



August 24th, 2020

Notice Of Meeting

You are invited to attend the Planning Committee Meeting to be held on **Wednesday, 26th August 2020** at **10:00 am** in **To be confirmed.**

Committee Membership:

- Councillor R Burgess (Chair)
- Councillor J Tinnelly (Deputy Chair)
- Councillor P Brown
- Councillor S Doran
- Councillor G Hanna
- Councillor V Harte
- Councillor M Larkin
- Councillor D Murphy
- Councillor D McAteer
- Councillor G O'Hare
- Councillor G Stokes
- Councillor J Trainor

Agenda

1.0 Apologies.

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.

Minutes for Confirmation

4.0 Minutes of Planning Committee Meeting held on Wednesday 29 July 2020. (Attached).

 *Planning Committee Minutes 29.07.2020.pdf*

Page 1

For Discussion/Decision

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

 *Addendum list - 26-08-2020.pdf*

Page 8

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


6.0 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. (Case Officer report attached).

Rec: REFUSAL

- A statement of objection has been received from Robert and Jacqueline Mark. **(Statement attached).**
- A request for speaking rights has been received from Kieran Fitzpatrick in objection to the application. **(Submission attached).**
- A request for speaking rights has been received from Eoin Morgan, agent, and Roseanne Ireland, applicant, in support of the application. **(Submission attached).**

 *LA07_2019_1302_F_South Promenade.pdf*

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 *Item 6 - LA07-2019-1302-F (objection R & J Mark).pdf*

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7.0 LA07/2019/1362/O - gap/infill site for dwelling and domestic garage - adjacent and immediately South of No. 64 The Heights Loughinisland. (Case Officer report attached).

Rec: REFUSAL

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

8.0 LA07/2019/1258/F - retention of change of use for ground floor cafe unit with 2.No. treatment rooms and ancillary services - the application site is located at Ground floor unit, 12 Seaview, Warrenpoint. (Case Officer report attached).

Rec: APPROVAL

- A request for speaking rights has been received from Julie McLarnon, owner, in support of the application. **(Submission attached).**

9.0 LA07/2018/0048/F - demolition of existing barns and construction of new build self-catering holiday letting unit, in substitution for barn conversion approved under application LA07/2015/1030/F - 10M NW of 56 Levallyreagh Road, Ballyagholy, Rostrevor. (Case Officer report attached).


Rec: REFUSAL

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


10.0 LA07/2019/1449/F - proposed infill dwelling and detached garage under PP21 - site adjacent to, and 50m south of 29 Foughilletra Road Jonesborough. (Case Officer report attached).

Rec: REFUSAL

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

 **LA0720191449F.PDF**

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 **Item 10 - LA07.2019.1449.F.pdf**

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11.0 LA07/2019/1087/0 - replacement dwelling and garage - approx. 50m NE of 21 Drakes Bridge Road, Crossgar. (Case Officer report attached).

Rec: REFUSAL

- Councillor Trainor has asked that this application be removed from the agenda as the agent is unavailable for reasons outside their control

 **LA0720191087O 21 Drakesbridge Road.pdf**

Page 50

12.0 LA07/2019/1134/0 - replacement dwelling - 90 Manse Road, Darraghcross, Crossgar BT24 7EQ. (Case Officer report attached).

Rec: REFUSAL

- Councillor Trainor has asked that this application be removed from the agenda as the agent is unavailable for reasons outside their control

 **LA0720191134O 90 Manse Road.pdf**

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Development Management - Planning Applications for determination

13.0 LA07/2019/1807/0 - site for farm dwelling - 55m north of 4 Leitrim Road, Hilltown. (Case Officer report attached).

Rec: REFUSAL

- A request for speaking rights has been received from Liam McCrum, Planning Consultant, in support of the application. **(Submission attached).**

 **LA07-2019-1807-O.pdf**

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14.0 LA07/2020/0579/F - play park enclosed with low level fencing - play area at Mullagh Close, Ballymartin, Kilkeel. (Case Officer report attached).

Rec: APPROVAL

- Addendum list

LA07 2020 0579 F.pdf

Page 75

15.0 LA07/2019/0261/F - 2 dwellings with detached garages (amended plans) Sites 22 and 22a Spring Meadows, Burren Road Warrenpoint BT34 3SU.. (Case Officer report attached).

Rec: APPROVAL

- A submission of objection has been received from John Gormley. **(Submission attached).**
- A request for speaking rights has been received from Cormac and Edel McKinney in objection to the application. **(Submission attached).**
- A request for speaking rights has been received from John Cole, agent, in support of the application. **(Submission attached)**

LA07-2019-0261-F Spring Meadows.pdf

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Item 15 - LA07-2019-0261-F (objection J Gormley).pdf

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Item 15 - LA07-2019-0261-F (objection McKinney).pdf

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Item 15 - LA07-2019-0261-F (support).pdf

Page 92

16.0 LA07/2020/0467/F - replacement dwelling with retention of old dwelling as agricultural store - 38 Lighthouse Road Ballyward Castlewellan. (Case Officer report attached).

Rec: REFUSAL

- A letter of support for the application has been received from Sinead Bradley MLA **(Attached).**
- A request for speaking rights has been received from Eoin Morgan, agent, and Noel Crean, applicant, in support of the application. **(Submission attached).**

LA07-2020-0467-F lighthouse road.pdf

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Item 16 - LA07-2020-0467-F (support S Bradley).pdf

Page 101

17.0 LA07/2020/0329 - dwelling and garage - approx 60m south of 144 Loughinisland Road, Downpatrick. (Case Officer report attached).

Rec: REFUSAL

- Councillor Trainor has asked that this application be removed from the agenda as the agent is unavailable for reasons outside their control

LA07-2020-0329-F Loughinisland Road - Infill dwelling.pdf

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18.0 LA07/2019/1136/F - 6 detached dwellings, garages and ancillary works - land to the south of 35 Old Belfast Road and to the south and west of 3 Orchard Lane Downpatrick. (Case Officer report attached).

Rec: APPROVAL

- A request for speaking rights has been received from Lisa Byers Dooley in objection to the application. **(Submission attached).**
- A request for speaking rights has been received from Catherine Edwards in objection to the application. **(Submission attached).**
- A request for speaking rights has been received from Councillor Enright in objection to the application. **(Submission attached).**
- A request for speaking rights has been received from Lisa Shannon and Adam Larkin, Gravis Planning, in support of the application. **(Submission attached).**

LA07-2019-1136-F (Housing) Orchard Lane Dpk.pdf

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Item 18 - LA07-2019-1136-F (objection Lisa Byers) .pdf

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Item 18 - LA07-2019-1136-F (objection C Edwards).pdf

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Item 18 - LA07-2019-1136-F (objection C Enright).pdf

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Item 18 - LA07-2019-1136-F (in support).pdf


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19.0 LA07/2019/0638/F - change of house type to that approved under P/2006/1759/RM - 230m NE of 31 Church Road, Forkhill. (Case Officer report attached).


Rec: REFUSAL

- A request for speaking rights has been received from Barney Dinsmore, agent, in

support of the application. (Submission attached).

 *LA0720190638F.PDF*

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 *Item 19 - LA07-2019-0638-F.pdf*

Page 134


20.0 LA07/2019/1346/F - change of house type under previous approval P/2013/0840/F - 200m west of 15 Shaughan Road, Belleek. (Case Officer report attached).

Rec: REFUSAL

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

 *LA0720191346F.PDF*

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 *Item 20 - LA07-2019-1346-F.pdf*

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21.0 LA07/2019/1843/F - proposed play park and multi utility game unit (MUGA) pitch and associated site works (amended description and address) - 20m west and 50 SW of 24 Altmore Gardens, Newry. (Case Officer report attached).

Rec: APPROVAL

- Addendum list

 *LA07.2019.1843.F Play Park Loanda.pdf*

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For Noting

22.0 Historic Actions Tracking Sheet. (Attached)

 *Planning HISTORIC TRACKING SHEET - Mastercopy updated 04-08-2020.pdf*

Page 155

23.0 Planning Committee Performance Report July 2020. (Attached).

 *JULY 2020 Planning Committee Performance Report.pdf*

Page 165

24.0 July Planning Appeals Decisions. (Attached).

 *July Appeals report.pdf*

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Invitees

Cllr Terry Andrews

Cllr Patrick Brown

Cllr Robert Burgess

Cllr Pete Byrne

Mr Gerard Byrne

Mrs Dorinnia Carville

Cllr charlie casey

Cllr William Clarke

Cllr Dermot Curran

Ms Alice Curran

Cllr Laura Devlin

Ms Louise Dillon

Cllr Sean Doran

Cllr Cadogan Enright

Cllr Aoife Finnegan

Cllr Hugh Gallagher

Cllr Mark Gibbons

Cllr Oonagh Hanlon

Cllr Glyn Hanna

Cllr Valerie Harte

Cllr Roisin Howell

Mrs Sheila Kieran

Cllr Mickey Larkin

Cllr Alan Lewis

Mr Michael Lipsett

Mrs Regina Mackin

Cllr Oonagh Magennis

Mr Conor Mallon

Cllr Gavin Malone

Cllr Cathy Mason

Colette McAteer

Cllr Declan McAteer

Rita McCrickard

Cllr Leeanne McEvoy

Marian McIlhone

Cllr Harold McKee

Patricia McKeever

Cllr Karen McKevitt

Cllr Andrew McMurray

Mr Roland Moore

Cllr Roisin Mulgrew

Cllr Declan Murphy

Cllr Barra Ó Muirí
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Mr Fearghal O'Connor
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Linda O'Hare
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Cllr Gerry O'Hare
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Cllr Kathryn Owen
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Cllr Henry Reilly
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Cllr Michael Ruane
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Cllr Michael Savage
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Cllr Gareth Sharvin
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Donna Starkey
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Cllr Gary Stokes
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Sarah Taggart
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Cllr David Taylor
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Cllr Jarlath Tinnelly
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Cllr John Trainor
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Central Support Unit
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Cllr William Walker
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Mrs Marie Ward
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NEWRY, MOURNE & DOWN DISTRICT COUNCIL

Minutes of the Planning Committee Meeting of Newry, Mourne and Down District Council held on Wednesday 29 July 2020 at 10.00am in Newry Leisure Centre and via Skype

Chairperson: Councillor R Burgess

Deputy Chairperson: Councillor J Tinnelly

In attendance: **(Committee Members)**

Councillor P Brown
Councillor S Doran
Councillor G Hanna
Councillor V Harte
Councillor M Larkin
Councillor D McAteer
Councillor D Murphy
Councillor G O'Hare
Councillor J Trainor

(Officials)

Mr C Mallon	Director, Enterprise, Regeneration & Tourism
Mr A McKay	Chief Planning Officer
Mr A Davidson	Senior Planning Officer (via Skype)
Ms A McAlarney	Senior Planning Officer (via Skype)
Mr F O Connor	Legal Advisor
Ms N Largey	Legal Advisor
Ms C McAteer	Democratic Services Officer
Ms L O'Hare	Democratic Services Officer
Ms P McKeever	Democratic Services Officer

P/055/2020: APOLOGIES AND CHAIRPERSON'S REMARKS

Councillor Burgess offered his condolences to Sarah Taggart on the sad passing of her grandmother.

Apologies were received from Councillor Stokes.

P/056/2020: DECLARATIONS OF INTEREST

Councillor Burgess declared an interest in Planning Application LA07/2018/0680/F.
Councillor Brown declared an interest in Planning Application LA07/2019/0953/F advising he would be speaking in objection to the application and therefore would be withdrawing from all discussions pertaining to it.

**P/057/2020: DECLARATIONS IN ACCORDANCE WITH PLANNING
COMMITTEE PROTOCOL PARA. 25
– MEMBER TO BE PRESENT FOR ENTIRE ITEM**

There were no declarations in relation to Paragraph 25 of Planning Committee Operating Protocol – Members to be present for entire item.

MINUTES FOR CONFIRMATION

**P/058/2020: MINUTES OF PLANNING COMMITTEE MEETING HELD ON
WEDNESDAY 1 JULY 2020**

Read: Minutes of Planning Committee Meeting held on Wednesday 1 July 2020. **(Copy circulated)**

AGREED: On the proposal of Councillor Hanna seconded by Councillor McAteer it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 1 July 2020 as a true and accurate record.

FOR DISCUSSION/DECISION

P/059/2020: ADDENDUM LIST

Read: Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 29 July 2020. **(Copy circulated).**

AGREED: On the proposal of Councillor Hanna seconded by Councillor McAteer it was agreed to remove the following Planning Application from the addendum list to allow for further consideration and submissions.

- **LA07/2018/0680/F - 2**No additional broiler poultry houses with 3No feed bins and associated site works (to contain 37,000 broilers each, 74,000 in total, raising the overall site capacity to 148,000 broilers) - Land approx. 420m SE of 8 Seaforde Road, Downpatrick **REFUSAL**

AGREED: On the proposal of Councillor Hanna seconded by Councillor McAteer it was agreed to approve the Officer recommendation in respect of the following applications listed on the addendum list for Wednesday 29 July 2020:

- **LA07/2020/0377/F - Restoration and refurbishment of existing building for community use providing new meeting rooms, kitchen and universal toilets to both ground and first floor. Installation of photovoltaics to rear roof. Construction of new steel fire escape stair to rear. Change of use from Class C1 'Dwelling house' to**

Class D1 'Community Use' - 16 The Square, Rostrevor

APPROVAL

- **LA07/2020/0587/F** - The proposed works involve some demolition works of internal walls with new build works to provide a new entrance lobby, toilet facilities and storage. There will be no change to the current usage as it will be used as a bowling pavilion and meeting room - Kilkeel Bowling Pavilion, Mourne Esplanade, Kilkeel **APPROVAL**

**DEVELOPMENT MANAGEMENT -
PLANNING APPLICATIONS FOR DETERMINATION**

The following applications were determined by the Committee:-

P/060/2020: PLANNING APPLICATIONS FOR DETERMINATION

(1) P/2010/0904/F

Location:

45 metres north of 18 Ballinasack Road, Mullaghbawn

Proposal:

Erection of farm dwelling to include retention of existing foundations

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

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

Ms Largey provided some background saying the Committee had previously decided to approve the application contrary to Officer recommendation and that decision had resulted in a judicial review challenge. Following on from this and upon taking legal advice on the issues raised, the Committee agreed to quash the decision based solely on the fact that adequate reasons had not been given for the decision by the Committee to overturn the Officers recommendation.

Ms Largey said it was important the Committee look at several issues when determining the application:

1. Commencement – consider not only if works had commenced within the timeframe but also if they had been carried out in accordance with the plans.
2. Refusal Reasons – if the Committee were to decide to overturn the Officer's recommendation for a refusal, all six refusal reasons would have to be addressed.
3. Conacre – the advice from Stewart Beattie QC with regard to conacre was the letting of land in conacre did not constitute farm activity.

Speaking rights: (via Skype)

In objection

Owen V McGinty presented in objection to the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

In support

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

Issues raised:

- The original planning permission was granted on 11 January 2008 with a one year time limit to commence development.
- The applicant failed to commence works before the expiry date of 11 January 2009 and also failed to comply with Condition 4 - the provision of visibility splays.
- The site had been cleared and the foundations put in, however the foundations were in the wrong place and had been done outside of the allocated timeframe.
- The original planning permission predated PPS 21 – Sustainable Development in the Countryside.
- Mr O'Callaghan stated the applicant had considered he had commenced works in good faith and there had been conflicting guidance issued by the former Planning Department.
- Ms Largey advised the one year timeframe to commence development was not unlawful and that applications had to be assessed against current planning policies.
- In response to a query as to why the original application had been for a dwelling and this had subsequently changed to a farm dwelling, Mr O'Callaghan replied the applicant had been expected to comply with new planning policy and he considered CTY10 the most suitable. He said the applicant was seeking planning permission for a dwelling not necessarily a farm dwelling.

Agreed: On the proposal of Councillor Hanna seconded by Councillor Larkin it was agreed to defer Planning Application P/2010/0904/F to allow for a site visit to take place so the Committee could assess the site in more detail.

(2) LA07/2015/0054/F

Location:

355m SE of No 23 Keel Point Dundrum

Proposal:

Proposed poultry laying shed for up to 3,000 birds and 3m Dia feeder bin

Conclusion and Recommendation from Planning Official:

Refusal

Mr McKay advised Planning Application LA07/2015/0054/F had been removed from the agenda to consider late information that had been received.

(3) LA07/2019/0953/F

(Councillor Brown withdrew from discussions/decision).

Location:

Lands at 123 Magherahamlet Road, Ballynahinch

Proposal:

Proposed 2no Broiler Poultry Sheds to replace 2no Existing Poultry Sheds (to contain 74,000 broilers, taking the total farm capacity to 148,000 broilers) with 4no feed bins, 2no gas tanks, 1no underground wash tank and retention of weighbridge, biomass boiler shed and associated pellet bins, water tank, site office, access and associated site works

Conclusion and Recommendation from Planning Official:

Approval

Power-point presentation:

Annette McAlarney, Senior Planning Officer gave a power point presentation via Skype 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 Skype)**

In objection:

Jim Wells on behalf of Mary McCann presented in objection to the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

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

Issues raised:

- Mr Wells considered a site visit was essential so Committee Members could see first hand the scale of the operation and its impact in the landscape.
- The intensity of the odour from the existing poultry business depended very much on weather conditions.
- Mr Wells considered the proposed poultry sheds could be located behind the existing sheds thereby reducing the overall impact, however, Ms McAlarney advised this would sit outside the boundary and would require a new application to be submitted.
- The application had been assessed with consideration given to the cumulative effect the two additional poultry sheds would have.
- This was a major application that had been through a public consultation process and all consultees had reported no detrimental environmental impact.

Councillor Hanna proposed a site visit take place in order to assess the site in more detail. Councillor Trainor seconded the proposal.

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

FOR:	7
AGAINST:	1

ABSTENTIONS: 2

The proposal was declared carried.

Agreed: On the proposal of Councillor Hanna seconded by Councillor Trainor it was agreed a site visit take place in order to assess the site in more detail.

FOR NOTING

P/061/2020: HISTORIC ACTION SHEET

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

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

P/062/2020: JUNE 2020 PLANNING COMMITTEE PERFORMANCE REPORT

Read: June 2020 Planning Committee Performance Report. **(Copy circulated)**

AGREED: Noted

P/063/2020: CURRENT APPEALS AND DECISIONS

Read: Current Appeals and Decisions Report **(Copy circulated)**

AGREED: Noted

P/064/2020: POTENTIAL CONFLICT OF INTEREST

Mr McKay stated he had been requested to provide clarity on a potential conflict of interest with regard to Committee Members sitting on various working groups and he asked Mr O'Connor to elaborate on this.

Mr O'Connor said the issue had recently been raised in the context of Members sitting on various working groups and taking decisions. He said he would discuss the issue with Ms Largey and issue guidance to Members in the near future.

P/065/2020: SITE VISITS

Mr McKay asked Members to confirm with Democratic Services, their availability to attend site visits on 7 August to ensure a quorum was present.

The Meeting concluded at 12.02pm

For confirmation at the Planning Committee Meeting to be held on Wednesday 26 August 2020.

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 26 August 2020

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:

- **LA07/2020/0579/F** - play park enclosed with low level fencing - play area at Mullagh Close, Ballymartin, Kilkeel **APPROVAL**
- **LA07/2019/1843/F** - proposed play park and multi utility game unit (MUGA) pitch and associated site works (amended description and address) - 20m west and 50 SW of 24 Altmore Gardens, Newry **APPROVAL**

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



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

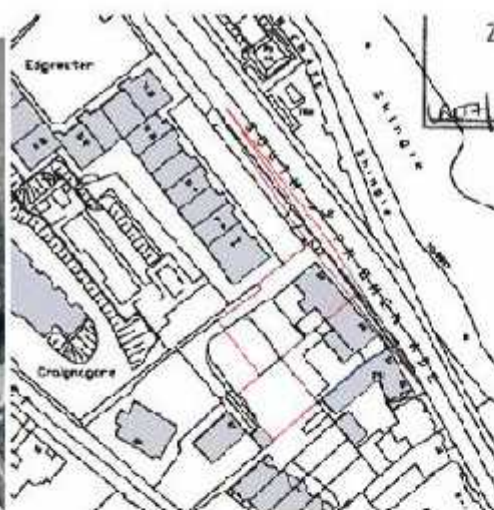
**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2019/1302/F

Date Received: 27.08.2019

Proposal: The application is for full planning permission Provision of dwelling with associated parking and amendment of Application R/2011/0794/F to remove parking area for apartments and replace with shared amenity space.

Location: The application site is located within the settlements limits of Newcastle and in an Area of Townscape Character as designated in the Ards and Down Area Plan 2015.



Site Characteristics & Area Characteristics:

The site is located off South Promenade Newcastle and is comprised of roughly square and rectangular plot located to the rear of Nos. 65-69 South Promenade and immediately to the front of No 63 South Promenade. The site is grassed at present and rises steeply from South Promenade in a SW direction toward the properties at No 63 South Promenade and 28 King Street which sit at a higher level than those along South Promenade. The existing access to No 63 runs parallel to the NW boundary along the site, which will also serve this site. The immediate area is predominantly residential, however there are retail premises to the east of the site.

Site History:

R/1994/0072 REAR OF 65B South Promenade Newcastle Bungalow Granted

R/2000/0330/F 67 South Promenade, Ballaghbeg, Newcastle, Change of use of part of supermarket to a hot food carry out PERMISSION GRANTED 26.05.2000

R/2011/0794/F 65 and 67 South Promenade Newcastle, Proposed change of use of restaurant to retail unit on ground floor and 2no 1 bedroom apartments on the first floor PERMISSION GRANTED 03.09.2012

LA07/2017/1614/F Apartment B 65 South Promenade Newcastle Bedroom and utility room extension PERMISSION GRANTED 12.12.2017

LA07/2018/0061/F To the rear of 65-69 South Promenade, Newcastle, Proposed dwelling Permission Refused 24/01/2019.

LA07/2018/0750/F - Apartment B 65 South Promenade

Newcastle - Proposed bedroom and utility room extension to first floor apartment, with additional bedroom at second floor Permission Refused - 07.03.2019

Planning Policies & Material Considerations:

The application site is located within the settlement limits of Newcastle, within the Mourne AONB, an Area of Townscape Character (ATC) and sphere of influence of an archaeological site and monument as designated in the Ards and Down Area Plan 2015 and as such the SPPS is the relevant policy document, which is read in conjunction with PPS 2, PPS 3, PPS 6, PPS 7 'Quality Residential Environments' and the second addendum to PPS7 'Safeguarding the Character of Established Residential Areas' (the Addendum). Supplementary guidance contained in 'Creating Places - Achieving Quality in Residential Developments' (CP) is also material to the consideration of the application as is DCAN 8 'Housing in Existing Urban Areas'.

Consultations:

NI Water – statutory response

DFI Roads – objection – detailed below

Historic Environment Division – No objections

Objections & Representations

In line with statutory requirements seventeen neighbours have been notified on 09.09.2019. The application was advertised in the Mourne Observer on 11.09.2019.

Two letters of objection have been received from the occupants at No 63 South Promenade and No 23 King Street. No 63 has also sent in a second letter to counter argue the parking survey that was submitted.

Kieran Fitzpatrick 63 South Promenade, Newcastle raises the following issues:

- Inadequate vehicular access to the site

- Build restrictions and guidance (and the need to avoid town cramming)
- Issues regarding boundaries and proposal in close proximity
- Previous application for a refusal on the same site
- Loss of privacy and overlooking
- Inaccuracies on current plans
- Allocation of parking for the apartments already approved

Robert Martin 28 King Street, Newcastle raises the following issues

- Objections from the previous application
- Existing Right of way
- Commercial storage already on the site
- Incorrect sightlines
- Additional vehicles and their impact and access to the site
- Access serves 63 South promenade and 28 King Street
- Nature of amenity space for apartments
- Excavation work has already taken place on the site, now a steep topography
- Loss of amenity to property

One letter of support has been received from Jim Wells MLA stating that the applicant has met Roads concerns and the site is brownfield site within Newcastle.

Consideration and Assessment:

Section 45 of the Planning Act (NI) 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 application is located within the settlement of Newcastle, within the ATC and with the Mourne AONB.

The Strategic Planning Policy Statement for Northern Ireland 2015 (SPPS) provides advice regarding housing in settlements to planning authorities engaged in preparing new area plans. Whilst advocating increased housing density without town cramming, its provisions do not conflict with extant regional policy in respect of proposals for dwellings within settlements.

PPS 7 - Planning Policy Statement 7 Quality Residential Environments

Planning Policy Statement 7 Quality Residential Environments

Planning Policy Statement 7 Quality Residential Environments (PPS7) sets out planning policies for achieving quality in new residential development. Policy QD1 of PPS7 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 of these areas. Notwithstanding the strategic objective of promoting more housing in urban areas, paragraph 1.4 of PPS7 states that this must not result in town cramming. It adds that in established residential areas the overriding objective will be to avoid any significant erosion of the local character and the environmental quality, amenity and privacy enjoyed by existing residents.

Policy QD1 thereof 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 environment.

The current proposal seeks full planning permission for the erection of a detached dwelling. The dwelling has an overall height of 5.8m to FFL and an underbuild of 0.35m. There is a single storey rear return which extends 6.3m to the rear and which drops in ridge height to 4.4m above FFL. The dwelling will be finished with smooth rendered walls and black plinth, aluminium windows, aluminium and glass front door, black PPC Aluminium rainwater goods and dark flat roof tile / slate.

Within Policy QD1 of PPS 7 there is a requirement for all proposals for residential development to conform to the listed criteria A - I.

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

This is a full application to establish whether a dwelling at the site to the rear of No's 65 and 69 South Promenade is acceptable. The site layout provided shows the proposal in relation to Number 63 South Promenade and No 28 King Street. The plot on which the actual dwelling will sit is 15.5m x 15m. The remaining portion of the red line is being used to reconfigure the amenity space for the apartments at No 65 South Promenade.

DCAN 8 discusses that for a site to be successful backland development it must have appropriate plot depth and configuration. DCAN 8 states 'Backland development on plot depths of less than 80m is unlikely to be acceptable, except where the existing urban grain is very urban in character, and where careful design can overcome concerns of overlooking and day lighting'. The site size is less than a quarter of this, with the overall backland plot approx. half of the recommended 80m. The urban grain could not be described as a 'tight urban grain' nor would it be sufficiently tight to overcome concerns regarding residential amenity and character and to allow for a lesser plot depth.

The layout arrangement shows a dwelling positioned close to the boundaries with No 63 and 69 South Promenade and with No 30 King Street which results in poor private amenity space which is approx. 45m² of useable space (plans indicate 62m² some of which is to the rear of the rear return of the proposal which is located approx. 2m from the boundary with lands just to the NE of No 30 King Street). This is at the lower end of the guidance from Creating Places whereby amenity space should be between 40m² – 70m². The dwelling is 6.5m to the boundary with No 63 South Promenade and 1m from the boundary with No 69 South Promenade (indicated as being owned /controlled by the applicant). The front of the dwelling which includes two living room windows and a bedroom window is approx. 1.5m from the grassed bank owned by No 63 where there is a change in levels of approx. 1.5m and thus the outlook for potential residents would be poor. The owner/occupiers of No's 65 and 69 may be prepared to tolerate a lower level of amenity than is required is not a sufficient reason to permit an otherwise unacceptable proposal as its neighbours or future occupiers may not. Thus a dwelling on the plot would be overdevelopment of the site and not

respect the surrounding context and is inappropriate to the character and topography the site.



(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;

Historic Environment Division have been consulted regarding the proposal and archaeological and built heritage will not be impacted upon.

(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;

Given the nature of the development public open space is not a requirement. There is adequate private space within the application site to accommodate the private open space provision.

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

The provision of neighbourhood services is not applicable to this application given the scale of 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;

Given the scale of development a movement pattern is not required.

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

The proposal is able to provide off street in curtilage parking which is deemed to be acceptable. Parking for the adjacent proposal will be discussed later in the report.

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

The proposal is for a 3 bedroom dwelling, with no issues regarding the materials and finishes of the dwelling.

(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 dwelling has been designed with 3 blank wall/gables in order to reduce overlooking, however, this contrived design solution, is a reflection of the restricted nature of the plot as is the orientation of the dwelling. There will however, still be some element of overlooking of the proposal from the neighbouring properties Nos 28-30 and No 63 South Promenade.

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

It is considered that the proposal would not give rise to crime or antisocial behaviour and should promote personal safety in the same regard as the existing dwellings.

PPS 3 - Access, Movement and Parking PPS 3 sets out the 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.

The applicant has indicated two parking spaces to serve the proposal. Also as part of this proposal the area to the rear of the apartments which is currently used for parking is to be reconfigured to remove any parking and provide communal amenity space for the apartments.

Transport NI has advised that if the proposal is permitted it would prejudice the safety and convenience of road users since it proposes to intensify the use of an existing access at which visibility splays of 2m x 60m cannot be provided in accordance with the standards contained in the Departments DCAN 15 due to parked cars. Consequently, it is considered that the proposal would prejudice road safety and is therefore contrary to Policy AMP 2 of PPS 3.

In relation to the reconfiguration of the amenity space for the apartments, these had been approved under the previous application R/2011/0794/F showing two car parking spaces, it is not appropriate to now remove parking spaces so that the additional parking can now be used to serve the proposed new dwelling.

PPS 6 Planning, Archaeology and the Built Environment

Planning Policy Statement 6 Planning, Archaeology and the Built Heritage sets out planning policy for the protection and conservation of archaeological remains and features of 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.

Addendum to PPS 6 – Areas of Townscape Character

Policy ATC 2 – New Development in an area of Townscape Character

The Department (Council) will only permit development proposals in an Area of Townscape Character where the development maintains or enhances its overall character and respects the built form of the area. As mentioned previously the proposal is located within the ATC in Newcastle. The proposal would not provide a quality residential development and in this respect, it would not maintain or enhance the overall character of the area.

Conclusion

Based on careful consideration of all the relevant material planning considerations including objections, it is contended that the application does meet the planning policies as outlined above and permission should be refused based on the refusal reasons below.

Recommendation:

Refusal

Refusal Reasons:

1. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Criteria A of Policy QD1 of Planning Policy Statement 7 (PPS7): Quality Residential Environments, as the development does not respect the surrounding context and is considered inappropriate to the character and topography of the site in terms of layout, as it is considered overdevelopment of the site and an unacceptable form of backland development.
2. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Criterion C of Policy QD 1 of PPS 7: Quality Residential Environments, in that the proposal has not made adequate provision for private amenity space.
3. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Criterion F of Policy QD 1 of PPS 7: Quality Residential Environments, in that there is inadequate provision for parking within the scheme as the proposal is utilising the parking provision for No 65 South Promenade to service the proposed dwelling.
4. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy AMP 2 of Planning Policy Statement 3 (PPS3) Access, Movement and Parking in that it would, if permitted, prejudice the safety and convenience of road users since it proposes to intensify the use of an existing access at which visibility splays of 2m x 60m cannot be provided in accordance with the standards contained in the Department's Development Control Advice Note 15 due to parked cars.

