 of PPS 7 and policy LC1 of Addendum to PPS7 where there are a number criteria of which the planning department feel are not met:

- A. The Case officer reports states that the proposal does not meet this criteria in terms of 'overdevelopment' and 'cramming' of the site. The proposal is for a one-bedroom dwelling, creating places document states in '1- and 2-bedroom houses on small urban infill sites private communal open space will be acceptable...these should range from 10m² to 30m² per unit'. The private amenity space that is being provided to the proposed dwelling is 22m². If the proposal meets the requirements set out in creating places document for a one bedroom dwelling how can the proposal be deemed to cram and overdevelop the site. There is adequate space between the proposal and the existing dwelling at 3.5m. This will allow for carparking, two spaces, and access to the rear of No.17 Oakland Grove. The private amenity space retained at No.17 Oakland Grove is 57m² and is deemed acceptable by the case officer.
- C. Criteria C relates to open space. The planning report indicates that 22m² 'does not reflect the low-density nature of the existing development' the report goes on to say 'rear garden sizes within Oakland grove measure from approx. 70m² to 200m²'. In creating places document, it states that 'garden sizes larger than 70m² will generally suit dwellings designed for families'. This proposal is not for a family dwelling. It is for a one-bedroom dwelling for a single elderly lady. Creating places document states that for 'one- and two-bedroom houses amenity space should range from 10m² to 30m²'. The proposal meets this criteria at 22m². The proposed dwelling is for the elderly parent of the owner of No.17 Oakland Grove. A single person of this age living in a one-bedroom dwelling does not require 70m² of private amenity space nor does the applicant want 70m² of private amenity space to maintain. All local amenity facilities are within walking distance of the proposal.
- F. Criteria F relates to adequate provision for parking. The case officers' reports 'considers that the integral car port of the proposal does not respect the character of the surrounding area'. In Oakland there are dwellings with garages. There is at present a garage on the proposed site which makes up the character of the street scape, we would make the point that this car port like the proposed dwelling is only visible when at the turning head of the development. It is not visible from anywhere else within the development. The car port will have no detrimental effect on the character of the area. The position of the proposed dwelling with integral car port is set back 2.4m from the front elevation of No.17 Oakland Grove, as previously mentioned the dwelling with integral car port will only be visible at the turning head within the development, it will not be visible from anywhere else within the development and certainly will not affect the character of the street scape. There is no policy in relation to carparking spaces for a one-bedroom detached dwelling. The case officer states there is guidance for one bedroom terrace dwelling, which would have attached dwellings attached either side increasing the need for parking. This is not a one-bedroom terrace dwelling it is a one-bedroom detached dwelling. Consultation was sent to road service who have no objection to the parking arrangements for the proposal or No.17 Oakland Grove. The case officers report states that 'during the site visit the adjacent turning point from the proposal was full'. A number of site visits have been carried out by us during the process of

call in and preparing the speaking rights. During all of these visits we have only witnessed one car parked at this location. All of the existing dwellings within Oakland Grove have adequate parking within their curtilages.

- G. The case officer states that the proposal does not meet criteria G in that the scale and density do not respect the form and local character of Oakland Grove. The scale and massing of the proposed dwelling is similar to the surrounding dwellings in terms of height depth and massing. As previously mentioned, the proposed dwelling is at the end of the cull de sac and set back from the front elevation of No.17 Oakland Grove, the proposal will have absolutely no effect on the character of Oakland Grove.
- H. The boundary of No.1 Oakland Grove and the proposal is 0.7m, however in the private amenity space of No1 Oakland Grove there is a garage at the boundary with No.17 Oakland Grove, which is approximately 8m wide, the separation distance from the proposal and the rear amenity space at No1 Oakland Grove would be 8.7m which would be more than adequate to prevent a hemmed in effect. We would also note that there was no objection from the owner of No.1 Oakland Crescent. The proposal is stepped back 3.5m from the rear elevation of No.17, however this step back is not at ridge height but on the fall of the roof, the height of the gable wall is lowering at the proposal steps back which will reduce any dominance effect on No.17, we would note that the owner of No.17 is the applicant's daughter, and she has no objection to the proposal. The case officer has noted that the two gable windows can be conditioned to be obscured which the applicant is happy to accept. The step back of the proposal will hide the proposed dwelling from any direct view when driving into Oakland Grove.

Policy LC1 A: The case officers report states that the proposal will have a density higher than that found in the established area which would result in erosion of the local character, environmental quality and amenity to an unacceptable level. The dwelling has been designed to resemble existing dwellings in terms of finishes massing, height and depth, it could not possibly detrimental to the local character. The restricted view of the proposal would also prevent any detrimental effects on the character of the street. The planning department are content that the private amenity space retained by No.17 is acceptable and as previously mentioned the private amenity space for the proposal meets all the criteria set out in creating places document.

B. The proposal is not considered to match the pattern of development in the established residential area. The residential area of the Bridal Lonan is made up of a number of different developments. A large number of these developments in this residential area a mixture of semidetached dwellings and detached dwellings. The proposal will match the character of the surrounding residential area.

C. The proposed dwelling is to be built to a size not less that those set out in Annex A of policy LC 1- In annex A there is no size guidance for a one bedroom two storey dwelling, we fail to see how the proposal fails this criteria if there is no criteria. The proposal excluding the garage is 70m which is satisfactory to provide all the accommodation required for a one-bedroom dwelling.

In summary the proposal will meet the requirements and the criteria set for private amenity space for a detached one bedroom dwelling therefore not creating overdevelopment or cramming of the site. 22m² of private amenity space meets the requirements set out in creating places document for a one-bedroom dwelling. The integral car port will not have any detrimental effect on the character of the area as there are existing garages within the development, the proposal is also set back preventing any direct view of the proposal. The proposal has been designed in terms of finishes, scale and massing to resemble the surrounding dwellings. There is adequate separation between the proposal and amenity space of No.1 due to the 8m wide garage in the rear garden of No.1 Oakland Grove to prevent any hemmed in effect and no objections have been recorded from neighbour notification.



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

Application Reference: LA07/2020/0496/F

Date Received: 05/03/2020

Proposal: Consolidation of existing development to form single dwelling.

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

Site Characteristics & Area Characteristics:

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

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

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

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

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

Site History:

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

Planning Policies & Material Considerations:

Banbridge Newry and Mourne Area Plan 2015.

Strategic Planning Policy Statement (SPPS) for Northern Ireland

Planning Policy Statement 21 – Sustainable Development in the Countryside

Planning Policy Statement 2 – Natural Heritage

Planning Policy Statement 3 – Access, Movement and Parking

DCAN 15 – Vehicular Access Standards

Building on Tradition – Design Guide for Rural Northern Ireland

Consultations:

Transport NI – no objections subject to conditions.

NI Water – Generic response, no objections.

Historic Environment Division – No objections.

Objections & Representations:

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

Consideration and Assessment:

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is located outside settlement limits and within the open countryside, within an SCA and the AONB as designated in the Banbridge, Newry and Mourne Area Plan 2015.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Recommendation: Refusal.

Reason for Refusal.

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

Case Officer: Wayne Donaldson

Date: 31/03/2021

Authorised Officer: Anthony McKay

Date: 16/04/2021

This application comes before the Committee with a refusal recommendation. The site lies inside one of the least developed parts of the District, one which is designated Special Policy Area in a bid to preserve as much of the open countryside as possible and to ward off new development. To that end, the Policy that has been set for the area allows development in only one of two identified circumstances: a proposal of regional importance or a proposal involving the consolidation of existing development. Because there is so little development to be consolidated in the area, the Policy is seldom applied. However, the policy is much more simple and less complex than PPS 21. The position of the Council, the applicant and the Planning Appeals Commission is unanimous i.e. the Policy is to be applied based upon its everyday meaning (confirmed in the minutes to this Agenda).

An issue that has caused the applicant a degree of consternation is that the application was delayed for quite some time, supposedly while officers decided how to proceed due to the fact they had purportedly not encountered the Policy before. As it has since transpired, the same team within the office was concurrently handling another application under similar circumstances while it sat on this one. At the same time this applicant was told his application was being kept back to allow officers to figure out how to apply the Policy, the team was in the process of issuing an approval notice in what we believe is a much less deserving case than this. There is no criticism of the other decision, but this applicant does expect fairness and consistency in decision-making. He does not expect to be treated any harsher than any other applicant.

Some years ago this applicant applied for a farm dwelling on this site. He appealed against the refusal and was informed that his application for a farm dwelling was misplaced: PPS 21 does not apply in this area and it is only Policy COU 1 of the BNMAP 2015 that applies. *Policy COU 1 Special Countryside Areas* is laid out as follows:

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

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

As before, there is consensus on how the policy is to be applied i.e. based upon its everyday meaning. The applicant previously applied to build a new dwelling 30m away from the existing structures on the site. The PAC said then that his proposal would have been too far away to consolidate or combine with the structures and that it would have spread development across the landscape to the south west. That was deemed inappropriate. It was stated that the access would have been conspicuous but this is actually in place now (a simple farm track) and only limited new works are needed, at the roadside (not up on the elevated terrain). The current proposal was set up in such a way as to positively address the PAC's previous concerns.

The current proposal is combining both structures on the site. It does not involve extending development across the landscape and it does not need to rely upon obtrusive access arrangements. Whereas the PAC felt a formal lane would have been conspicuous the applicant has cleaned the old laneway up to the buildings and does not propose a tarmac or concrete laneway (which would not offer any traction in winter months).

Although officers initially accepted that the policy is to be applied based upon its everyday meaning, peculiarly they also felt *some judgement must be given to how the policy was intended to be read* and in what circumstances it should be used. It is unclear how judgement is required to be exercised when plain English is clear and concise and is not subjective or open to interpretation. Officers intimate that the policy should be used sparingly or selectively, when this is not the case, and their approach is contradictory.

Put simply, the only reason the Policy is so seldom encountered is because there are so few proposals in the regional interest, and there are so few incidences of development that could potentially be consolidated (as the countryside is so scenic and so un-developed).

Whereas the case officer “feels” *that the current condition of the buildings is material to the policy in that if the buildings are in such a state of disrepair that rather than being consolidated the proposal could result in the buildings being demolished and the proposed dwelling being a new build*, the Policy makes no mention of any such test, implicit or implied, and the PAC did not have any such issues in the past.

Officers noted the buildings are in poor condition, implying that they are not worthy of consolidation. They referred to the fact the PAC felt the structures were dilapidated at the previous appeal. Despite the fact the buildings have actually been maintained in the intervening time, the condition of the buildings / structures is not determining and the PAC had no concerns in this respect.

That the Policy does not place any demands upon the quality or integrity of the development to be consolidated is obvious, given it does not even require buildings to be consolidated – it can be any *development* that is consolidated, be that structures or buildings.

The Council has approved the consolidation of dilapidated structures in the past (LA07/2015/0078/F, at Kilfeaghan Road, Rostrevor) so even if the buildings in question were dilapidated, not only is the Policy silent in this regard but the issue has not been problematic before so it should not be now.

Officers’ analysis is unduly harsh, especially given their attitude towards the direct precedent they created at Carrivekeney Road (LA07/2020/0589/F). Officers have been disingenuous in their attempt to suggest that the Carrivekeney Road approval was granted in part as a result of some form of commitment tendered by the DOE prior to the transfer of planning powers in 2015. We found no evidence of a commitment. Any such “commitment” would have been rendered null upon the transfer of planning powers back in 2015. In a strict Policy area, when purportedly offered a commitment of an approval in 2015, it is unlikely in the extreme a developer would wait five years before making a new application. Also, we have faced refusal recommendations on repeat applications where approval was previously granted by the DOE. If the Council is prepared to set aside a previous permission, it is highly unlikely an informal commitment tendered back in 2015 would have been determining now. We find the notion of a commitment to be a red herring, because the Carrivekeney Road example involved new development on the opposite side of a lane from the development that was required to have been consolidated, and the development actually occurred outside the Special Policy Area, meaning that Policy COU 1 need not have been shown determining weight - so we submit that the Council would have had all the grounds it wanted to set aside any prior commitment even if it existed. Because of how officers handled the Carrivekeney Road case, they have created a precedent that would result in an obvious injustice upon this applicant if his application is refused, and the Committee is respectfully requested not to allow this to happen. Unlike other cases, we do not ask Members to depart from Policy. We simply ask Members to follow the policy as it is written and not to follow officers in speculating how it might have been intended.



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

Application Reference: LA07/2020/1355/F

Date Received: 22/09/2020

Proposal: Erection of replacement dwelling with detached garage

Location: 90m north of 14 Upper Clontigora Road, Killeen, Newry

Site Characteristics & Area Characteristics:

The application site encompasses the building proposed to be replaced as well as the proposed off-site location (located north-east of this building). The building to be replaced is a two-storey structure set in close proximity to the public road. The field (proposed off-site location) is currently in use as grazing land. This field is bounded to the public road by low-level hedging and post and wire fencing.

The site is a rural area, outside any settlement limits as designated in the Banbridge/ Newry and Mourne Area Plan 2015. The site is designated as an Area of Outstanding Natural Beauty (AONB).

Date of Site Visit: 02-11-2020

Site History:

Note the road has been re-named Upper Clontigora Road in recent years, and the house renumbered number 14.

P/2006/0324/F

- 22 Ram Road, Killeen, Newry
- Site for replacement dwelling and garage
- Permission Granted 14/08/2007.

P/2006/0328/F

- 90m northwest of 22 Ram Road, Killeen, Newry
- Site for dwelling and garage
- Permission Refused 15/08/2007

Refusal Reasons:

1. *The proposal is contrary to Policies SP 19, DES 4, DES 6 and HOU 8 of the Department's Planning Strategy for Northern Ireland in that the development when considered in the context of the existing development, would, if permitted, result in a detrimental change to the rural character of this area of countryside by reason of build-up.*
2. *The proposal is contrary to the Joint Ministerial Statement of 31st January 2005 on the grounds of prematurity, as the Draft Banbridge/Newry and Mourne Area Plan 2015, which designated the area in which the site is located as the Newry Green Belt, has reached an advanced stage of preparation and the cumulative effect of an approval for this proposal, in conjunction with that for other applications for single dwellings in proposed Green Belts and Countryside Policy Areas in the Plan area which do not conform to the requirements of Policy GB/CPA3 of 'A Planning Strategy for Rural Northern Ireland', would be prejudicial to the outcome of the plan process, in particular:*
 - i. *The function of the Newry Green Belt as set out in Policies SP12 and GB/CPA1 of 'A Planning Strategy for Rural Northern Ireland; and*
 - ii. *The allocation of housing development between settlements and the countryside, by pre-determining decisions about the scale and location of new development which should properly be taken through the development plan process.*

P/2006/0332/F

- 90m north of 22 Ram Road
- Erection of dwelling house and domestic garage
- Permission Refused 15/08/2007

Refusal reasons:

1. *The proposal is contrary to Policies SP19, DES4, DES 5 and HOU8 8 of the Department's Planning Strategy for Rural Northern Ireland in that the site lies in a designated Area of Outstanding Natural Beauty and the development would, if permitted, be detrimental to the environmental quality of the area by reason of lack of integration and as it is unduly conspicuous.*
2. *The proposal is contrary to Policies SP 19, DES 4, DES 6 and HOU 8 of the Department's Planning Strategy for Rural Northern Ireland in that the development when considered in the context of the existing development, would, if permitted, result in a detrimental change to the rural character of this area of countryside by reason of build-up.*
3. *The proposal is contrary to policies DES7, SP19 and HOU8 of the Department's Planning Strategy for Rural Northern Ireland in that the development would, if permitted, adversely affect the visual amenity and character of the countryside by creation of ribbon development along Ram Road.*
4. *The proposal is contrary to the Joint Ministerial Statement of 31st January 2005 on the grounds of prematurity, as the Draft Banbridge/Newry and Mourne Area Plan 2015, which designated the area in which the site is located as the Newry Green Belt, has reached an advanced stage of preparation and the cumulative effect of an approval for this proposal, in conjunction with that for other applications for single dwellings in proposed Green Belts and Countryside Policy Areas in the Plan area which do not*

conform to the requirements of Policy GB/CPA3 of 'A Planning Strategy for Rural Northern Ireland', would be prejudicial to the outcome of the plan process, in particular:

- i. The function of the Newry Green Belt as set out in Policies SP12 and GB/CPA1 of 'A Planning Strategy for Rural Northern Ireland'; and*
- ii. The allocation of housing development between settlements and the countryside, by pre-determining decisions about the scale and location of new development which should properly be taken through the development plan process.*

P/2009/0627/F

- 22 Ram Road, Killeen, Newry
- Re-siting of replacement dwelling and garage previously approved under P/2006/0324/F
- Permission granted 04/08/2009.

Planning Policies and Material Considerations:

Strategic Planning Policy Statement for Northern Ireland

Banbridge Newry Mourne Area Plan 2015

Planning Policy Statement 21 – Sustainable Development in the Countryside

Planning Policy Statement 2 – Natural Heritage

Consultations:

Transport NI - No objection in principle to this application.

NI Water – Generic response to routine planning application

Objections and Representations:

One neighbour was notified of the proposal on 01/10/2020. The proposal was also advertised in local press on 06/10/2020.

No objections or representations have been submitted for consideration.

Consideration and Assessment:

Banbridge/Newry and Mourne Area Plan 2015

Section 45 of the Planning (NI) Act 2011 requires the Council to have regard to the Local Development Plan (LDP), so far as material to the application and to any other material considerations. The relevant LDP is Banbridge, Newry and Mourne Area Plan 2015 as the Council has not yet adopted a LDP. There are no specific policies in the Plan relating to the proposed use therefore this application will be assessed against regional planning policy.

Strategic Planning Policy Statement (SPPS)

As there is no significant change to the policy requirements for replacing a dwelling following publication of the SPPS, the retained planning policy is PPS 21 – Sustainable Development in the Countryside. This policy will be given substantial weight in determining the principle of the proposal in accordance of para 1.12 of the SPPS.

PPS21 – Sustainable Development in the Countryside

CTY 1 – Development in the Countryside

Policy CTY 1 details the range of development that is considered acceptable in principle in the countryside. One such development is a replacement dwelling where it is in compliance with policy CTY 3.

Policy CTY 3 – Replacement Dwellings

Planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. For the purposes of this policy, all references to 'dwellings' will include buildings previously used as dwellings.

Following a site visit, I am satisfied that the proposal is a genuine replacement opportunity. The building exhibits essential characteristic of a dwelling, including two chimneys on each gable, a number of windows and a porch area.

The principle was established with approval of P/2006/0324/F and the building is still in a suitable condition for a replacement opportunity.

In addition to the above, proposals for a replacement dwelling will only be permitted where all the following criteria are met:

'The proposed replacement dwelling should be sited within the established curtilage of the existing building, 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';

The proposal is for an off-site replacement. Supplementary information forwarded by the applicant's agent notes that, due to the site's awkward shape and restrictive dimensions (adjoining a third party's commercial business to one side and the rear), the developable area of the existing dwelling is narrow in shape and limited. The agent has proposed that an on-site replacement would be difficult to achieve a dwelling fit for modern purpose, including parking, turning and manoeuvring space clear of the highway.

It has been proposed that the off-site location will bring about access, landscape and amenity benefits. The Planning Department have considered the evidence submitted for an off-site location in coordination with all other relevant planning policy. The Planning Department have concerns regarding the cumulative impact that this off-site location could have upon other policy considerations, and in this instance, cannot accept an off-site location. These concerns are discussed further in the relevant sections of this report.

The proposal is contrary to CTY 3 in that the alternative position does not result in demonstrable landscape, heritage, access or amenity benefits.

'The overall size of the new dwelling should allow it to integrate into the surrounding landscape and would not have a visual impact significantly greater than the existing building';

The building proposed to be replaced is a two-storey dwelling. The overall size of the new dwelling is appropriate

'The design of the replacement dwelling should be of a high quality appropriate to its rural setting and have regard to local distinctiveness';

The design of the replacement is appropriate to its rural setting and has sufficient regard to local distinctiveness.

'All necessary services are available or can be provided without a significantly adverse impact on the environment or character of the locality'; and

All services can be provided without an adverse impact on the environment or character of the locality.

'Access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic'.

DfI Roads are content with the proposed access. The proposal does not prejudice road safety or inconvenience the flow of traffic.

CTY 13 – Integration and Design of Buildings in the Countryside

Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.

It is considered that the proposed new building, given its proposed siting, would be a prominent feature in the landscape. The proposed off-site location does not have long established natural boundaries to provide a suitable degree of enclosure for the building to integrate into the landscape. The proposal would rely primarily on the use of new landscaping for integration. The proposal does not blend with the surrounding natural features which provide a backdrop. Ancillary works integrate into their surroundings. The design of the building is appropriate for the site and its locality.

A previous application for a dwelling and detached garage on the proposed off-site location – namely P/2006/0332/F was refused Planning Permission for similar concerns regarding integration:

the development would, if permitted, be detrimental to the environmental quality of the area by reason of lack of integration and as it is unduly conspicuous.

CTY 14 – Rural Character

Planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. The new building is unacceptable in that the off-site location is unduly prominent in the landscape. The proposal results in a suburban style build-up of development when viewed with existing and approved buildings. The proposal does not respect the traditional patterns of settlement exhibited in the area. The off-site location creates a ribbon of development along this stretch of the Upper Clontigora Road. Ancillary works do not damage rural character.

A previous application for a dwelling and detached garage on the proposed off-site location – P/2006/0332/F – was refused Planning Permission for similar concerns regarding ribbon development:

the development would, if permitted, adversely affect the visual amenity and character of the countryside by creation of ribbon development along Ram Road.

CTY 16 – Development relying on non-mains sewerage

The P1 form indicates that foul sewage will be disposed of via septic tank. The application complies with Policy CTY 16. A condition should be included with any planning approval to ensure a copy of a consent to discharge be submitted prior to commencement of the development.

Planning Policy Statement 2 – Natural Heritage**Policy NH 6 - Areas of Outstanding Natural Beauty**

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

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

The proposal is contrary to PPS 2 NH 6 in that the siting of the proposal is not sympathetic to the special character of the AONB.

The proposal does not threaten features of importance to the character, appearance or heritage of the landscape. The proposal is respectful of local architectural styles and patterns and local materials, design and colour.

Recommendation: Refusal

Refusal Reasons:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 1 of PPS 21 Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 3 of PPS 21, Sustainable Development in the Countryside in that the alternative position proposed does not result in demonstrable landscape, heritage, access or amenity benefits.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:
 - The new building is a prominent feature in the landscape.
 - The site does not have long established natural boundaries to provide a suitable degree of enclosure.
 - The proposal would rely primarily on the use of new landscaping for integration.
 - The proposal does not blend with the surrounding natural features which provide a backdrop.
4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:
 - It is unduly prominent in the landscape.
 - It results in a suburban style build-up of development when viewed with existing and approved buildings.
 - It does not respect the traditional patterns of settlement exhibited in the area.
 - It creates a ribbon of development along the Upper Clontigora Road.
5. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and PPS 2 Policy NH 6 in that:
 - The siting of the proposal is not sympathetic to the special character of the AONB and of the particular locality.

Case Officer: E.Moore

Authorised Officer: David Fitzsimon 22 April 2021

This application comes before the Committee with a refusal recommendation. Much has been made, by the planning department, of a history of refusals on the site and in its immediate surroundings. However, these refusals were based upon different policies, and they were issued by a different planning authority. Significantly, there have been no previous applications for a replacement dwelling on this site.

Five reasons for refusal have been laid out in the Agenda to this meeting. The case has been padded out, whereas the critical issues relate to the applicant's inability to replace the dwelling in situ and the question of whether this can outweigh any concerns about the site's capacity to accommodate a dwelling.

It is a central tenet of planning practice that exceptional factors will generally be sufficient to justify a departure from planning policy (if indeed such is required in this instance). Exceptionality arises here because of the complex ownership arrangements of the dwelling to be replaced and its immediately adjoining land. Put simply, there is no prospect of a new dwelling being constructed in situ.