5. The proposal is contrary to Policy ATC 2 of Addendum to PPS 6 Areas of Townscape Character, in that the proposed development fails to maintain or enhance the overall character of the ATC and does not respect the built form of the area.

Case Officer Signature

Date

Appointed Officer Signature

Date

Ref: LA07/2019/1302/F

Robin and Jacqueline Mark

28 King Street BT33 0HD

Newcastle

Agenda Item 6

Date: 18th Aug 2020

Re: Provision of dwelling with associated parking and amendment of Application R/2011/0794/F to remove parking area for apartments and replace with shared amenity space

Dear Committee Members,

We, as property owners adjacent to the proposed development as above, would like to highlight our views and objections in regard to the proposal.

The proposed site is in an area of township character, and the site is on back land with limited access. It is not a brownfield site by any correct definition. The land is shared amenity space and includes a historic legal right of way.

In regard to the proposals, submissions have been proposed which will negatively impact the legal Right of way .

The proposed access from the South Promenade in no way meets any of the legal requirements regarding width, sightlines or splay and parking. There are significant road safety issues which will be exacerbated by the proposal.

Indeed the above issues and concerns have been noted and stated by Planning, as follows:

The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP2, in that it would, if permitted, prejudice the safety and convenience of road users since it proposes to intensify the use of an existing access at which visibility of splays of 2.0metres x 60 metres cannot be provided and maintained due to on street car parking in accordance with the standards contained in the Departments Development Control Advice Note 15.

Attached is a photo of proposed development site in normal daytime usage during working day showing issues. Traffic is required to come out of the access road at a 90 degree angle onto a busy main thoroughfare.

I thank you for this opportunity to present our concerns.

With Regards,
Robin and Jacqueline Mark



Following picture taken last weekend (15/08/2020):



Ref: LA07/2019/1302/F

Date: 16th August 2020

Re: *Provision of dwelling with associated parking and amendment of Application R/2011/0794/F to remove parking area for apartments and replace with shared amenity space*

Mr Kieran Fitzpatrick
63 South Promenade
Newcastle
BT33 0EY

Dear Committee Members,

I would like to highlight some key concerns that should be considered before a decision is made on the proposed development.

Vehicular Access

The biggest concern is surrounding the access in and out of the private laneway onto the busy South Promenade. Due to parking demands along the Promenade combined with a limited splay width at the entrance to this driveway, negotiating a safe exit can be extremely treacherous.

I was pleased to see that *DFI Roads*, after considering this application, and the previous one by the same applicant, have recommended refusal based upon safety concerns:

The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP2, in that it would, if permitted, prejudice the safety and convenience of road users since it proposes to intensify the use of an existing access at which visibility of splays of 2.0metres x 60 metres cannot be provided and maintained due to on street car parking in accordance with the standards contained in the Departments Development Control Advice Note 15.

I know that similar concerns have also been highlighted by fellow residents in the South Promenade area of Newcastle regarding this dangerous stretch of road, and I believe there are discussions regarding the introduction of traffic calming measures. Remember that a pedestrian was fatally injured in 2017 within 10 metres of the entrance of the proposed dwelling.

Aherence to Planning guidance

The footprint of the proposed development covers a large area of this small site. With the provision of car parking to the front, there appears to be little provision for private green space around the actual dwelling, which is clearly not desirable and not in keeping with planning guidance (refer to *PPS 12 – Site Context*, *PPS12 – Private Open Space*)

This development is also a classic case of *garden grabbing* as it is situated in the applicant's rear garden (No. 69). From the site layout attached to the particular application this is not apparent, but until three years ago, when the applicant purchased the adjoining land behind Nos 65-67, and then proceeded to level the terrain, there was actually a boundary between the various properties.

Boundaries

The proposed property will be very close to the boundaries of the neighboring properties. In particular, the surrounding wall of the proposed dwelling will be very close to the sloping bank at the top of the driveway owned by myself, at No 63.

We currently use this bank for parking to make it easier to accommodate the passing of one of our cars when the other is parked on the narrow driveway. Given the bank's elevation above the proposed dwelling, it demonstrates a lack of appreciation of the surrounding terrain by the applicant and the architects.

Loss of privacy and overlooking

The *Design and Access statement* provided with the application implies that overlooking has been minimised with the position and design of any windows, however this is not the case given the elevation of the proposed dwelling in relation to the properties below.

For instance, the patio doors of the proposed development directly overlook the property at No. 69 South Promenade. This is accentuated by the large differential in elevation of the proposal to the property below.

You are not likely to receive objections from those residents in 65-69 South Promenade as the primary occupants are related to the owner of the site and to the applicant, and clearly have a vested interest in ensuring the required permission is granted. However, please bear in mind, that this will not always be the case with future residents.

In addition, my own house at 63 South Promenade will still overlook the proposed house and in particular the private amenity space. This is also the case for the townhouses situated at Nos 30-36 King Street, which will directly overlook this same private amenity space, even when the parapet walls are taken in consideration. The property at 28 King Street, will also overlook the proposed dwelling due to its elevated position.

Parking Congestion

Finally, I have attached some photographs that I have taken on two consecutive days that demonstrate the parking congestion that occurs regularly around the entrance to my driveway (and of course the entrance to the proposed development). The current proposal claims that removal of the designated car parking spaces for the apartments will alleviate the problem, however this will actually increase the on street parking which will compound the restricted visibility when exiting the laneway onto the main road.

This area behind the apartments also serves the commercial properties of No.55-69 for storage of their large industrial waste bins. There is no provision for such an area in this proposal. *Adequate refuse storage space must be provided, which should large enough to allow for the separation of recyclable waste – PPS11*

There is no other location to place these waste bins. If they are moved to the driveway, they will present a hazard, not only in terms of blocking the narrow laneway, but would also increase the likelihood of contents 'blowing' onto the main South Promenade and onto oncoming traffic (given the strength of the winds in this particular location)

There is commercial storage on currently in this location ('shipping containers'). Where will these be placed in future?

I thank you for this opportunity to present my concerns.



**This is the view from the Harbour inn side.
The driveway is indicated with a red arrow.**



This is at the entrance to the driveway.



This is the view from Edgewater apartments.



This is the view from my front window. If there was ample parking, why would there be so much congestion.

Planning Committee 'Call in' Request Form

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Committee Meeting
26th August 2020

Planning Application Number :
LA07/2019/1302/F

Request For Speaking Rights

Provision of dwelling with associated parking and amendment of Application R/2011/0794/F to remove parking area for apartments and replace with shared amenity space

Proposed decision (including reasons if the decision is refusal) –

Refusal:

1. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Criteria A of Policy QD1 of Planning Policy Statement 7 (PPS7): Quality Residential Environments, as the development does not respect the surrounding context and is considered inappropriate to the character and topography of the site in terms of layout, as it is considered overdevelopment of the site and an unacceptable form of backland development.

Agent's Response:

The steeply rising topography is typical of the harbour of Newcastle. The vast majority of dwellings in the entire harbour area have had to mitigate the sloping topography in some way. To say that a dwelling built on a plot to the rear of South Promenade on rising topography does not respect the local character is not accurate. 27 of the surrounding houses on King Street/South Promenade have been built as split level dwellings due to the nature of the local topography. Additionally the 4 storey, terraced dwellings located at 30-36 King Street represent a much more prominent development. In addition there are 31 apartments immediately to the east (Edgewater Apartments), in addition to 3 storey apartment blocks along South Promenade. The case officer in the planning report has also incorrectly applied Development Control Advice Note 8 in stating that the 80m plot depth is required for 1 dwelling: The 80m depth of sites for back-land development is to accommodate 2 dwellings on a development site which is dual fronted. This proposal is to accommodate 1 dwelling. The back land development paragraph within Development Control Advice Note 8 summarises and re-peats findings of 'Sustainable Residential Quality' (London Planning Advisory Committee, 1998) The DCAN, paragraph 5.7 explains that it is based upon the aforementioned guidance. A diagram within this report illustrates the correct way to interpret the 80m recommendation - which is for 2 houses. In any case, the appropriate Policy Test is the Addendum to Planning Policy Statement 7 – Safeguarding the Character of Established Residential Areas which the proposal meets and exceeds. Regarding precedent of previous planning decisions: particularly relevant to this application is the context of application reference LA07/2018/1814/F which was granted 24th May 2019 and is located only several hundred meters from the applicants site: this application allowed 2 self-contained holiday apartment units on a site much smaller than the proposed plot (100m2) which demonstrates that although these are holiday apartments: the planning department have deemed the proposal appropriate to allow a far greater density of development and increased built footprint for this area thus meeting PPS16 TSM1 which has similar site context requirements as PPS7's QD1A. The application site proposes 1 dwelling on a site area of over 600m2 which is approximately 10 times less dense a proposal with regard to built footprint ratio!

2. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Criterion C of Policy QD 1 of PPS 7: Quality Residential Environments, in that the proposal has not made adequate provision for private amenity space.

Agent's Response:

The proposal has provided over 60m2 private amenity space. The minimum requirement is 40m2. The application site is surrounded by apartments with an average of less than 9m2 shared amenity space. The adjacent dwelling at 63 King Street has less than 30m2 of usable private amenity. The proposal is also 40m from shared amenity space on the promenade. Again, this refusal reason is based on a highly negative interpretation of policy.

3. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Criterion F of Policy QD 1 of PPS 7: Quality Residential Environments, in that there is inadequate provision for parking within the scheme as the proposal is utilising the parking provision for No 65 South Promenade to service the proposed dwelling.

Agent's Response:

The application proposes to remove parking from apartments located at 65 South Promenade. The users of these apartments can avail of on street parking as demonstrated by the parking survey. Development Control Advice Note 8 encourages "Living Over the Shop" (LOTS) whereby users can avail of on-street parking. This arrangement with

apartments over shops is explained in the DCAN (DCAN 8 , 5.12-5.18). This arrangement is replicated throughout the Council area – think of any shop within any town centre in the Council Area- more often than not there are apartments over the retail space which avail of on-street parking.

As Transport NI Guidelines recommend - the parking surveys were carries out at 5am-7am in the morning and 7pm-8pm in the evening. As shown in the submitted parking surveys - 31 spaces were found to be available within 100m of the apartments.

4. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy AMP 2 of Planning Policy Statement 3 (PPS3) Access, Movement and Parking in that it would, if permitted, prejudice the safety and convenience of road users since it proposes to intensify the use of an existing access at which visibility splays of 2m x 60m cannot be provided in accordance with the standards contained in the Department's Development Control Advice Note 15 due to parked cars.

Agent's Response:

Transport NI have mis-understood the proposal. The application seeks to reduce the use of the laneway. There are currently 2 parking spaces belonging to the apartments at 65 South Promenade (owned by the applicant) and accessed off the private laneway. These parking spaces will be removed at the rear of the apartments and replaced with landscaped gardens. The occupiers of the apartments who previously used these spaces can then avail of on-street parking to the front of the apartments. 2 spaces are then proposed for the dwelling : consequently as only 2 spaces are being proposed serving a single dwelling, this will mean a reduction in the number of vehicle movements per day on the laneway by 2-3 movements.

5. The proposal is contrary to Policy ATC 2 of Addendum to PPS 6 Areas of Townscape Character, in that the proposed development fails to maintain or enhance the overall character of the ATC and does not respect the built form of the area.

Agent's Response:

The proposal respects the character of the ATC. The single storey dwelling is typical of that which is found on South Promenade and King Street. The dwelling will be located on a shelf on rising topography which is reflective of the prevailing development pattern. 4 storey units at 30-36 King Street dominate the surrounding environs. The dwelling be concealed to the rear of the 65-67 South Promenade. The dwelling will also be much lower in height than the dwellings to the rear on King Street. Suitable landscaping in the form of greens areas and hedgerow will further soften the impact. The proposal is surrounded by dwellings with similar development patterns. Application reference LA07/2018/1814/F which was granted 24th May 2019 and is located only several hundred meters from the applicants site: this application allowed 2 self-contained apartment units on a site area much smaller than the proposed plot (100m²).



Application Reference: LA07/2019/1362/O

Date Received: 13th September 2019

Proposal: Infill dwelling and garage

Location: Adjacent and immediately south of no. 64 The Heights, Loughinisland

Site Characteristics and Area Characteristics:

The site is located on the northern western side of the minor road known as The Heights, Loughinisland. The site comprises an elongated narrow plot which rises steadily in height from the roadside up to the north west. The site is much higher in level to the north than to the south. The site contains a number of farm buildings and a large shed abuts the site to the west. To the north is no.64 which is on a higher level than the site. There is a large area of gorse to the roadside portion of the site. The northern boundary of the site, shared with no. 64 is defined by hedging. The southern boundary is largely undefined. Part of the south eastern boundary is defined with a wall, the rest with a post and rail fence along the roadside.

Site History

LA07/2019/0489/F – 40m South of 64 The Heights, Loughinisland

Infill Dwelling

Refused 13.06.2019

LA07/2019/1478/F – 40m South of 64 The Heights, Loughinisland

Infill dwelling

Refused 13.08.2018

Planning Policies and Material Considerations:

The application site is located outside the settlements in the open countryside as designated in the Ards and Down Area Plan 2015 and as such the SPPS is the relevant policy document which is read in conjunction with PPS 3 and PPS21.

Consultations:

DFI Roads – No objections subject to conditions

NI Water – no objections

Objections & Representations:

The application was advertised in the local press on 2nd October 2019 which expired on 16th October 2019 and neighbour notification issued on 26th September 2019 expired on 29th August 2019. To date there have been no objections received in relation to the proposal.

Consideration and Assessment:

Ards and Down Area Plan

Section 45 of the Planning Act (NI) 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 application is located in the open countryside outside the settlement of Loughinisland. There are no specific policies in the Plan material to this application. Paragraph 6.73 of the SPPS provides strategic policy for residential and non-residential development in the countryside. The SPPS states that in the case of infill/ribbon development provision should be made for the development of a small gap site in an otherwise substantial and continuously built up frontage. This is less prescriptive than the content of PPS21 regarding infill dwellings, however, the SPPS states that the policy provisions of PPS21 will continue to operate until such time as a Plan Strategy for the whole of the Council area has been adopted.

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. Planning permission will be granted for an individual dwelling house in the countryside in which a number of cases which are listed, CTY 8 – titled Ribbon Development is one such instance. Integration and design of buildings in the Countryside CTY 13 and Rural character CTY 14, CTY 16 will also be considered.

The proposal seeks outline permission for the erection of a dwelling and garage. The indicative location is shown to be to the south of no. 64 and to the east of the large agricultural shed. Given that this is an outline application, no details of design have been submitted.

Policy CTY 8 states that planning permission will be refused for a building, which creates or adds to a ribbon of development. It continues that any exception to the policy will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. Paragraph 5.33 of Policy CTY 8 makes specific reference to 'buildings sited back, staggered or at angles and with gaps between them' representing ribbon development, if they have a common frontage or they are visually linked.

Paragraph 5.33 of Policy CTY 8 reads 'For the purpose of this policy, the definition of a substantial and continuously built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear'. When considering what a small gap site is for the purposes of the Policy, the Policy headnote's wording directs the reader to consider the existing development pattern along the frontage in terms of size, scale, siting and plot size.

The justification and amplification in paragraph 5.34, comments that the infilling of these gaps will therefore not be permitted except where it comprises the development of a small gap within an otherwise substantial and continuously built up frontage. Applicants must take full account of the existing pattern of development and can produce a design solution to integrate the new buildings.

Accordingly, it is the gap between buildings that is required to be assessed.

The gap is set out in the Design and Access statement as being between no. 60 and 64, The Heights. In assessment of whether this site represents a gap site within an otherwise substantial and continuously built up frontage, it is considered that No 64, no 60 and the agricultural shed to the west have a frontage to the roadside. As such, there appears to be a substantial and built up frontage. It must also be considered whether the application site constitutes a 'gap' for the purposes of the policy. The site subject of this application is a parcel of land to the front of the shed, some of which has been taken from no. 64. The Council does not consider that the site constitutes a gap site owing to the fact that the gap between the shed and no. 64 is not sufficient to accommodate one building. The building to building distance between no 64 and the shed is 21m which is insufficient to comfortably accommodate a new dwelling. In considering the existing line of development, there does not appear to be a gap between dwellings.

Policy CTY8 further requires all proposals to respect the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. Officers consider that the proposed development would not respect the existing development pattern in terms of size and scale given that the area and size of the plot would be sufficiently below that of surrounding plots. The plot is furthermore shallower than the surrounding plots, which when combined with its reduced size, makes it appear out of keeping with the character of the area in conflict with CTY14.

In terms of siting, the site extends to the front of the existing building line and so, does not read as a gap in a line of buildings but rather a new artificially subdivided site to the front of a line of existing development, further in conflict with CTY14.

Considering that the proposed development is not considered to form a gap site, it would add to a ribbon of development along this stretch of The Heights, which conflicts with CTY8.

As such, the proposed development would not be in accordance with Policy CTY8 and CTY14 of PPS21.

Recommendation:

Refusal is recommended.

Reasons for refusal:

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

Case officer:

Authorised by:

Date

Planning Committee 'Call in' Request Form

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Delegated Application List w/c:	Planning Application Number : LA07/2019/1362/O	Requested by: Collins & Collins
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PLEASE NOTE THAT SUBMISSIONS SHOULD BE ON THIS FORM AND LIMITED TO TWO PAGES. ANY ADDITIONAL INFORMATION BEYOND TWO PAGES WILL BE DISREGARDED.

Description of the application -

Gap site for dwelling and domestic garage adjacent and immediately South of No. 64 The Heights Loughinisland, Downpatrick

Proposed decision (including reasons if the decision is refusal) –

In relation to the application above and its status on the delegation list for refusal we would ask if you could represent our client Mr Paul Bloomfield and have speaking rights at the meeting dated the 20th February 2020

Set out the valid and credible planning reasons why this application should be referred to Committee (including reference to relevant planning policies) –

The site is located on a minor road known as the Heights Downpatrick, our red line has been increased from the initial application to allow for the road frontage to be similar to that of the neighbouring properties. The neighbouring dwelling No. 60 has since been constructed and is now habitable again allowing for a stronger evidence that this site is an infill site as there is existing dwellings and buildings on either side of the proposed site. In our professional opinion the proposal would not create ribbon development as per CTY8 as this building line is already built up with this existing gap between No. 60 and 64.

The Northern and Southern boundaries of the site have existing dense vegetation which are client is going to retain and enhance so as to allow the proposed dwelling to integrate into the surrounding landscape. The Western and Eastern boundaries are not defined but he plans to plant with native hedgerow and trees to again blend the new build into the rural landscape. In the previous full application the dwelling was of different design to that of the neighbouring dwellings, we propose because the proposed site plot has been increased that the dwelling would be of single storey build with a front elevation of 16m—18m long so as to be of consistent design of the existing dwellings as per CTY14 of PPS21.

We feel that there is genuine need for this dwelling as our client is from the immediate locality and would love to remain in the rural community beside all their relatives and family. The proposed dwelling will be of similar scale and size of the existing dwellings, the dwelling will not be a prominent feature in the landscape and will integrate with the other dwellings and landscape. The existing dwellings 54, 56, 60 and 64 on this stretch of road are all relatives, it would mean a lot to our client to be situated beside his family.

Our client's parents reside in No. 64 and by building close to them they will be able to help their aging parents in their later years. We feel that the permission of this proposal would benefit both sets of families in that they would be living in close proximity enhancing both their quality of lives, allowing them to have their own space but still close enough to help with daily chores and emergencies.

Set out why this application should be determined by Committee rather than officers –

The application should be determined by the committee as the client is a local constituent who wants to reside in the immediate area beside his family.

We feel that the council can put across his reasons for a planning approval on his behalf and will be sympathetic for his reasons wanting to be close to some of the more elderly members of his family so as they have a close support network in this rural community.

Planning Committee 'Call in' Request Form



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2019/1258/F

Date Received: 13 August 2019

Proposal: Retention of change of use for ground floor cafe unit with 2.No. treatment rooms and ancillary services

Location: The application site is located at Ground floor unit, 12 Seaview, Warrenpoint

Site Characteristics & Area Characteristics:

The application site consists of a three storey mid-terrace building which has been converted from offices to a café at the ground floor. Apartments are located on each floor, above the café. The site is located close to the edge of Warrenpoint Town Centre, adjacent is The Balmoral Hotel. on the opposite side are similar dwellings and some appeared to have been converted to apartments. On the corner of Seaview and Queen Street a three and a half storey building has been constructed with apartment on the upper levels but with a commercial unit on the street corner, around this corner is part of the main commercial centre of Warrenpoint with a number of shops. Across Queen Street is the Whistledown Hotel and Warrenpoint Town Park, on the opposite side of the Balmoral Hotel the area becomes residential with large three storey terraced dwellings of a similar form to the application site.

Site History:

P/2014/0957/F Material change of use from ground floor apartment to ground floor office including refurbishment of existing outhouse and WC. Permission granted 28 May 2015

Planning Policies & Material Considerations:

- The Banbridge, Newry and Mourne Area Plan 2015;
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 3 – Access, Movement and Parking
- Planning Policy Statement 6 – Planning, Archaeology and the Built Environment;

- DCAN 11 – Access for People with Disabilities

Consultations:

NI Water (Strategic)	Existing water supply, available capacity
Rivers Agency	FLD 1 – recommend 600mm freeboard, informatives recommended
DFI Roads	No objection provided planning are content with parking arrangements
NIEA	Refer to standing advice
Environmental Health	Recommended condition

Objections & Representations

The application was advertised in the local press on 4 September 2019, following amendments the application was re-advertised on 6 November 2019. 17 neighbour notifications were issued on 3 September 2019 and following amendments re-notified on 10 September 2019 and 22 October 2019. Sixteen representations were received from 13 households. The concerns raised the following issues:

- No. 12 Seaview is the last property within the Town Centre boundary and this area including the application site is residential in nature.
The subject site is located within the settlement limits of Warrenpoint/Burren, it is within the Warrenpoint Town centre boundary (TC 98). Town centre uses include retail, offices, residential and various sui generis uses such as cafes within this proposal. I consider the use complies with the Town Centre location. Cafes and fast food outlets can complement the primary shopping function of town centres by contributing to the range and choice of facilities available to residents and visitors and they also support tourism.
- Permanent change to a café will harm the character of the area and AONB.
The previous use was offices and the proposal does not result in the proliferation of restaurants, cafes and fast food outlets on this part of the Town Centre. I am content the location is acceptable, amenity issues will be considered within this report.
- It is important the front façade is retained to protect its architectural beauty.
The front façade is retained although a sign is positioned on the front elevation of the building, this will require separate consent under the Advertisements Regulations and any sign must comply with the requirements of Policy ATC 3 of the addendum.

- The area is already well served by cafes by existing businesses in the area.
The proposal does not result in the proliferation of restaurants, cafes and fast food outlets on this part of the Town Centre. I am content the location is acceptable, amenity issues will be considered within this report.
- The proposal dilutes retail space away from the Town Centre in Warrenpoint.
The proposal does not result in the loss of retail space at ground floor as the previous use was offices and the proposal does not result in the proliferation of restaurants, cafes and fast food outlets on this part of the Town Centre.
- The application site should remain residential.
The subject site is located within the settlement limits of Warrenpoint/Burren, it is within the Warrenpoint Town centre boundary (TC 98). Town centre uses include retail, offices, residential and various sui generis uses such as cafes within this proposal. I consider the use complies with the Town Centre location. Cafes and fast food outlets can complement the primary shopping function of town centres by contributing to the range and choice of facilities available to residents and visitors and they also support tourism.
- The signage erected has no planning permission
On site inspection it was noted a sign is positioned on the front elevation of the building, this will require separate consent under the Advertisements Regulations and any sign must comply with the requirements of Policy ATC 3 of the addendum.
- Concerns about additional customers to site – approx. 300
The expected increase of customers is 42 throughout the day. I consider this is acceptable. In terms of noise I consider there will be no greater harm than the offices as the treatment rooms will require a quiet atmosphere and the café is quite small and could not cater for large numbers at any one time which will keep noise levels to a minimum.
- Concerns about customer noise and the old buildings by their construction are not sound proofed.
In terms of noise I consider there will be no greater harm than the offices as the treatment rooms will require a quiet atmosphere and the café is quite small and could not cater for large numbers at any one time which will keep noise levels to a minimum. Environmental Health have not raised any concern regarding noise. There have been no noise complaints to date.
- Late night opening will disturb enjoyment of our home.
Environmental Health have recommended opening hours of 10am – 6pm Monday – Saturday. I am content this will ensure there is no late night noise to disturb residents.

- No systems in place to prevent nuisance from smells and fumes.
Equipment has been shown on the drawings. Environmental Health have been re-consulted on the amended drawings 01B, 02B and 03 and there are no further concerns raised.
- Sewerage infrastructure may not be fit for purpose.
NI Water (Strategic) have confirmed there is an existing water supply and available capacity.
- Concerns regarding parking demand in the area and proposal cannot handle the demand from the proposal.
This issue is dealt with under the heading "Traffic and Car Parking" within this report.
- Deliveries are made via the front entrance, delivery vehicles mount the footpath on double yellow lines and this presents a danger to our family who live adjacent.
There are on street parking spaces available in the vicinity which deliveries can use, this can be conditioned on any forthcoming approval.

Consideration and Assessment:

Banbridge, Newry and Mourne Area Plan 2015

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the Local Development Plan, so far as material to the application, and to any other material considerations. The subject site is located within the settlement limits of Warrenpoint/Burren, it is within the Warrenpoint Town centre boundary (TC 98) and the Mourne AONB. 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)

Paragraph 4.12 gives an indication of amenity considerations such as a range of environment and amenity issues including noise and disturbance, smells and fumes.

Development Control Advice Note (DCAN) 4 Restaurants, cafes and fast food outlets

The purpose of this DCAN is to provide general guidance on proposals for restaurants, cafes and fast food outlets. Paragraph 4 assesses the locational considerations of restaurants, cafes and fast food outlets. Paragraph 4.5 states restaurants, cafes and fast food outlets can complement the primary shopping function of town centres by contributing to the range and choice of facilities available to residents and visitors and they also support tourism. Warrenpoint is a local seaside town where tourism is encouraged, it is considered this proposal supports tourism regeneration along the seafront. The proposal does not result in the loss of

retail space at ground floor as the previous use was offices and the proposal does not result in the proliferation of restaurants, cafes and fast food outlets on this part of the Town Centre. I am content the location is acceptable, amenity issues will be considered below.

Paragraph 5.1 of the DCAN states that in assessing the impact of proposals a number of factors need to be taken into account:

- Noise and disturbance
- Smells and fume
- Refuse and litter
- Traffic and car parking
- Provision for people with disabilities.

Noise and disturbance, Smells and fumes

I feel that the proposal will not have a detrimental impact on the amenity of this part of Seaview as there are similar developments in the surrounding area such as the Balmoral Hotel immediately adjacent and Whistledown Hotel 70m south of the application site. Environmental Health have recommended an opening hours condition is added (to any forthcoming approval) to safeguard residential amenity. I am content that this condition would be sufficient to protect the amenity of residents in the surrounding area. The agent's planning statement states cooking on site will be kept to a minimum as the majority of food is cooked off site and warmed on the premises. In terms of noise I consider there will be no greater harm than the offices as the treatment rooms will require a quiet atmosphere and the café is quite small and could not cater for large numbers at any one time which will keep noise levels to a minimum. No other concerns in regards to the amenity aspects of the proposal have been raised by Environmental Health.

Refuse and Litter

The agent's planning statement states that waste associated with the proposal will be stored in suitable bins within the enclosed rear yard and taken to the collection point on required days. This is considered acceptable as refuse is stored on site with adequate space and sufficient access available.

Traffic and Car Parking

A parking survey has been submitted by the applicant. I consider that on street parking requirements are sufficient to deal with proposal as it is unlikely to generate heavy volumes of traffic and the local streets in the vicinity of the site can adequately serve the proposal. A bus stop is also located opposite the application site which cater for those visiting the site via public transport.

Provision for People with Disabilities

Having considered the plans I feel that the proposal facilitates ease of access to the building for people whose mobility is impaired, as it is ground floor level and there are adequate on-street parking facilities available.

Addendum to Planning Policy Statement 6, Areas of Townscape Character

Policy ATC 2 New Development in an Area of Townscape Character

"The Department will only permit development proposals in an Area of Townscape Character where the development maintains or enhances its overall character and respects the built form of the area.

The Department will also require that any trees, archaeological or other landscape features which contribute to the distinctive character of the area are protected and integrated in a suitable manner into the design and layout of the development."

The proposal does not propose any demolition to the front elevation of the building nor are any alterations to this elevation proposed, the existing decorative features on the front of the building are to be retained. The only external alterations will be at the rear where a steel flue is installed. I consider this is acceptable. On site inspection the a sign is positioned on the front elevation of the building, this will require separate consent under the Advertisements Regulations and any sign must comply with the requirements of Policy ATC 3 of the addendum.

Planning Policy Statement 3 Access, Movement and Parking, Parking Standards

For the proposed use a parking provision of 1 space per 5 square metres of Gross Floor Area is stipulated. there are 105 square metres and the anticipated numbers of staff will be 2 (a reduction of 3), with 42 daily customers. This results in a requirement for 21 spaces. The site is located in the Town Centre which is readily served by public transport, there is parking available along Seaview, Queen Street and other streets in the vicinity of the site. A parking survey has been submitted by the applicant to support the same. I consider that on street parking requirements are sufficient to deal with proposal as it is unlikely to generate heavy volumes of traffic and the local streets in the vicinity of the site can adequately serve the proposal.

Recommendation: Approval

Conditions:

Planning permission is hereby granted in retrospect under Section 55 of the Planning Act (Northern Ireland) 2011 and takes effect from the date of this permission.

Reason: Retrospective application.

The hours of operation should be restricted to 10:00 to 18:00 Monday to Saturday and closed on Sunday.

Reason: In the interests of amenity.

Delivery vehicles should utilise on street parking spaces only. Deliveries shall only occur Monday to Saturday 10.00 to 16.00 and no deliveries on Sunday.

Reason: In the interests of amenity.

Case Officer Signature: C McCoy

Date: 11 March 2020

Authorised Officer Signature:

M Keane

Date: 11-03-2020

LA07/2019/1258/F - retention of change of use for ground floor cafe unit with 2.No. treatment rooms and ancillary services - the application site is located at Ground floor unit, 12 Seaview, Warrenpoint

I own 12 Seaview, I run the upper floors as holiday lets. They are NI tourism certified, popular holiday apartments, I've been a 5 star Airbnb Superhost for five years.

The ground floor was previously offices, the staff of those offices parked 5-7 cars from 9am to 5pm on the sea front all year round which had a much bigger impact on the parking situation than the tearoom. I spend a lot of time in 12 Seaview cleaning and preparing for guests and I have observed that almost all the Zone's customers arrive on foot. They are local residents that have grown very fond of the tearoom and built bonds with the staff and other customers.

I agreed a lease with Paula for less rent than my previous tenants because I knew that Seaview needed a place that women, children, older people, LGBT and disabled people could safely go for a cup of tea and a chat. Pubs are not suitable for these demographics. As a mother of 3 young children I would not take my children into a pub for an ice cream.

The objections made by the residents of number 11 and their friends and family were based on unfounded fears. They had never visited the tea-room nor spoken to myself and Paula O'Hare. Following a good conversation with Rose from Number 11 Seaview she explained that she feared that permission for a tea-room would turn into permission for a Pub/Bar. I explained that would never happen. Paula and her family get up and bake at 5am to bring the baked goods to the tearoom at 10am. It's a daytime space and much needed alternative to the pubs on the sea front.

Paula is the breadwinner in her family as am I in mine and we both rely on The Zone to finance our respective families. We also need to finish work at dinner time to feed and care for our children. Once Rose understood this she chose to drop the objections and apologise to me for the stress caused. I totally understand her fears and I'm glad the misunderstanding has been cleared up and we can now enjoy being good neighbours.

I know that a family run tea-room, exhibiting local artists and offering holistic therapies is perfect for both the local community and tourism, I know this because I'm there most days and hear both locals and my holiday let guests tell me how much they love it. It's also in keeping with the planning dept Masterplan for the area so I can see no reason why it would not pass.

I have requested speaking rights because neither my family nor Paula's family could financially survive it not passing so I will give this issue as much time as is necessary. My architect Sarah McCauley did not inform me of the previous planning meeting and my rights to speak. If she had I would have been there.

Kind regards

Julie McLarnon



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2018/0048/F

Date Received: 21 December 2017

Proposal: Demolition of existing barns and construction of new build self-catering holiday letting unit, in substitution for barn conversion approved under application LA07/2015/1030/F

Location: The application site is located 10 metres north west of 56 Levalleyreagh Road, Ballyagholy, Rostrevor

Site Characteristics & Area Characteristics:

The site is located close to the junction between the Ballyvally Road and the Levalleyreagh Road. The gradient of the site gently increases away from the Ballyvally Road in a southerly direction. Presently there are two buildings located on the site. The first building appears to have previously been used as an agricultural store and is located in the middle of the site and this building has a smooth concrete rendered finish and corrugated tin roof. The second building is located along the eastern boundary with no.56 Levalleyreagh Road and appears to have been previously used partially for storage and a piggery. The building on the eastern boundary is long and narrow and has been constructed using concrete blocks and has a corrugated tin roof. The site is generally laid in grass with an access lane from the road to between the two buildings. The site is irregular in shape. The eastern boundary comprises the long agricultural building and a mature hedge comprises the western boundary with the Ballyvally Road. There is no physical boundary at the southern elevation of the site.

Site History:

LA07/2015/1030/F Change of use of existing agricultural building to holiday letting unit. Permission granted 11 October 2016.

P/2009/1578/F Erection of a farm dwelling and garage. Permission granted on 11/06/2010.

Planning Policies & Material Considerations:

This planning application has been assessed under:

- The Regional Development Strategy 2035
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- The Banbridge / Newry & Mourne Area Plan 2015
- PPS 2 – Natural Heritage
- PPS 3 – Access, Movement and Parking
- PPS 16 – Tourism
- PPS 21 – Sustainable Development in the Countryside
- DCAN 15 – Vehicular Access Standards
- Building on Tradition, A Design Guide for Rural Northern Ireland

Consultations:

DAERA: Farm business is active and established

DFI Roads: No objection subject to conditions

NI Water: Generic response received

Objections & Representations

Five neighbour notifications were issued on 15 January 2018. The application was advertised in the local press on 24 January 2018. No representations were received.

Consideration and Assessment:

Banbridge, Newry and Mourne Area Plan 2015

Section 45 of the Planning Act (NI) 2011 requires the Council to have regard to the Local Development Plan (LDP), so far as material to the application and to any other material considerations. The relevant LDP is the Banbridge, Newry and Mourne Area Plan 2015 as the Council has not yet adopted a LDP. The site is located outside development limit and is within the Mournes AONB.

Strategic Planning Policy Statement (SPPS)

The SPPS states that the guiding principle should be to ensure policies and proposals facilitate appropriate tourism development in the countryside (such as appropriate farm diversification schemes, the re-use of rural buildings and appropriate redevelopment and expansion proposals for tourism purposes) where this supports rural communities and promotes a healthy rural economy and tourism sector. Where there is no suitable site within a settlement a new build hotel, guest house, or tourist hostel may be appropriate on the periphery of a settlement subject to meeting normal planning requirements. Other acceptable tourist development in the countryside may include appropriate self-catering accommodation, particularly in areas where tourist amenities and accommodation have become established or likely to be provided as a result of tourism initiatives, such as the Signature Projects, or a new or extended holiday park that must be a high quality and sustainable form of tourism development.

PPS 21 Sustainable Development in the Countryside

The application site is located within the countryside. Policy CTY 1 outlines the types

of development which in principle are considered to be acceptable in the countryside. It states that planning permission will be granted in the countryside for farm diversification proposals in accordance with Policy CTY11 and tourism proposals in accordance with PPS 16.

CTY 11 Farm Diversification

Planning will be granted for a farm diversification proposal where it is demonstrated it is run in-conjunction with agricultural operations on the farm.

- (a) DAERA have been consulted on the farm business, and have confirmed that the applicant is a formal member of the farm business. The farm business is currently active and has been established for 6 years.
- (b) In terms of character and scale the development is appropriate to its location.
- (c) I consider there will be no adverse impacts on natural or built heritage.
- (d) The proposal will not have an adverse impact on the natural or built heritage and is unlikely to impact on neighbouring residential amenity.

The application fails to satisfy the criterion requiring that only **proposals which involve the re use or adaptation of existing farm buildings will be acceptable**. The current proposal is for a new build unit of self-catering accommodation. The exceptions clause refers to a new building being permitted where there is no existing buildings available to accommodate the use. It is clear that the onus is on the applicant to provide this information. The applicant has provided a supporting statement outlining the structural condition of the existing buildings. The crux of the issue is that whilst the redevelopment of the existing buildings will cost more versus a new build development this is not the policy test. In this case where there are existing buildings they should be re-used and adapted where necessary to bring them up to current building standards.

Planning Policy Statement 16- Tourism

Proposals for tourism development in the countryside will be facilitated through PPS16 and other planning policy documents that provide scope for tourism development in the countryside.

TSM5 Self Catering Accommodation in the Countryside

TSM 5 relates to self-catering accommodation in the countryside. Planning approval will only be granted for self-catering units of tourist accommodation in any of the circumstances a – c:

- (a) *one or more new units all located within the grounds of an existing or approved hotel, self-catering complex, guest house or holiday park;*
- (b) *a cluster of 3 or more new units are to be provided at or close to an existing or approved tourist amenity that is / will be a significant visitor attraction in its own right;*
- (c) *the restoration of an existing clachan or close, through conversion and / or*

replacement of existing buildings, subject to the retention of the original scale and proportions of the buildings and sympathetic treatment of boundaries. Where practicable original materials and finishes should be included.

As the current proposal is for a singular unit of self-catering accommodation on a farm holding, not attached to an existing hotel, self-catering complex, guest house or holiday park it does not comply with (a) or (b) this policy. The proposal does not involve the restoration or replacement of a clachan or close and therefore fails to comply with (c).

The proposal fails to satisfy the requirements of PPS 16 Policy TSM5.

Recommendation: Refusal

Refusal Reasons:

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.

The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY11 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it does not involve the re-use or adaptation of existing farm buildings and it has not been demonstrated that the existing buildings cannot be adapted to meet the requirements of other statutory agencies.

The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy TSM 5 of Planning Policy Statement 16, Tourism in that

- A) The proposal is not located within the grounds of an existing or approved, hotel, self-catering complex, guest house or holiday park;
- B) The proposal does not involve the creation of three or more new units provided at or close to an existing or approved tourist amenity that is / will be a significant visitor attraction in its own right;
- C) The proposal does not involve the restoration of an existing clachan or close, through conversion and / or replacement of existing buildings.

Case Officer Signature:

Date:

Authorised Officer Signature:

Date:

- This tourist accommodation will be run in conjunction with agricultural operations on an active and established farm. Therefore, the relevant policy for assessment of this proposal is Policy CTY 11 of PPS 21 – Farm Diversification, **NOT** TSM 5 of PPS 16 as has been cited by officials - Paragraph 5.2 / Page 10 of PPS 16 confirms Policy CTY 11 of PPS 21 is the appropriate test for farm diversification proposals involving the reuse or adaptation of existing farm buildings, or exceptionally a new building on a farm.
- The principle of the tourist accommodation has already been established under the previous planning approval for the barn conversion (LA07/2018/0048/F).
- As stated by the planning officer in the professional report, the proposal is in conformity with the initial 4 policy tests (criterion a, b, c & d) contained within CTY 11, as the proposal is on a currently active and established farm, the character and scale are appropriate to its location, it will not have an adverse impact upon the natural or built heritage of the area and there will be no detrimental impact on the amenity of nearby residents. Officers do not have any objections to the 'new build' element of the proposal in terms of integration or its impact on rural character or the AONB. The objection is to the principle of new-build only, as distinct from conversion (which has already been permitted).
- There is no dispute that within Policy there is a preference for the re-use or adaptation of existing farm buildings in all farm diversification schemes; this protects further erosion of rural character and protects the integrity of the countryside. However, it is a preference only, and provision is available for new builds. Policy clearly states that where *'there is no existing building available to accommodate the proposed use, either because they are essential for the maintenance of the existing farm enterprise, are clearly unsuitable for adaptation and re-use or cannot be adapted to meeting the requirements of other statutory authorities'*, exceptionally, a new build can be permitted.
- The applicant has proven the existing buildings are not "reasonably" suitable for conversion: in preparation for commencement of the approved conversion it became apparent that the extent of works necessary is such that the project is not practicable or viable as a conversion. In any case, the level of intervention would be so extensive and there would be so little of the original structures remaining that this could not truly be called a conversion hence the applicant's re-application for it as a new build.
- The applicant has engaged a structural engineer, who has certified that the existing structure cannot practicably or viably be retained and upgraded. This report and the applicant's extensive supporting evidence appear to have been dismissed in 2 lines - as a cost-saving exercise, and no consideration given to the engineer's evidence relating to the structural integrity of the building. For this reason we ask that the committee review the evidence at this stage with a view to determining the building's suitability for re-use and adaptation.
- Officers' assessment has been inflexible and unyielding. Officers have applied a higher test than is laid out in Policy – wrongly disregarding the cost of refurbishment and opining "this is not a material consideration". *"There is no legal definition for material considerations; however they are held to include all the fundamental factors involved in land-use planning. Essentially a material consideration is one which is relevant to making a planning decision as to whether to grant or refuse an application for planning permission. Material considerations will vary depending on the specific circumstances of each case"*. Officers' actions are *ultra vires* insofar as they have failed to give any weight to a key material consideration.
- Officers handled the application inconsistently with two other applications handled by this practice, both of which were approved. In one case (P/2015/0243/F, at Dorsey, South Armagh) no technical information was needed to demonstrate that none of the existing outbuildings were incapable of being

converted. A more recent approval was granted (Q/2014/0374/F, approved in March 2019) to another client of ours who sought to replace a dilapidated outbuilding in situ, as a holiday chalet. While that case (Bann Road, Castlewellan) was protracted, even in that instance we were not required to submit an engineer's report. Officers accepted at face value that the building was not practicably or viably capable of being converted; Their professional report referred to the building we sought to demolish and replace with a new-build unit – *"Building to be demolished to make way for new build tourist let. Building is in poor structural condition and would not be able to be converted"*. Officers have been alerted to this inconsistency and have failed to respond to queries asking why this applicant is being treated differently to the applicants at Dorsey and Castlewellan.

- As mentioned, officers are intent on applying policy stringently and are applying tests that are not set out in Policy. At one point, officers indicated that they consulted with Building Control, who purportedly advised that the building can actually be converted. When asked for this evidence, none was forthcoming and it was later inferred that the consultation was oral and not actually recorded.
- Officers feel the crux of the issue is that whilst the redevelopment of the existing buildings will cost more versus a new build development - this is purportedly not the policy test. However, officers are compelled to exercise their judgement and be reasonable - one must consider whether something is practicable and reasonably capable of being converted, not rely upon the narrowest definition of the term "cannot be adapted".
- Officers have not fully articulated the actual issues. For example, the approved / refurbished building would include just over 200 linear metres of walls. Of that, a maximum of 45 metres would be pre-existing. 123 linear metres of structural walls would be added to the buildings, with a further 39 linear metres of internal / stud walls. These totals relate to single-leaf only, and if cavities are to be constructed, the linear metreage will almost double, meaning only 45 linear metres out of 360 will be original (provided none of this collapses during the construction process – which is inevitable). This scale of intervention is indicative of a new building rather than a true refurbishment, particularly when one considers new foundations being added, new floors laid and new roof structures and coverings added.
- There was a comparable case at Bettyshill Road, Ballyholiland in recent years (Appeal Ref 2016/F0004). That applicant received permission for an extension to a building. The building was actually demolished and left at sub floor level. It was Building Control's opinion that to reconstruct the dwelling amounted to a new dwelling. No planning conditions were imposed on the planning permission preventing or restricting the demolition of internal or external walls of the dwelling or specifying a period for completion. The PAC held that *"When viewed together the decision notice and approved drawings accept a substantial redevelopment of the dwelling on the site, one which could not be carried out without removing the roof or demolition substantial parts of the walls of the original dwelling"*.
- This applicant wishes to do things by the book and not to leave anything to chance.
- Officers have failed to give weight to the likely failure of a retaining wall to the rear of the building they wish preserved and converted. This wall will become un-stable in the event the old building is remodeled as per the extant permission. In reality, the old building needs demolished so the wall can be repaired and then construction can proceed on the new building. Health and safety considerations have been ignored.
- In light of the foregoing, Members' consideration is necessary in order that a balanced decision is arrived at, and one that is consistent with other decisions in this District. In fact, Members' consideration is necessary even to reach a legal decision, given the unlawful ignoring of a material consideration by officers.



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

Application Reference: LA07/2019/1449/F

Date Received: 26.09.2019

Proposal: Proposed infill dwelling and detached garage under PPS21 CTY.

Location: Site adjacent to and 50m south of 29 Foughilletra Road, Jonesborough, BT35 8JE.

Site Characteristics & Area Characteristics: The site is located on the Foughilletra Road, situated approximately 1 mile from Jonesborough. The topography of the site rises up from the main road. The site lies outside the settlement limit for Jonesborough village but does lie within the designation of an Area of Outstanding Natural Beauty (AONB).

Site History: N/A

Date of Site Visit: 06/11/2019

Planning Policies and Material Considerations:

Banbridge Newry Mourne Area Plan 2015

Strategic Planning Policy Statement for Northern Ireland

Planning Policy Statement 21 – Sustainable Development in the Countryside

Planning Policy Statement 2 – Natural Heritage

Consultations:

DFI Roads – Content subject to conditions

NI Water – Generic Response

Objections and Representations:

3 neighbours were notified on 30.10.2019. The proposal was advertised in local press on 23.10.2019. No objections or representations have been submitted for consideration.

Consideration and Assessment:

The Banbridge, Newry and Mourne Area Plan 2015

Section 45 of the Planning Act (NI) 2011 requires the Council to have regard to the Local Development Plan (LDP), so far as material to the application and to any other material considerations. The relevant LDP is Banbridge, Newry and Mourne Area Plan 2015 as the Council has not yet adopted a LDP.

Strategic Planning Policy Statement (SPPS)

There is no significant change to the policy requirements for infill dwellings following the publication of the SPPS and as it is arguably less prescriptive, the retained policies of PPS21 will be given substantial weight in determining the principle of the proposal in accordance with para 1.12 of the SPPS.

Planning Policy Statement 21 – Sustainable Development in the Countryside

Policy CTY 1 refers to a range of development which in principle are acceptable in the countryside. This development includes infill dwellings if they meet the criteria set out in CTY8.

Policy CTY 8 – Ribbon Development

Policy CTY 8 outlines the criteria which must be met in order to grant planning permission for an infill site. Planning permission will be refused for a building which creates or adds to a ribbon of development. An exception will only be made for the development of a small gap site sufficient to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage, provided this meets the existing development pattern along the frontage in terms of size, scale, siting and plot size.

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. It is considered there are two buildings with frontage along Foughilletra Road at numbers 31 and 23. Consideration was given to other buildings along the road, but it is considered that these do not have road frontage, just access points on to the main road. Therefore, the site lacks a substantial and continuously built-up frontage.

An exception to ribbon development will be permitted where the proposed gap site is sufficient only to accommodate up to a maximum of two houses. The gap between dwellings with a road frontage is 167m which is large enough for more than 2 dwellings.

The proposal fails both elements of the policy criteria outlined above. The proposal would, if permitted, result in the addition of ribbon development along Foughilletra Road. I consider therefore, that the proposal fails policy CTY 8.

Policy CTY 1 – Development in the Countryside

The proposal does not meet the cases outlined in CTY 1 for planning permission. With no overriding reasons why this development is essential and could not be located in a settlement it is considered that the proposal is also contrary to policy CTY 1.

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

Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and is of appropriate design. The proposal complies with CTY 13.

Policy CTY 14 – Rural Character

Planning permission is only 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. This proposal, if permitted, would create a ribbon of development. It is considered that ribbon development is always detrimental to the rural character of an area as it contributes to a localised sense of build-up and fails to respect the traditional settlement pattern of the countryside.

CTY 16 – Development Relying on Non-Mains Sewerage

Planning permission will only be granted for development relying on non-mains sewerage where the applicant can demonstrate that this will not create or add to a pollution problem. It is desirable for new development to connect to mains services wherever possible.

Planning Policy Statement 2 – Natural Heritage

The site lies within the Ring of Gullion Area of Outstanding Natural Beauty. Policy NH 6 refers to AONBs. It highlights that planning permission for a new development will only be granted where it is of an appropriate design, size and scale for the locality and all of 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;
 - Local materials, design and colour.

Development proposals in AONBs must be sensitive to the distinctive special character of the area and the quality of their landscape, heritage and wildlife. I consider that the proposal is contrary to NH 6 in that the siting of the proposal is not sympathetic to the special character of the AONB through the creation of build-up.

Recommendation:

Refusal

Reasons for refusal:

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

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

2. The proposal is contrary to the SPPS and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along Foughilletra Road.
3. The proposal is contrary to the SPPS and to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, add to a ribbon of development, which would therefore result in a detrimental change to further erode the rural character of the countryside and contribute to build-up in the area.
4. The proposal is contrary to the SPPS and PPS 2 NH 6 in that the siting of the proposal is not sympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.

Case Officer:

Authorised Officer:

Representation Against Recommendation to Refuse

Application Ref:	LA07/2019/1449/F
Application Name:	Trina-Marie & Mark Mooney
Site Location:	Site adjacent to and 50m south of 29 Foughilletra Road, Jonesborough BT35 8JE
Proposal:	Proposed infill dwelling and detached garage under PPS 21, CTY 8
Consultations:	Transport NI have no objections to the proposal.

Reasons for refusal are cited as follows

1. *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 would, if permitted, result in the addition of ribbon development along Foughilletra Road.*
3. *The building would, if permitted, add to a ribbon of development, which would therefore result in a detrimental change to and further erode the rural character of the countryside and contribute to build-up in the area.*
4. *The siting of the proposal is not sympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.*

The main issue is whether or not the proposal may be considered as an exception under CTY8 (i.e.)

...."A small gap site sufficient to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage. (A line of three or more buildings along a road frontage) provided this meets the existing development pattern along the frontage in terms of size, scale, siting and plot size"....

I say this proposal meets this criteria.

- Figure 1 clearly shows there to be a distinct frontage of at least five buildings. Planning Services consider there are only two.
- Planning Services have taken their measurements of the gap site between no's 23 and 31 Foughilletra Road. I contend that the gap site is in fact between no. 25a and no. 29.
- Planning Services opine that a small ranch style fence along the gable of no. 25a precludes it from having frontage to the road. I disagree. The ranch fence is a simple device to keep cattle away from the building. 25a is also connected directly to Foughilletra Road and displays the characteristics of a dwelling fronting onto it.
- Planning Service discount no. 29 as part of the built-up frontage. I contend that no. 29 and its outbuildings display characteristics of roads frontage and is connected directly to Foughilletra Road.

I consider that this site complies with policy CTY 8.

If CTY8 is satisfied, then reasons for 1-3 for refusal are not sustainable. In relation to reason no. 4 the applicant is willing to work with Planning Services to agree an appropriate design.

BD 18th August 2020

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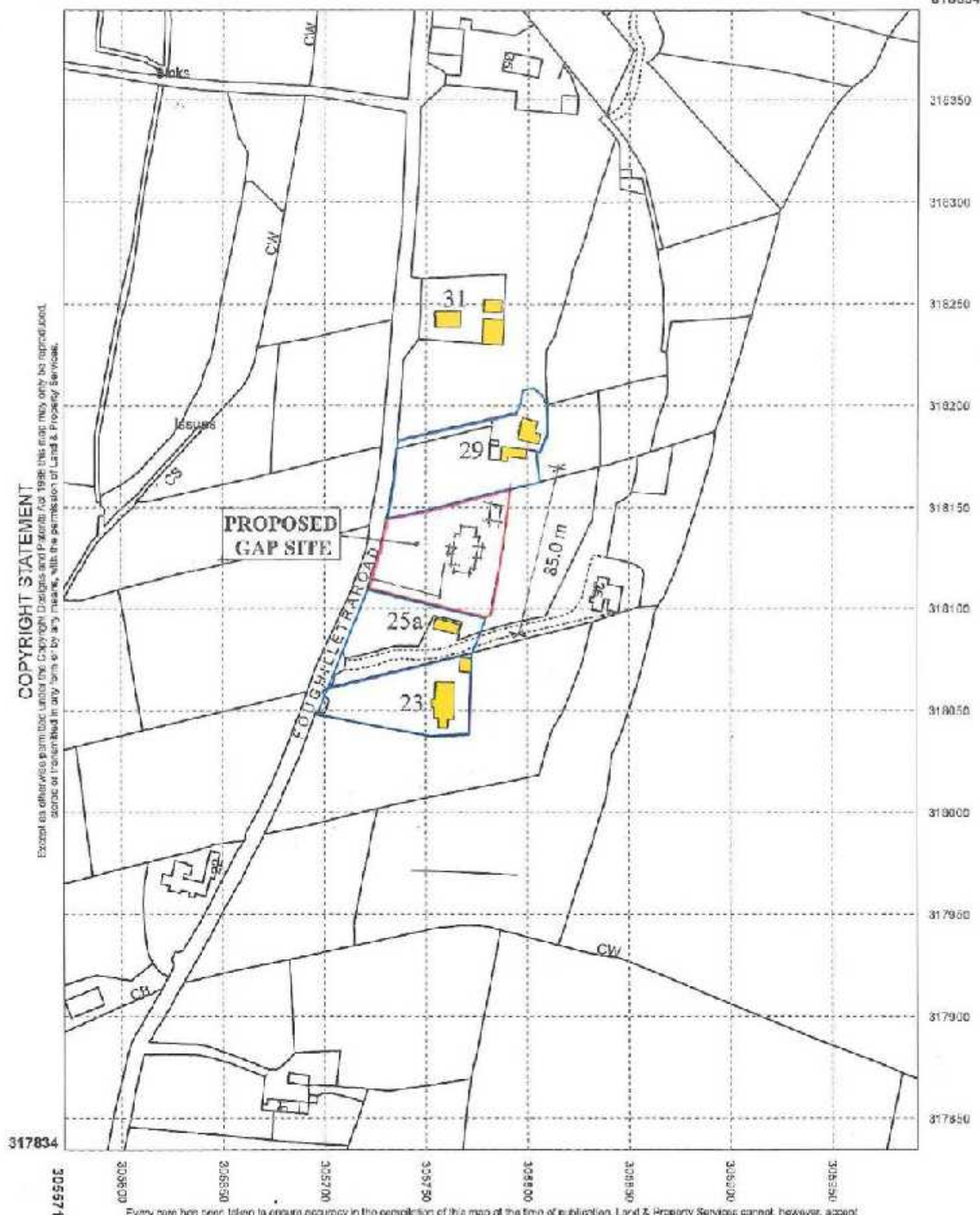
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Application Reference: LA07/2019/1087/O

Date Received: 10th July 2019

Proposal: Replacement dwelling and garage

Location: Approximately 50m North East of 21 Drakes Bridge Road, Crossgar

Site Characteristics and Area Characteristics:

The application site comprises an area of 0.15 hectares and contains an old stone building with an area of bramble and overgrown vegetation. The site is surrounded by a number of other farm buildings and outbuildings, and an apparently unoccupied dwelling house. It is located up a private access lane off the Drakes Bridge Road.

The site is located in the countryside as defined in the Ards and Down Area Plan 2015. The surrounding area is rural, made up of largely agricultural land and scattered dwellings throughout.

Site History:

No relevant planning history on this part of the site.

Planning Policies and Material Considerations:

The application is considered against the Ards and Down Area Plan 2015 and in addition to this is also considered against the guidance set out in Policies CTY1, CTY13 and CTY14 of PPS 21: Sustainable Development in the Countryside, PPS3: Access, Movement and Parking, and SPPS.

Consultations:

DFI Roads – no objections

NI Water – no objections

Objections & Representations:

The application was advertised in the local press on 27th July 2019 which expired on 7th August 2019 and neighbour notification was issued on 22nd July 2019 and expired on 5th August 2019.

To date there has been 1 letter received neither objecting or in support of the proposal in relation to the proposal.

- My family have lived there for a number of generations and that small outbuilding was never inhabited.
- It was used as a calf house and store and has never been lived in

Consideration and Assessment:

SPPS

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

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

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

The small building subject of this application is stone built with a corrugated tin roof. It has a small lean to on the side elevation. From the site inspection, it was noted that there are four substantially intact walls on the building. There is possibly one blocked up window serving the building. There is no evidence of a chimney breast within the building itself and so it is not considered that this building exhibits the essential characteristics of a dwelling. The test under CTY 3 is whether the building exhibits the essential characteristics of a dwelling house, which officers are not satisfied that this building does. As such, there is no dwelling house to be replaced and therefore the proposed development would not fall under one of the exceptions listed in CTY1 of PPS21.

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

PPS2: Natural Heritage

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

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

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

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

Owing to the age and setting of the old building and its location adjacent to mature hedging and trees, it was considered necessary to seek a Preliminary Ecological Assessment (PEA) of the site as the building and surrounding vegetation was considered to have bat roost potential. Natural Environment Division were consulted on receipt of the PEA, they responded stating, "given the availability of suitable habitat, it is not unreasonable to suggest that badgers may be present in the vicinity. As badgers and the setts are protected under the Wildlife (Northern Ireland) Order 1985 (as amended), NED

requires further information regarding the presence/absence of badgers in order to provide a substantive response."

The proposed development is not acceptable in principle therefore it was not considered necessary to put the applicant to the added expense of commissioning this badger survey sought by NIEA.

Recommendation:

Refusal is recommended

Refusal Reasons:

1. The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY3 of PPS21 in that the building to be replaced does not exhibit the essential characteristics of a dwelling house and therefore would not represent a replacement opportunity.

Informatives:

The drawing number to which this decision relates is: LA07/2019/1087/ 01

Case officer:

Authorised by:

Date:



Application Reference: LA07/2019/1134/O

Date Received: 23rd July 2019

Proposal: Replacement dwelling and garage

Location: 90 Manse Road, Darraghcross, Crossgar

Site Characteristics and Area Characteristics:

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

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

Site History:

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

Change of use from former buildings to dwelling.

Appeal Allowed

Planning Policies and Material Considerations:

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

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

Consultations:

DFI Roads – no objections

NI Water – no objections

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

Objections & Representations:

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

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

Consideration and Assessment:

SPPS

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

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

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

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

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

PPS2: Natural Heritage

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

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

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

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

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

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

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

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

Recommendation:

Refusal is recommended

Refusal Reasons:

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

Informatives:

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

Case officer:

Authorised by:

Date:



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

Application Reference: LA07/2019/1807/O

Date Received: 29/11/2019

Proposal: Site for farm dwelling

Location: 55m north of 4 Leitrim Road, Hilltown, BT34 5XS



Site Characteristics & Area Characteristics:

Characteristics of site: The lands outlined in red are irregular in shape, with a square shaped plot located approx. 50.0m north east of number 4 Leitrim Road. The square shaped plot is carved out of an agricultural field, which rests slightly higher in elevation than the road level. To the west of the site is a group of agricultural buildings. The site is accessed via a shared access laneway which serves approx. 13 dwellings. In terms of site boundary treatments, the western boundary is defined by a stone wall with post and wire fencing on top. The northern boundary is defined by post and wire fence with patches of hedgerow. There is no defined eastern boundary, and a post and wire fence defining the boundary to the south.

Characteristics of area: The application site is located outside any settlement development limits as designated in the Banbridge/Newry and Mourne Area Plan 2015. The area is of typical rural character and predominately agricultural use, located within a designated Area of Outstanding Natural Beauty (AONB).

Site History:

P/2006/0887/O - Opposite and 80 metres north east of no. 4 Leitrim Road, Hilltown. Site for dwelling and garage. Application withdrawn.

Planning Policies & Material Considerations:

Banbridge/Newry and Mourne Area Plan 2015

SPPS - Strategic Planning Policy Statement for Northern Ireland

PPS 2 - Natural Heritage

NH 6 - Areas of Outstanding Natural Beauty

PPS 3 - Access, Movement and Parking

AMP 2 - Access to Public Roads

PPS 21 - Sustainable Development in the Countryside

CTY 1 - Development in the Countryside

CTY 10 - Dwellings on Farms

CTY 13 - Integration and Design of Buildings in the Countryside

CTY 14 - Rural Character

CTY 16 - Development Relying on Non-Mains Sewerage

Building on Tradition, a Sustainable Design Guide for the Northern Ireland Countryside

Consultations:

DAERA – The Business ID number has been in existence for more than 6 years and has claimed payments through the Basic Payment Scheme or Agri Environment scheme in each of the last 6 years.

NI Water - Generic response

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

DFI Rivers – Content (recommended planning informatives)

Objections & Representations:

4 Neighbours within close proximity of the site were notified on 14/01/2020, 24/02/2020 & 06/03/2020. This application was advertised in the local press on 06/01/2020 and 08/01/2020. No objections or representations have been received.

Consideration and Assessment:

The proposed development is seeking outline planning permission for a dwelling on a farm.