Two previous approvals were granted, one permitting the replacement of the house in-situ and the later one close by. Neither of these permissions were capable of being lawfully implemented owing to contested land ownership. That issue remains live today. Not only is there the matter of the applicant being physically not entitled to construct a modern dwelling on-site, but even if there was enough land to replace in-situ, then an on-site replacement would be blighted by operations from an adjacent business.

Circumstances have changed since the previous approval was granted for an on-site replacement insofar as the business in question was not established when the original permission was granted next door. It has become established in the intervening time, and evidence has been presented to show that the original approvals for an on-site replacement were defective owing to bad title. Both issues mean that the applicant had to consider an alternative location nearby, of necessity.

An off-site replacement can be permitted where there are landscape, heritage, access or amenity benefits. We submit that there are landscape, access AND amenity BENEFITS.

What appears not to have been recognised by officers is that allowing an off-site replacement will shrink an existing ribbon of development, and it will allow for a visual buffer to be created to divide this proposal from the existing ribbon (i.e. the thicket surrounding the dwelling to be replaced). Shrinking an existing ribbon of development, in an AONB, should not have been dismissed so lightly. Despite inferences, the proposal will not result in ribbon development as the new dwelling will be set back from the road with no direct road frontage to the plot. This overall arrangement is a clear and obvious landscape benefit. We appreciate that the question of integration / enclosure at the proposed location has to be taken into account, but one can justifiably make a trade-off here, between seeking maximum enclosure / integration, and preserving the wider landscape by reducing the extent of an existing ribbon of development.

Replacing the dwelling at this alternative location will bring access benefits, given the inadequacy of the access to the original dwelling – it is blighted by inadequate sight lines and its curtilage is so restricted that cars (and service vehicles) could not enter and exit in forward gear. Vehicles would likely overspill onto the public highway, which would interfere with the free flow of passing traffic, and there is the added risk of accident arising due to vehicles emerging (not being able to see approaching traffic on the road because of vehicles parked within the verge).

Amenity benefits will arise due to the potential for conflict with the commercial business that runs adjacent to the dwelling to be replaced (if replacement in situ was forced upon the applicant). Not only is this business unsightly, but there is the potential for noise, nuisance and general disturbance. It is not reasonable to expect that entrepreneur to cease operating or to downgrade their operations just to facilitate this applicant.

While officers may feel that there are indeed benefits in relocating, perhaps they feel that the benefits do not outweigh the costs (in terms of supposed poor integration / poor enclosure etc.). While the Policy does not suggest that any disbenefits will automatically presume against a proposal (such as purported poor "integration") it is unequivocal in outlining when an off-site replacement will be permitted. Even if officers feel that under normal circumstances the costs would outweigh the benefits (of re-siting), cognisance has to be given to the fact that two previously permitted attempts to replace in-situ did not materialise due to contested land

ownership, and weight also has to be shown to the potential for conflict with an adjacent commercial business (that was not established at the time the original on-site approvals were granted).

Officers suggest the proposal does not result in demonstrable landscape, heritage, access or amenity benefits. However, there is no prescribed minimum level of benefit required in the Policy. The everyday meaning of the word benefit is to secure an advantage. The advantages in moving the dwelling are:

- A dwelling of modest dimensions could not be achieved within the folio of the dwelling to be replaced. The advantage gained is in the securing of a dwelling of modest dimensions, fit for single family habitation;
- Replacing the dwelling in-situ would result in parked cars overspilling onto the public road, or having to reverse out onto the road. Emergency services could not manoeuvre within the site. Replacing the dwelling at the alternative location will have the advantage of letting residents and visitors park their vehicles clear of the highway. It will also ensure that visitors or residents do not have to reverse onto the public road.

It is therefore simply not true to say that there will be no advantages whatsoever.

The planning and environmental issues can be summarised as: integration / enclosure / prominence; ribbon development; change in rural character / respecting the traditional pattern of settlement in the area. In terms of ribbon development / change in rural character / respecting the traditional pattern of settlement one cannot ignore that permission is being sought to replace a dwelling that is of replacement category, which currently lies within an existing ribbon of development. No weight appears to have been given to this.

There is acknowledgement of the applicant's argument in respect of the size and shape of the original site (and the argument that this would make it impossible to build the new house in situ) but there is no analysis of whether or not officers accept this is the case

There is acknowledgement of the applicant's argument that access and parking would not be compliant on-site (in the event the dwelling was replaced in situ) but there is no analysis of same;

There is acknowledgement of the applicant's argument that an on-site replacement would be blighted due to noise from the adjacent business but there is no analysis of same – there has been no mention whatsoever of the business to the rear of the site. Without an assessment of these considerations, officers cannot have fully or properly considered whether there is any reasonable alternative to what is proposed. Without understanding how realistic it would be to replace the dwelling in-situ, officers cannot have fully evaluated whether the lack of alternative to an off-site replacement outweighs the environmental considerations deemed to presume against this application;

There is no acknowledgement or analysis of the applicant's submission of folio maps that demonstrated the previous approvals to replace this dwelling were based upon the mistaken assumption that the (then) applicants owned all of the lands to which the red line boundaries then related – there is no acknowledgement that circumstances have changed (i.e. that it transpires the previous applicant did not own all the lands identified within the approvals) – so the earlier permissions (for an on-site replacement) were worthless and could not be implemented.

In relation to the concerns regarding cumulative impact, there has been no acknowledgement that the area is already built up or that this proposal is replacing a dwelling with another, so the cumulative effect is not actually greater;

As regards visual impact, albeit this site has a history, the applicant has had to watch permission granted for a 2-storey replacement on a 7 acre field nearby, whenever just two years ago that applicant had a proposal forcibly reduced to a single storey design due to the same concerns of prominence / lack of enclosure / lack of integration etc (LA07/2017/0099/F was the previous reference and LA07/2020/0671/F is the recent approval – this practice handled the 2017 application);

The applicant has become aware of the case of a replacement at 11 Flagstaff Road. That involved replacement of a semi-detached house, and moving it two fields away, despite the applicant owning the intervening lands (presumably the house could have been built closer then). Replacement dwellings are supposed to be remain attached. That approval extended a ribbon of development and opened up an opportunity for an additional infill dwelling next (LA07/2021/0191/RM) whereas this proposal will not owing to its set-back from the roadside.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2020/0893/F

Date Received: 06/07/2020

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

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

Site Characteristics & Area Characteristics:

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

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

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

Site History:

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

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

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

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

Planning Policies & Material Considerations:

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

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

Consultations:

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

NI Water – No objections raised, conditions suggested.

Objections & Representations:

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

Points of objection:

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

Points of support:

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

Consideration and Assessment:

Strategic Planning Policy Statement for Northern Ireland

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

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

Planning Policy Statement 21 – Sustainable Development in the Countryside

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

Principle of Development

Policy CTY8 states that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided it respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

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

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

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

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

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

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

Integration, Design and Rural Character

Policy CTY 13 - Integration and Design of Buildings in the Countryside, requires a new building in the countryside to be able to be integrated visually within the landscape in which it is set.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Amenity

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

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

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

Other areas of objection

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

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

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

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

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

Access and Parking

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

Development relying on non-mains sewerage.

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

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

Recommendation: Approval

Conditions

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

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

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

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

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

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

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

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

5. The vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No PL-03 Rev C, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

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

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

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

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

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

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

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

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

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

I request speaking rights at meeting 25/08/2021 in objection to application:LA07/2020/0839/F

The applicant does not own or have control of the required site lines for access and road safety. The owners of this required land has provided legal representation that this will never be available to the applicant.

Please see below photographs that I will use to illustrate my objection to this application.

I will reference how this application fails to comply with the following policies set out in PPS 21

- CTY 8- ribbon development
- CTY13-integration and design of buildings in the countryside
- CTY14- rural character
- Privacy and amenity
- The location of the watermain's traversing the site
- 2 previous refusals of applications on this site



Fig. 1: View of number 47 with development behind



Fig. 2

Plot Analysis drawing PL-02:

Plot Analysis

Existing Plot A - 46.32m
Existing Plot B - 40.87m

Total Plot Frontage Size = 107.19

Average Existing Plot Size = 53.60m

Gap Plot = 103.70m (51.85m Per Dwelling)

Submitted Plot Analysis
measurements vs gap
measurements supplied by
Google Maps



Fig.3 / Fig. 4



Fig. 5

Finished Floor levels of proposed and Eaves level of existing 51.

No. 51: FFL = 77.3m / Eave = 79.5m / Ridge Height = 81.7m (on the ground measurement as obscured on application)
 Proposed Dwelling Adjacent to No. 51: FFL = 78.55 / Ridge Height = 84.8m
 Proposed Dwelling Adjacent to No. 49: FFL = 80.45m / Ridge Height = 86.75m



Fig. 6
 View from number 49 of proposed site towards number 51 and view of 51 moving Northward from Ballsmill village.



Fig. 7



Fig. 8: Proposed dwelling.



Fig. 9: Existing watermain traversing site.

Principle of Development:

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

Integration, Design & Rural Character:

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

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

Amenity :

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

Other Areas of Consideration:

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

APPENDIX 1



View of Newly Constructed Boundary Wall and Detached Domestic Garage adjacent to existing Dwelling House.



Ariel View of Dwelling House, the existing extension has no formal planning permission and the detached garage to the road boundary has also been constructed without formal planning consent.