PPS 21 - Sustainable Development in the Countryside

Policy CTY1 restricts new development in the countryside, but makes an exception for farm dwellings, which are considered acceptable if in accordance with policy CTY10. Criterion (a) require the farm business to be currently active and to have been established for at least 6 years. DAERA advised in a consultation response dated 16/01/2010 that the associated farm has been in existence for 6 years, and the farm business has claimed the Single farm payment (SFP), Less Favoured Area Compensatory Allowances (LFACA) or Agri Environment Schemes within each of the last 6 years. This information provides the Council with the main means to determine if farm is currently active and established. Based on this information the application meets the policy requirements of CTY10(a).

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

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

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

The site outlined for the dwelling is located to approx. 50.0m north east of number 4 Leitrim Road. To the west of the site is a large agricultural shed, and approx. 27.0m south of this building is a second agricultural building. There is an additional farm building and dwelling on the farm further south. These existing farm buildings are

sited in a linear position which run along the existing shared access laneway. The red line that forms the site is located on the opposite site of this laneway.

Paragraph 5.41 of PPS 21 states that dwellings should be positioned sensitively with an established group of buildings on the farm, either to form an integral part of that particular building group, or when viewed from surrounding vantage points, it reads as being visually interlinked with those buildings, with little appreciation of any physical separation that may exist between them.

The farm buildings are positioned beside each other within the farm complex making them read as one long 'I' shaped visual identity. It is the Council's opinion that the proposal is visually separated from the site by the intervening shared access laneway. The applicant's farm buildings and the proposal are considered not to form an integral part of the building group or be visually interlinked with those buildings when travelling north along Leitrim Road. As a consequence, it appears as a separate entity to the applicant's farm complex.

The applicant was made aware of the concerns raised by a letter dated 1st May 2020. The applicant was given 14 days to respond to the concerns raised. In a rebuttal dated 10th May 2020 and 21st May 2020, a case was put forward demonstrating how this site clusters or visually links. After considering the information put forward by the applicant, Case Officers remain under the opinion that a dwelling on the subject site is not considered to meet this criterion in terms of visually linking or clustering with the established group of farm buildings at Number 4 Leitrim Road, meaning it would not form an integral part of that building group or be visually interlinked with those buildings. Furthermore, the physical separation between them would be readily apparent.

Whilst the applicant disagreed with the Council's opinion, did make the case that this application meets the requirements of the exceptions test.

Applicant pointed out that the extent flooding as depicted by DFI River Flood Maps is at odds with local knowledge. Having checked the most up to date flood maps available, it appears that none of the land is within a flood plain, and development of a farm dwelling may be possible. The applicant was requested to provide the Council with the evidence of the local knowledge of the flooding incidents referred to which excludes all lands to the rear of the buildings, within blue line. No evidence was provided and in practice the Council will base their guidance from the current flood maps available.

The applicant put forward the case that due to the position of the current buildings on the farm, there is no space along the lane frontage to provide access arrangement to serve these lands without having determinantal impact on the existing farming operations and the financial viability of the business. Furthermore, stating that access via the laneway to lands to the rear are not achievable due to gradient of

access whilst safeguarding the financial viability of the existing farm holding. No evidence was put forward to substantiate this claim.

Reference is drawn to the option of taking access from Leitrim Road to the lands immediate west of the site. On page 6 it is stated that "visibility splays are not achievable and even if they were the change of levels at the point of entry would make the site impossible to develop without unimaginable earth works and retaining structures". I note from my site visit that the greatest change in levels was immediately adjacent to the bridge. The change of levels immediately west of the rear boundary of no. 4 is much less, therefore achieving access arrangements may in fact be possible.

Reference is drawn to verifiable plans to expand the farm business. The applicant was requested to provide evidence of this. To date no evidence has been provided.

Taking the above into consideration, I do not find that the applicant has demonstrated health and safety reasons or verifiable plans to expand the farm business at the existing building group(s) which would justify a site away from the existing group of farm buildings under the above policy. Criterion (c) has failed to be satisfied, therefore the principle of development has not been established and refusal will be recommended.

Policy CTY 13 - Integration and Design of Buildings in the Countryside, requires a new building in the countryside to be able to be integrated visually within the landscape in which it is set. The area inside the red line takes in an agricultural field, and no specific siting has been pin pointed. As this is an outline application the siting and design would be determined at the Reserved Matters stage. However, as it has been established that the proposed dwelling is not sited to visually link or cluster with an established group of buildings on the farm, it fails CTY 13, therefore planning permission will not be granted.

Policy CTY14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to or further erode the rural character of the area. Given the location of the site, when travelling along shared access laneway at Leitrim Road the proposal if approved, would add to a ribbon of development, which is considered detrimental to the rural character of an area. The proposal is considered contrary to this policy.

CTY 16 ensures that new developments will not create or add to a pollution problem. A septic tank is proposed, a copy of 'Consent to Discharge' must be submitted to the Planning Department prior to the commencement of development. The proposal appears to conform to Policy CTY 16.

PPS 2 - Natural Heritage

As this site is located within a designated Area of Outstanding Natural Beauty (AONB) policy NH 6- requires that new development within a designated AONB must be of an appropriate design, size and scale for the locality. The siting of a potential dwelling within the lands in red are considered unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.

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

Having received several amendments to the site location plan, DFI Roads confirmed on the 26/06/2020 that they have no objections to the proposal with regard to the above policy criteria subject to access being in accordance with the RS1 form.

Recommendation:

The proposal is contrary to the Strategic Planning Statement for Northern Ireland, Policy NH6 of PPS2 and Policies CTY1, CTY8, CTY13 & CTY14 of PPS 21, and is recommended for refusal.

Refusal Reasons:

1. The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development.
3. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that:
 - a. The proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm and access to the dwelling is not obtained from an existing lane;
 - b. Demonstrable reasons to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm.

4. The proposal is contrary to SPPS and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.
5. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and would add to a ribbon of development.
6. The proposal is contrary to Paragraph 6.186 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) and PPS2 'Natural Heritage' Policy NH6 in that a) the siting and scale of the proposal is unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.

Case Officer Signature: S. Maguire

Date: 02/07/2020

Appointed Officer Signature: M Keane

Date: 02-07-2020

LA07/2019/1807/O – Site for farm dwelling on lands 55m north of 4 Leitrim Road Hilltown for Mr and Mrs Tony Wilson.

Planning Statement in support of application and in contention with Officer's recommendation.

Members of the Committee are advised that whilst the application is listed with five reasons for refusal, Officers have confirmed that if the application was deemed to comply with Criterion (c) of Policy CTY 10 of PPS 21 that approval of the application would have been their recommendation to Members. Therefore, if Members agree with the applicant's assertion that the proposed site is fully compliant with the visual linkage test as set out in Policy CTY 10 then all other refusal reasons would fall.

The policy interpretation that Officers are putting forward to members in this report that a farm dwelling will not visually link with an established group of farm buildings if it is located on the opposite side of a private laneway is at odds with the interpretation of other Planning Authorities and more importantly one of the Council's regulators the independent body of the PAC.

The applicant in support of his application has made reference to a number of recent appeal decisions specific to how the PAC deal with the issue of the visual linkage test set down in CTY 10. Officers whilst stating they have considered the established position of the PAC on this issue have provided no rationale in their report as to why they are at odds with this interpretation of planning Policy.

In the PAC decisions forwarded to Officers it is readily apparent that a dwelling on the opposite side of a public road (not a 4m wide private laneway as in this application) can be visually linked to existing farm buildings at a distance in excess of 50m (see appeal ref in Annex D and Critical View 1 & 2). The Officer's report makes no reference to this established principle of planning policy interpretation in PAC judgements and one applied across all other local Planning Authorities. I would ask Members to view appeal decision in Annex D in the context of this application and seek officers to clarify the difference.

It is simply not written anywhere in Policy CTY 10 that a farm dwelling will not visually link with the established farm buildings if it is on the opposite side of a road/laneway. The Officers report states that proposed site is visually separated from the established farm buildings by the private laneway and therefore fails to visually link. The fact that it is separated from the established farm buildings by a private laneway is not fatal to compliance with the visual linkage test of CTY 10 (c) of itself and this is the established position of the PAC and all other local Planning Authorities. The critical view cited by Officers in their report is travelling north on Leitrim Road. It is simply not the case that a farm dwelling on the proposed site will not visually link with the existing farm buildings when travelling north along Leitrim Road (see annex A & B of Critical Views). If Members are not convinced by the annex referenced above, I would request that Members visit this site to view this for themselves.

To add some points of clarification to assist Members in understanding the specifics of this application we would make the following points of relevance to the visual linkage policy consideration;

Officers appear to be recommending refusal of the application solely on the grounds that the application site is separated from the established farm buildings by a private laneway that varies between 4m and 5m in width. As outlined in the statements of support that accompanied the application the policy amplification text reads '**little appreciation of physical separation**'. The site is located 8m from the largest of the farmer's agricultural buildings across a private laneway. The little

appreciation of physical separation is a matter of planning judgement and one that officers have clearly misdirected themselves on. Planning approvals for farm dwellings on the opposite site of a public road (in this case a 4m wide private laneway) by other local Planning Authorities but more importantly the PAC have established the principle that little appreciation of physical separation can exist in cases of up to 50m of separation between a site and farm buildings.

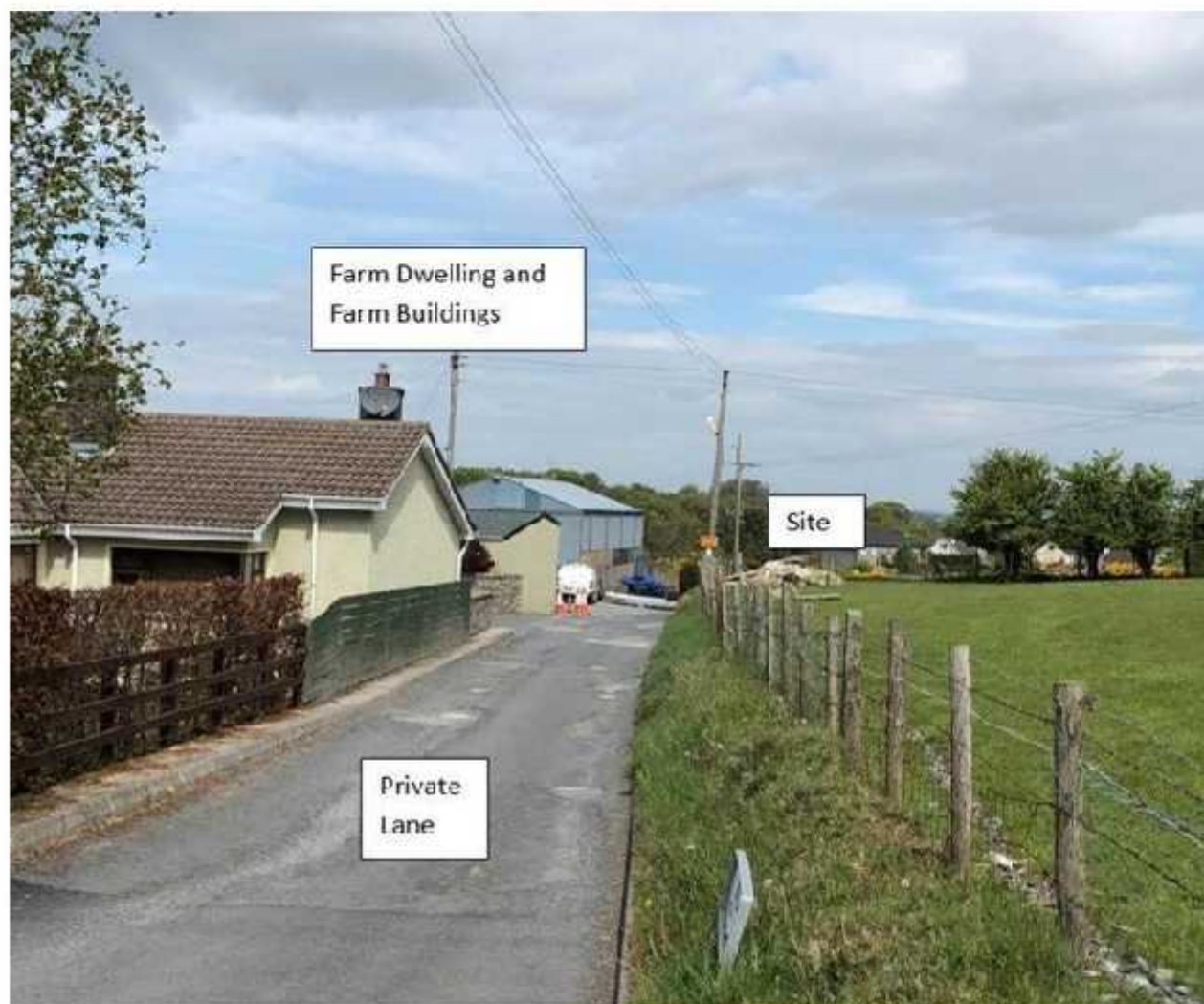
Officers in their report have chosen to ignore the precedents set by the PAC in this specific assessment of Policy and its amplification text. Members will note from the aerial photo provided in Annex B showing the extent of the associated farm buildings in juxtaposition to the application site. The separation distance is 8m from the largest farm building to the application site and is separated only by a private laneway measuring 4m wide.

Members should also be made of aware of the permitted development rights that are afforded to the applicant. It is clear from the annotated map in Annex C that the applicant could erect a large scale agricultural shed of up to 500sq m on the opposite site of the private laneway. It would seem unreasonable that permitted development rights would facilitate the erection of a 500sq m agricultural building immediately adjacent to the application site but that a modest scaled dwelling is considered by the Council to not visually link. It is quite clear from any interpretation of the SPPS, PPS 21 and the Permitted Development Rights for Agricultural Buildings that the main thrust behind rural planning is facilitating development that visually links or clusters where no demonstrable harm is caused. It remains our position that the application site does visually link to the existing farm buildings and no demonstrable harm is caused.

I would remind Members that 'Planning authorities should be guided by the principle that development should be permitted, having regard to the local development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance'. There is clearly no demonstrable harm associated with the application before Members and it is the applicant's assertion that the proposal complies with all relevant Planning Policies and should be approved.

Annex A Critical Views of Visual Linkage Test of CTY 10 Criterion C

Critical View 1 Looking towards farm buildings and site along private lane from junction with Leitrim Road (Note Visual linkage with little appreciation of physical separation)



Annex A Critical Views of Visual Linkage Test of CTY 10 Criterion C

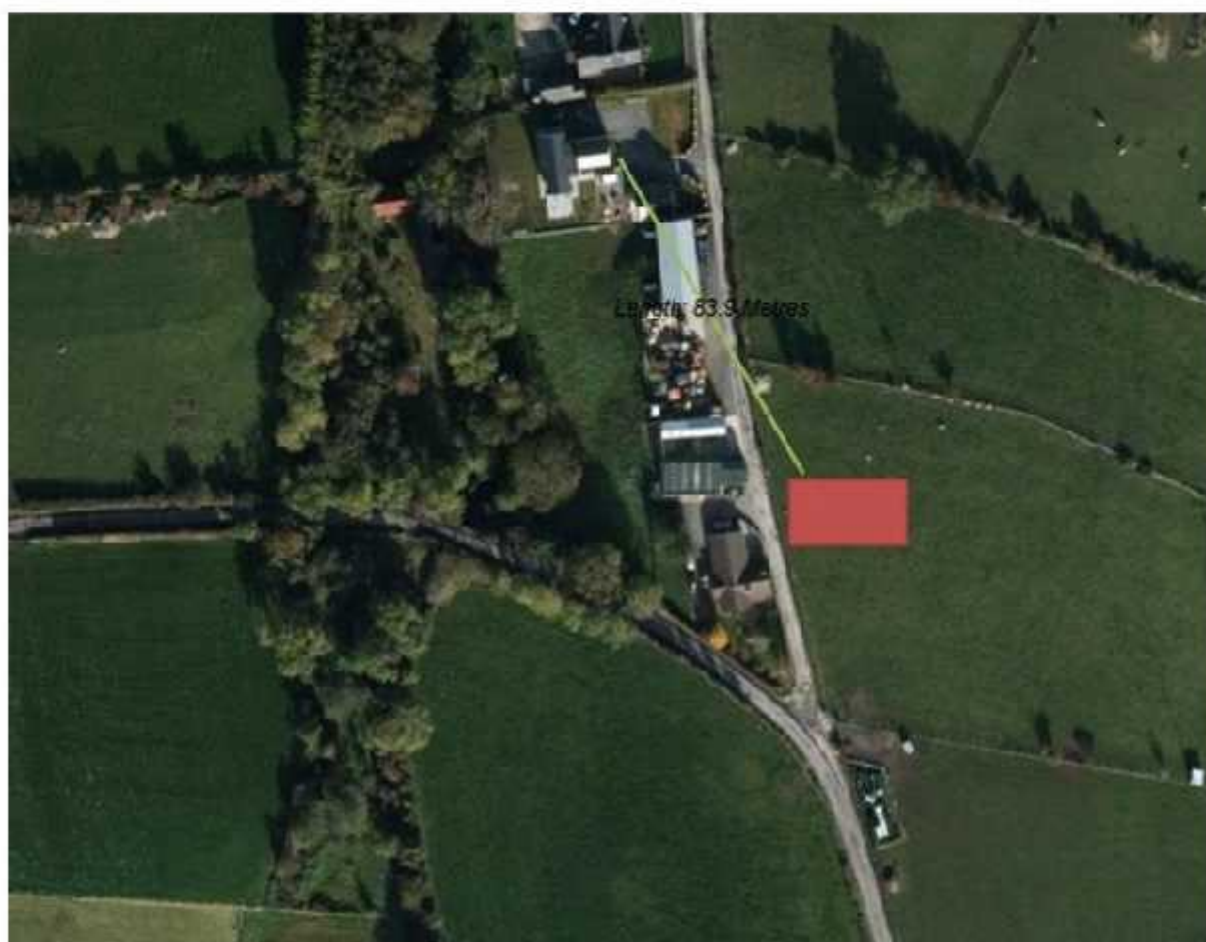
Critical View 2 Looking along private lane towards junction with Leitrim Road (Note Visual linkage with little appreciation of physical separation)



Annex B Aerial View of site in juxtaposition with farm buildings highlighted in green. (Clear visual linkage and little appreciation of physical separation)



Annex C Location of large scale agricultural building that could be erected under permitted development rights through the active farm.



Annex D Appeal Reference 2018/A0247



Annex D

Critical View 1



Critical View 2





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

Application Reference:

LA07/2020/0579/F

Date Received:

4th April 2020

Proposal:

Play park enclosed with low level fencing

Location:

Play area at Mullagh Close, Mullagh Close, Ballymartin, Kilkeel

Site Characteristics & Area Characteristics:

The site is within the development limits of Ballymartin as designated in the Banbridge, Newry and Mourne Area Plan 2015. The site is also within an Area of Outstanding Natural Beauty.

The application site is located to the west of Mullagh Close which is a housing estate comprising a mixture of single and 2 storey terraced dwellings. The site is grassed and can be accessed via several pathways to the side of houses. The site abuts St Joseph's Church to the south west. The topography of the site is flat with several trees planted throughout. The site is defined by vegetation and hedgerow along the northern boundary, a dry natural stone wall and palisade fencing along the western boundary and abuts the rear of existing dwellings along the east and southern boundaries.

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 8: Open Space, Sport and Outdoor Recreation

Site History:

P/2003/1746/F - Land adjacent to No 9 Mullagh Close, Ballymartin - Provision of 4 No temporary mobile homes and storage accommodation during construction work to dwellings – Permission granted, 13.10.2003

Consultations:

N/A

Objections & Representations:

Neighbour notification: 29.06.2020

Advertisement: 26.05.2020

No objections or representations were received.

Assessment**Proposal**

The proposal is for a play park at a grassed site adjacent to Mullagh Close housing estate. The site will be enclosed by a 1.2m high fence along the existing pathway to the rear of the adjacent dwellings. The existing boundary treatment along the north and western boundaries is to be retained. The area of the site is approximately 0.16Ha.

Principle of Development

Section 45 of the Planning Act (NI) 2011 requires the Council to have regard to the Local Development Plan (LDP), so far as material to the application and to any other material considerations. The relevant LDP is the Banbridge, Newry and Mourne Area Plan 2015. The application site is located in the settlement development limit of Ballymartin and is un-zoned white land within the relevant Area Plan.

Policy OS1 of PPS8 states that development that would result in the loss of existing open space or land zoned for the provision of open space will not be permitted. 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. Planning Policy Statement 8 defines open space which includes 'play areas'. Policy OS1 seeks to protect open space and the proposal for the play facility will not compromise this policy criteria.

Annex B of PPS 8 notes that children's playing space should be 0.8ha, the proposed park is approximately 0.16ha. On balance, the area of the playing facility is considered acceptable, particularly as it represents an improvement to the area and will bring a new playing facility for children therefore the proposal is considered to comply with Policy OS 1 of PPS 8.

Recommendation: Approval

- Proposal is acceptable against the criteria of Policy OS 1 of PPS8.

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: NM448-G-1-10, NM448-G-1-11, NM448-G-1-12 and the Equipment Specification Document.

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

Informative:

- 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.

Case Officer Signature: Eadaoin Farrell

Date: 21.07.2020

Appointed Officer Signature: M Keane

Date: 22-07-2020



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2019/0261/F

Date Received: 06.02.2019

Proposal: 2 dwellings with detached garages (amended plans)

**Location: Sites 22 and 22a Spring Meadows, Burren Road, Warrenpoint
BT34 3SU**

The site is located within the settlement limits of Warrenpoint and within a committed housing zoning WB03 Spring Meadows, Burren Road. The site is also contained within the Mournes Area of Outstanding Natural Beauty as defined in the Banbridge, Newry and Mourne Area Plan 2015.

The site is located within Spring Meadows housing development.
The existing dwellings within the housing development are a mix of chalet bungalows and 1 ½ storey detached units of similar styles and finishes.

Site and surrounding planning history:

P/1992/0346- site for housing development (28 dwellings)- Approval

P/2003/2731/F- Erection of 2 no. dwellings no. 18 &24- Approval

P/2004/2248/F Erection of 2 no. dwellings no. 19&21- Approval

P/2004/3236/F- Erection of 2 no. dwellings no. 18&24- Approval

P/2006/0959/F- Erection of dwelling no. 28- Approval

P/2006/1540/F- Erection of 4 no. dwellings No's 23, 32, 34, 36- Approval

LA07/2017/1754/F- Erection of 2 no. dwellings no. 26&30- Approval

LA07/2019/0288/F- Proposed garage at no.30

Objections & Representations

No. of neighbours notified=16

No representations received= 7 responses received, 6 objections lodged from 4 different addresses and 1 letter requesting additional information.

Last neighbour notification expiry- 18.06.2020

Advertise expiry= 12.02.2020

Summary of Issues raised through the above objections:

- **Potential impact on the private amenity of no. 16, 24 and 26 Spring Meadows and 8 Gortnahowen;**
- **Potential overlooking of rooms within no. 24 Spring Meadows;**
- **The proposed house type not being in keeping with the surrounding area; and**
- **Overdevelopment.**

All the issues are considered within the main consideration and assessment of the proposal.

Consultations

Rivers Agency- no objections, attached informatives to the decision.

TransportNI- no objection.

NIW- capacity available, attach planning conditions to the decision.

HED- Historic Environment Division: 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.

Environmental Health- no objections raised subject to the development connecting to the mains sewer with NI water approval.

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 just within the settlement limits of Warrenpoint and within an Area of Outstanding Natural Beauty as defined in the Banbridge, Newry and Mourne Area Plan 2015. The application site forms part of a committed housing zoning.

Having considered the Housing in Settlements policy contained within the provisions of the SPPS, the SPPS is less prescriptive than the retained policy, therefore the retained policy is afforded the determining weight.

This application seeks to gain planning approval for 2 additional detached units within the existing housing development, Spring Meadows. The proposed units are to be served by the existing access arrangements.

The proposal will be assessed in line with the policy provision contained within PPS 3, PPS 7, AD PPS 7 and PPS 12.

The proposed detached 1 ½ storey dwellings are to be of the same design with only a slight variation in the position of the first-floor windows to the side and rear elevations. The dwellings will have a maximum ridge height of 6.9 metres above finish floor level (ffl). The design includes wall dormers to the front and rear elevations with a 1 ½ storey projection to the front of the properties. The roofs are to be pitched with external chimney breasts to both gables. The chimneys are to be positioned mid-way on the roof slope.

The existing dwellings within the housing development are a mix of chalet bungalows and 1 ½ storey dwellings with several of the dwellings having been extended. The proposed dwellings are similar in size, scale and design to that exhibited within the housing development. The existing dwellings are of various designs all of which complement each other. The proposed dwellings are to be finished in a smooth render with a concrete roof tile. This range of finishes are similar to those used on the neighbouring properties.

The proposed layout of the dwellings is considered to respect the existing pattern exhibited within the development. The dwellings are to be sited facing onto the access road with the plots providing small front garden areas. The associated garages are to be sited to the side and rear of the properties. In terms of site area, the proposed plots are similar if not slightly greater in size to that exhibited within the development. The proposed layout of the dwellings ensure the ratio of built form to gardens and spaces around them is in keeping with the existing urban grain of the area.

It is considered that the proposed density of the housing, together with its form, scale, massing, and layout will respect the local character of the area.

The main properties potentially impacted by this development are no's 6 and 8 Gortnahowon and no's 24, 26, 28 and 30 Spring Meadows also no.66 Burren Road.

Site no.22

The proposed dwelling on site no. 22 is to be sited back to back with no. 8 Gortnahowen. There is to be a maximum separation distance of 13.5 metres between the properties. Although this is below the recommended guidelines contained within the Departments Creating Places, the Planning Department must also consider the surrounding context. There are several other dwellings within Spring Meadows (single and 1 1/2storey) that are sited back to back with the dwellings located within Gortnahowen (single storey). These dwellings present similar relationships to that proposed with separation distances ranging from 12- 17 metres, most being in the lower end of the range. Having considered the surrounding layout of the development the proposed 13.5 metre separation distance is not considered to be out of character.

The proposed impact on the residential amenity of no. 8 Gortnahowen must also be considered.

The site section provided proposes a ffl of 30.8 within site no.22. This ffl is 1.8metres below the ffl of no. 8 Gortnahowen. With the proposed drop in the ffl, the proposal when viewed from the rear of no. 8 Gortnahowen will appear single storey in height and in turn reduce any issues regarding dominance, overshadowing or loss of light to this property. It is also noted that the only first floor window facing no. 8 Gortnahowen is to serve a bathroom and therefore will utilise obscure glazing to ensure no unreasonable overlooking occurs between the properties.

Given the position and orientation of the windows on the side elevation facing no. 6 Gortnahowen no unreasonable overlooking between the two dwellings will occur as a result of the proposal. The proposal will not cause any loss of natural light or overshadowing to no.6 Gortnahowen given the proposed levels and natural sunpath e-w.

There has been a number of objections raised regarding the impact of the dwelling on site no.22 on no. 24 Spring Meadows. The front of the proposed dwelling is to face the back of no. 24 Spring Meadows. Front to back there is to be a minimum separation distance of 21 metres. The proposed dwelling no. 22 is to be sited on a fil similar to that of no. 24, as shown in the section provided. Having considered the separation distance (which is above the back to back 20m Guideline stipulated within the Departments, Creating Places) and the proposed ffl of the dwelling. It is

considered that the proposal will not cause an unreasonable degree of overlooking to the private amenity area associated with no. 24 Spring Meadows nor will there be a direct uninterrupted view into the main rooms of this property.

Site no.22A

The proposed dwelling on site no. 22a is to be positioned at an angle to those properties sited to its rear. Given the orientation of the dwelling and position of the windows no unreasonable overlooking will occur as a result of this proposal to no. 26, 28 and 30 Spring Meadows. The position of the proposed garage and the garages associated with no. 26 and 28 will ensure no unreasonable overlooking will occur from the proposed first floor bedroom window to the gable facing these properties.

No's 26, 28 and 30 all lie to the south of site no. 22a, therefore the proposal should not cause any issues with overshadowing or loss of natural light to these properties.

Having considered the separation distance and position of the private amenity space associated with no. 66 Burren Road, site no. 22a is not considered to cause any unreasonable overshadowing, loss of natural light or overlooking to this property.

As stated above the proposal dwelling on site no. 22a is to be positioned at an angle. It also sits at an angle to no. 6 Gortnahowen. Having considered the position and orientation of the dwelling no unreasonable overshadowing, loss of natural light or overlooking will occur between these dwellings.

An objection was received regarding the proposed impact on the private amenity of no. 16 Spring Meadows. Having considered the position of the private amenity associated with no. 16, and the proposed separation distances the proposal will not impact upon the amenity of no. 16.

There should be no issues of conflict between the proposed units on sites no.22 and no.22a given the position and orientation of the windows.

The private amenity area for both dwellings is to be provided to the rear. The proposal will provide an area of approx. 120 sq metres private amenity to the rear of site no. 22 and approx. 175 sq metres to the rear of site no. 22a. This level of

private amenity space is considered acceptable and in line with the Departments Creating Places.

The site section shows the applicants intention to erect a 1.8 metre close boarded fence on top of a 1.65-metre-high concrete rendered retaining wall to the rear of the development between the site and Gortnahowen. There is an existing boundary wall between no. 66 Burren Road and part of the application site which is approx. 3 metres in height which is to be retained.

Having considered the position of the development in front of the proposed retaining structure and fence, any views of this boundary will be minimal. Given the difference in the levels between the application site and housing to the rear within Gortnahowen, only the proposed fencing will be viewed from this perspective.

The front boundary to the sites and the proposed party boundary between them is to be defined by a 0.9 metre close boarded fence.

The access to the dwellings is to be taken from the existing housing development. The access is in accordance with the previously approved housing scheme and DFI Roads have raised no objections to the proposal. The sites provide space for at least 2 in- curtilage car parking spaces.

Recommendation:

It is considered that the proposed density of the housing, together with its form, scale, massing, layout and design will respect the local character as well as safeguarding the amenity of the existing residents.

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: 30661p, 3066sp, 3066gar, 2950 fp/ele dated Sept 2019.

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

3. 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 watermains <350mm diameter or 8m of watermains of 350mm diameter or greater.

A diversion may be necessary. Consultation with NIW is required at an early design stage.

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

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

Reason: In the interests of visual amenity

5. Development shall not be occupied until the onsite works have been completed in accordance with the drainage details submitted to and approved by the relevant authority.

Reason: In the interest of public health

6. Development shall not be occupied until surface water drainage works on-site and off-site have been submitted, approved and constructed by developer and the relevant authority.

Reason: To safeguard the site and adjacent land against flooding and standing water.