TRACKING ACTION SHEET ARISING FROM PLANNING COMMITTEE MEETINGS

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
		PLANNING MEETING – 1 AUGUST 2018			
LA07/2017/1261/0	Thomas Mageean – proposed dwelling and garage – site abutting 20 Junction Road, Saintfield	Defer application to enable the Council's Legal Advisor to consider issues raised regarding ownership of the application site (Mr Thomas Mageean); the farm business in the name of Mr Bernard Mageean, who takes land in conacre from his brother and this farm business being altered by adding the applicant as an additional member of the business and in so doing have the applicants buildings at No. 20 Junction Road included within the farm business criterion © of CTY10	Annette McAlarney	Await legal advice.	N
		PLANNING MEETING - 13 FEBRUARY 2019			
LA07/2015/0149/F	Change of use of building to provide storage and distribution of fuel with alterations and new bulk fuel tank in yard – site	Withdrawn by the Planning Department to allow further consultation to be completed	A Davidson	Remains under consideration	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
	between 54 and 58 Edenappa Road, Jonesborough				
		PLANNING COMMITTEE MEETING – 24 JULY 2019			
LA07/2018/1787/F	Proposed extension to existing Materials Recovery Facility Building – 23 Downpatrick Road, Killough	Defer this application, which the Committee agreed was an exception under FLD 1, and refer the completed Flood Risk Assessment to Rivers Agency to be reviewed.	A McAlarney	Application to come back to Committee On agenda for Planning Meeting to be held on 25-08-2021	N
		PLANNING COMMITTEE MEETING – 16 OCTOBER 2019			
LA07/2019/0773/0	Dwelling – to rear of 71 Church Street, Downpatrick	Withdraw from the addendum list for a meeting with Planners, applicant and agent	A McAlarney	Agent to submit revisions...awaited	N
		PLANNING COMMITTEE MEETING 26 AUGUST 2020			
LA07/2019/1302/F	Provision of a dwelling with associated parking and amendment to application R/2011/0794/f to remove parking area for apartments and replace with shared amenity space - to rear of Nos 65-69 South Promenade, Newcastle.	Defer Planning Application LA07/2019/1302/F to allow the applicant to provide evidence that sight lines can be secured for this proposal.	A McAlarney	Awaiting consultation response from DFI Roads on new info submitted.	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
LA07/2019/1087/0	Replacement dwelling and garage - approx. 50m NE of 21 Drakes Bridge Road, Crossgar	Removed from the agenda as agent unable to attend	A McAlarney	Agent has engaged Ecologist to provide outstanding info for Planning Dept	N
LA07/2019/1134/0	Replacement dwelling - 90 Manse Road, Darraghcross, Crossgar	Removed from the agenda as agent unable to attend	A McAlarney	Agent has engaged Ecologist to provide outstanding info for Planning Dept	N
PLANNING COMMITTEE MEETING 23 SEPTEMBER 2020					
LA07/2020/0176/F	Proposed rural infill detached dwelling and garage – 45m north of 5 Molly Road Lower, Jonesborough	Defer for 3 months to allow time for the garage to the north of the proposed site to be built and then application to be re-considered	A Davidson		N
PLANNING COMMITTEE MEETING 15 DECEMBER 2020					
P/2013/0189/F	Sports Complex to include 1 no full size pitch, club house, floodlighting and private entrance onto Warrenpoint Road, and all associated site works	Site visit to be arranged	P Rooney	Site visit held 05-03-2021	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
PLANNING COMMITTEE MEETING – 8 APRIL 2021					
LA07/2020/0299/F	Adjacent to 7 Annacloy Road North Dunnanelly Downpatrick - Single storey dwelling	Site visit to be arranged	A McAlarney	Site visit held 12-05- 2021 - on agenda for Planning meeting to be held 28-07-2021 where it was agreed to defer application pending legal advice	N
PLANNING COMMITTEE MEETING – 05 MAY 2021					
LA07/2021/0027/O	60m North of 67 Dechomet Road Dromara - demolition of existing vacant dwelling and erection of replacement dwelling and garage as per CTY3 PPS21	Application removed from the schedule at the request of Councillor Murphy – to be re- presented at a future Committee Meeting	A McAlarney	On agenda for Planning Meeting to be held on 25-08- 2021	N
LA07/2017/1779/F	Lands Approx. 370m North East Of 32 Ballykilbeg Road Downpatrick Amendment to planning approval LA07/2015/0782/F. - change from Vestas 27 225kw wind turbine with rotor diameter of 27m to Vestas 52 250kw with rotor diameter of 52m	Removed from the addendum list at the request of Planning Officers	A McAlarney	Under consideration by planning office	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
PLANNING COMMITTEE MEETING – 28 JULY 2021					
LA07/2020/1797/F	22 Ballaghbeg Park, Newcastle - Proposed single storey rear extension to dwelling. (Amended Proposal)	Defer for a site visit	Annette McAlarney		
LA07/2020/0299/F	Adj. to 7 Annadloy Road North Dunnamnelly, Downpatrick - Single storey dwelling	Defer for legal advice (previous site visit held)	Annette McAlarney		
LA07/2020/0661/O	Land opposite and West of Nos. 10 - 32 Grove Gardens, Killyleagh - Housing development	Cllr. Hanna requested this application be removed from Addendum list and presented at full Committee		On agenda for Planning Meeting to be held on 25-08- 2021	
LA07/2020/1627/F	72 Newry Road, Mayobridge, Newry - Proposed replacement dwelling	Councillor McAteer requested this application be withdrawn from the agenda and re-presented at a future Committee Meeting	Mark Keane	On agenda for Planning Meeting to be held on 25-08- 2021	
LA07/2020/1355/F	90 metres North of 14 Upper Clontigora Road, Killeen, Newry - Erection of replacement dwelling with detached garage	Application deferred as the agent is unable to attend the meeting	Andrew Davidson	On agenda for Planning Meeting to be held on 25-08- 2021	
LA07/2020/0893/F	60 metres South of No. 49 Ballsmill Road, Glassdrumman, Crossmaglen - Proposed	Councillor McAteer requested this application be withdrawn from the	Andrew Davidson	On agenda for Planning Meeting to	

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
	erection of 2 no. detached rural infill dwelling houses and detached garages ancillary works and additional landscaping	agenda and re-presented at a future Committee Meeting		be held on 25-08-2021	
LA07/2020/0496/F	Approx 105m NE of junction of Bernish Road and Seavers Road, Newry	Application deferred as the agent is unable to attend the meeting	Andrew Davidson	On agenda for Planning Meeting to be held on 25-08-2021	
END					

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1. Live Applications

MONTH 2021/22	NEW APPLICATIONS	LIVE APPLICATIONS	LIVE APPLICATIONS OVER 12 MONTHS
April 2021	206	1,195	232
May 2021	204	1,238	228
June 2021	172	1,219	236
July 2021	176	1,190	224

2. Live Applications by length of time in system

Month 2020/21	Under 6 months	Between 6 and 12 months	Between 12 and 18 months	Between 18 and 24 months	Over 24 months	Total
April 2021	770	193	81	54	97	1,195
May 2021	818	192	76	53	99	1,238
June 2021	777	206	82	43	111	1,219
July 2021	787	179	79	44	101	1,190

3. Live applications per Case Officer

Month 2021/22	Average number of Applications per Case Officer
April	83
May	85
June	89
July	83

4. Decisions issued per month

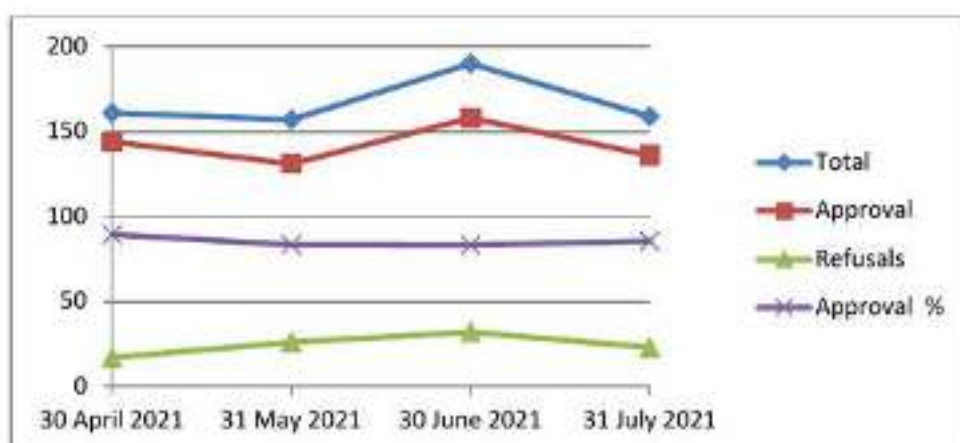
Month 2021/22	Number of Decisions Issued	Number of Decisions Issued under delegated authority
April	161	155
May	157	146
June	190	184
July	159	150

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5. Decisions Issued YTD

Month 2021/22	Number of Decisions Issued	Breakdown of Decisions	
April	161	Approvals (144)	89%
		Refusals (17)	11%
May	318	Approvals (275)	86%
		Refusals (43)	14%
June	508	Approvals (433)	85%
		Refusals (75)	15%
July	667	Approvals (569)	85%
		Refusals (98)	15%



6. Enforcement Live cases

Month 2021/2022	<=1yr	1-2 yrs	2-3 yrs	3-4 yrs	4-5 yrs	5+yrs	Total
April	285	133	127	122	62	101	830
May	291	134	122	128	64	104	843
June	267	132	121	136	60	102	818
July	269	134	114	137	68	102	824

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7. Planning Committee

Month	Number of Applications presented to Committee	Number of Applications Determined by Committee	Number of Applications Withdrawn/ Deferred for future meeting	Number of Officer recommendation overturned
8 April 2021	14	11	3	3
5 May 2021	16	8	8	3
2 & 30 June 2021 (Meetings cancelled)	-	-	-	-
28 July 2021	15	7	8	2
Totals	45	26	19	8

8. Appeals

Planning Appeal Commission Decisions issued during period 1 July 2021 to 31 July 2021

Area	Number of current appeals	Number of decisions issued	Number of decisions Allowed	Number of decisions Dismissed	Withdrawn
Newry & Mourne	14	2	0	2	0
Down	26	1	0	1	0
TOTAL	40	3	0	3	0

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Statutory targets monthly update - June 2021 (unvalidated management information)

Newry, Mourne and Down

Major applications (target of 30 weeks)					Local applications (target of 15 weeks)				Cases concluded (target of 39 weeks)			
	Number received	Number decided/ withdrawn ¹	Average processing time ²	% of cases processed within 30 weeks	Number received	Number decided/ withdrawn ¹	Average processing time ²	% of cases processed within 15 weeks	Number opened	Number brought to conclusion ³	"70%" conclusion time ³	% of cases concluded within 39 weeks
April	2	-	0.0	0.0%	172	143	16.6	43.4%	44	19	69.8	52.6%
May	2	1	35.4	0.0%	162	137	17.2	41.6%	31	31	69.4	64.5%
June	1	1	49.8	0.0%	170	173	16.8	42.8%	30	40	90.4	45.0%
July	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
August	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
September	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
October	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
November	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
December	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
January	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
February	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
March	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
Year to date	5	2	42.6	0.0%	504	453	16.8	42.6%	105	90	76.8	53.3%

Source: NI Planning Portal

Notes:

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

2. The time taken to process a decision/withdrawal is calculated from the date on which an application is deemed valid to the date on which the decision is issued or the application is withdrawn. The median values have the potential to inflate the mean, leading to a result that may not be considered as "typical".

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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; a planning is determined by sorting data from its lowest to highest values and then taking the data point at the 70th percentile of the sequence.

Current Appeals

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AUTHORITY Newry, Mourne and Down

ITEM NO	1	PAC Ref:	2019/A0155
Planning Ref:	LA07/2019/0181/	DEA	Slieve Croob
APPELLANT	Anthony Flanagan		
LOCATION	152 Ballylough Road Castlewellan		
PROPOSAL	2 Storey side and rear extension to provide ancillary accommodation (Retrospective)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	04/11/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	2	PAC Ref:	2019/A0159
Planning Ref:	LA07/2019/1313/	DEA	Newry
APPELLANT	EDB Construction Ltd		
LOCATION	58 Armagh Road Newry		
PROPOSAL	Demolition of existing building and erection of apartment development		
APPEAL TYPE	DC - Non Determination of a Planning Application		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	13/11/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

209

ITEM NO	3	PAC Ref:	2019 /A0248
Planning Ref:	LA07/2019/1130/	DEA	The Mournes
APPELLANT	Mr James Rogan		
LOCATION	Site Adjacent To 33 Dunwellan Park Newcastle		

PROPOSAL New end terrace Dwelling with associated site works

APPEAL TYPE DC- Refusal of Planning Permission

Appeal Procedure **Date Appeal Lodged** 10/03/2020

Date of Hearing

Date Statement of Case Due for Hearing

Date Statement of Case Due - Written Representation

Date of Site Visit

ITEM NO	4	PAC Ref:	2020/A0002
Planning Ref:	LA07/2017/1559/	DEA	Newry
APPELLANT	EDB Constructions Ltd		
LOCATION	58 Armagh Road Newry		

PROPOSAL Demolition of existing dwelling and erection of 7 No. 2 bedroom apartments (7 in total) (change of description)

APPEAL TYPE DC- Refusal of Planning Permission

Appeal Procedure **Written Reps** **Date Appeal Lodged** 16/07/2020

Date of Hearing

Date Statement of Case Due for Hearing

Date Statement of Case Due - Written Representation

Date of Site Visit

Current Appeals

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ITEM NO	5		
Planning Ref:	LA07/2019/0573/	PAC Ref:	2020/A0045
APPELLANT	Mills Smyth	DEA	Slieve Gullion
LOCATION	95 Aughnagurgan Road Altnamackan Newry		
PROPOSAL	Proposed demolition of all existing buildings and replace with dwelling house and garage.		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	10/09/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

211

ITEM NO	6		
Planning Ref:	LA07/2020/0194/	PAC Ref:	2020/A0060
APPELLANT	Drumee Farms Ltd	DEA	The Mournes
LOCATION	Lands Approx. 100m NE Of 125 Newcastle Road Castlewellan		
PROPOSAL	Retention of multi-purpose agricultural shed, access from Newcastle Road, via established agricultural gateway		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	16/09/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	7		
Planning Ref:	LA07/2019/1819/	PAC Ref:	2020/A0066
APPELLANT	William Henry McMaster	DEA	Slieve Croob
LOCATION	42a Cherryhill Road Spa		
PROPOSAL	Retirement bungalow		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	21/09/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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

ITEM NO	9	PAC Ref:	2020/A0103
Planning Ref:	LA07/2020/0836/	DEA	Rowallane
APPELLANT	Mr Dodds		
LOCATION	Adjacent And South Of 40 Craigy Road Craignasasonagh Saintfield		
PROPOSAL	Erection farm animal shelter and wintering shed		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	12/11/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