7. All hard and soft landscape works shall be carried out in accordance with the approved details and the appropriate British Standard or other

recognised Codes of Practise. The works shall be carried out prior to the occupation of any part of the development in accordance with a programme to be submitted to and agreed by the Planning Department of the Council.

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

- 8. No development shall take place until proposed plans have been submitted to and approved by the Planning Department of the Council indicating the position, height and materials of any retaining walls. Development shall be carried out in accordance with the approved plans.**

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

- 9. The first-floor rear bathroom window of no.22, which faces no. 8 Gortnahowen shall be in obscure glass and be permanently retained as same.**

Reason: In order to preserve the amenity of the adjoining property.

Joanne McVeigh 26/06/2020

Jacqui McParland 26/06/2020

Addendum to Case officer Report**LA07/2019/0261/F****Proposal: 2 dwellings with detached garages (amended plans)****Location: Sites 22 and 22a Spring Meadows, Burren Road, Warrenpoint****BT34 3SU****Consideration of late objection received on 30 June 2020 and call in submission.**

The section drawings submitted by the agent do not include a finish floor level (ffl) of no's 24 & 26 Spring Meadows.

This is correct.

A-A- provides a cross section from no. 8 Gortnahowen through site no.22 and no.24 Spring Meadows.

B-B- provides a cross section from no. 6 Gortnahowen through site no.22a and no.26 Spring Meadows.

Although the ffls of no. 24 and 26 Spring Meadows have not been annotated within the section, they are still relative when measured to scale.

Consideration of the developments potential to overlooking no.24 Spring Meadows

No. 22a is positioned at an angle to the rear of no. 24. Given the proposed position and orientation of the first-floor windows on no. 22a, there is no direct overlooking into the rear windows of no. 24.

Overlooking of gardens may be unacceptable where it would result in an intrusive, direct and uninterrupted from a main room, to the most private area of the garden, which is often the main sitting out area adjacent to the property. As a general rule of thumb this area is the first 3-4 metres of a rear garden, closest to the residential property. The existing layout and position of the garage within the rear garden of no. 24, is considered to obstruct any direct views from the proposed first-floor bedroom windows of no. 22a into this area of private amenity space.

The case officer report had previously considered the potential overlooking between the proposed dwelling no. 22 and no. 24. The front, first-floor bedroom windows of no. 22 are to be the closest windows facing the rear amenity space and rear windows of no. 24. There is a proposed separation distance of over 21 metres between the front and back of the

dwellings. The rear boundary of no. 24 abuts the existing turning head and part of the front driveway to no. 22a. The section provided indicates that the proposed dwelling is to be sited on similar ffl to that within no. 24. Therefore, the need to apply a greater distance is not necessary.

Although this is a front to back relationship, the same principle applies. If a dwelling was to be sited back to back with no. 24, a lesser separation distance of 20 metres could apply to this case given the surrounding context. The position of the existing turning head between the dwellings, with the proposed separation distance will ensure the proposal will not cause a direct uninterrupted view into the rear windows and private amenity space of no. 24.

Consideration of the developments potential to overlooking no.26 Spring Meadows

No. 22 is positioned at an angle to the rear of no.26. Having considered the dwellings orientation and the proposed separation distance, front to back in excess of 23metres, the proposed dwelling on site no. 22 is not considered to cause unreasonable overlooking to no.26.

No.22a will also be sited an angle with no. 26. The side gable of no.22a is to be positioned closest to the rear of no. 26. This layout and relationship between the dwellings is similar, if not considered the same as the layout between no. 28 and 30 Spring Meadows.

There is to be one 1st floor window on this gable which is to serve an ensuite bathroom.

The ensuite window is to be fitted with obscure glazing and can be conditioned to be permanently retained, to ensure no future issues regarding overlooking of no. 26 can occur.

It is noted that the revised floor plans and elevations dated the 24th Sept 2019, did not include the amendment as referred to in the agents accompanying letter dated the 23/09/2019. This letter referred to the removal of the first-floor gable window to serve bedroom 2 within no.22a. This plan has been submitted by the agent, following review of plans on the public portal.

Therefore, the only window on the gable is to serve an ensuite bathroom which is to be fitted with obscure glazing.

The objector also raises concerns with the potential loss of light, overshadowing and noise disturbance that the development may cause.

As stated within the case officer report the existing dwellings, 24, 26, 28 & 30 within Spring Meadows are positioned south of the proposed development site. The proposed development on sites no. 22 and no. 22a is not considered to raise issues with loss of light or overshadowing to the existing properties referred to above, given the sun's natural path E-W.

The proposed development is not considered to exacerbate the existing levels of natural light received by these properties or the level of overshadow.

The potential for noise disturbance is considered minimal and short term limited to the construction phase.

The objector refers to the Departments Guidance: Creating Places para. 7.12 where it states:

“Layouts that include dwellings and apartments facing onto the rear garden spaces of other dwellings (or that back onto the fronts of other dwellings) **should be avoided**. Such layouts generally provide an unsatisfactory relationship between dwellings, even where dual aspect designs are employed, and can adversely affect privacy, reduce safety and be detrimental to the quality, character and appearance of the development as **a whole**.”

Creating Places as stated above is guidance and not Planning Policy. The use of the word ‘should’ suggests that this rule is not definitive. Each case must be considered on a case by case basis. It is considered that where a front-back layout would create an unsatisfactory relationship between dwellings, result in a loss of privacy, reduce safety and have a detrimental impact on the quality, character and appearance of the development as a whole, then this type of development should be avoided.

As considered above and within the case officer report, the proposed layout of the development on both sites will not adversely affect the privacy of the neighbouring dwellings.

The access arrangements to the proposed units are largely in place with a turning head separating the front of no.22 with the rear of no.24. The development of these lands will promote safety and create a natural surveillance within this area of the housing development.

Both site layouts provide adequate areas of private amenity space over and above that recommended. The site layouts allow for separation distances in line with the guidelines. The guidance refers to good practice allowing for 20metres or greater separation distances on greenfield sites and in low density development.

This is a brownfield site within a housing development that presents an average housing density. It is considered that a smaller separation distance would meet the overall objectives of the guidance in this circumstance. Our consideration for the reduction in the separation distance between no.22 and no. 8 Gortnahowen is provided within the case officer report.

The objector has questioned the existence of a front-back separation distance. There is no recommended separation distance provided for a front-back relationship but as stated above this does not exclusively rule this type of development as being unacceptable and each proposal must be considered on a case by case basis.

The proposal for two dwellings with a front-back relationship is not considered to detrimentally impact on the quality, character and appearance of the development as a **whole**.

There are a number of properties sited beyond the rear boundary of no. 24. No. 18 Spring Meadows (1 ½ storey dwelling) is positioned with its front facing the rear and side amenity of no. 24. Although the relationship between these sites is not a direct comparison given their orientation, they do present a similar relationship to that proposed between no. 22 and no. 24 and no. 22a and no. 24. No. 18, 20 and the proposed sites are all sited beyond the rear boundary of no. 24 with vehicular access on the turning head between the sites.

The position of no. 22a with the side gable orientated towards the rear of no. 26 presents a layout and relationship similar, if not considered the same, as the layout between no. 28 and 30 Spring Meadows.

The proposal is not considered to have a detrimental impact on the quality, character and appearance of the development as a whole.

Having considered the above it is felt that the proposed front-back relationship is acceptable in this case.

The proposal is considered compliant with Policy QD1 (a) as the development although not like for like will still respect the surrounding context and is appropriate to the character of the site in terms of layout, scale, proportions, massing, design and landscaping.

Overall the design and layout of the proposed development is also considered compliant with Policy QD1 (h) as the development will not create conflict with the adjacent land uses and there is to be no unacceptable adverse effect on the existing and proposed properties in terms of overlooking, loss of light, overshadowing, noise disturbance or other disturbance.

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

16 Spring Meadows,
Burren Road,
Warrenpoint,
Co Down.
BT34 3SU

15th April 2019

Dear Sir/Madam,

LA07/2019/0261/F Sites 22 and 22a Spring Meadows, Burren Road, Warrenpoint, BT343SU.

Thank you for your letter dated 3rd April 2019 in connection with the above planning application.

I have no objection to the proposed dwelling on site now known as 22a but I wish to object to the proposal to construct a dwelling on the site now known as Site 22. This proposed dwelling will have a negative impact on a private amenity i.e. No 24 Spring Meadows who will be overlooked at the back of their house. Furthermore I do not believe that the proposed construction blends in with the surrounding dwellings which are mainly bungalows. I would have no objection to the construction of a bungalow on site 22 as this would blend in with the surrounding dwellings and this solution would overcome the negative impact on No 24 Spring Meadows.

Yours sincerely,

John Gormley

19th August 2020

Representation in objection to recommendation to approve application reference LA07/2019/0261F for two dwellings with detached garages (amended plans) at sites 22 and 22a Spring Meadows, Burren Road, Warrenpoint.

Preamble

The representation mainly addresses arguments raised in the updated addendum to the Case Officer's first report. It is noted that we did not make a 'late' objection as alleged, we have made representation to planning services throughout this stressful process on foot of Neighbour Notification in accordance with correct and a proper protocol.

Objection

Our central objection remains the issue of unacceptable overlooking, using Planning Services own 'Thumb Rule' referred to in the addendum. We contend that if No 22 were approved in its current siting it would result in an intrusive, direct and uninterrupted view from its principle first floor rooms into the first three to four metres of our rear garden i.e. closest to the rear wall, kitchen window and main sitting out area. The Case Officer has applied this Thumb Rule to plot No.22a but has failed to apply it to No.22 where it is much more relevant.

Creating Places warns clearly that front to back orientations should be avoided. (There are none anywhere else in the development). The Case Officer argues that **Creating Places** is not policy, and relies on arbitrary distances and levels, yet the Case Officer uses the same 'Guidance' repeatedly in the first report to defend the layout.

In conclusion we look forward to the completion of Spring Meadows which is a wonderful place to live. However, we object to the form and massing of the final portion of the proposed development of two and one and a half storey houses on a plot that was initially laid out to support a single dwelling (chalet bungalow). If approved it would result in obvious and unacceptable overlooking, by way of direct uninterrupted view from the principle first floor rooms of No.22 into our rear garden. It would also create all of the other negative impacts referred to in our other representation.

We implore the Planning Committee to request that the Planning Services reconsider the proposal.

Yours sincerely

Mr & Mrs Cormac and Edel McKinney

LA07/2019/0261/F – Proposed 2 dwellings with detached garages at 22 and 22A Spring Meadows Burren Road, Warrenpoint.

This application is being made on behalf of MCK Developments for 2 dwellings with detached garages located at 22 and 22A Spring Meadows Burren Road. Spring Meadows is currently a development of 29 dwellings. The makeup of these dwellings is a mixture of storey and a half dwellings and chalet dwellings, of which there is 20 storey and a half dwellings and 9 chalet bungalows. A number of the storey and half dwellings have carried out storey and a half extensions. There has also been a recent approval for a two storey dwelling LA07/2020/0089/F.

From the statutory bodies that were consulted in relation to this application, all came back with no objections.

The layout of the proposed dwellings as stated in the case officers report *'is considered to respect the existing pattern exhibited within the development'*

The two proposed dwellings are similar in design with the other storey and a half dwellings in the development, there is a slight variation in the positioning of windows. The plot sizes are *'similar if not slightly greater in size to that exhibited in the area'* The case officer goes further to state in the report that *'the proposed density of the housing together with its form, scale, massing and layout will respect the local character of the area'*

The case officers report shows that the proposed dwellings will respect the character of the local area and will fit in with the current development pattern of the area.

The concerns raised by objections are, potential impact on private amenity of adjacent dwellings and potential overlooking, house type not being in keeping with the surrounding area and over development.

In regards to impact on private amenity and overlooking the separation distance between proposed dwelling at 22 Spring Meadows and 24 Spring Meadows is 21.25 metres. Although this orientation is front to back given the separation distance which is greater than that set in creating places document of 20m this will be as stated by the case officer *'not cause an unreasonable degree of overlooking to the private amenity area associated with No.24 Spring Meadows'*. The proposed dwelling at 22 Spring Meadows is positioned at an angle to No.26 and has a separation distance of 23 metres, again over the recommended distance in creating places document, this will cause no overlooking in adjacent properties private amenity space. The separation distance, levels and proposed fence on top of existing wall between proposal and the dwelling in Gortnahowen is accept by the case officer in the report as satisfactory.

In terms of the proposed dwelling at 22A the positioning of windows and proposed garage will as stated by the case officer will cause *'no unreasonable overlooking will occur as a result of this proposal'* on 26, 28 and 30 Spring Meadows. The proposed garage will as stated by the case officer *'ensure no unreasonable overlooking will occur'* from the proposed gable first floor window of 22A, which will be a frosted window.

The existing dwellings at 24, 26, 28 and 30 all lie South of the two proposed dwellings which will cause no over shadowing or loss of light to these properties.

An objection raised the issue of the house type not being in keeping with the surrounding area. As previously stated this development is a mixture of chalet bungalows and storey and a half dwellings. The storey and half dwelling far out number the number of chalet bungalows present in Spring Meadows. Further to that a two storey dwelling has recently been approved in Spring Meadows.

Another issue raised was over development of the site, the two plots as stated by the case officer *'ensure the ratio of built form to gardens and spaces around them is in keeping with the existing urban grain of the area'*

Further to a late objection submitted on the 30th of June. A further report was carried out by the planning department addressing the concerns raised. The case officer agreed with the initial report that the proposed dwelling do not cause any over looking in to the adjacent properties by separation distance(over 20m), positioning of windows and positioning of the proposed garage to 22A. The case officer goes further to state

that given the character of the area *'a smaller separation distance would meet the overall objectives of the guidance in this circumstance'* The second case officer agrees with the first report recommending the proposed two dwellings for approval. Which we agree with.

Please see image below of existing storey and a half dwelling at Spring Meadows which are similar to the proposed dwellings.





Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2020/0467/F

Date Received: 23rd March 2020

Proposal: Replacement dwelling with retention of old dwelling as agricultural store

Location: 38 Lighthouse Road Castlewellan

Site Characteristics & Area Characteristics:

The site is located along the minor Lighthouse Road, Castlewellan and is comprised of a 0.3-hectare portion of land, which contains a detached single storey dwelling and associated out buildings, which front directly onto Lighthouse Road and a portion of the adjacent agricultural field to the immediate north of the dwelling.

The dwelling is accessed directly from the road and it is noted that there is no roadside boundary along the frontage of the dwelling. The adjacent garden area / orchard is defined at the road by mature vegetation. Lighthouse Road tends to rise slightly in a northerly direction.



The site is located within the rural area and is surrounded by agricultural land, there are however, single dwellings dispersed throughout the surrounding area.

Site History:

Q/1980/D137 38 LIGHTHOUSE ROAD, BALLYWARD, CASTLEWELLAN PROPOSED EXTENSION AND ALTERATIONS TO FARM DWELLING

LA07/2019/0164/F - 38 Lighthouse Road, Ballyward, Castlewellan, - Replacement dwelling with retention of old dwelling as agricultural storage - PERMISSION REFUSED - 01.05.2019 and DISMISSED at Appeal 2019/A0050 11.12.2019

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 21 (CTY 3), in addition, to the history and any other material consideration.

The application was advertised initially in the local press on 13.05.2020

Consultations:

In assessment of the proposal a consultation was carried out with

DfI Roads– No objections

Environmental Health – No objections in principle subject to the dwelling's septic tank being located 15 metres from the adjacent residential property to reduce odour annoyance. The new dwelling should also be located 15 metres from the adjacent house's septic tank to reduce the likelihood of odour annoyance.

Objections & Representations

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

Consideration and Assessment:

The proposal seeks full planning for the erection of a replacement dwelling.

SPPS

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. In respect of replacement dwellings the SPPS states that any replacement dwelling must be located within the existing curtilage where practicable and

must not have a visual impact significantly greater than the existing buildings. In this case therefore greater weight must be attached to the tests set in the SPPS.

Policy CTY 3

Policy CTY 3 of PPS 21 provides the policy context and states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact.

In assessment of this initial criterion, it is considered that the dwelling exhibits the essential characteristics of a dwelling and all external structural walls are substantially intact. There are no objections in principle to the replacement of this dwelling.

Policy CTY 3 provides criteria for instances where a non-listed vernacular building is present – this is not the case at this site.

In addition, to the above, proposals for a replacement dwelling will only be permitted where 5 additional criteria are met. The applicant seeks full planning permission for a detached dwelling which he proposes to site in the orchard to the immediate south of the curtilage of existing dwelling as shown below.



The proposed dwelling will have a maximum ridge height of 6.5m above finished floor level, a frontage of 20.1m (including both side projections) and a gable depth of 8.1m. The proposed dwelling is modern in design and will be finished with blue/black slate type roof, smooth rendered walls with natural stone to the front projecting porch, upvc windows and doors and black upvc rainwater goods.



In addition, it is noted that the applicant wishes to use the existing agricultural buildings and retain the existing dwelling as an agricultural shed. Drawings have been submitted which show how the dwelling will be modified so as to be utilised as an agricultural store.

In consideration of policy it is noted that the proposed dwelling would not be replaced in situ but within the adjacent orchard. For the purposes of CTY 3 policy states that 'curtilage' refers to the immediate, usually defined and enclosed area surrounding an existing dwelling house. The Planning Authority therefore consider the curtilage of this dwelling to be that area comprising of the dwelling enclosed by the 1.2m high retaining wall to the rear and the hard-surfaced area extending to but not within the orchard area. In reviewing the PAC Decision on the previous application 2019/0050, the Commission referred throughout her report to the existing curtilage of the dwelling and the garden as separate entities distinct from each other. It is on this basis that the Planning Authority consider the proposal within the orchard to be off-site.

When assessed against the policy requirements and as stated above there are no objections to the dwelling being replaced in principle. However, it is noted from the submission that the applicant considers that the new dwelling would be located within the existing curtilage of the dwelling and justification for the revised layout from that previously proposed in LA07/2019/0164/F is that the applicant considers the PAC recommended the dwelling be located within the orchard. However, the Planning Authority would dispute this and would quote directly from the Commissioners report in which she stated "the existing curtilage and garden is large enough to accommodate a modest sized 1½ storey dwelling designed specifically for this plot, retaining its linear form with the parking area and amenity space provided in the sizeable garden area to the south. It is the Planning Authorities understanding of this statement that the Commissioner did not mean the entire proposal could be located within orchard, but that the orchard could be used as part of the curtilage of the new dwelling thereby providing improved provision for parking and amenity. The proposal does not therefore comply with the requirements of the SPPS or Criteria A of CTY 3 because the new dwelling has not been replaced within the existing curtilage of the dwelling.

In assessment of the visual impact of that proposed, it is noted that the existing dwelling is a modest single storey cottage with a footprint of approximately 119sqm. The proposed dwelling will have a footprint of 129sqm with a total floor area of 224sqm. The footprint of the proposed dwelling is not significantly greater than the existing, which only serves to highlight that a new dwelling could be accommodated within the existing curtilage. The

increase in height, however, means that the new dwelling will have a significantly greater visual impact than the existing and is not therefore compliant with CTY 3.

In consideration of the overall design of the dwelling, its form is simple with good solid to void ratio, the chimneys are expressed centrally on the ridge, with two side projections and a front porch. The design is considered to be acceptable.

The applicant proposes to retain the existing dwelling and outbuildings on site a new access is therefore required to serve the new dwelling. Provision of this access would require the removal of 33m of mature road frontage vegetation, which would open up the site and make its integration into the landscape difficult. The loss of this vegetation combined with the retention of the existing buildings has implications for the character of the area in terms of accumulation of buildings and ribbon development, which will be discussed below.

All necessary services could be provided without significant adverse impact on the environment or character of the locality.

In terms of the access, Transport NI have advised that the proposed access is safe and would not prejudice road safety or significantly inconvenience the flow of traffic.

In summary therefore, it is considered that the proposal does not meet the requirements of CTY3, due to its position outside the curtilage of the dwelling and the significantly greater visual impact the dwelling would have on the surrounding landscape.

Policy CTY 13

Policy CTY 13 states planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.

A new building will be acceptable where criteria A – G are met. As discussed above, the design of the dwelling is considered to be acceptable.

The creation of a new access will result in the removal of 33m of mature roadside vegetation, consequently resulting in a lack of integration for the new dwelling.



I appreciate that new boundaries are proposed, however, it would take a considerable amount of time for this to mature and provide the necessary screening to allow the proposed dwelling to integrate successfully. On this basis, I consider the proposal to fail CTY 13 on the grounds of lack of integration.

Policy CTY 14

Policy CTY 14 states that permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of the area. It is Planning Authorities view that this proposal, if approved, would result in the creation of a ribbon of development along this section of Lighthouse Road. The ribbon would consist of the new dwelling, the existing chicken shed, retained dwelling and agricultural outbuilding. Such development in the countryside has always been resisted and as there is no justification in this case the proposal fails CTY 14.

Policy CTY 8

Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. As described above, the Planning Authority consider, approval of this proposal would create a ribbon of development along Lighthouse Road and should therefore also be refused on this basis.

Conclusion

Having assessed the proposal against the various planning policies and material considerations which apply to the application and taking into account the input of the Councils consultees, it is determined that the proposal is unacceptable in planning terms and refusal is recommended for the following reasons:

Drawings

The Drawings considered as part of this assessment are as follows

01, 02, 03, 04 and 05

Recommendation:

REFUSAL

Reasons:

1. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement (SPPS), Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed replacement dwelling is not sited within the

established curtilage of the existing dwelling and would have a visual impact significantly greater than the existing building.

3. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that, if permitted, the proposed dwelling would result in the removal of long established natural boundaries and would therefore be unable to visually integrate into the surrounding landscape until the new boundaries have matured.
4. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) Policy CTY14 and CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted create a ribbon of development along Lighthouse Road and would therefore result in a detrimental change to the rural character of the countryside.

Case Officer: Claire Cooney

Date 21.07.2020

Authorised Officer: A McAlarney

Date 21 July 2020



Parliament Buildings
Ballymiscaw
Stormont
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101

Newry Mourne and Down District Council
Monaghan Row
Newry
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Our Ref: SB1368

19 August 2020

Re: LA07/2020/0467/F. 38 Lighthouse Road, Ballyward, Castlewella. Replacement dwelling with retention of old dwelling as agricultural store.

I wish to place on record my support for the above application.

I understand the applicants motivation to develop a modern modest family home on this site is driven by his parental desire to offer security to his son who has autism.

The proposal as presented has carefully considered the needs of this family as its core. The desire to develop a level of independence whilst also continuing to offer easy reach support will be critical in the years ahead.

I further understand there is a concern that the proposal would if allowing for sight lines, involve the removal of long established natural boundaries and would therefore be unable to visually integrate into the surrounding landscape until the new boundaries have matured.

I would urge those sitting in consideration of this application to weigh up the 'temporary' nature of such a detrimental impact against the lifelong positive impact it will have on the applicant and his extended families well being for many years to come.

If approved, the replacement of indigenous plantings along a new site line would quickly restore a natural boundary that would fully integrate with the surrounding landscape.

I trust those sitting in judgement of this application will see the possibility exists to offer a housing solution that is mindful of the families needs while also ensuring due diligence of environmental considerations are upheld.

In anticipation of a fair outcome I thank you.

Yours sincerely,

Sinead Bradley MLA

Sinead Bradley MLA

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Planning Committee 'Call in' Request Form

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Committee Meeting 26 th August 2020	Planning Application Number : LA07/2020/0467/F
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Request For Speaking Rights

Replacement dwelling with retention of old dwelling as agricultural store

In the previous PAC decision (2019/A0050), the Commissioner explained in her consideration that the dwelling could be sited in the orchard/side garden which is deemed to be in-curtilage. In-deed paragraph 13 summarises the critical issues in the appeal by saying: "the critical issue in this appeal is whether or not a replacement dwelling can be provided within the existing curtilage and the adjoining garden orchard area **OR (my emphasis)** if the off-site replacement as now proposed represents the only feasible option within the existing holding." It is clear that the commissioner feels that the orchard/garden area is considered an acceptable in-curtilage location which is supported by discussion at paragraphs 10, 13, 14, and 16. This application proposes siting in this very area which is discussed throughout the appeal. This is again corroborated by paragraph 14 when the Commissioner notes that this would be acceptable to site a dwelling adjacent to the farm buildings of no 34.

This recommendation for refusal is despite an email sent across to the Planning Office prior to an application being made to ensure that the council were satisfied with the proposal. The reason that this email was sent was because Planning Management had requested to the applicant that he engages with him before an application was submitted.

From the evidence submitted during this application and the last application it is clear that the applicant is a small scale farmer with a 2 acre holding and therefore could erect an agricultural building within 75m of the existing farm holding which would potentially create potential for a further infill dwelling. Consequently, there is a planning gain in the sustainable re-use of the existing dwelling for agricultural storage.

The Commissioner also stated in the previous decision that it would acceptable to remove several trees abutting the road stating that this would still allow for a satisfactory level of integration. (This forms another reason for refusal)

The case officers report states that the commissioner report regards the orchard and garden area are separate entities. However this is incorrect: The Commissioner views the domestic curtilage as including the garden/orchard area and this is referred to 6 times in her report.



Comhairle Ceantair an Iúir, Mhúrn agus an Dúin

Newry, Mourne and Down District Council

Application Reference: LA07/2020/0329/O

Date Received: 24th February 2020

Proposal: Infill dwelling and garage

Location: Approx 60m south of No 144 Loughinisland Road, Downpatrick

Site Characteristics & Area Characteristics:



The site is located off Loughinisland Road Downpatrick. It is comprised of a greenfield site positioned on a long private lane which serves several detached dwellings.

The site is defined by a post and rail fence to the northern and western boundaries of the site with the eastern boundary defined by mature vegetation. The site falls away from the lane in a west to east direction.

The site is positioned on elevated land above the public road – Loughinisland Road to the south east, but not visible from this road due to the intervening topography and vegetation.

Site History:

R/2009/0371/F - 144 Loughinisland Road, Annacloy - Strip/excavate topsoil set aside reuse and import recycled aggregate generated from inert waste codes 17.01, 17.01.02, 17.01.03,

17.01.07, 17.05.04, 17.05.06 and 17.05.08 to create Wild (grass and flower) Meadow and associated woodland planting for use as a wild meadow and woodland as wildlife habitat. (Amended Scheme) - PERMISSION GRANTED 27.03.2014

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 3, and 21 (CTY 8, 13), in addition, to the history and any other material consideration.

The application was advertised in the local press on 18.03.2020

The relevant neighbours were notified of the proposal on 04.03.2020

Consultations:

In assessment of the proposal it is considered that a consultation with DfI Roads was necessary, to which they have no objections.

Objections & Representations

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

Consideration and Assessment:

The proposal seeks outline planning permission for the erection of a 2 a dwelling and garage.

The policy context for this application is provided for by Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS 21). Policy CTY 1 of PPS 21 states that there are a range of types of developments which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. The applicant has submitted the application on the basis that he considers the proposal to comply with CTY 8 of PPS 21.

Policy CTY 8

CTY 8 of PPS 21 states that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of the size, scale, siting and plot size etc.

For the purposes of CTY 8 the policy defines a substantial and continuously built up frontage as a line of 3 or more buildings along a road frontage without accompanying development to the rear. In assessment of this it is noted that the site shares a common frontage with only

two buildings Nos 144 and 144a Loughinisland Road. The proposal does not therefore comply with the policy and must be recommended for refusal on this basis.

CTY 13

In assessment of the design, siting and integration of the proposal, Policy CTY13 of PPS 21 is applicable which states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.

A new building will be unacceptable where:

- (a) it is a prominent feature in the landscape; or
- (b) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or
- (c) it relies primarily on the use of new landscaping for integration; or
- (d) ancillary works do not integrate with their surroundings; or
- (e) the design of the building is inappropriate for the site and its locality; or
- (f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop;

While the design of the dwelling is not currently before the Planning Authority, it is considered that any dwelling erected would have difficulty integrating when viewed from the lane onto which it will access. This is due to the lack of mature boundary vegetation along the northern and western boundaries as shown in the image below.



Any new dwelling on the site would rely on the use of new landscaping to ensure integration when viewed from this private lane. It is acknowledged however, that any dwelling on this site would not be visible from the public road at Loughinisland Road to the south.

The site is located within the rural area and any dwelling developed on site should be designed so as to be keeping with the character of the area using the document 'Building on Tradition' as guidance.

It is considered that all necessary services and access to the public road can be provided without significant adverse impact on the environment or character of the area.

On the basis of the above assessment it is considered that the proposal does not comply satisfactorily with Policy CTY 13 due to its lack of integration when viewed along the laneway.

CTY 14

Planning permission will be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. A new building will be unacceptable where:

- (a) it is unduly prominent in the landscape; or
- (b) it results in a suburban style build-up of development when viewed with existing and approved buildings; or
- (c) it does not respect the traditional pattern of settlement exhibited in that area; or
- (d) it creates or adds to a ribbon of development (see Policy CTY 8); or
- (e) the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.

In assessment of the above criteria, paragraph 5.81 of CTY 14 states that the impact of a new building on the rural character should be judged from along stretches of public road network; shared private laneways serving existing or approved dwellings; public rights of way and other areas of general public access and assembly. Therefore, while it is acknowledged that the site will not be visible from the public road, the impact of the dwelling on the rural character will be apparent. The Planning Authority consider that a dwelling on the proposed site would be inter-visible with those dwellings at Nos 144 and 142, in addition to the sequential awareness of Nos 140 and 144a.

It is therefore considered that approval of a dwelling on this site would result in the creation of a ribbon of development. Such development in the countryside has always been resisted and as there is no justification in this case the proposal fails CTY 14.

PP3

The site accesses onto the Loughinisland Road using an existing access. Policy AMP 2: Access to Public Roads is applicable which states that planning permission will only be granted for development involving direct access, or the intensification of the use of an existing access, onto a public where

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

Category A is applicable.

The access and necessary visibility splays are in place and following a consultation with DfI Roads, they have advised, there are no objections to the proposal. It is considered that PPS 3 has therefore been complied with.

Conclusion

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

Drawings

The Drawings considered as part of this assessment are as follows

01

Recommendation: REFUSAL

Reasons:

1. The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the SPPS and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape. The proposed building would rely primarily on the use of new landscaping for integration.
3. The proposal is contrary to the SPPS and Policies CTY8 and CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the site does not represent a small gap within a substantial and continuously built up frontage and would, if permitted, result in the creation of ribbon development along this private lane.

Case Officer: Claire Cooney

Date 24.07.2020

Authorised Officer: A. McAlarney

Date: 24 July 2020



Application Reference: LA07/2019/1136/F

Date Received: 17th July 2019

Proposal: 6 detached dwellings, garages and ancillary works

Location: Land to the south of 35 Old Belfast Road and to the south and west of 3 Orchard Lane Downpatrick

Site Characteristics & Area Characteristics:



The site is comprised of a 0.53 hectare portion of land comprising open land and a portion of public road – Orchard Lane. The site is positioned to the south of No 35 Old Belfast Road (Portland House) and south and west of No 3 Orchard Lane.

The site has varying levels throughout and is noted to be positioned above the Old Belfast Road to the west, with land falling steeply in this and the southern portion of the site.

The site is defined by mature vegetation, with timber post and wire fencing along the western boundary, some of the trees along this boundary are noted to be the subject of a Tree Preservation Order (TPO). The northern boundary is defined by young trees which separate the site from that adjacent at Portland House.

The site is located within the settlement limits of Downpatrick, as designated in the Ards and Down Area Plan 2015. It is noted that the site is also located within the Strangford and Lecale AONB and within the Local Landscape Policy Area (LLPA 1) as identified in the Area Plan. The application site is also in close proximity to the River Quoile which is hydrologically connected to the Strangford Lough Special Area of Conservation (SAC)/ Special Area of Protection (SPA)/ Ramsar and Quoile Area of Special Scientific Interest (ASSI) (hereby referred to as the designated site) which is of national and international importance and is protected by

Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) and the Environment (Northern Ireland) Order 2002.

The character of the surrounding area is typically residential and is characterised by medium to low density detached housing along Orchard Lane, Old Belfast Road Quoile Park and Lecale Park. The house types and plot sizes within this area vary.

Site History:

R/2009/0501/F - Lands to the South of No 35 Old Belfast Road (Portland House) and to the South and West of No 3 Orchard Lane, Downpatrick. - Proposed residential development comprising 9 no 2 storey detached dwellings, 8 no 2 storey semi-detached dwellings and 5 no garages with access of Old Belfast Road and Orchard Lane. - PERMISSION REFUSED – 23.03.2010

R/2003/0115/O - Adjacent to Orchard Crescent, Strangford Road, Downpatrick - Site for 3 no detached dwellings. - PERMISSION GRANTED - 09.05.2003

R/2001/1144/O - Adjacent to Orchard Crescent, Strangford Road, Downpatrick - site for a Detached Dwelling (amended scheme) - PERMISSION GRANTED - 26.01.2002

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, PPS3, 7 and 12, Creating Places (Guidance Document), in addition, to the history and any other material consideration.

The application was advertised in the local press on 07.08.2019

Consultations:

In assessment of the proposal consultations were carried out with DfI Roads, NIW, Rivers Agency, Historic Environment Division, SES and NIEA.

The relevant neighbours were notified of the proposal 01.05.18

Objections & Representations

2 letters of support from 31 Old Belfast Rd have been received and along with 7 letters of objection from 4 different households and one anonymous objector.

Objections

- Owner / Occupier 19 Orchard Crescent raises concerns regarding traffic progression through the site, parking provision, and considers that the proposal poses potential

problems for pedestrians using the site. In addition, there are concerns that the density of the proposal will have implications for the existing sewerage systems, along with the adverse impact on the environmental quality of the area. The objector has raised the issue of developer contributions relating to water pressure in the Orchard Area. Concerns have also been raised about the provision of public and private space within the development and the impact of the proposal on protected species within the locality.

- Owner / Occupier 3 Orchard Lane also raise the above issues in addition to the apparent under-occupation of dwellings currently present within the locality.
- Owner / Occupier 14 Orchard Crescent raise issues as above relating to traffic, parking provision, pedestrian and cycle routes, density, existing housing stock, privacy and environmental and ecology issues
- Owner / Occupier 17 Orchard Crescent and an anonymous objection repeat the concerns listed above.

Consideration and Assessment:

The proposal seeks full planning permission for the erection of 6 Dwellings.

The proposed dwellings have been designed so that they front onto the private road serving the development. The plans show that 3 dwellings are proposed to the south of No 3 Orchard Lane and 19 Orchard Crescent and 3 dwellings to the north of these dwellings on the land between them and Portland House.

The dwellings will be detached, with in-curtilage parking for at least 2 cars.

The plans indicate that 3 house types are proposed.

House type A (plots 2 and 3) is a detached 1½ storey 3 bed dwelling, with a maximum ridge height of 6.07m.

House type B (plots 1 and 5) is a detached 2 storey 3 bed dwelling, with a maximum ridge height of 6.90m

House Type C (plots 4 and 6) is a handed version of HT B.

All dwellings will be finished natural grey slate roof, white rendered walls and chimney with grey render plinth.

Principle of development

The application site is located within the Settlement Limit of Downpatrick 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 zones sites provided that the proposal is sensitive to the size and character of the settlement in terms of scale, form, design and use of materials. This policy therefore provides broad support for the principle of the proposal which seeks full planning permission for the erection of 6 dwellings.

PPS 7 – Quality Residential Environments

In assessment of the proposal Policy QD1 of PPS 7 provides the policy context. All proposals for residential development will be expected to conform to criteria (A) – (I):

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

As described in the supporting Design and Access Statement, the site is a vacant portion of land to the immediate south and north of No 3 Orchard Lane. The site is accessed via Orchard Crescent and is positioned on land elevated above Old Belfast Road.





The context in terms of development is noted to be detached dwellings of varying designs – single, one-and-a-half and two storey.

The surrounding area is characterised by its varying topography.

It is considered therefore that the proposal respects the surrounding context and is appropriate to the character and topography of the site.

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

There are no features of archaeology or built heritage within the vicinity of the site.

The site is immediately east of the Quoile River and while not affected in terms of flooding, given its elevated position above the river, the impact of the proposal on the river has been assessed, a detailed consideration will be provided below.

The site is affected by a number of mature trees, and as indicated above a number of TPO trees are located to the western boundary of the site. The applicant engaged Dr Philip Blackstock to carryout a tree survey which provide supporting information in this application. Tree Survey covers the site and lands surrounding Portland House and along Old Belfast Road.

While the survey recommends the felling of a number of trees within the surveyed area, trees within or immediately adjacent the site are to remain in situ and are to be protected from development, they will not be removed.

- (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 proposed layout shows that all dwellings will have an above average provision of private amenity space to the rear of each property. There is no requirement in a development of this size to provide public open space.

A Landscape Management Plan has been submitted as part of the proposal with the aim of creating an attractive, high quality landscape setting for the residential development. This plan proposes a woodland boundary along the northern and southern boundaries, with hedging and street trees adding interest along the road side boundaries of each plot and within the development, with feathered trees and boundary planting proposed to the rear gardens of plots 1 -3 to soften the landscape.

The details of the above including species, height, spacing etc are found on Drawing No 19-053 L101 Rev A and are considered to be acceptable

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

There is no requirement for the developer to make provision for the above within a development of this size.

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

The development is considered to be accessible by various modes of transport including walking and cycling.

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

The proposed plans show that each dwelling will have parking space for at least two cars within their curtilage.

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

As described above 3 house types are proposed which provide a good mix of dwelling types for buyers. The design and form of the dwellings is good. The materials are simple with

render and slate type roof but considered to be aesthetically pleasing. The detailing is simple which is also good.

- (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;

The proposed layout shows that each dwelling will be sufficiently separated from each other so not cause any adverse effects. It is noted that the dwellings have been designed to ensure that overlooking is minimal, with mirrored gables or minimal openings.

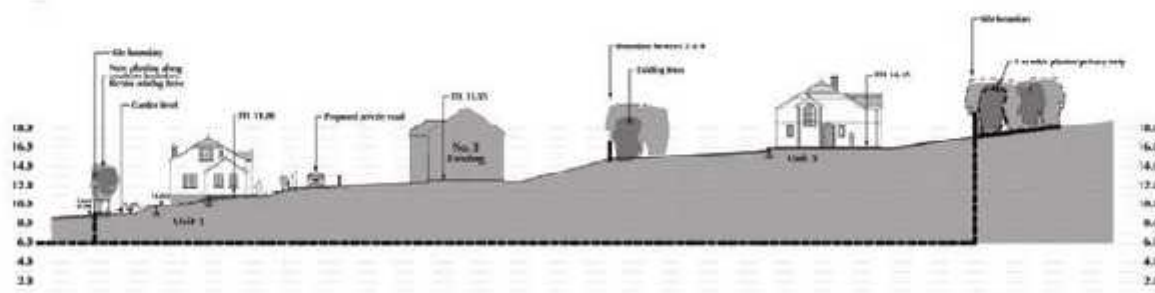
Each plot will also be defined with a timber fence which will aid screening and privacy between properties.

The concerns regarding privacy, raised by the interested parties above are noted. In assessment of this, the proposed plans show that development is not proposed to the immediate rear of No 17 Orchard Crescent.

Those dwellings proposed in plots 4-6 will be positioned on average 15m from the boundary they will share with Nos 3 Orchard Lane, 19 and 17 Orchard Crescent with a total back to back separation of on average of 30m. While the proposed dwellings are noted to be sited on land elevated above 3, 19 and 17, the separation distance is considered sufficient to minimise overlooking or loss of privacy. In addition, it is noted that a row of conifers is present between the existing and proposed dwellings discussed and that the landscaping plan shows a woodland boundary is proposed, all of which will ensure that the privacy and amenity of the existing and proposed is not detrimentally affected.

With regard to the proposed at plots 1-3, there is no doubt that the current outlook for No 3 Orchard Lane will change dramatically if the development is constructed. However, the proposed dwellings have a modest ridge height and will have a finished floor level below that of the private road serving the development. Plot 2 which faces directly opposite No 3 Orchard Lane will be located 15m away – such a separation is considered to be acceptable within this context.

A cross section of the site, shows the separation distance and levels of those dwellings affecting No 3 and clearly demonstrates that their privacy and amenity will not be detrimentally affected by the proposal.



No 19 Orchard Crescent will continue to overlook the existing turning head which Orchard Crescent and Orchard Lane meet. Plot 1 will face towards No 19 but not directly and with a separation distance of over 20m.

There is no new development proposed to the front of No 17 Orchard Crescent and it is noted that the proposed layout replicates the current separation and layout of that between 17 – 14 Orchard Crescent and thereby in keeping with the character of the area.

To the immediate south of the site lies No 31 Old Belfast Road and No 10 Orchard Crescent. Both dwellings are affected by the proposal, however, it is considered that they are sufficiently separated from that proposed and benefit from an existing belt of mature planting which will aid screening of the development.

It is acknowledged however, that the proposed dwellings at Plots 1 – 3 will be positioned on land elevated above No 31 and No 10, however, windows on the rear elevations of the proposed dwellings are limited to a ground floor dining room at plots 2 and 3, with a ground floor dining and first floor study room at Plot 1. Given this arrangement, the levels, the separation distance and intervening vegetation, it is considered that Nos 31 and 10 will not be detrimentally affected by the proposal.

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

The proposal appears to comply with this aspect of the policy.

On the basis of the above assessment, it is considered therefore that the proposal complies satisfactorily with the requirements of Policy QD1 of PPS 7.

PPS 2 – Natural Heritage Interests

The application site is in close proximity to the River Quoile which is hydrologically connected to the Strangford Lough Special Area of Conservation (SAC)/ Special Area of Protection (SPA)/ Ramsar and Quoile Area of Special Scientific Interest (ASSI) (hereby referred to as the designated site) which is of national and international importance and is protected by Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) and the Environment (Northern Ireland) Order 2002.

NED have considered the impacts of the proposal on the conservation management of the designated sites and are content that there is a sufficient buffer in place between the proposal and the nearby watercourse.

As the site is surrounded by mature vegetation and assessment has been carried out as to the impact of the proposal on birds and bats within the vicinity. As no trees are scheduled to be

removed it is unlikely that the proposal will have a significant impact on bats therefore negating the requirement for any further surveys.

In the event where by any retained tree will require removal/modification in order to facilitate the development, NED recommends that written permission must be obtained from planning authority prior to any works.

NED is content that the protective provisions set out to protect any national or international protected species (not associated with the nearby designated sites) within the Strategic Planning Policy Statement for Northern Ireland or Planning Policy Statement 2: Natural Heritage are no longer engaged.

A number of objectors have suggested that badgers use the site. The applicant engaged Celia Spouncer BSc, MSc, MLI MA to undertake a Biodiversity Checklist and Preliminary Ecological Appraisal (PEA) of the site, which concluded, following a survey of the site and surrounding area that there was no evidence of breeding or foraging badgers on the site or adjacent to the site and that there were no tracks across the site.

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.
- (B) The proposal does not conflict with Policy AMP3 Access to Protected Routes

Category A is applicable.

Following a consultation with DfI Roads and their assessment of the proposed plans they have advised, there are no objections to the proposal. It is considered that PPS 3 has therefore been complied with.

The new road servicing the dwellings proposed will not however, be adopted by DfI Roads and will remain private.

With regard to parking, turning and manoeuvring of vehicles, it is considered that there is sufficient space within the curtilage of the dwelling, to ensure that 2 vehicles can adequately park and move in and out of the site.

PPS 15 Flooding Interests

DfI Rivers Planning Advisory Unit has informed the Planning Authority that there are no watercourses which are designated under the terms of the Drainage (NI) Order 1973 within the site and the site does not lie within the 1 in 100 year fluvial or 1 in 200 year coastal flood plain. FLD 1 is satisfied.

FLD 2 – not applicable in this case.

FLD 3 – Development and Surface Water - There are no watercourses within the immediate vicinity of the site, however in assessment of the development and surface water flooding, DfI Rivers have been consulted and state in their response that they have no reason to disagree with the conclusions of the Drainage Assessment. FLD 3 is satisfied.

FLD 4 & 5 are not applicable in this case.

Other Matters

Following a consultation with NIW, the Council have been advised that the site is within 20m of a public water supply and a surface water sewer that can serve the proposal. There is a public foul sewer located within Old Belfast Road however, its capacity is limited, and the applicant is advised to apply to NIW for a Network Capacity Check. NIW have also advised that the nearest Waste water Treatment Works have available capacity for the development.

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 Council's consultees, it is determined that the proposal is acceptable.

Drawings

The drawings considered in this assessment are as follows

2962.01, 2962.04 Rev A, 2962.05, 2962.06, 2962.07, 2962.08, 2962.11 (Rev A), 2962.12 (Rev A), 2962.13 (Rev A) 19-053 L101 Rev A, P424-R01d, C10457/04 (Rev B).

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 2962.01, 2962.04 Rev A, 2962.05, 2962.06, 2962.07, 2962.08, 2962.11 (Rev A), 2962.12 (Rev A), 2962.13 (Rev A) 19-053 L101 Rev A, P424-R01d, C10457/04 (Rev B).

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

3. The vehicular access, including visibility splays and forward sight distance shall be provided in accordance with Drawing No P424-R01d prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

4. The access gradient to the 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

5. The drainage infrastructure from the proposed development shall remain completely isolated from the Strangford Road Stream throughout the construction phase. Final connection to the stream shall only be constructed after all other construction works have been completed.

Reason: To prevent any adverse effect to any designated European Site from the proposal.

6. No site works of any nature or development shall take place until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted by the applicant and approved in writing by Newry, Mourne and Down District Council

in consultation with Historic Environment Division, Department for Communities. The POW shall provide for:

- The identification and evaluation of archaeological remains within the site;
- Mitigation of the impacts of development through licensed excavation recording or by preservation of remains in-situ;
- Post-excavation analysis sufficient to prepare an archaeological report, to publication standard if necessary; and
- Preparation of the digital, documentary and material archive for deposition.

Reason: to ensure that archaeological remains within the application site are properly identified, and protected or appropriately recorded.

7. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 6.

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

8. A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under condition 6. These measures shall be implemented, and a final archaeological report shall be submitted to Newry, Mourne and Down District Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with Newry, Mourne and Down District Council.

Reason: To ensure that the results of archaeological works are appropriately analysed and disseminated and the excavation archive is prepared to a suitable standard for deposition.

9. The existing natural screenings of the site, as shown, on approved drawing No. 19-053 L101 Rev A shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: To safeguard the amenities of neighbouring occupiers and in the interests of visual amenity and to ensure that the proposed development does not prejudice the appearance of the locality.

10. The erection of fencing for the protection of those TPO trees and retained trees as indicated on Drawing No 19-053 L101 Rev A shall be undertaken in accordance with British Standard document BS 5837:2005 (Trees in relation to construction) and shall be erected before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. The fencing shall be comprised of a protective barrier 2.3m high and comprising a vertical and horizontal framework scaffolding, well braced to resist impacts and securely

supporting weld mesh panels (as per Fig 2 of BS5837:2012) erected around all trees to be retained on site.

The line of the fence shall be along the Tree Root Protection Zone. No construction traffic, fire, material or debris shall be permitted within this zone of protection.

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

11. 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 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.

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

12. All hard and soft landscape works shall be carried out in accordance with the approved details as shown on drawing No 19-053 L101 Rev A and the Landscape Management Plan dated July 2019. The works shall be carried out prior to the occupation of any part of the development.

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

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

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

Case Officer: Claire Cooney

Date: 29.07.2020

Authorised Officer: Annette McAlarney

Date 29 July 2020

Planning Application Number: LA07/2019/1136/F. Land to the south of 35 Old Belfast Road and to the south and west of 3 Orchard Lane, Downpatrick.

I write in connection with the above planning application. I have examined the plans and I know the site well. I wish to object strongly to the development of these houses in this location.

These are the valid and credible planning reasons why this application should be refused by the Committee (including reference to relevant planning policies):

1. **Notification of neighbours.** It is of note that only 7 houses were notified of this application in 2019/20, including the site owner and a residence of the developer both in support of the application. This leaves 5 houses objecting and in a process where 6 objections are required leads to the potential of never being at point for automatic review by this committee. Hence, the application was required to be 'called in'. Houses within 90m of the proposed site should all have been notified as per DoE policy 2015. The process is therefore flawed and raises suspicions around transparency as no action was taken to remediate this at the outset by planning officers.
2. **Intensification.** The proposed development is at odds with the planning policy for this site established by previous refusals. For example, the planning application in 2009 ref R/2009/0501/F proposing similar high density for this site was refused. Outline planning was received for 3 units on part of this land in 2013/4. The current decision is at odds with previous decisions over density on this site. Existing established development consists of individual dwellings. The proposed new development would appear to have a much higher density of detached housing per acre which would not be in keeping with the character of the existing development. Departmental Policy statement PPS1 specifically refers in Page 10 para 20 to the impact of development on the character of areas of outstanding natural beauty.
3. **Access to a water supply.** Downpatrick Councillors are aware of the ongoing difficulty in getting satisfactory water pressure in existing developments along this hill and have been working with NIWater for some years to resolve this problem where water becomes periodically unavailable. In fact they mentioned in their report Existing developments in the area are making this crisis worse and in addition in near future, there will be system pressure from the new Down High School development. PPS1 paragraph 61, page 24 and paragraph 66, page 26 refers to a similar requirement for developer contributions in Northern Ireland to facilitate development proposals. Page 34 of the Ards & Down Area Plan 2015 mentions "it is presently government policy to require developers to bear all or part of these infrastructural costs".
4. **Access to sewerage infrastructure.** On one side of the hill the Strangford sewerage line is at capacity, and on the other the sewerage system overflows into Harry's Loney every time it rains. There is insufficient localised capacity for the large number of developments in the Strangford Road area over the last few years in getting to the actual capacity at Downpatrick sewerage works. PPS1 paragraph 61, page 24 and paragraph 66, page 26 refers to a similar requirement for developer contributions in Northern Ireland to facilitate development proposals. Page 34 of the Ards & Down Area Plan 2015 mentions "it is presently government policy to require developers to bear all or part of these infrastructural costs".
5. **Community Safety and Access.** The neighbouring cul-de-sac though which access must be obtained was never designed for through traffic. I reside in a small oval of houses which merge into each other at the boundaries and have no pavement from 1 Orchard Crescent. It is a play area for my four and local children and where elderly neighbours have to use road to walk to their houses. Having traffic going to and from a development of this density is unconscionable and against best planning practice.

Any development needs to merge in sympathetically and not present a dangerous stream to traffic flow that will end the community neighbourhood character of this area. There is also the future potential for application further development of the Portland house lands which if this is allowed may be considered as it would then provide an access through road. Roads refused to support 2009 planning application for same site access onto Old Belfast Road via Portland house/Orchard Way as it wasn't safe.

6. **Inadequate public space.** There does not appear to be any provision for public open spaces and insufficient provision for private open spaces in the proposed development (see page 23 of PPS7, "provision of adequate private garden space is particularly important").
7. **Wildlife conservation.** I am not satisfied that a bat survey has been properly conducted in fact I have at dusk bats flying from my gable end wall. I disagree with the evidence submitted by Spouncer Ecology on behalf of the developer that there are no bats roosting locally. This site is home to hedgehogs, badgers and is a wildlife hotspot. I refer planners to the Council's current Bio-diversity Plan which speaks to these issues.
8. **Overlooking and intrusion.** The design and layout contravenes the privacy provisions as recommended in the DOE policy document, Creating Places pages 63-64, where a separation distance of greater than 20m is recommended to minimise overlooking development.
9. **Private Road.** The proposed site is on a private road and there appears to be no requirement for any new owners in the new development to contribute to the upkeep of the existing road. This road is a single lane, not a double-lane style road and local councillors have had to deal with complaints over the inability of the Council Refuse lorries to access the area when street side parking has occurred. In fact, the refuse truck has repeatedly had to reverse down the single 'S' shaped lane to leave the area as it had not enough area to turn. The size and ownership of the access road does not seem to have been properly considered by planners. This proposed development would mean that all 12+ refuse bins would be left for collection at my entrance as council trucks won't travel private road. This is also a potential health hazard for my children and me. I also have a right of way over the site which has not been discussed.
10. **Site History.** Uncompleted Archaeology. The excavation of the Iron Age Rath on this hill has not been completed due to the C19 virus and is not expected to recommence until September at earliest. The outer bank and ditch 'fortification' appear to encompass these boundaries extend up to and encompass the site LA/2019/1136/F. No decision should be decided until the outcome of this report is published.

I requested a site meeting with planners in my objection letter August 2019 which was not acknowledged. I was advised in July 2020 by the planning officer that this meeting was not required as all my objection points had been taken into consideration. I note that a number of the agencies contacted for an opinion on this application, conducted desktop exercises including outside COVID lockdown time frames.

In conclusion, I would now ask that all planning committee members visit the site to ensure that there is a full understanding of the nature of my objections and that of my 20+ neighbours.

Dr Lisa Byers (Dooley), 3 Orchard Lane, Downpatrick BT306SS.

Request for speaking rights and to make representations at the Planning Committee Meeting scheduled for Wed 26th August 2020

Proposed Development Ref LA07/2019/1136/F

Land to the south of 35 Old Belfast Road and to the south and west of 3 Orchard Lane, Downpatrick

Proposal: 6 detached dwellings, garages and ancillary works.

I write in connection with the above planning application. I have examined the plans and I know the site well. I wish to object strongly to the development of these houses in this location.

Planning Process: we contend that the planning process has been flawed. The case officer has made decisions based on incomplete and inaccurate information. **Development Management Practice Note 14: Publicity Arrangements and Neighbour Notification April 2015.** (1.3,4.4-4.8) "the Department has a statutory duty to carry out neighbour notification of 'identified occupiers' on neighbouring land" i.e. occupier of premises within a 90m radius of the site boundary. Onus is on applicant to submit addresses to Case officer; however, onus is on case officer to verify accuracy. This oversight should have been determined by a site visit. Over 70% of residents who should have been notified, weren't. The lack of consultation with residents of the neighbourhood, has by default, denied us of our rights to consider, challenge and object as we may see fit. Additionally, as detailed on the **Site layout/Block Plan** the developer appears to have 'assumed ownership' of part of the public highway. What will be the impact of this on residents?

Water and Sewerage: Poor water pressure is an ongoing problem in the area. There is insufficient localised capacity for the number of new developments in the Strangford Road area currently. *Re: Drainage assessment (August 2019) response to proposed development Orchard Lane* "the downstream pumping station, Strangford Road WwPS is at capacity and as such NIW are currently not approving any connection to the upstream sewer network". Additional housing will further exasperate these well documented, problematic and unresolved issues.

Water runoff/Flooding: additional hard standing of an access road, the foundations and footprint of 6 houses and garages will change "the natural drainage regime reducing the amount of water infiltrating into the ground" *NIEA Managing Stormwater. A Strategy for Promoting the use of Sustainable Drainage Systems (SuDS) within Northern Ireland (September 2011) p.4, 2.1.3. Ref Case Officer Report,* "The site has varying levels throughout and is noted to be positioned above the Old Belfast road to the west, with land falling steeply in this and to the southern portion of the site". The movement of earth required to level the site, will exasperate the problem of run-off. The cross section of the site depicts a difference of 10m finished ground level, demonstrating this argument. Rules of physics dictate that water will find the path of least resistance. We contend that rain and ground water will be channelled to follow certain routes. Retaining walls, installed to prevent site collapse (esp. SW lower corner of site) appear to funnel water in the direction of the Old Belfast road, with potential for flooding or contamination of the Quoile. This potential does not appear to have been assessed. Excessive amounts of water could also gravitate towards lower lying established properties.

Safety: the road from Orchard Way, along Orchard Crescent and up to Orchard Lane is a cul-de-sac, meaning that all residents from the Strangford Road junction would be directly affected by any proposed development and consequent upsurge in traffic. Additionally, there are inherent safety concerns. No footpath exists from the region of No.1 Orchard Crescent up to Orchard Lane. No account

appears to have been taken for the safety of pedestrians (many of school age, a number of which are elderly) who will have to 'share' road with site vehicles of considerable proportion. **Road Safety:** the road at points is too narrow for vehicles to pass in alternate directions. Upsurge in traffic (estimate 2/3 cars per household \therefore 12/18 cars, making multiple journeys daily) will lead to further bottlenecks and add to safety concerns in the cul-de-sac, as per above.

Archaeology and Heritage: An Archaeological Excavation commenced by **Gahan and Long Ltd** has had to be suspended due to the Coronavirus pandemic. This excavation, has yielded much more than initially anticipated. It is referenced as "Archaeologically Sensitive" and again "A Very Important Site" (direct quotes **Audrey Gahan**, 06/08/2020). Site LA07/2019/1136/F, is located on this same hill, in fields adjacent to and connected with the "archaeologically sensitive" site. An extensive and ancient Bank and Ditch formation of considerable proportion was detected, and requires fuller exploration. This fortification would appear to potentially sweep to encompass the site under question. **Andrew Gault** (HED, DoC) has been made aware. We do not feel this has been considered in deliberations to date, nor should this oversight be allowed to continue. This information appears to be contrary to statement from the Case Officers report "There are no features of archaeology or built heritage within the vicinity of the site." (p.5) The people of Downpatrick and wider community stand to lose out should this

Site History/Intensification: the developer has lodged various proposals in a variety of configurations in respect of this site and/or additional adjoining ground. His intentions towards this site must surely deserve further scrutiny. Whilst this current proposal details intention to build 6 dwellings, there is concern amongst residents that this will form a mere springboard to further development requests.

We concur with our neighbours who have raised objections on matters such as: **Intensification, Density of Proposed Development, Inadequate public space, Overlooking and Intrusion, and wildlife conservation**, and add our voices to theirs on these matters.

Area of Outstanding Natural Beauty: Further, we contend that the proposed siting of the development is particularly ill-considered given its positioning on an elevated ridge overlooking the Quoile River. This is an area of outstanding natural beauty, and forms part of St. Patricks Way. It would be a travesty not to consider the impact of such a development in this setting.

A number of documents submitted from various bodies/departments appear to be "desk based" responses. We content that the lack of site visits by such departments has led to huge oversights, omissions and inaccuracies in conclusions drawn and determinations made. Such oversights have delivered a potential determination that is flawed, riddled with unknowns and does not take account of the wider impact of the site in and on the land at this location. We respectfully request that the application be refused permission because of the adverse effects that cannot be dealt with satisfactorily by using conditions or obligations placed on the developer in respect of this site.

We respectfully request that, at the very least, the Committee visit and walk the site to determine for themselves the flaws of this proposal and experience the genuine concerns of its impact on the residents of our neighbourhood. We respectfully request that such visit encompasses viewing the site from both Orchard Lane and the Old Belfast Road ends to ascertain the full extent of our concerns.

Catherine Edwards 5 Orchard Crescent, Downpatrick, BT306NY

Planning Committee 'Call in' Request Form

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Delegated Application List w/c: 03 August 2020	Planning Application Number : LA07/2019/1136/F	Requested by: Councillor Cadogan Enright
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PLEASE NOTE THAT SUBMISSIONS SHOULD BE ON THIS FORM AND LIMITED TO TWO PAGES. ANY ADDITIONAL INFORMATION BEYOND TWO PAGES WILL BE DISREGARDED.

Description of the application - LA07/2019/1136/F 6 detached dwellings, garages

Land to the south of 35 Old Belfast Road and to the south and west of 3 Orchard Lane Downpatrick for 6 detached dwellings, garages and ancillary works.

Proposed decision (including reasons if the decision is refusal) –

It is proposed to approve this development – I want to call this decision in - I note that I have only opposed 2 housing developments in 16 years as a councillor, so my concerns are not based on any habitual reflex as I normally support developments and the planning process.

This appears to be an aberration and I explain my request that this approval be reviewed.

Set out the valid and credible planning reasons why this application should be referred to Committee (including reference to relevant planning policies) –

1. The proposed development is at odds with the planning policy for this site established by previous refusals. For instance, the planning application in 2009 ref R/2009/0501/F proposing similar high density for this site was refused. Outline planning was received for 3 units on this land in 2013/4. **The current decision is at odds with previous decisions over density on this site.** Existing established development consists of individual dwellings. The proposed new development would appear to have a much higher density of detached housing per acre which would not be in keeping with the character of the existing development. Departmental Policy statement PPS1 specifically refers in Page 10 para 20 to the impact of development on the character of areas of outstanding natural beauty.
2. Inadequate public space There does not appear to be any provision for public open spaces and insufficient provision for private open spaces in the proposed development (see page 23 of PPS7, "provision of adequate private garden space is particularly important").
3. Access to a water supply. Downpatrick Councillors are aware of the ongoing difficulty in getting satisfactory water pressure in existing developments along this hill and , and have been working with NIWater for some years to resolve this problem where water becomes periodically unavailable. Existing developments in the area are making this crisis worse. PPS1 paragraph 61, page 24 and paragraph 66, page 26 refers to a similar requirement for developer contributions in Northern Ireland to facilitate development proposals. Page 34 of the Ards & Down Area Plan 2015 mentions "it is presently government policy to require developers to bear all or part of these infrastructural costs".
4. Access to sewerage infrastructure. On one side of the hill the Strangford sewerage line is at capacity, and on the other the sewerage system overflows into Harry's Loney every time it rains. There is insufficient **localised** capacity for the large number of developments in the Strangford Road area over the last few years in getting to the actual capacity at Downpatrick sewerage works. PPS1 paragraph 61, page 24 and paragraph 66, page 26 refers to a similar requirement for developer contributions in Northern Ireland to facilitate development proposals. Page 34 of the Ards & Down Area Plan 2015 mentions "it is presently government policy to require developers to bear all or part of these infrastructural costs".