213

ITEM NO	10		
Planning Ref:	LA07/2019/1119/	PAC Ref:	2020/A0124
APPELLANT	John McKay	DEA	Slieve Croob
LOCATION	75 Mill Hill Castlewellan		
PROPOSAL	2 semi-detached dwellings and 1 detached dwelling		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	25/01/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	11		
Planning Ref:	LA07/2020/0027/	PAC Ref:	2020/A0126
APPELLANT	Judy Meharg	DEA	Downpatrick
LOCATION	7 Rocks Road Ballyhornan Downpatrick		
PROPOSAL	Wooden hut on a raised deck (retrospective)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	22/01/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

214

ITEM NO	12		
Planning Ref:	LA07/2020/0802/	PAC Ref:	2020//A0130
APPELLANT	Greg Kirkpatrick Esq	DEA	Rowallane
LOCATION	Approx. 50m S E Of No 80 Monlough Road Saintfield		
PROPOSAL	Farm Dwelling and Garage		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	02/02/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	13		
Planning Ref:	LA07/2020/1072/	PAC Ref:	2020/A0142
APPELLANT	Chris Ball	DEA	Downpatrick
LOCATION	67 St Patricks Avenue Downpatrick		
PROPOSAL	Change of use from commercial/office to a 2 bedroom dwelling		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	15/02/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

215

ITEM NO	14		
Planning Ref:	LA07/2020/1485/	PAC Ref:	2020/A0145
APPELLANT	Leo McGrenaghan	DEA	Slieve Croob
LOCATION	Land Adjacent To 32 Teconnaught Road Downpatrick		
PROPOSAL	Dwelling House		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	12/02/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	15		
Planning Ref:	LA07/2020/1376/	PAC Ref:	2020/A0148
APPELLANT	Mr Derek McNeill	DEA	Slieve Croob
LOCATION	Adjacent To 71 Edendarriff Road Ballynahinch		
PROPOSAL	Infill dwelling and domestic garage		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	26/02/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

216

ITEM NO	16		
Planning Ref:	LA07/2020/0939/	PAC Ref:	2020/A0155
APPELLANT	John Markey	DEA	Slieve Gullion
LOCATION	110msouth Of 11a Ballintemple Road Meigh Newry		
PROPOSAL	Farm Dwelling with Garage		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	15/03/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	17		
Planning Ref:	LA07/2018/0293/	PAC Ref:	2020/A0156
APPELLANT	Paul McEvoy	DEA	Rowallane
LOCATION	Opposite 49 And Adjacent To 56 Darragh Road Darraghcross		
PROPOSAL	Crossgar Erection of housing development consisting of 3 pairs of semi-detached dwellings, 1 detached chalet dwelling and 1 detached bungalow fronting Darragh Road.		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	15/03/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

217

ITEM NO	18		
Planning Ref:	LA07/2018/1616/	PAC Ref:	2020/C002
APPELLANT	David Trevor Shields	DEA	The Mournes
LOCATION	Approximately 35 Metres South East Of 8 Ballinran New Road Kilkeel		
PROPOSAL	BT34 4ZN Retention of 2no. existing pig sheds with underground slurry tanks, 3no. feed silos and gravel yard, and extension to western gable of shed at rear of site, with loading bay.		
APPEAL TYPE	DC- EIA Determination - app ES is required		
Appeal Procedure	Formal Hearing	Date Appeal Lodged	11/08/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	19		
Planning Ref:	LA07/2019/1600/	PAC Ref:	2020/E0001
APPELLANT	Mr Paul Cunningham	DEA	Slieve Croob
LOCATION	5c Teconnaught Road Downpatrick		
PROPOSAL	Existing dwelling		
APPEAL TYPE	DC- Refusal of CLUD		
Appeal Procedure		Date Appeal Lodged	16/07/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

218

ITEM NO	20		
Planning Ref:	LA07/2018/1601/	PAC Ref:	2021/A0006
APPELLANT	Mr K O'Hagan	DEA	Newry
LOCATION	55 Stream Street Newry BT34 1HJ		
PROPOSAL	Proposed demolition of existing building and construction of 2 No. apartments		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	18/05/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	21		
Planning Ref:	LA07/2020/1568/	PAC Ref:	2021/A0009
APPELLANT	Mr & Mrs Pat Hayes	DEA	Slieve Croob
LOCATION	To The Rear And Immediately South West Of 62 Crawfordstown Road Dumaness		
PROPOSAL	Retrospective extension to domestic curtilage, construction of garden feature and greenhouse along with all associated hard and soft landscaping.		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	18/05/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

219

ITEM NO	22		
Planning Ref:	LA07/2020/1053/	PAC Ref:	2021/A0012
APPELLANT	Airfibre Limited	DEA	Slieve Croob
LOCATION	Transmission Site At Hamiltons Folly Approx. 295m SE Of 20 Mountain Road Ballynahinch		
PROPOSAL	Retrospective application for 15 m lattice tower, including mast and cabin with security fencing and pedestrian access gateway		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	18/05/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	23		
Planning Ref:	LA07/2020/1187/	PAC Ref:	2021/A0013
APPELLANT	Norman Harvey	DEA	Rowallane
LOCATION	Approx. 25m South Of 32 Kilmore Road Crossgar		
PROPOSAL	Dwelling		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	19/05/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

220

ITEM NO	24		
Planning Ref:	LA07/2019/1390/	PAC Ref:	2021/A0020
APPELLANT	Elizabeth Cherry	DEA	Rowallane
LOCATION	Approx. 78m South Of 94 Lisbane Road Ballynahinch		
PROPOSAL	Proposed erection of a shed		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	19/05/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	25		
Planning Ref:	LA07/2020/1360/	PAC Ref:	2021/A0022
APPELLANT	Charlie Magennis	DEA	The Mournes
LOCATION	Base And Morelli's 71-73 Central Promenade Newcastle		
PROPOSAL	Proposed erection of temporary retractable awning and lightweight structure		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	09/06/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

221

ITEM NO	26		
Planning Ref:	LA07/2020/0920/	PAC Ref:	2021/A0028
APPELLANT	Michael McCarthy & Jarleth McCart	DEA	Crotlieve
LOCATION	North East And Adjoining No 9 Rock Road Newry		
PROPOSAL	Dwelling on a Farm with Domestic Garage		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	08/06/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	27		
Planning Ref:	LA07/2020/1077/	PAC Ref:	2021/A0031
APPELLANT	Mr Eammon McAteer	DEA	Crotlieve
LOCATION	12 Cullion Road Mayobridge BT34 2HU		
PROPOSAL	Improvements to existing lorry parking area, erection of a building for the maintenance of lorries and collection and compacting of cardboard, polystyrene for transfer to re cycling centers		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	25/05/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

222

ITEM NO	28		
Planning Ref:	LA07/2021/0146/	PAC Ref:	2021/A0032
APPELLANT	Paul Wilson	DEA	Slieve Croob
LOCATION	75 Dromore Road Ballykine Upper Ballynahinch		
PROPOSAL	Erection of replacement dwelling, detached garage and conversion of existing dwelling to stables		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	25/05/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	29		
Planning Ref:	LA07/2021/0096/	PAC Ref:	2021/A0033
APPELLANT	Mr Bailey	DEA	Rowallane
LOCATION	18a Drumgivan Road Drumgivan Ballynahinch		
PROPOSAL	Extension and renovation of Schoolhouse to domestic dwelling		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	25/05/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

223

ITEM NO	30		
Planning Ref:	LA07/2020/0770/	PAC Ref:	2021/A0034
APPELLANT	Jamie McDonald	DEA	Newry
LOCATION	Lands Approx. 40m NE Of 29 Clontigora Hill Newry		
PROPOSAL	Infill dwelling and garage, associated landscaping and site works		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	25/05/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	31		
Planning Ref:	LA07/2020/0115/	PAC Ref:	2021/A0046
APPELLANT	Brendan Ferris	DEA	Slieve Croob
LOCATION	110 Southwest Of 50 Crawfordstown Road Downpatrick		
PROPOSAL	Retrospective change of use of agricultural building to gym		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	28/06/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

224

ITEM NO	32		
Planning Ref:	LA07/2020/0079/	PAC Ref:	2021/A0049
APPELLANT	M Farrell	DEA	Newry
LOCATION	Lands Approximately 50m North West Of No. 53 Ayallogue Road Newry		
PROPOSAL	Dwelling and garage on gap site		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	14/06/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	33		
Planning Ref:	LA07/2020/1828/	PAC Ref:	2021/A0051
APPELLANT	Richard Hall	DEA	Slieve Croob
LOCATION	Adjacent And Immediately North Of 42 Old Belfast Road Dundrum		
PROPOSAL	Newcastle Infill site for dwelling with domestic garage		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	16/06/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

225

ITEM NO	34		
Planning Ref:	LA07/2021/0616/	PAC Ref:	2021/A0052
APPELLANT	Andrew Davis	DEA	Downpatrick
LOCATION	East And Adjacent To 4 Turmennan Road Crossgar		
PROPOSAL	Dwelling at a crossroads/cluster in compliance with PPS21 CTY2a		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	21/06/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	35		
Planning Ref:	LA07/2021/0302/	PAC Ref:	2021/A0058
APPELLANT	Anne Mullan	DEA	Rowallane
LOCATION	20 Darragh Road Crossgar		
PROPOSAL	Retention of dwelling as annexe to 20 Darragh Road, Crossgar, with construction of new garage link (Retrospective)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	28/06/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

226

ITEM NO	36		
Planning Ref:	LA07/2020/0387/	PAC Ref:	2021/A0074
APPELLANT	Mr C O'Connor	DEA	Slieve Croob
LOCATION	59 Drumnaquoile Road Castlewellan		
PROPOSAL	Change of house type and siting in substitution to Planning permission LA07/2018/1590/F		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	21/07/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	37		
Planning Ref:	LA07/2021/0450/	PAC Ref:	2021/A0075
APPELLANT	Paul Smith	DEA	The Mournes
LOCATION	57 Castlewellan Road Newcastle		
PROPOSAL	Artist studio and study to existing dwelling, for domestic use associated with the dwelling		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	28/07/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

227

ITEM NO	38		
Planning Ref:	LA07/2020/1906/	PAC Ref:	2021/E0010
APPELLANT	Eamonn McAteer McAteer Recyclin	DEA	Crotlieve
LOCATION	Lands At And To The Rear Of No. 12 Cullion Road Mayobridge		
PROPOSAL	Newry Existing area, yard and access, for storage, parking and circulation of vehicles associated with McAteer Recycling Ltd, and all associated site works and infrastructure		
APPEAL TYPE	DC- Refusal of CLUD		
Appeal Procedure		Date Appeal Lodged	10/06/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	39		
Planning Ref:	LA07/2020/0622/	PAC Ref:	2021/E0013 LDC
APPELLANT	Mr Robert Hollywood	DEA	Slieve Gullion
LOCATION	Located Upon Lands Approximately 100 Meters North West Of No.34 Church Road		
PROPOSAL	Shean The use of the building is agricultural and used for agricultural storage purposes associated with the existing farm enterprise		
APPEAL TYPE	DC- Refusal of CLUD		
Appeal Procedure		Date Appeal Lodged	09/06/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

228

ITEM NO	40		
Planning Ref:	LA07/2020/1532/	PAC Ref:	2021/E0014 LDC
APPELLANT	Ms Colleen McGinnis	DEA	Crotlieve
LOCATION	Lands At No.33B Ballyvally Road Ballyvally Mayobridge		
PROPOSAL	The applicant is seeking a Certificate of Lawfulness (COLEUD) for an existing use or development in relation to an existing access arrangement, hardcore access laneway, 2 No ancillary oil tanks and boiler enclosure, ancillary 1 No detached timber garage, ancillary hard		
APPEAL TYPE	DC- Refusal of CLUD		
Appeal Procedure		Date Appeal Lodged	09/06/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			



Appeal Decision

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Appeal Reference:	2020/A0030
Appeal by:	Mr J Carr
Appeal against:	The refusal of outline planning permission
Proposed Development:	Single farm dwelling
Location:	Lands adjacent to 75 Chapel Road, Meigh, Killeavy, Newry, Co.Down
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2018/1973/O
Procedure:	Written representations and Commissioner's site visit on 25 June 2021
Decision by:	Commissioner McShane, dated 8 July 2021