Planning Committee 'Call in' Request Form

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5. Overlooking and intrusion. The design and layout contravenes the privacy provisions as recommended in the DOE policy document, Creating Places pages 63-64, where a separation distance of greater than 20m is recommended to minimise overlooking development.
6. Wildlife Hotspot. I am not satisfied that a bat survey has been properly conducted. I manage the annual bat survey in County Down for Bat Conservancy Ireland. I am aware that this area has several roosts. I have been deeply involved along with my predecessor on Council Bill Corry in the development on the nearby Down High site where badger sets were moved and other sensitive arrangements were made. This site is home to hedgehogs, badgers and is a wildlife hotspot. I refer planners to the Council's current Bio-diversity Plan which speaks to these issues.
7. Community Safety and Access. The neighbouring cul-de-sac though which access must be obtained was never designed for through traffic. This small oval of houses merge into each other at the boundaries and have no pavement. It is a play area for local children. Having traffic going to and from a development of this density is unconscionable and against best planning practice. Any development needs to merge in sympathetically and not present a dangerous stream to traffic that will end the community neighbourhood character of this area.
8. I believe this is a private road and there appears to be no requirement for any new owners in the new development to contribute to the upkeep of the existing road. This road is a single lane, not a double-lane style road and local councillors have had to deal with complaints over the inability of the Council Rubbish Trucks to access the area when street side parking has occurred. The size and ownership of the access road does not seem to have been properly considered by planners.
9. Uncompleted Archaeology. The dig on the Iron Age Rath on this hill has not been completed due to the C19 virus and is not expected to recommence until September. The outer bank and ditch 'fortification' appear to encompass these boundaries extend up to and encompass the site LA/2019/1136/F. No decision should issue until we see the outcome of this report.

Set out why this application should be determined by Committee rather than officers –

Councillors are familiar with the long history of proposed developments on this site where higher density has not succeeded in the past, but lower density did find support.

Councillors are also familiar with the history of poor or non-existent infrastructure at this location - see details above – especially older councillors who used to work at the nearby old Strangford Road Council HQ where meetings about these issues were held in the period around 2008, and have not improved since.

There are a whole series of planning issues referred to above that suggest that Councillors need to review this decision.

**Speaking Note for Newry, Mourne and Down
District Council Planning Committee on 26.08.2020**

Planning Ref: LA07/2019/1136/F

Proposed erection of 6 detached dwellings, garages and ancillary works
on lands to the south of 35 Old Belfast Road and to the south and west
of 3 Orchard Lane, Downpatrick



Gravis Planning
1 Pavillons Office Park
Kinnegar Drive
Holywood
BT18 9JQ
T: 028 90 425222
F: 028 90 422888

August 2020

Chairman and members of the Planning Committee, thank you very much for the opportunity to speak here today on behalf of the applicant Mr Oliver Sloan.

In summary, as members, you have been presented with a recommendation by your officers to approve the application. We fully concur with your officer's recommendation and would also point out that all statutory consultees have no objections to the proposal subject to the implementation of appropriate conditions.

Principle of Development

- The proposal fully complies with all relevant Area Plan and regional planning policies.
- The site sits within Downpatrick settlement limit. The principle of residential development is therefore acceptable and can be accommodated on the lands without causing any harm to the features of the AONB, LLPA, or the character of the surrounding neighbourhood.
- As the Planning Act (NI) 2011 requires determinations to be made 'in accordance with' the plan; the recommendation to approve the proposal fully complies with legislative requirements.

Objections

We acknowledge that there have been objections mainly focused on traffic, ecological impacts, developer contributions, density, public and private open space provision, privacy and built heritage and archaeological impacts.

Traffic and Access

- All dwellings will utilise the existing access point off Orchard Lane as the main means of access to the site. The new road servicing the dwellings will remain a private road. Internally the layout will maintain low vehicle speeds, and turning heads are provided to allow vehicles to enter and exit the site in forward gear.
- Due to the scale of the development and associated numbers of cars generated, it is not anticipated that the development will have any detrimental impact on the existing road network or noise and air quality of the surrounding environment.
- DfI Roads have been consulted and have raised no objections with the proposals.

Ecological impacts

- As part of the application, a Biodiversity Checklist and Preliminary Ecology Appraisal was carried out and accompanies this application. The assessment concluded that the site is small in scale and is devoid of protected habitats and species.
- Given that the proposals retain the existing mature trees and includes tree protection measures, it is unlikely that the proposal will have significant impact on bats and there is in fact scope to enhance the biodiversity of the site through a proposed landscape plan associated with the new development.
- Overall, NIEA have reviewed the proposal and is content that the proposals will not have any harmful impacts on biodiversity.

Developer contributions

- Objectors have requested developer contributions for update to infrastructure in the area with reference to poor water pressure.
- The development is not of a scale to necessitate developer contributions and water pressure is not a material consideration to allow refusal of a planning application.

Public and private open space provision

- As per Policy OS2 of PPS8, the proposals are not required to provide public open space given that the proposals do not exceed the relevant thresholds, being under 25 units and under one hectare in size.
- In terms of private amenity space, the level of amenity space provided for dwellings on the site significantly exceeds the Creating Places requirement of 40sqm per dwelling.

Density

- The scale and density of the proposal is also in keeping with the density of development in the neighbouring area.
- Lower density detached housing exists along the Old Belfast Road. Higher density housing is located within Orchard Lane (14dph), Lecale Park (12dph) and Quoile Park (16dph). The proposed development in creating six new dwellings on site creates a density of 12dph which compliments a transition in density between the Old Belfast Road and Orchard Lane properties in terms of density.

Separation Distances/Privacy

- The proposed layout shows that each dwelling will be sufficiently separated from each other so not cause any adverse effects in terms of residential amenity.
- Each plot will also be defined with a timber fence which will aid screening and privacy between properties.
- A cross section of the site was submitted as part of the application which shows the separation distance and levels of those dwellings affecting No 3 and clearly demonstrates that their privacy and amenity will not be detrimentally affected by the proposal.

Built Heritage and Archaeological impacts

- Objectors have made reference to heritage and archaeological impacts and Gahan and Long's excavations as part of the new Down High School development.
- HED have considered the impacts of the proposal and are content that the proposal satisfies PPS 6 policy requirements, subject to conditions for the agreement and implementation of a developer-funded programme of archaeological works. This will identify and record any archaeological remains in advance of new construction, or to provide for their preservation in situ, as per Policy BH 4 of PPS 6. Conditions are attached to this effect (6,7,8).

Conclusion

- The application has been thoroughly assessed by Council officers and it has been demonstrated to comply with all relevant area plan, regional planning policies and design guidance.
- The proposal in creating a sustainable extension to an established residential area will increase the offer of family housing available within the wider council area. The scale and density of the proposal is also in keeping with the density of development in the neighbouring area. Adequate provision has been made for amenity space and car parking to serve the dwellings and residential amenity of the surrounding properties is protected through careful design.
- On this basis, we respectfully request that the committee endorse the officer's recommendation for approval and grant permission for this proposal. Thank you.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2019/0638/F

Date Received: 18.04.2019

Proposal: Change of house type to that approved under P/2006/1759/RM

Location: 230m North East of 31 Church Road, Forkhill, Newry, BT35 9SX

Site Characteristics & Area Characteristics:

The site includes a rectangular field set back from the public road and accessed from a private lane way from Church Road. The site is located in the rural area / Ring of Gullion AONB as defined in the Banbridge Newry and Mourne Area Plan 2015.

Site History:

P/2006/1759/RM

Erection of dwelling

Permission Granted: 06.07.2007

P/2003/1247/O

Proposed new dwelling

Permission Granted: 16.09.2003

Planning Policies & Material Considerations:

Banbridge Newry and Mourne Area Plan 2015

Strategic Planning Policy Statement for Northern Ireland

Planning Policy Statement 21

Planning Policy Statement 2

Planning Policy Statement 3 / DCAN 15

Building on Tradition

Consultations:

Transport NI – No objections subject to compliance with attached conditions.

Objections & Representations

6 neighbours notified on dates including 07.05.2019 and 19.07.2019

Application Advertised on 15.05.2019

No objections or representations received.

Consideration and Assessment:

The site is located within the rural countryside / Ring of Gullion AONB as designated in the Banbridge Newry and Mourne Area Plan 2015. There are no specific objections in relation to the Area Plan.

Principle of Development

The previous application P/2006/1759/RM was approved on 06.07.2007 with the first condition instructing the applicant that the development must be begun by the expiration of a period of 5 years from the grant of outline planning permission; or the expiration of a period of 2 years from the date hereof – whichever is greater. In this case as Outline Permission P/2003/1247/O was granted on 16.09.2003, two years from the Reserved Matters application is the greater date and the development must have been begun by 06.07.2009.

The agent has provided documentary evidence to show the access details completed within the requisite time. However, condition 2 of the previous approval stated that the vehicular access, including visibility splays and any forward sight distance, shall be provided prior to the commencement of any other development permitted. This is a pre-commencement condition attached in the interests of Road Safety and requires the work noted above to be complied with in full, prior to the commencement of any other development, by the 06.07.2009.

There has been no construction work started on site beyond the access, which the agent has confirmed in a telephone call with the Planning Department on 24.06.2020 and therefore as development has not been correctly started within the required time period (6th July 2009) the previous application P/2006/1759/RM – has expired. This application must therefore be considered as a new dwelling – not a dwelling in substitution of a previous approval.

Given the previous permission has expired the proposal is assessed as a new dwelling under CTY1 of PPS21. The proposal does not meet any of the exceptions listed under CTY1 and as there are no overriding reasons why this particular development is essential and could not be located in a settlement, the proposal is contrary to policy CTY 1.

The proposal is not considered to offend policy CTY13 as the design has only been changed marginally from the previous approval and is generally considered acceptable, given the siting. However, as the proposal is considered as a new dwelling with no justification under policy CTY 1, the dwelling would appear to create a ribbon development along this private laneway and contribute to build up when read with existing development in the area. The proposal is therefore contrary to policies CTY8 and CTY14.

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

With no justification for the siting and the fact it would create a ribbon development and contribute to build up, I consider the siting to be unsympathetic to the special

character of the AONB in general and of the particular locality and is therefore contrary to policy NH 6 of PPS 2.

Transport NI has no objections in relation to PPS3 subject to the standard conditions and informatives.

Recommendation: Refusal

Reasons:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along the private laneway.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and creates or adds to a ribbon of development and would therefore result in a detrimental change to further erode the rural character of the countryside.
4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and to Policy NH6 of Planning Policy Statement 2, Natural Heritage, in that the siting of the proposed dwelling is unsympathetic to the special character of the Area of Outstanding Natural Beauty of the particular locality.

Case Officer:

Authorised Officer:



Representation against a Recommendation to Refuse, on behalf of the applicant Claire Muckian, in relation to an Application for Change of House Type REF: LA07/2019/0638/F, to that approved under P/2003/1247/O & P/2006/1759/RM, 230m North East of 31 Church Road, Forkhill, Newry, BT35 9SX

Principle of Development:

- Outline Approval was granted for erection of a dwelling on 16th September 2003.
- Approval of Reserved Matters for a two storey dwelling was granted on 6th July 2007.
- Access and visibility splays were completed in June 2009 by a local contractor (i.e.) within two years of Approval of Reserved Matters.
- Transport NI have no objection to the current proposals.
- The proposed dwelling design is acceptable to Planning Services.

The Professional Planning Report raises two issues:

1. Is the Planning Permission preserved?
2. Is the siting of the new house type unsympathetic to the local AONB?

Is the Planning Permission Preserved?

The Applicant is of the firm opinion that it is.

By request, the applicant was advised by Planning Services that the formation of the entrance and visibility splays, provided they were in accordance with the approved plans, would be sufficient as a material start to the development. This in keeping with written planning advice that prevailed at that time.

The applicant duly constructed the access and visibility splays in June 2009 and notified Planning Services of commencement on 25th June by letter. The applicant was satisfied that the permission was preserved by making a "material start".

The following are attached to demonstrate evidence of material start:

- a. Two typical letters from Planning Services for similar proposals confirming that the construction of an access, provided that it is in accordance with the approved plans, would be sufficient to indicate that development had begun. These letters are dated 26th September 2008 and 20th March 2009.
- b. Letter from Applicant's then Agent, to Planning Services, with accompanying photographs, confirming that development had commenced.

Is the Siting of the dwelling unsympathetic to the local AONB?

The siting of the proposed change of house type is on a similar footprint to that approved under P/2003/1247/O & P/2006/1759/RM. If it is accepted that planning permission is preserved there is no reason why the siting should not be acceptable also.

Conclusion:

The above commentary taken together with the evidence attached, demonstrates that works commenced prior to the expiry of the Approval dated 6th July 2007. Planning Permission is therefore preserved.

It therefore follows that the proposed siting of the Change of House type is acceptable in that it is sited in a similar location to the preserved approval.

BD 18th August 2020

Agenda 21, Item 21, submission or support / Email: pcd

Back to Agenda



Your Ref:

Our Ref: FOI 19415

Being dealt with by:

Divisional Planning Office

Date: 26 September 2008

Marlborough House
Central Way
Craigavon
BT64 1AD

Mr Martin J Bailie MCIAT
Martin Bailie Architectural Services Limited
92 Newry Street
Rathfriland
Newry
BT34 5PY

LA/2015/0203/F

Dear Mr Bailie

Thank you for your letter of 15 September 2008 requesting information about the commencement of development in relation to planning permission.

Every new planning permission is deemed to be subjected to a condition that development shall be commenced within five years or such other period as the planning authority may expressly impose. An outline planning permission has two timescales and the consent will require the submission of a further planning application for the approval of reserved matters within 3 years. Once the last of the reserved matters has been approved, there is usually a two year period within which the development must commence.

No definitive ruling can be given with regard to when development is commenced, as so much will depend on the facts of each case. However, development shall be taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out. Generally speaking the construction of an access or the layout of foundations, provided they are in accordance with the approved plans, would be sufficient to indicate that development had begun.

You should therefore satisfy yourself that a material start has been made in accordance with the above prior to the expiration of your planning permission.

I hope this is helpful.

Yours sincerely

IAN McALLISTER
For Divisional Planning Manager



Department of the Environment
Environment

Tel: (028) 3834 1144 Fax: (028) 3832 0004
Email: divisional.planning.office@craigavon@nics.gov.uk
Web: www.planningni.gov.uk



ASSEMBLY OF PEOPLE

Date: 20 March 2009
Our Ref: P/2007/1090/F (FOI 20278)
Being dealt with by : Julie Brown



Divisional Planning Office

Marlborough House
Central Way
Cragavon
BT64 1AD

Mr D Mallon
3 Ayalogue Road
Newry
BT35 8QV

Dear Mr Mallon

Location: Adjacent to No.4 Low Road, Ayalogue, Newry.

Proposal: Erection of dwelling and garage in compliance with conditions on approval P/2002/1210/O

I refer to your correspondence dated 10 February 2009 regarding the above planning application.

I can advise that generally speaking the construction of an access, provided it is in accordance with the approved plans, would be sufficient to indicate that development had begun. Unfortunately Planning Service does not currently have the resources to carry out inspections of works undertaken.

Yours sincerely

J Brown

for Divisional Planning Manager



An Agency within the Department of the
Environment
www.doeni.gov.uk

Tel. (028) 3834 1144 Fax. (028) 3832 0004
Email. divisional.planning.office.cragavon@nics.gov.uk
Web. www.planningni.gov.uk



INVESTOR IN PEOPLE

26 Newry Road,
Forkhill,
Newry,
BT35 9RN

25th June 2009

Divisional Planning Office,
Marlborough House,
Central Way,
Craigavon,
BT64 1AD.

Location: 230m North East of No. 31 Church Road, Forkhill.

Proposal: New Dwelling.

Your Ref: P/2006/1759/RM

Dear Sir or Madam:

With regard to the above planning reference please find attached photographs detailing the works now undertaken at the entrance to the public road. These works have been undertaken as part of Condition No. 2 of Planning Reference P/2006/1759/RM.

In undertaking these works it is considered as advised by the planning authority through several telcon conversations that this development has now commenced. It would be greatly appreciated if written confirmation that the development has begun was provided as part of any response to this information.

Trusting all is in order. If you have any further queries please do not hesitate to contact me on 0035587 9235643 or 00353429332727

Regards,

.....
Gary McArdle,
M.Eng M.I.E.I.



Report: Ms C Muckian

Planning Ref: P/2006/1759/RM

17/06/09

Photograph No.1
Prior to works -View Northwest along Church Road



Report: Ms C Muckian

Planning Ref: P/2006/1759/RM

17/06/09

Photograph No.2
Prior to works -View East along Existing Lane



Report: Ms C Muckian

Planning Ref: P/2006/1759/RM

17/06/09

Photograph No.3
Prior to works -View West along Existing Lane



Report: Ms C Muckian

Planning Ref: P/2006/1759/RM

24/06/09

Photograph No.4
After Undertaking Works -View North West along Church Road



Report: Ms C Muckian

Planning Ref: P/2006/1759/RM

24/06/09

Photograph No.5
After Undertaking Works -View East along Modified Lane



Report: Ms C Muckian

Planning Ref: P/2006/1759/RM

24/06/09

Photograph No.6
After Undertaking Works - View West along Modified Lane



Report: Ms C Muckian

Planning Ref: P/2006/1759/RM

24/06/09

Photograph No.7

After Undertaking Works - View East of site Fenced off



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**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2019/1346/F

Date Received: 03.09.2019

Proposal: Change of house type under previous approval P/2013/0840/F

Location: 200m West of 15 Shaughan Road, Belleek

Site Characteristics & Area Characteristics:

The site includes a portion of a larger agricultural field and existing laneway situated above and some 400m back from the public road. The site includes an agricultural Building. There are other buildings and an unoccupied dwelling situated along the access laneway. The area is rural in character and situated outside the settlement limits as defined in the Banbridge Newry and Mourne Area Plan 2015.

Site History:

P/2013/0840/F

Change of house type of that approved under P/2009/1246/F

Permission Granted: 06.06.2014

P/2009/1246/F

Erection of Dwelling and Garage

Permission Granted: 15.09.2010

Planning Policies & Material Considerations:

Banbridge Newry and Mourne Area Plan 2015

Strategic Planning Policy Statement for Northern Ireland

Planning Policy Statement 21

Planning Policy Statement 3 / DCAN 15

Building on Tradition

Consultations:

Transport NI – Following submission of entrance details showing the correct visibility, DFI Roads has no objections, subject to compliance with attached conditions.

Objections & Representations

4 neighbours notified on dates including 07.10.2019.

Application Advertised on 25.09.2019

No objections or representations received.

Consideration and Assessment:

The site is located within the rural countryside as designated in the Banbridge Newry and Mourne Area Plan 2015. There are no specific objections in relation to the Area Plan and therefore the application will be assessed against the retained policies.

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

Principle of Development

The previous application P/2013/0840/F was approved on 06.06.2014 with the first condition instructing the applicant that the development must be begun by the expiration of a period of 5 years from the date the permission, which means the application must have been begun by 06.06.2019.

The agent contends in his supporting statement that condition 1 has been satisfied, condition 3 partly implemented and the last section of the access is implemented in accordance with P/2013/0840/F for condition 4.

Condition 3 of P/2013/0840/F refers to landscaping works which does not meet the definition of development as defined in Section 23 and 63 (2) of the Planning Act (Northern Ireland) 2011.

Condition 4 states 'the access to the dwelling shall be provided in compliance with the conditions of decision ref: P/2009/1246/F'. The pertinent condition of P/2009/1246/F regarding access, is condition 2 which states 'The vehicular access, including visibility splays and any forward sight line, shall be provided in accordance with the approved plans, **prior to the commencement of any works or other development hereby permitted**'.

This condition requires all the works associated with the access including the visibility splays to be implemented prior to commencement. Therefore, this must be done in full compliance with the approved plans and then the development must be commenced to ensure the permission is correctly implemented. In the absence of the access being completed in full compliance with approved plans and no further development commencing, condition 1 and 4 cannot be considered as satisfied and therefore the previous permission has expired. On this basis the proposal falls to be assessed as a new dwelling without the benefit of an extant approval.

Given the previous permission has expired the proposal is assessed as a new dwelling under policy CTY1 of PPS 21 due to its rural location. The proposal does not meet any of the exceptions listed under CTY 1 and as there are no overriding reasons why this particular development is essential and could not be located in a settlement, the proposal is contrary to policy CTY 1.

The proposal is not considered to offend policy CTY13 given the low level nature of the dwelling, the larger previous approvals and the distance back from the public road.

The finishes are considered in keeping with the rural area. Policies CTY 8 and CTY 14 are not compromised by the proposal.

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

Transport NI has no objections in relation to PPS3 subject to the attached conditions and informatives.

The proposal may be very tenuously hydrologically connected to Dundalk Bay SPA c. 20km downstream via a field drain along the southern boundary. However, given the significant hydrological distance and large dilution/dispersion factor of any potential contaminants from minimal and temporary construction activities, it is considered that there can be no conceivable impact from the proposal to any designated European Site.

Recommendation: Refusal

Reason:

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

Case Officer: Ashley Donaldson 23.07.2020

Authorised Officer: Andrew Davidson 24.07.2020

Note to Planning Committee

Newry, Mourne and Down District Council

Change of house type at Shaughan Road, Belleeks - LA07/2019/1346/F

Reason Given for Refusal Recommendation

The case officer records that two previous planning approvals at this site have now time expired, and considers whether either of those has been lawfully implemented. He therefore concludes that none of the exceptions to PPS21 restrictions on development in the countryside has been satisfied.

I respectfully suggest that he has reached the wrong conclusion.

Both P/2009/1246/F and P/2013/0840/F have been lawfully implemented, and **development** has commenced.

Instead we say that this application, to change the design of the previously approved house, does not offend PPS21, because it would not lead to an additional house, but rather would see the completion of a development commenced several years ago.

Vehicular Access

It is standard practice for TNI Roads to be consulted about accesses proposed for new development. In this case their response is shown below:

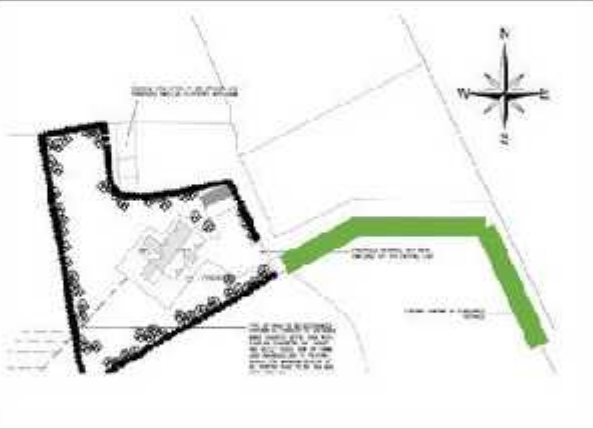
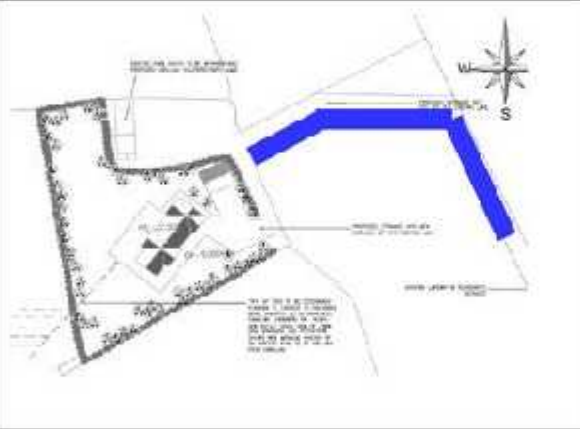
The vehicular access, including visibility splays and forward sight distance shall be provided in accordance with plan C2 bearing the date stamped 13-11-19 prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared 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.

Councilors will know that this is a typical form of wording in planning approvals. It is concerned solely with the direct access to a road, and not to anything beyond. Everything beyond the entrance gates is "**development**" (see Article 23 (d) of the Planning Act: (d)other operations normally undertaken by a person carrying on business as a builder.)

Laneway

It is indisputable that the formation of a new laneway intended to serve a new dwelling is development, and requires the grant of planning permission.

P/2009/1246/F	P/2013/0840/F
	
The last part of the lane approved shown green	The last part of the lane approved shown blue

The evidence previously submitted with this application, and the case officer inspection will concur that the part of the 2009 approved laneway shown green, was not developed, but the part shown blue, approved in 2013 was developed. This distinction removes the linkage which the case officer tries to make in his justification of refusal.

The blue section of the laneway is not part of the access to the vehicular road, but rather is development beyond the road access.

That blue section is an operation “normally undertaken by a person carrying on business as a builder”. According to the legislation, it is **development**. That development was lawfully implemented, within time limits.

Siting & Precedent

The siting of this house is broadly similar to the previously approved houses. The backdrop of mature trees, and rising land allow this house to nestle into the landscape even more comfortably than the previous schemes.



There is a negligible risk of precedent being set by approval of this application. These are a unique set of circumstances, not likely to be repeated throughout the district.

We ask that the council approves this application.



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

Application Reference: LA07/2019/1843/F

Date Received: 15.11.2019

Proposal: Proposed Play Park and Multi Utility Game Unit (MUGA) pitch and associated site works (amended description and address)

Location: 20m West and 50 South West of 24 Altmore Gardens Newry
BT35 8EX

Site Characteristics & Area Characteristics:

The site takes in a large area of open space that includes a green area at the entrance to Loanda Crescent. The site is located within the Settlement Limit for Newry City and appears as un-zoned *white land* in the Banbridge Newry and Mourne Area Plan 2015. The surrounding area primarily consists of residential development.

Relevant Site History:

There is no recent site history.

Planning Policies & Material Considerations:

Banbridge, Newry and Mourne Area Plan 2015
Strategic Planning Policy Statement for Northern Ireland
Planning Policy Statement 8
Parking Standards

Consultations:

Transport NI – No objections, subject to conditions.
Environmental Health – No objections.

Objections & Representations

20 neighbours notified most recently on 27.07.2020
Application re-advertised on 28.07.2020
Re-notification and re-advertising to reflect a more accurate description of development and site location.

Areas of Objection

1. Area has previously been the centre of anti-social activity.
2. Negative impact on privacy and right to peaceful enjoyment due to the proximity of the play park to objector's home.
3. Concern regarding the proximity of the play park to Martin's Lane.
4. Parking will add to volume of traffic and impinge on privacy of residents.
5. Money would be better invested to upgrade existing play parks.
6. No community consultation was carried out.
7. Less than 10 families with young children living in the estate.
8. If playpark in Martin's Lane is closed, this will add to further congestion at this playpark.
9. Residents should have been notified prior to submission of application.
10. Residents do not want the playpark.
11. The playpark would cause annoyance to residents and accommodate anti-social behaviour
12. 3 playparks and football pitch are close by and another one is not considered to be needed.
13. Neighbour has view of mountains and objects to having football pitch right outside back garden.
14. Does not wish to be kept awake all night with noises as well as having footballs possibly hitting windows.
15. Loud noises would affect a dependant with Autism which would be upsetting and affect his health badly.
16. More environmentally friendly to retain green the area of grass which is needed.

I will consider the objections in detail, further in this report.

Consideration and Assessment:

Banbridge Newry and Mourne Area Plan 2015

The proposal lies within the development limit for Newry City as depicted in the Area Plan. The Plan is silent on the use of the site; however, Policy ECU 1 of The Plan Strategy Framework makes provision for community uses and states planning permission will be granted within the Settlement Limit provided the following criteria is met;

- There is no significant detrimental effect on amenity or biodiversity. Environmental Health has responded to consultation with no objections to the proposal and with the nature of the proposal being a children's play area, it is not considered that this use is likely to cause a significant detrimental impact on amenity. The area at present is grassed open space, regularly cut and maintained. There is no evidence of the development compromising biodiversity at this location;
- The proposal will not prejudice the comprehensive development of surrounding lands;
- The proposal is in keeping with the size and character of the development in that it is considered to complement the existing surrounding residential development;
- Necessary additional infrastructure has been provided by the developer insofar that it refers to a new footpath and parking bays.

- There will be no sewage associated with the development and DFI Roads has no objections to the access arrangements. With 10 parking spaces proposed, this is considered more than adequate to deal with the proposal – as parking standards advise 4 spaces per ha. The site measures approximately 0.3ha.

The proposal is consistent with the policy requirements of the Banbridge Newry and Mourne Area Plan 2015.

The Strategic Planning Policy Statement for Northern Ireland / Planning Policy Statement 3 / Planning Policy Statement 8

The proposed play park takes in an area of approximately 0.3ha and includes two new footpaths connecting to the existing footpath and 10 new parking bays. The site straddles the public road with a Multi-Use Games Area (MUGA) located to the northern portion of the site which will be enclosed by a 3m paladin fence and on the southern portion of the site (on the other side of the road) will be the play area and associated play equipment. The dimensions of the equipment are considered appropriate for the size and scale of the development and the proposal will bring a public community facility to the area which will further sustain development and improve wellbeing. The proposal is consistent with the Strategic Planning Policy Statement for Northern Ireland.

Planning Policy Statement 8 defines open space which includes 'play areas'. Policy OS1 seeks to protect open space and the proposal for the play facility will not compromise this policy criteria. Annex B of PPS 8 notes that children's playing space should be 0.8ha and whilst this play area is only approximately 0.3ha, in this instance when you consider the existing surrounding provision for open space, the area of the playing facility is considered acceptable, particularly as this represents an improvement to the area, bringing a playing facility for children.

The Council have included a copy of the Overview of Survey Findings which have informed their decision to proceed with the application at this site. The proposal is consistent with the policy provisions of policy OS 1 of PPS 8.

The car parking requirement for this facility is less than 4 spaces. With 10 spaces proposed with the development, the proposal is considered to be able to provide more than enough spaces to service the development. DFI Roads was consulted with regard to PPS 3 and following the submission of PSD drawings and if in compliance with the attached conditions, DFI Roads have no objections to the proposal with regard to PPS 3.

The proposal is in general compliance with the SPPS, PPS 3 and PPS 8.

Case Officer Response to objections;

1. The area previously being the centre of anti-social activity does not outweigh planning policy and necessitate the refusal of permission. Where anti-social

behaviour or criminality takes place, this will be the responsibility of the Police to eradicate.