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are:
 - whether the dwelling is acceptable in principle; and
 - its effect on visual amenity and rural character.
3. Section 6 (4) of the Planning Act (NI) 2011 requires that the determination of proposals must be in accordance with the local development plan (LDP) unless material considerations indicate otherwise. The Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) operates as a LDP. The appeal site is located in the countryside and BNMAP contains no material policies for the type of development being proposed. Therefore, I turn to other material considerations; the relevant regional policies.
4. The regional policy context is provided by the Strategic Planning Policy Statement for NI (SPPS). The transitional arrangements set out in Paragraph 1.10 of the SPPS indicate that until such times as a Plan Strategy for the whole Council area has been adopted, planning authorities will apply existing policy within the retained policy documents together with the SPPS. Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21) is identified as a retained policy document.
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 will contribute to the aims of sustainable development. This includes a dwelling on a

- farm in accordance with Policy CTY 10. Other types of development will only be permitted where there are overriding reasons why that development is essential.
6. Policy CTY 10 states that planning permission will be granted where three criteria are met. The parties dispute Criterion (c), which requires that the new building is visually linked or sited to cluster with an established group of buildings on the farm. Paragraph 5.41 of the Justification and Amplification section states that to help minimise impact on the character and appearance of the landscape such dwellings should be positioned sensitively with an established group of buildings on the farm, either to form an integral part of that particular building group, or when viewed from surrounding vantage points, it reads as being visually interlinked with those buildings, with little appreciation of any physical separation that may exist between them.
 7. The 0.18ha appeal site, comprising a portion of a road frontage field, is located adjacent to No.75 Chapel Road; a recently constructed modern bungalow. The established group of buildings on the farm are located approximately 30m north-west and on the opposite side of the road from the appeal site, beyond No.74.
 8. The Appellant argues that a dwelling on the appeal site would be visually linked with the existing farm buildings due to the location of the farm holding at the base of a steep valley formed by the slopes of Slieve Gullion to the west and Camlough Mountain to the east. However, the photographs presented to verify this claim are long distance and show panoramic views. The Appellant's view that the appeal site is "sufficiently close" to the group of farm buildings does not satisfy the policy test set out in Policy CTY 10.
 9. Travelling in both directions along Church Road, intervening mature vegetation, the curvature of the road, separation distance and the location of the established farm buildings would mean that there would be a clear appreciation of the physical separation between them and the proposed dwelling. Rather than the proposed dwelling being visually interlinked with an established group of buildings on the farm as required by policy, it would visually link with the immediately adjacent residential development to the south east.
 10. The site specific circumstances of the appeal proposal are distinguishable from those in Appeal 2018/A0247. In that instance, there was an absence of intervening vegetation while the vertical and horizontal alignment of the road were such as to facilitate visual linkage between the appeal site and the farm buildings. Consequently, there was only limited appreciation of their physical separation, notwithstanding the intervening road.
 11. Criterion (c) of Policy CTY 10 refers to exceptional circumstances where 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 existing farm business at the existing building group(s).
 12. The Appellant dismissed five potential site locations in the vicinity of the established group of farm buildings on Chapel Road. However, slurry storage is a matter common to many farms. Furthermore, no appropriate and demonstrable

evidence from a competent and independent authority, such as the Health and Safety Executive or Environmental Health Department of the local Council, has been submitted that would justify the proposed siting. It was also claimed that development on some of the sites assessed may "potentially hinder farm development". However, no was evidence submitted relating to the future expansion of the farm business, such as valid planning permissions, building control approvals or contractual obligations.

13. Policy requires that an alternative site will only be considered provided there are no other sites available at another group of buildings on the farm. In addition to the lands and farm yard/livestock wintering buildings at Chapel Road, the farm holding includes lands located at Ballintemple Road. There is no confirmation that there is not an established group of farm buildings at that location. There are no overriding reasons why the development is essential at the proposed location. In the circumstances outlined above, the Council has sustained its first reason for refusal based upon the SPPS and Policies CTY 1 and 10 of PPS 21.
14. All proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations.
15. Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape. Seven criteria are listed wherein a new building will be unacceptable. I have already concluded above that the proposed dwelling would not be visually linked or sited to cluster with an established group of buildings on a farm. Accordingly, the Council has sustained its second reason for refusal based upon the SPPS and Criterion (g) of Policy CTY 13 of PPS 21.
16. 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 an area. Five criteria are listed wherein a new building will be unacceptable. Criterion (d) relates to the creation of a ribbon of development and references Policy CTY 8, which states that planning permission will be refused for a building which creates or adds to a ribbon of development.
17. Travelling along Chapel Road, a dwelling on the appeal site would read with three existing road frontage dwellings, No.75, No.73a and No.73. These stand immediately adjacent to the south east. Approval of the appeal proposal would extend a ribbon of development that would be detrimental to the character, appearance and amenity of the countryside. Accordingly, the Council has sustained its third and fourth reasons for refusal based upon the SPPS and Policy CTY 8 and Policy CTY 14 of PPS 21.
18. The Council has sustained its four reasons for refusal and the appeal fails.

This decision is based on the following drawing:-

- LPA Drwg No.01: Site Location Map (Scale 1:2500)

COMMISSIONER MCSHANE

List of Documents

Planning Authority:- "LPA 1" Statement of Case and Appendices

Appellant:- "APP 1" Statement of Case and Appendices



Appeal Decision

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234

Appeal Reference:	2020/A0003
Appeal by:	Mrs E. Fitzsimons.
Appeal against:	The refusal of full planning permission.
Proposed Development:	Retention of building in substitution of previous approval LA07/2015/1224.
Location:	53a Saintfield Road, Crossgar.
Planning Authority:	Comhairle Ceantair an Iúir, Mhúrn agus an Dúin. Newry, Mourne and Down District Council.
Application Reference:	LA07/2019/1021/F
Procedure:	Written representations and Commissioner's Site Visit on 8 th June 2021.
Decision by:	Commissioner Damien Hannon, dated 27th July 2021.

Decision

1. The appeal is dismissed.

Reasons

2. The main issues raised by this appeal relate to whether the proposed development is acceptable in principle in the countryside and to road safety.
3. The Ards and Down Area Plan 2015 (ADAP), the statutory development plan relevant to the appeal site, contains no policies specific to the appeal proposal. The relevant policy context is provided by Planning Policy Statement 21 - Sustainable Development in the Countryside (PPS 21), Planning Policy Statement 3 - Access, Movement and Parking (as clarified) (PPS 3) and the Strategic Planning Policy Statement for Northern Ireland - Planning for Sustainable Development - September 2015 (SPPS).
4. The appeal site comprises the curtilage of No 53, a detached dwelling occupying a plot accessed via a laneway of some 300m in length, off Saintfield Road. The site also previously accommodated a two storey stone building with a slate roof and a single storey corrugated iron roofed return. On 28th February 2017, a certificate of Lawfulness of Existing Use or Development was issued in respect of this stone building for 'Conversion of existing residential building to create additional residential units' (LA07/2016/1508/LDE).
5. The, on 7th September 2017, planning permission was granted for the conversion and extension of this vernacular stone outbuilding to form a dwelling (Ref LA07/2015/1224/F). The scheme involved removal of the single storey element of

the existing building, retention and conversion of the two storey stone building and construction of a part single storey, part two storey extension of modern design, finished in white painted render on the ground floor with dark grey standing seam zinc roofing and aluminium dormer windows at first floor.

6. On 23rd August 2018, during works to implement this permission, a survey of the stone building was carried out. The subsequent 'Structural Inspection Report' concluded that the building was structurally unstable and not capable of supporting the proposed capping beam, cavity walls or first floor and roof loads. Pursuant to this advice, the appellant decided to remove the existing building and begin construction of a new building of similar dimensions using a mixture of modern materials internally and exterior stonework. At the time of my visit, building work, although at an advanced stage, had ceased.
7. Policy CTY 1 of PPS 21 sets out a range of types of development which are acceptable in the countryside in principle. The appellant argued the proposal to be acceptable as it complied with policies CTY 3 and CTY 4 of PPS 21. Policy CTY 3 states that planning permission will be granted for a replacement dwelling where the building exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. As the original building has been removed, Policy CTY3 provides no support for the proposal. Policy CTY 4 of PPS 21, as clarified by paragraph 6.73 of the SPPS, allows for the sympathetic conversion, with adaptation if necessary, of a locally important building for use as a single dwelling, where this would secure its upkeep and retention. Similarly, as the original building has been removed, the proposal cannot comply with Policy CTY 4, as clarified.
8. Policy CTY 1 also states that other types of development in the countryside will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement. The appellant advanced no argument in this respect and I therefore conclude that the proposal runs contrary to Policy CTY 1 of PPS 21.
9. PPS 21 states that its policies set out the main planning considerations in assessing proposals for development in the countryside and that the provisions of these policies will prevail unless there are other overriding policy or material considerations that outweigh them and justify a contrary decision. The appellant referred to the following factors:-
 - The appellant was unaware of the structural condition of the building until after construction commenced and did not know that rebuilding the stone structure may be in breach of planning control.
 - The proposed scheme is very similar to that approved in terms of scale and design.
10. I accept that the circumstances that befell the appellant in this case were unfortunate and that this factor must attract commensurate weight. Nonetheless, the presentation, submission and management of a development proposal is ultimately the responsibility of the applicant, either individually or in association with advisors. The structural soundness of the building could have been assessed prior to or during the application process. Also, while I can see from my inspection that the proposal is similar to that approved in terms of siting, design and massing, I do not consider it possible to replicate the patina of the original stone building.

Taking all the evidence in the round, I do not consider that the particular circumstances pertaining to this case, either individually or cumulatively, constitute overriding policy or material considerations that outweigh the objection to the proposal on grounds of policy and principle, that I have found sustained, or justify a contrary decision. I consequently consider the Council's objection to the proposal in principle to be well founded and its first, second and third reasons for refusal, based on policies CTY 1, CTY 3 and CTY 4 to be sustained.

11. A new dwelling at the appeal site would constitute the intensification of the use of an existing access onto a protected route. Policy AMP 3 of PPS 3 (as clarified) states that planning permission will only be granted for a development proposal involving the intensification of the use of an existing access onto a protected route in certain stated cases. The proposal does not fall within any of these cases, which include a replacement dwelling and the conversion of a locally important building, and the Council's fourth reason for refusal based on Policy AMP 3 is sustained.
12. I find all four of the Council's reasons for refusal, which I have sustained, to be determining in this case.

This decision is based on drawings numbered LA07/2019/1021/ 02, 03, 04, 05 and 06 received by the Council on 26th June 2019 and drawings numbered LA07/2019/1021/ 01 and 07 received by the Council on 5th November 2019.

COMMISSIONER DAMIEN HANNON

List of Documents

Planning Authority:-

COU 1 Statement of Case
COU 2 Rebuttal

Appellant:-

APP 1 Statement of Case



Appeal Decision

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Appeal Reference: 2020/A0067
Appeal by: Mr David Strain
Appeal against: The refusal of outline planning permission
Proposed Development: Dwelling
Location: Adjacent to 15 Liska Road, Newry
Planning Authority: Newry, Mourne and Down District Council
Application Reference: LA07/2019/1815/O
Procedure: Written representations and Commissioner's site visit on 14 May 2021
Decision by: The Commission, dated 27 July 2021

The Commission has considered the report by Commissioner Gareth Kerr and accepts his analysis of the issues and recommendation that the appeal should fail. The Commission agrees that the reasons for refusal have been sustained.

Decision – the appeal is dismissed.

This decision is based on the following drawings:

Number	Title	Scale	Date Received by Planning Authority
01	Site Location Map	1:1250	5 December 2019
02	Topographical Survey and Proposed Site Plan	1:200	5 December 2019
03	Proposed Site Section	1:250	4 March 2020

ANDREA KELLS
Chief Commissioner

PLANNING APPEALS COMMISSION

**THE PLANNING ACT (NORTHERN IRELAND) 2011
SECTION 58**

**Appeal by Mr David Strain
against the refusal of outline planning permission for a dwelling
adjacent to 15 Liska Road, Newry**

**Report by
Commissioner Gareth Kerr**

Planning Authority Reference: LA07/2019/1815/O

Procedure: Written Representations with Commissioner's site visit on 14th May 2021

Report Date: 21st July 2021

1.0 BACKGROUND

1.1 Newry, Mourne and Down District Council received the application on 5th December 2019. By notice dated 18th May 2020 the Council refused permission giving the following reasons:-

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy QD 1 (Criteria A and H) of Planning Policy Statement 7 (PPS 7): Quality Residential Environments, as it is considered that the proposal would not respect the surrounding context and is not appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas and the proposal will result in an unacceptable adverse effect on existing properties by way of overlooking, loss of privacy, loss of light, overshadowing and dominance.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Planning Control Principles 1, 2 and 3 of Planning Policy Statement 12 (PPS 12): Housing in Settlements as it is considered that the density, together with the form, scale, massing and layout of the proposal would not respect that of adjacent housing and would not safeguard the privacy of existing residents, would significantly erode the local character, environmental quality and amenity of the residential area, is not considered to be good design in terms of design, layout and landscaping and is not considered to be a sustainable form of development.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy LC1 of Planning Policy Statement 7 (PPS 7) (Addendum) Safeguarding the Character of Established Residential Areas in that the applicant has failed to demonstrate that all of the criteria set out in Policy QD1 of PPS7: Quality Residential Environments has been met and fails to meet any of the additional criteria (A, B and C) of Policy LC1.

1.2 The Commission received the appeal on 15th September 2020 and advertised it in the local press on 30th September 2020. Two representations were received from third parties.

2.0 SITE AND SURROUNDINGS

2.1 The appeal site comprises the north eastern portion of the curtilage of No. 15 Liska Road, a detached dwelling set within a generous plot. The site is at the northern end of a cul-de-sac which serves five large detached dwellings with a mix of single and two storeys. The topography of the local area slopes steeply, generally from west to east, and surrounding residential development makes widespread use of retaining structures.

2.2 The site itself is uneven and sits in an elevated position in relation to the properties to the north and east, which are accessed from Hawthorn Hill. It has been partially cleared of mature trees with approximately 14 tall trees remaining, mostly along the south western boundary. There is a 2 metre high close board timber fence running through the south west of the site separating the deforested area from the main part

of the curtilage. A former ranch-style fence to the eastern boundary is broken down. The northern boundary is poorly defined other than by a change in levels. The south western site boundary is not defined on the ground and cuts through part of the driveway leading to No. 15. The ground level falls over 7 metres from west to east across the northern end of the site.

3.0 PLANNING AUTHORITY'S CASE

- 3.1 The site lies within the development limit for Newry City as set out in the Banbridge, Newry and Mourne Area Plan 2015. The Area Plan is silent on the land use for the area. In accordance with the transitional arrangements set out in paragraph 1.12 of the Strategic Planning Policy Statement for Northern Ireland (SPPS), the proposal for a single dwelling should be determined in accordance with the retained policies. Of particular relevance to this application are Planning Policy Statement 3: Access, Movement and Parking (PPS 3), Planning Policy Statement 7: Quality Residential Environments (PPS 7), the Addendum to PPS 7: Safeguarding the Character of Established Residential Areas (APPS 7), Planning Policy Statement 12: Housing in Settlements (PPS 12) and supplementary planning guidance in *Creating Places* and Development Control Advice Note 8 (DCAN 8).
- 3.2 The main policy context is provided by PPS 7 which states that in established residential areas, proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity. Policy QD1 sets out a number of criteria that proposals for residential development should meet. The Council considers that the appeal proposal does not meet criteria (a) and (h).
- 3.3 Criterion (a) of Policy QD1 requires that the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas. Existing properties along Liska Road have quite large frontages onto the public road and the dwellings face onto the road. The proposal does not respect the surrounding residential context as the frontage to the road is only the width of the access and the dwelling would be orientated with the gable facing the road. The sloping and uneven topography of the site means substantial cutting and filling would be required to place a dwelling on it and the dwelling may have to be split level. The necessary earthworks and retaining walls would impact on the character of the area.
- 3.4 Under criterion (h), the design and layout should not create conflict with adjacent land uses and there should be no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance. The dwelling would be located on an elevated site above the adjacent properties at Nos. 6 and 8 Hawthorn Hill. Although the application is for outline permission, the indicative layout and cross section show the potential impact of the proposal on the neighbouring dwellings. There would be a two storey elevation facing towards No. 6. Given the elevated nature of the site, this would result in overlooking and perceived overlooking of adjacent properties and so result in a loss of privacy. The dwelling would also appear dominant when viewed from the rear amenity area of No. 6. The position of the dwelling would result in loss of light to and overshadowing of No. 8 to the north, harming its residential amenity. There would be no unacceptable

impact from noise and light associated with the new dwelling in what is an established residential area.

- 3.5 Policy LC1 of the Addendum to PPS7: Safeguarding the Character of Established Residential Areas requires that as well as meeting all the criteria set out in Policy QD1 of PPS 7, proposals for new housing in established residential areas should meet three additional criteria. The proposal is contrary to criterion (a) of Policy LC1 as its density is significantly higher than that found in the established residential area of Liska Road given the size of existing plots including the large plot at No. 15. The proposed plot would be smaller than those in the area. It also fails criterion (b) as the pattern of the development is not in keeping with the overall character and environmental quality of the established residential area. The dwelling would appear cramped on the site and would be surrounded by retaining structures. Existing development in the established residential area on this part of Liska Road has large frontages onto the road with dwellings facing the road whereas the appeal proposal would have a small frontage to the road and the gable facing the road. The elevated site would also lead to amenity issues for adjacent properties. With regard to criterion (c), it has not been demonstrated that the overall size of the dwelling would meet the minimum space standards set out in Annex A.
- 3.6 The proposal is contrary to the first three Planning Control Principles set out in PPS12. The density, form, scale, massing and layout of the proposal would not respect that of adjacent housing, would not safeguard the privacy of existing residents and would significantly erode the local character, environmental quality and amenity of the area. The layout and landscaping of the scheme (including cutting and filling) is not seen as good design. While the site is within the settlement, the development would harm the character of the immediate residential area and is not therefore a sustainable form of development.
- 3.7 With regard to other points raised by the objectors, the Council has consulted with DFI Roads and is satisfied that the access arrangements comply with the requirements of PPS 3. Concern that the proposal would devalue surrounding properties is not normally a planning consideration. The issue of trees from the site having caused damage to neighbouring properties is a civil matter between the land owners. Any future application for an access from Liska Road would have to be considered on its own merits against relevant policy at the time and the appeal proposal would not preclude subsequent applications. With regard to the stability of the land, any building works would have to be built to a safe standard in accordance with building regulations.
- 3.8 If the appeal is allowed, the following conditions are suggested on a without prejudice basis:
- Underbuilding shall not exceed 0.45 metres at any point;
 - Floor levels of the proposed dwelling in relation to existing and proposed ground levels of adjoining dwellings to be submitted to and approved by the Council;
 - Maximum ridge height of 6.5 metres above finished floor level;
 - Access to be constructed in accordance with RS1 form;
 - Details of tree and shrub planting to be approved by the Council;
 - Trees to be planted along the northern and southern boundaries of the site during the first planting season after occupation of the building.

4.0 OBJECTORS' CASE

- 4.1 There are a number of inaccuracies in the appellant's evidence which began when the original application address was described as 15 Liska Drive. No such address exists. Split level houses are not characteristic of the area. There are only 2 split level houses and most existing dwellings are bungalows. The trees described as being on the boundary line with No. 6 Hawthorn Hill are four feet inside that property and are not on the appeal site. They have been left here on the advice of a professional tree surgeon only to break the fall of any trees from the appeal site that could otherwise destroy the house. They will be removed when the trees on the appeal site are made safe. There are two windows in the gable of No. 8 Hawthorn Hill and multiple windows along the back wall which would be affected. Contrary to the appellant's evidence, there are no mature trees along the northern boundary of the appeal site. The above inaccuracies demonstrate that the agent has failed to properly assess the site.
- 4.2 The site is unsafe for the erection of a dwelling as the site boundary sits 16ft above the back of No. 6. Previous planning applications on the site have been refused for safety reasons. The proposed access and parking runs along the boundary and vehicles could run off and crash into the existing house or garden. DFI Roads have commented only on the entrance and not on the safety of the access alongside the site boundary. The ground in the area is always wet due to the presence of springs which could be disturbed. Construction works could cause a landslide or oil spill. In 2006 a young male fell from Liska Road into the garden of No. 6 and was killed. An entrance close to this point could result in more fatalities.
- 4.3 Two trees up to 80ft in height fell from the appeal site onto No. 6 during "Storm Ali" in September 2018 causing considerable damage and the occupiers had to move out of the house for over a year until repairs were completed. They still cannot use their rear bedrooms. A house insurance company had to pay £105,000 to remove the fallen trees and repair the property. The occupants of No. 8 Hawthorn Hill subsequently paid £10,000 to remove up to 40 trees from the appeal site out of concern for their own safety, but the appellant appears to have no regard for the safety of neighbours. The removal of the remaining stumps and roots may impact on the integrity of the plateau. The proposal for new planting on the eastern boundary means the occupants of No. 6 would be living in fear of more trees in future. The appeal proposal would render this dwelling uninhabitable and unsaleable. The lights and noise associated with the new dwelling would also harm the amenity of residents at No. 6 and would be detrimental to the health of a family member with a medical condition.
- 4.4 As the site is elevated in relation to both neighbouring properties, the proposal would result in overlooking and loss of privacy to both dwellings. It would overlook areas that are currently private including gardens and bedroom windows and would negatively impact on the objectors' ability to enjoy their homes. It would also be unacceptably dominant and overbearing due to its level. The provision of retaining structures may adversely impact on the objectors' properties.
- 4.5 The position and level of the dwelling would result in loss of light to No. 8 Hawthorn Hill as the base of the building would be close to the roof level of the existing dwelling. The proposed dwelling and any boundary wall or fence would block daylight reaching No. 8 from midday onwards.

- 4.6 The siting and appearance of the proposed dwelling would not be in keeping with the character of the area. The site is significantly smaller than the neighbouring sites and the new dwelling perched above neighbouring properties would lead to overcrowding, adversely impacting on the character, appearance and landscape of the area. The average plot size of the four properties adjoining the site is 1505 sq.m which far exceeds the appeal site area of 600 sq.m. No. 5 Liska Manor is not an adjoining plot and should not be included in the assessment.

5.0 APPELLANT'S CASE

- 5.1 The appellant and his wife currently live in No. 15 and intend to down-size and retire to this dwelling. The principle of development is acceptable within the settlement limits for Newry subject to compliance with the SPPS and PPSs 3, 7 and 12. The site is located within an established residential area. The proposed split level design reflects the topographical characteristics of the area and resonates with the layout of the existing surrounding properties. The position and floor level of the dwelling will ensure that there are no adverse implications such as overlooking, loss of light, or loss of amenity to neighbouring properties.
- 5.2 The overall plot of 15 Liska Road is 4057 sq.m which is large enough to facilitate the development on a 600 sq.m site within it without town cramming. The site area of 600 sq.m is greater than the smallest plot of the neighbouring properties (452 sq.m at 5 Liska Manor). The average plot size of the adjoining dwellings is 856 sq.m.
- 5.3 Given the sloping nature of the area, a large number of the existing dwellings on Liska Road and Hawthorn Hill (and the wider Dublin Road area) are split level. These properties were designed around retaining walls and with careful landscaping. The new dwelling would be in keeping with this established character and design. The overall design, levels, landscaping, boundary treatments and hard surfacing would be resolved in detail under a reserved matters application and qualified professional advice will ensure that the development will be completely safe.
- 5.4 The existing boundary with No. 6 Hawthorn Hill has large mature trees which gives a degree of privacy for both the appeal site and the neighbouring dwelling. It is proposed to reinforce this boundary with new landscaping and the erection of a fence could be conditioned if required. A condition could be imposed to prevent any windows in the north elevation to protect the privacy of No. 8 Hawthorn Hill.
- 5.5 The site is situated to the south of the gable of No. 8 Hawthorn Hill which has no windows and therefore the proposal will not cause loss of light to the property. There are already large mature trees along this boundary that would reduce light more than the appeal proposal. The site sits to the west of No. 6 Hawthorn Hill and due to the topography of the site and positioning of the new dwelling, it would only affect late evening summer sun. The sun already disappears behind the hill in the early evening.
- 5.6 The cross section demonstrates that the living accommodation on the upper floor would be at a higher level than the ridge of No. 6 Hawthorn Hill and the separation distance would be 23.5m. The level difference and separation distance will ensure no overlooking, overshadowing or dominance.

6.0 CONSIDERATION

- 6.1 The main issue in this appeal is whether the proposal would create a quality residential environment.
- 6.2 Section 45 (1) of the Planning Act (Northern Ireland) 2011 states that regard must be had to the local development plan (LDP), so far as material to the application, and to any other material considerations. Where regard is to be had to the LDP, Section 6 (4) of the Act requires that the determination must be made in accordance with the plan unless material considerations indicate otherwise. The Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) operates as the LDP for this part of the Newry, Mourne and Down District. The appeal site lies within the settlement development limit for Newry City under designation NY 01 of BNMAP and is on 'whiteland' or land not zoned for any particular land use. There are no other provisions in BNMAP that are material to the determination of the appeal, so the proposal would accord with the LDP in principle. The other material considerations of relevance are considered below.
- 6.3 The SPPS sets out transitional arrangements that will operate until a local authority has adopted a Plan Strategy for their council area. It also retains certain existing planning policy statements. These include PPS 3, PPS 7, APPS 7 and PPS 12 which are of relevance in the appeal. The SPPS further states that 'Creating Places: Achieving Quality in Residential Developments' and DCAN 8: Housing in Existing Urban Areas will continue to be treated as material considerations. The SPPS is no more prescriptive than the abovementioned retained policies and thus the retained policies take precedence in decision making in accordance with the transitional arrangements outlined in the SPPS.
- 6.4 Policy QD1 of PPS 7 states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. The design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area. It goes on to say that proposals for housing development in established residential areas will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of the area. Criterion (a) of Policy QD1 specifically requires that *"development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas"*. Criterion (h) requires that *"the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance"*.
- 6.5 APPS 7 aims to reinforce existing planning policy on housing within urban areas by introducing additional provisions to protect areas of established residential character, environmental quality and local amenity. Policy LC1 states that planning permission will only be granted for new housing in established residential areas where three additional criteria are met:-
 (a) *the proposed density is not significantly higher than that found in the established residential area;*

- (b) *the pattern of development is in keeping with the overall character and environmental quality of the established residential area; and*
 - (c) *all dwelling units are built to a size not less than those set out in Annex A.*
- 6.6 PPS 12 sets out four planning control principles for housing in settlements which are also embodied in the SPPS. These principles are more strategic and aspirational in nature and the issues raised are more than adequately covered in PPS 7 and its addendums. Given PPS 12 raises overlapping issues, they will be considered in conjunction with the policies of PPS 7 and the SPPS.
- 6.7 Although the appeal seeks outline planning permission, the submitted drawings indicate that a two storey dwelling with a rectangular plan-form measuring 12 metres by 7.6 metres is proposed for consideration. The cross section indicates that the ridge height of the dwelling would be approximately 7.5 metres above the finished ground floor level. The ridge line of the dwelling would be aligned from north to south with its gable facing the road to the south. The western side of the building would be cut into the hillside so that the finished ground level at that side would be at first floor level. Accordingly, the proposal could not accurately be considered a split level dwelling which is normally understood to mean a house with staggered floor levels. The Design and Access Statement which was submitted with the planning application indicates that most of the bedrooms would be on the ground floor and the main living areas would be on the first floor. A short driveway and car parking area would be provided to the south of the dwelling. Given the steep topography of the site, retaining structures are proposed which would run to the north and south of the house to accommodate the change in levels across the site from west to east. New planting is indicated to the site boundaries.
- 6.8 It was not disputed that the site is within an established residential area. Annex E of APPS 7 defines established residential areas as residential neighbourhoods dominated by medium to low density single family housing with associated private amenity space or gardens. These often display a clear spatial structure in larger settlements (such as Newry). The site is surrounded by dwellings in the cul-de-sac of Liska Road, the adjoining residential development to the north and east fronting the Dublin Road and the Hawthorn Hill development. The established development pattern in each of these areas comprises generous plots with wide frontages containing detached dwellings aligned to front onto the road. While there is a finer urban grain displayed to the north beyond Glen Hill and to the south in Chancellors Hall, the area surrounding the appeal site is dominated by larger plots with mainly detached dwellings. The properties at Liska Manor, highlighted by the appellant, would be at the upper end of the density scale in this wider Dublin Road area and are not reflective of the more spaced out pattern of development evident in the majority of the area including Hawthorn Hill, Liska Road, Liska Villas, Liska Heights, Liska Avenue, Loretto Park and the properties fronting Dublin Road. Although the plot of No. 15 Liska Road which is to be sub-divided is unusually large, the average plot size of the surrounding dwellings would be around two and a half times larger than the appeal site. The appeal plot would have a frontage of only 4 metres to the road which would be at odds with the surrounding area.
- 6.9 Paragraph 4.16 of the Justification and Amplification text to Policy QD1, dealing with layout considerations, states that all buildings should be located and orientated to front onto existing and proposed roads to present an attractive outlook. The proposed

dwelling would be orientated with its gable towards the road and its frontage would face east towards the rear of No. 6 Hawthorn Hill. While the orientation and design of the proposed dwelling is dictated by the irregular plot shape and the direction and gradient of the slope, a building of the scale and massing suggested would appear cramped on this small and somewhat contrived plot. Accordingly, it would not respect the surrounding pattern of development or the overall character of the area and the proposed density would be significantly higher than that found within the established residential area.

- 6.10 In light of the topography of the basin in which Newry City is built, the use of retaining structures to facilitate development is not uncommon and this of itself would not justify the withholding of planning permission. However, paragraph 2.17 of Creating Places notes that prominent retaining structures on sloping sites will be unacceptable. While there are large retaining walls within the adjacent sites (Nos. 6 and 8 Hawthorn Hill), these are to the side and rear of the dwellings and there is a limited perception of them from public viewpoints. The longer of the two retaining structures in the proposed scheme would be to the south of the dwelling, between it and Liska Road, from where it would appear prominent from public views along the cul-de-sac. For the reasons set out above, I conclude that the development would not respect its surrounding context. Accordingly, criterion (a) of Policy QD1, criteria (a) and (b) of Policy LC1 and the related objections under PPS 12 would be offended. Irrespective of the fact that the appeal proposal is in respect of outline planning permission, I consider that the confines and topography of the site are such that it would be difficult to accommodate a quality residential development therein.
- 6.11 The Council avers that with regard to criterion (c) of Policy LC1, because the proposal is for outline permission, it has not been demonstrated that the overall size of the dwelling would meet the minimum space standards set out in Annex A. However, the indicative layout, when read in conjunction with the Design and Access Statement, reveals that the proposed dwelling would have a floor area of around 180 square metres. This far exceeds the minimum standards specified in Annex A for a four bedroom house. Accordingly, the Council's objection under criterion (c) cannot be sustained. However, as criteria (a) and (b) are offended as set out above, the Council's third refusal reason based on Policy LC1 of APPS 7 is sustained insofar as stated.
- 6.12 The main living areas on the first floor of the proposed dwelling would face east towards the rear elevation and garden area of No. 6 Hawthorn Hill. The separation distance would be approximately 23.5 metres. The longitudinal section (Drawing No. 03) indicates that a person standing in the main living areas on the first floor of the proposed dwelling would be positioned 10 metres higher than the finished floor level of No. 6. While the existing conifers at the top of the garden of No. 6 currently provide some screening of direct views from the site, they are not within the appeal site and cannot be conditioned to be retained as a mitigating measure. Indeed, the evidence provided by the owners of No. 6 states their intention to remove these trees. Given the steep topography, the presence of a new dwelling at this higher level would appear dominant and overbearing from both the rear rooms and back garden of No. 6 and, in my judgement, the direct and uninterrupted views from the appeal dwelling into the rear garden and rear rooms of No. 6 would be unacceptable, adversely affecting the amenity of the occupiers. The separation distance would not be sufficient to overcome the unacceptable loss of privacy due to the topography. The drawings indicate proposed new planting on the boundary some 4.5 metres high to screen direct views.

However, in reality, any new planting is likely to take some time to reach this height and such planting in this position could add to the objectors' fear that trees could again fall into their property. The privacy concerns raised by the Council and objectors in respect of the impact on No. 6 Hawthorn Hill are well founded.

- 6.13 The proposed dwelling would be situated approximately 9 metres south west of No. 8 Hawthorn Hill and directly to the south of part of its private garden. The ground floor level of the proposed dwelling would be higher than the eaves level of the roof of No. 8 which is a two storey dwelling. There is a door and window in its southern gable at ground floor level and a window at first floor level. Sunlight reaching the ground floor openings is already limited by a retaining wall opposite. This situation would be exacerbated as the window at first floor level would be unacceptably overshadowed by the proposed dwelling, as would existing windows along the rear of the house. The position and height of the proposed dwelling combined with its orientation would also unacceptably overshadow the private garden of No. 8 due to the inadequate separation distance for such a significant change in levels. There is one existing tree on the northern boundary of the appeal site. The proposal would reduce the light reaching No. 8 to a much greater degree than the tree, particularly from noon onwards, and would cause an unacceptable adverse effect upon the residents of this property through loss of light. The new dwelling would also dominate outward views south from the existing dwelling and its curtilage.
- 6.14 Given the juxtaposition of No. 8 relative to the proposed dwelling, there would also be potential for overlooking from the east facing windows of the new dwelling into the first floor side window of No. 8. A condition preventing windows in the northern gable, as suggested by the appellant, would not be sufficient to prevent overlooking given the views from the east facing windows. The external staircase shown on the northern gable would also contribute to overlooking of No. 8 and is therefore unacceptable. The proposal would unacceptably conflict with adjacent residential properties through overlooking and loss of light and is contrary to criterion (h) of Policy QD1. The objections based on residential amenity are sustained. As I have concluded that the proposal does not conform to criteria (a) and (h) of Policy QD1, it does not represent a quality and sustainable form of development. The Council's objections under Policy QD1 are upheld and its first and second refusal reasons are sustained.
- 6.15 It would be possible to mitigate the objectors' road safety concerns by the imposition of a planning condition requiring the installation of a proprietary vehicle restraint system as part of the development if the appeal was allowed. The objectors referred to a member of their household who suffers from medical conditions that could be exacerbated by the noise and lights emanating from a new dwelling. In the absence of specific medical evidence, I am not persuaded that the appeal proposal could cause unacceptable noise or light pollution. The drainage issues on the existing slope could be mitigated by an engineering solution, so they would not warrant the withholding of planning permission. None of the parties provided details of the previous planning refusals on the site in order to form part of my consideration.
- 6.16 While the proposal would accord with the LDP in principle, I have found that it does not meet regional policy for the reasons given. As the proposal would not respect the character of the established residential area and would unacceptably harm the privacy and residential amenity of neighbouring residents, I attach greater weight to these material considerations in the overall planning balance.

7.0 RECOMMENDATION

7.1 As I have concluded that the Council's three refusal reasons and the objectors' concerns are sustained insofar as stated, I recommend to the Commission that the appeal be dismissed and that outline planning permission be refused.

7.2 This recommendation relates to the following drawings:-

Number	Title	Scale	Date Received
01	Site Location Map	1:1250	5 December 2019
02	Topographical Survey and Proposed Site Plan	1:200	5 December 2019
03	Proposed Site Section	1:250	4 March 2020

List of Documents

Planning Authority:-	A	Written Statement of Case Newry, Mourne and Down District Council
Appellant:-	B	Written Statement of Case Gray Design Limited
Third Parties:-	C	Written Statement of Case Third Party 1
	D	Written Rebuttal Statement Third Party 1
	E	Written Statement of Case Third Party 2
	F	Written Rebuttal Statement Third Party 2