2. Whilst the play areas are adjacent to residential dwellings, the nature of a children's play area is not associated with significant amenity issues that would affect the privacy or peaceful enjoyment of a residential dwelling. The development would not contribute to overlooking and the noise generated by children playing is not considered to generate levels that would cause a significant detrimental impact on nearby residential properties. Environmental Health was consulted and raised no concerns with the development. This proposal combined with the existing circumstances of the site, is considered acceptable in this instance.
3. DFI Roads has not raised any road safety concerns with the development. Both play areas will be fenced off from the public road which contributes to the safety of children and commuters. Ultimately however, there will be responsibility for parents/guardians to supervise young children at all times (as would be the case at any playpark) and for road users to exercise due care when driving near residential areas.
4. It is not clear how the parking would impact residential amenity and whilst the development will likely attract more users, it is not anticipated that the play areas will attract traffic to an unacceptable level for the area. DFI Roads has no objections to the proposal.
5. This is not a material planning consideration for the proposal.
6. There is no statutory requirement for pre-community consultation for a development of this size and therefore not a valid reason to withhold permission. However, I note the Council has included survey findings with the application.
7. This is not a valid reason to withhold permission and it is worth noting that the occupancy of dwellings will change through time.
8. It is not anticipated that the play areas will attract traffic to an unacceptable level for the area. DFI Roads has no objections to the proposal.
9. There is no statutory requirement for pre-community consultation for a development of this size and therefore not a valid reason to withhold permission. However, I note the Council has included survey findings with the application.
10. Not wanting a development is not a material planning consideration.
11. The development would not contribute to overlooking and the noise generated by children playing is not considered to generate levels that would cause a significant detrimental impact on nearby residential properties. Environmental Health was consulted and raised no concerns with the development. Where anti-social behaviour or criminality takes place, this will be the responsibility of the Police to eradicate.
12. Whilst other sites may be available or preferable, the Planning Authority can only assess the application that is presented for consideration against prevailing policy. In this case, as detailed above, the proposal is considered to meet prevailing policy.
13. Having a view obstructed is not a material planning consideration unless the obstruction is resulting in a loss of amenity. In this instance, the neighbour's amenity is not compromised and therefore not a valid reason to withhold permission.
14. There is no evidence to suggest the neighbour would be kept up all night by a children's play area and MUGA pitch. Where noise levels are unacceptable

Environmental Health can be contacted to investigate. Environmental Health has no objection to the proposal. A 3-metre fence is proposed around the MUGA pitch reducing the likelihood of footballs going astray. This would not constitute a valid reason to withhold permission.

15. In the absence of independent medical evidence to confirm a significant detrimental impact to a neighbouring occupant as a direct result of the proposed development, it is unreasonable to withhold permission in this instance.
16. The Planning Authority can only consider the application as submitted, assess against prevailing policy and make a recommendation based on that assessment. Permission could not be withheld because of any preference for a different scheme. A large portion of green space will remain surrounding the site.

I have considered all objections as part of my recommendation and I conclude that none of the objections raised warrant a recommendation to refuse planning permission. On this basis and when considered against prevailing planning policy, I recommend the proposal for approval.

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: 01, 02, 03 and PSD 1.

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

3. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. The Department hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on the Drawing No. PSD 1 bearing the date stamp 05.03.2020.

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

4. The development hereby permitted shall not become operational until any highway structure/retaining wall/ vehicle restraint system requiring Technical Approval, as specified in the Roads (NI) Order 1993, has been approved and constructed in accordance with BD2 Technical Approval of Highways Structures: Volume 1: Design Manual for Roads and Bridges.

Reason: To ensure that the structure is designed and constructed in accordance with BD2 Technical Approval of Highways Structures: Volume 1: Design Manual for Roads and Bridges.

5. Any telegraph poles/street furniture shall be re-sited to the rear of sight visibility splays.

Reason: In the interests of road safety and traffic progression.

6. The development hereby permitted shall not be commenced until a street lighting scheme design has been submitted to and approved by the Department for Infrastructure's Street Lighting Section.

Reason: Road safety and convenience of traffic and pedestrians.

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

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

8. All appropriate road markings and associated signage within the development and on the public road shall be provided by the developer in accordance with the Department's specification (Design Manual for Roads and Bridges) and as directed by Transport NI Traffic Management Section prior to the development becoming operational.

Reason: In the interests of road safety and traffic progression.

9. Prior to the commencement of any road works, the developer shall provide a detailed programme of works and associated traffic management proposals to Transport NI for agreement in writing.

Reason: To facilitate the free movement of road users and the orderly progress of work in the interests of road safety.

10. The developer shall contact Transport NI Traffic Management prior to the commencement of works on the site to agree suitable positions for any existing road signage and traffic calming measures that will require being relocated as a result of this proposal.

Reason: In the interests of road safety and traffic progression.

Case Officer: Ashley Donaldson 12.08.2020

Authorised Officer: Andrew Davidson 12.08.2020

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 – 29 AUGUST 2018			
LA07/2017/0821/0	Mr C Kane - Proposed off site replacement dwelling and garage - 123 Magherahamlet Road, Moneynabane, Ballynahinch.	Defer application for further discussion between agent/applicant and planning officers re: new information submitted and issues raised at the Planning Committee Meeting	Annette McAlarney	Issues raised at Planning Committee referred to the outcome of an application which has yet to be	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
				submitted to planning. In line with Committee wishes we have to await the submission of this application and its conclusion before returning to consider the current deferred application. Contact made with agent re progress on potential new application which has yet to be submitted. Meeting to be convened. Agent advised on 19 March 2019 that the application for the 2no broiler houses was to be submitted within the next 3 weeks. No application has been received at time of update 29/04/2019.	

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
				No application submitted to date 04/06/2019 Application for poultry houses received LA07/2019/0953/F on 13/06/2019 Being processed.	
		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 between 54 and 58 Edenappa Road, Jonesborough	Withdrawn by the Planning Department to allow further consultation to be completed	A Davidson	Remains under consideration	N
		PLANNING MEETING – 26 JUNE 2019			
LA07/2018/0930/F	New build residential development of 1 No. apartment block consisting of 13 No. 3P2B apartments, 12 No. 2P1B apartments and 1 No.	Defer for a site visit	M Keane	Site visit held – 08-07-2019 – application returned to July Committee Meeting – agreed to	Y

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
	2PIB wheelchair apartment (26 apartments in total) with 19 No. basement parking spaces 2.0 – 41 Belfast Road, Newry			defer for further discussions between applicant/planning officers to see if an acceptable proposal can be agreed and decision making powers be delegated to Planning Officers Amended plans now received for reconsultation, NN and reconsideration. NOW APPROVED	
LA07/2018/1787/F	Proposed extension to existing Materials Recovery Facility Building – 23 Downpatrick Road, Killough	PLANNING COMMITTEE MEETING – 24 JULY 2019 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 Under consideration.	N
		PLANNING COMMITTEE MEETING – 17 SEPTEMBER 2019			
LA07/2018/0860/F	Proposed replacement dwelling (amended drawings) – 45	Defer for further discussion between Planning Officers and	M Keane	Amended plans now received for	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
	metres NE of No. 14 Rath Road, Clonallon Glebe tb Warrenpoint	agent/applicant – additional information to be provided		reconsultation, NN and reconsideration. Further supporting info now received for consideration.	
		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 McArlaney	Meeting to be convened with CPO and Agent/applicant	N
PLANNING COMMITTEE MEETING 8 JANUARY 2020					
LA07/2019/1302/F	Dwelling with associated parking and amendment of application R/2011/0794/F to remove parking area for apartments and replace with shared amenity space – rear of nos 65-69 South Promenade Newcastle	Withdrawn from addendum list and re-present at February Meeting	A McArlaney	Site visit to be arranged – 7 August 2020	N
LA07/2019/1362/0	Infill dwelling and garage – adj and immediately south of 64 The Heights, Loughbrickland	Withdrawn from addendum list and re-present at February Meeting	A McArlaney	Site visit to be arranged – 7 August 2020	N
LA07/2019/1221/F	Proposed guest house tourist accommodation and associated site works – land 10m NW of	Defer for site visit and further discussion to take place with applicant, agent and Planners re: correct planning category for the	A McArlaney	Withdrawn from February agenda for more work to be done on the proposal	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
	180 Tullybrannigan Road, Newcastle	proposal. Traffic survey to be submitted and evidence that 2 x 45m sight visibility splays were achievable and within the control of the applicant		Agent has submitted additional info. Application is under consideration.	
PLANNING COMMITTEE MEETING 11 MARCH 2020					
LA07/2019/1087/0	Replacement dwelling and garage – approx. 50m NE of 21 Drakes Bridge Road, Crossgar	Defer for a site visit – date to be agreed	A McArlamey	Site visit to be arranged – 7 August 2020	
LA07/2019/1134/0	Replacement dwelling – 90 Manse Road, Darraghclose, Crossgar	Defer for a site visit – date to be agreed	A McArlamey	Site visit to be arranged – 7 August 2020	
LA07/2019/1644/0	Replacement dwelling – lands at and located to the west of 24 Crabtree Road, Ballynahinch	Defer for agent to consult with applicant if they would be prepared to extend the curtilage to the rear of the existing building to accommodate a replacement dwelling. Officers to then issue the decision under delegated authority	A McArlamey	Awaiting Agent to provide timeframe for submission of Info.	
LA07/2019/1455/F	New access to dwelling in substitution to that approved	Defer for further discussions and agent/applicant to provide	A Davidson		

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
	under planning ref: LA07/2018/0118/F – 30m SE of 8 Outlacken Road, Belleeks, Newry	evidence to show that the former approved existing access is no longer available to the applicant and that under Policy an alternative access can be granted			
LA07/2019/1449/F	Proposed infill dwelling and detached garage under PPS21 – site adjacent to and 50m south of 29 Foughilletra Road, Jonesborough	Defer for a site visit – date to be agreed	A Davidson	Site visit – 07-07- 2020	
LA07/2018/0048/F	Demolition of existing barns and construction of new building self-catering holiday letting unit, in substitution of previously approved conversion LA07/2015/1030/F – Lands 10m NW of 56 Levellyreagh Road, Rostrevor	Defer for a site visit – date to be agreed	M Keane	Site visit – 07-07- 2020	
LA07/2019/1551/0	Proposed 1 ½ storey dwelling and garage – immediately east of 15 Mill Road, Hilltown	Defer for further investigation regarding status of the buildings on site and farm ownership and take back to Committee for decision	M Keane		
PLANNING COMMITTEE MEETING 3 JUNE 2020					

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
LA07/2019/1258/F	Retention of change of use for ground floor café with two treatment rooms and ancillary services - Ground floor unit 12 Seaview, Warrenpoint	Defer for a site visit – 07-08-2020	M Keane	<p>Objector by email dated 3-07-2020 advised</p> <p>"I can confirm that after discussing our concerns with Julie McLarnon we have decided to withdraw our objection to this planning application on the basis that planning approval is granted subject to the conditions contained in the case officer's report. These conditions are namely:</p> <p>1. The hours of operation should be restricted to 10:00 to 18:00 Monday to Saturday and closed on Sunday. Reason: In the interests of amenity.</p> <p>2. Delivery vehicles should utilise on street parking spaces only. Deliveries shall only occur Monday to Saturday 10.00 to 16.00</p>	

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
				and no deliveries on Sunday. Reason: In the interests of amenity.	
PLANNING COMMITTEE MEETING 1 JULY 2020					
LA07/2019/1279/F	New access and laneway to serve dwellings 27, 29 and 31 Islandmoyle Road – lands adjacent to 27 Islandmoyle Road, Cabra, Newry	Defer for a site visit – date to be agreed	M Keane		
PLANNING COMMITTEE MEETING 29 JULY 2020					
P/2010/0904/F	Erection of farm dwelling to include retention of existing foundations - 45 metres north of 18 Ballinasack Road, Mullaghbawn	Defer for a site visit	A Davidson		
LA07/2019/0953/F	Proposed 2 no. broiler poultry sheds to replace 2 no. existing poultry sheds (to contain 74,000 broilers, taking the total farm capacity to 148,000 broilers) with 4 no feed bins, 2 no. gas tanks, 1 no. underground wash tank and retention of weighbridge, biomass boiler shed and	Defer for a site visit	A McAarney		

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
	associated pellet bins, water tank, site office, access and associated site works - Lands at 123 Magherahamlet Road, Ballynahinch.				

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1. Live Applications

MONTH 2020/21	NEW APPLICATIONS	LIVE APPLICATIONS	LIVE APPLICATIONS OVER 12 MONTHS
March, April & May	338	989	242
June	164	965	232
July	175	1,002	241

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
May	540	207	103	43	96	989
June	562	171	101	40	91	965
July	587	174	105	44	92	1,002

3. Live applications per Case Officer

Month 2020/21	Average number of Applications per Case Officer
May	53
June	66
July	68

4. Decisions issued per month

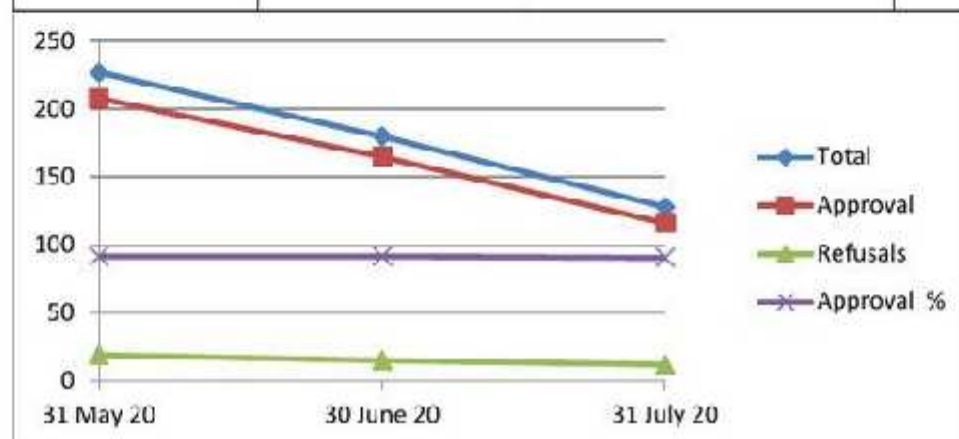
Month 2020/21	Number of Decisions Issued	Number of Decisions Issued under delegated authority
March, April & May	227	216
June	180	166
July	128	122

Newry, Mourne & Down District Council – July 2020

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5. Decisions Issued YTD

Month 2020/21	Number of Decisions Issued	Breakdown of Decisions	
March, April & May	227	Approvals (208)	92%
		Refusals (19)	8%
June	407	Approvals (373)	92%
		Refusals (34)	8%
July	535	Approvals (489)	91%
		Refusals (46)	9%



6. Enforcement Live cases

Month 2020/21	<=1yr	1-2 yrs	2-3 yrs	3-4 yrs	4-5 yrs	5+ yrs	Total
March, April & May	180	177	174	89	35	91	746
June	229	168	175	95	35	89	791
July	236	158	167	97	35	92	805

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
3 June 2020	15	15	0	6
1 July 2020	5	4	1	1
29 July 2020	6	2	4	0
Totals	26	21	5	7

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8. Appeals

Planning Appeal Commission Decisions issued during period 1 July 2020 to 31 July 2020

Area	Number of current appeals	Number of decisions issued	Number of decisions Allowed	Number of decisions Dismissed	Withdrawn
Newry & Mourne	13	2	1	1	0
Down	15	4	2	2	0
TOTAL	28	6	3	3	0

Newry, Mourne & Down District Council – July 2020

Statutory targets monthly update - June 2020 (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 ²	% of cases concluded within 39 weeks
April	1	-	0.0	0.0%	63	3	18.2	33.3%	18	18	146.8	33.3%
May	1	-	0.0	0.0%	99	91	24.2	16.5%	12	69	228.2	14.5%
June	1	3	87.0	0.0%	120	161	26.4	18.6%	49	28	110.8	42.9%
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	3	3	87.0	0.0%	282	255	25.6	18.0%	79	115	185.1	24.3%

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 is used for the average processing time as any extreme 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 application is received; or a case is closed. The value at 70% 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/A0065
Planning Ref:	P/2014/0920/F	DEA	Crotlieve
APPELLANT	Mr Brian Mulholland		
LOCATION	To The Rear Of 37A Ballyholland Road Ballyholland Lower		
PROPOSAL	Newry Retention of existing agricultural shed, hardstanding, agricultural laneway and earthen embankments		

APPEAL TYPE DC- Refusal of Planning Permission

Appeal Procedure **Written Reps with Site Visit** **Date Appeal Lodged** 27/06/2019

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/A0069
Planning Ref:	LA07/2018/0496/	DEA	Slieve Croob
APPELLANT	Eugene Stranney		
LOCATION	149 Ballydugan Road Downpatrick BT30 8HH		
PROPOSAL	Change of use of existing garage, study & games room to a dwelling as ancillary to the main existing dwelling		

APPEAL TYPE DC- Refusal of Planning Permission

Appeal Procedure **Date Appeal Lodged** 04/07/2019

Date of Hearing

Date Statement of Case Due for Hearing

Date Statement of Case Due - Written Representation

Date of Site Visit

Current Appeals

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ITEM NO	3		
Planning Ref:	LA07/2017/1213/	PAC Ref:	2019/A0143
APPELLANT	Tullyherron Farm Feeds	DEA	Sieve Gullion
LOCATION	38 Tullyherron Road Mounthorris Armagh		
PROPOSAL	Retention of extension to existing farm feeds business, including extension to hard standing area, storage buildings silos and associated works.		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	16/10/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	4		
Planning Ref:	LA07/2019/0181/	PAC Ref:	2019/A0155
APPELLANT	Anthony Flanagan	DEA	Sieve Croob
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			

Current Appeals

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ITEM NO	5		
Planning Ref:	LA07/2019/1313/	PAC Ref:	2019/A0159
APPELLANT	EDB Construction Ltd	DEA	Newry
LOCATION	58 Armagh Road Newry		
PROPOSAL	Demolition of existing building and erection of apartment development		
APPEAL TYPE	DC - Non Determination of a Planning Application		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	13/11/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	6		
Planning Ref:	LA07/2018/0995/	PAC Ref:	2019/A0168
APPELLANT	Ian Taylor	DEA	Slieve Croob
LOCATION	Site South-east Of 123b Ballylough Road Castlewellan		
PROPOSAL	Replacement dwelling previously approved under application R/ 2011/0332/F with new access		

APPEAL TYPE	DC - Conditions of Approval		
Appeal Procedure		Date Appeal Lodged	19/11/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	7		
Planning Ref:	LA07/2019/0866/	PAC Ref:	2019/A0169
APPELLANT	EDB Construction Ltd	DEA	Newry
LOCATION	Lands Opposite Numbers 20-24 Watsons Road Newry		
PROPOSAL	Proposed residential development comprising 20 No dwellings (18 Semi-detached and 2 detached) change of house type in respect of Approval P/2006/1117/F.		
APPEAL TYPE	DC - Non Determination of a Planning Application		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	19/11/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	8		
Planning Ref:	LA07/2019/0990/	PAC Ref:	2019/A0181
APPELLANT	The Trustees Of Newry I.N.F.	DEA	Newry
LOCATION	To Rear Of No. 2 John Mitchell Place Newry		
PROPOSAL	RT34 2RP Erection of illuminated signage (pixel pitch on road fronting elevation of commercial premises)		
APPEAL TYPE	DC - Advertisement Consent		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	03/12/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	9		
Planning Ref:	LA07/2019/0149/	PAC Ref:	2019/A0187
APPELLANT	Liam Phillips	DEA	Downpatrick
LOCATION	Adjacent To 11 Saul Road Downpatrick		
PROPOSAL	Proposed Dwelling		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	06/01/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	10		
Planning Ref:	LA07/2018/0901/	PAC Ref:	2019/A0188
APPELLANT	Mrs Eileen Gribben	DEA	Crotlieve
LOCATION	74m South Of No. 50 Castlewellan Road Ballyaughian Hilltown		
PROPOSAL	Proposed site for farm dwelling and garage		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps with Site Visit	Date Appeal Lodged	23/12/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	11		
Planning Ref:	LA07/2019/0811/	PAC Ref:	2019/A0194
APPELLANT	C McManus	DEA	The Mournes
LOCATION	Land Adjacent To 177 Dundrum Road Newcastle		
PROPOSAL	Proposed temporary mobile accommodation		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	06/01/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	12		
Planning Ref:	LA07/2019/1334/	PAC Ref:	2019/A0212
APPELLANT	Chris Magorrian	DEA	Slieve Croob
LOCATION	37 Drumnacoonagher Road Crossgar		
PROPOSAL	Extension to dwelling and detached garage/store		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	04/02/2020
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	13	PAC Ref:	2019/A0218
Planning Ref:	LA07/2019/1329/	DEA	Rowallane
APPELLANT	Mr And Mrs H Couiter		
LOCATION	SE 7 Old Saintfield Road Creevycarnonan Saintfield		
PROPOSAL	Dwelling and garage		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	13/02/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	14	PAC Ref:	2019/A0232
Planning Ref:	LA07/2016/1502/	DEA	The Mournes
APPELLANT	Robert Cairns		
LOCATION	7-9 Newry Street Kilkeel BT34 4DN		
PROPOSAL	Extension to existing public house to include additional lounge and smoking area		

APPEAL TYPE	DC - Refusal of LB Consent		
Appeal Procedure		Date Appeal Lodged	02/03/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	15	PAC Ref:	2019/A0233
Planning Ref:	LA07/2015/1364/	DEA	The Mournes
APPELLANT	Mr Robert Cairns		
LOCATION	7 And 9 Newry Street Killeel BT34 4DN		

PROPOSAL

APPEAL TYPE	DC- Refusal of Planning Permission	Date Appeal Lodged	02/03/2020
Appeal Procedure			
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	16	PAC Ref:	2019/A0238
Planning Ref:	LA07/2019/0691/	DEA	Rowallane
APPELLANT	Paul Fitzsimons Esq		
LOCATION	65m South East 47 Saintfield Road Crossgar BT30 9HY		
PROPOSAL	Proposed infill dwelling and garage		

APPEAL TYPE	DC- Refusal of Planning Permission	Date Appeal Lodged	03/03/2020
Appeal Procedure			
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	17		
Planning Ref:	LA07/2018/1453/	PAC Ref:	2019/A0246
APPELLANT	Miss M. Byrne	DEA	Crotlieve
LOCATION	25 Lower Knockbarragh Road Rostrevor		
PROPOSAL	RT34 3DP Proposed replacement dwelling (amended plan)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	09/03/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	18		
Planning Ref:	LA07/2019/1755/	PAC Ref:	2019/A0247
APPELLANT	David Sweeney	DEA	Crotlieve
LOCATION	Between Nos 36 & 38a Greenan Road Newry		
PROPOSAL	RT34 20A Erection of infill dwelling		
APPEAL TYPE	DC - Conditions of Approval		
Appeal Procedure		Date Appeal Lodged	10/03/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	19	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	Date Appeal Lodged	10/03/2020
Appeal Procedure			
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	20	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	Date Appeal Lodged	10/03/2020
Appeal Procedure			
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	21		
Planning Ref:	LA07/2019/0984/	PAC Ref:	2019/A0254
APPELLANT	Mr S McMullan	DEA	Downpatrick
LOCATION	Approx 180m W Of No 32 Myra Road Downpatrick		
PROPOSAL	Proposed off site replacement dwelling		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	16/03/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	22		
Planning Ref:	LA07/2019/0907/	PAC Ref:	2019/E0050
APPELLANT	EDB Construction Ltd	DEA	Newry
LOCATION	Site 5 Of Approval P/2006/1117/F On Watsons Road 100m West Of No. 26 Lis Ard Court		
PROPOSAL	Newry Erection of approved dwelling on site 5 of approval P/2006/1117/F		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	19/11/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	23		
Planning Ref:	LA07/2019/1216/	PAC Ref:	2019/E0053
APPELLANT	Mary Rooney	DEA	Crotlieve
LOCATION	80A Kilbroney Road Rostrevor		
PROPOSAL	RT34, 3PI Dwelling		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	28/11/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	24		
Planning Ref:	LA07/2019/0876/	PAC Ref:	2019/E0059
APPELLANT	Mr Michael Trainor	DEA	Downpatrick
LOCATION	42b And 42c Clanmaghery Road Tyrella		
PROPOSAL	Downpatrick 2 no dwelling units		

APPEAL TYPE	DC- Refusal of CLUD		
Appeal Procedure		Date Appeal Lodged	20/01/2020
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	25		
Planning Ref:	LA07/2019/1021/	PAC Ref:	2020/A0003
APPELLANT	Mrs E Fitzsimons	DEA	Rowallane
LOCATION	53A Saintfield Road Crossgar		
PROPOSAL	Retention of building in substitution of previous approval LA07/2015/1224/F		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	16/07/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	26		
Planning Ref:	LA07/2019/1257/	PAC Ref:	2020/A0014
APPELLANT	Mr Shane Robinson	DEA	Downpatrick
LOCATION	87 Seaview Killough Downpatrick		
PROPOSAL	2 Storey extension to side of dwelling		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	20/07/2020
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	27	PAC Ref:	2020/A0020
Planning Ref:	LA07/2019/0584/	DEA	The Mournes
APPELLANT	Mr David Gordon		
LOCATION	34 Dougans Road Kilkeel		
PROPOSAL	RT34 4HN Erection of farm dwelling and retention of existing building as a garage		

APPEAL TYPE	DC- Refusal of Planning Permission	Date Appeal Lodged	21/07/2020
Appeal Procedure			
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	28	PAC Ref:	2020/E0001
Planning Ref:	LA07/2019/1600/	DEA	Slieve Croob
APPELLANT	Mr Paul Cunningham		
LOCATION	5c Teconnaught Road Downpatrick		
PROPOSAL	Existing dwelling		

APPEAL TYPE	DC- Refusal of CLUD	Date Appeal Lodged	16/07/2020
Appeal Procedure			
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			



Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
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Appeal Reference:	2019/A0112
Appeal by:	Mr Diarmid Sloan.
Appeal against:	The refusal of full planning permission.
Proposed Development:	Loft conversion & rear 1.5 storey extension with integral single storey garage with utility room to the side & rear of dwelling.
Location:	10 Tullybrannigan Brae, Newcastle, Co. Down.
Planning Authority:	Comhairle Ceantair an Iúir, Mhúrn agus an Dúin. Newry, Mourne & Down District Council.
Application Reference:	LA07/2018/1023/F
Procedure:	Hearing on 18 th February 2020.
Decision by:	Commissioner Damien Hannon, dated 22 nd July 2020

Decision

1. The appeal is allowed and full planning permission is granted, subject to the conditions set out below.

Reasons

2. The main issues in this appeal are the impact of the proposal on the character and environmental quality of the area and on the residential amenity of neighbouring occupiers.
3. The appeal site is located within the settlement limit of Newcastle as designated in the Banbridge, Newry and Mourne Area Plan 2015 (BNMAP). The BNMAP, which operates as the relevant statutory Local Development Plan, contains no provisions specific to the appeal proposal. Furthermore, no conflict arises between the provisions of the Strategic Planning Policy Statement for Northern Ireland - Planning for Sustainable Development - September 2015 (SPPS) and any retained policies regarding issues raised by this appeal. Consequently, the relevant policy context is provided by Planning Policy Statement 7 - Quality Residential Environments (PPS 7) and the Addendum to PPS 7 entitled Residential Extensions and Alterations (the Addendum). Guidance in the document entitled Creating Places: Achieving Quality in Residential Environments, May 2000 (Creating Places) is also material to consideration of this appeal.
4. No. 10 Tullybrannigan Brae comprises a 3 bed detached bungalow and detached garage set within a residential cul de sac of similar properties. It is proposed to remove the garage and convert the dwelling into a 5 bed chalet bungalow by

raising the ridge level by 0.6m, utilising the existing roof void and constructing a single storey side and 1½ storey rear extension.

5. Policy QD 1 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. While the Addendum must be read in conjunction with the policies of PPS 7, it provides an additional planning policy for the extension and/or alteration of a dwellinghouse. Policy EXT 1 states that planning permission will be granted for a proposal to extend or alter a residential property where four stated criteria are met. The Council objected on the grounds that the proposal, by reason of its scale and massing, would detract from the appearance and character of the surrounding area contrary to criterion (a) and that it would unduly affect the privacy and amenity of neighbouring residents thereby offending criterion (b).
6. It is proposed to change the roof design from a clipped gable to that of a traditional gable by removing the mini hips. It is also proposed to raise its ridge height and to insert two dormers and two skylights into the front elevation. While the majority of the dwellings in the street display the original clipped gable roof construction, some have been altered to incorporate gables, skylights and front dormers. I judge the proposed roof dormers and skylight features to be of a design and proportions sympathetic to that of the original house. Furthermore, having visited the area, I consider that the proposed alteration of the roof, comprising the installation of gables and a 0.6m increase in ridge height, would not be immediately apparent and consequently, would not appear as conspicuous or incongruous in the street scene.
7. The single storey side garage and utility room element would be set back some 7m from the front building line and would have little more visual impact, when viewed from the street, than that of the existing garage. I conclude that the scale, massing, design and external materials of the proposal would not detract from the appearance and character of the surrounding area and would comply with criterion (a) of Policy EXT 1. The Council's first reason for refusal is not therefore sustained.
8. The submitted drawings indicate a first floor bedroom window inserted into the existing gable facing No. 12 at a distance of less than 4m from the party boundary. This window would give rise to unacceptable overlooking onto No. 12. However, as the proposed bedroom would be lit by two other windows, the overlooking window is not essential and its omission could be secured by condition. A first floor dormer window in the rear extension would also face No. 12. This fire escape window would be fitted with obscure glazing to remove any actual overlooking. Furthermore, it would be located more than 12m off the party boundary and I consider that this separation distance, in conjunction with the impact of the sloping topography and screening impact of existing boundary vegetation, would remove any unacceptable levels of perceived overlooking onto the rear garden of No. 12.
9. Objection was raised on the grounds that the proposed side and rear extension would, because of its dimensions and proximity, have a dominant impact on No. 8 and detract from the outlook currently enjoyed by occupants of that property. The 1½ storey rear extension would be sited between 1m and 2.2m from the party boundary with No. 8. However, the roof would slope from 5.5m above ground

level closest to the boundary to its full height of 10.5m above ground level some 8m from the party boundary. The existing garage rises to 3.8m in height and extends to 6m in length within 0.4m and 1.8m from the party boundary. While the proposed extension would be larger than the existing garage, the overall increase in built development in terms of mass would be offset to some degree by both the sloping nature of its roof and its degree of setback from the party boundary. In these circumstances I conclude that the proposal would not unduly affect the privacy or amenity of the occupants of No. 8 and would comply with criterion (b) of Policy EXT 1. The Council's second reason for refusal is not sustained.

10. The proposal would cause no unacceptable damage to local character, environmental quality or residential amenity and would constitute development in compliance with Policy QD 1 of PPS 7 and Policy EXT 1 of the Addendum. In the absence of sustained objection, the appeal succeeds.

Conditions

- (1) The first floor dormer window in the elevation facing No. 12 Tullybranigan Brae shall be permanently fitted with obscure glazing.
- (2) The first floor bedroom window in the gable of No. 10 and facing No. 12, as illustrated in 1:100 scale 'Existing and Proposed Floor Plans and Elevations' numbered 03, shall not be installed and the gable shall permanently remain as a blank façade.
- (3) The development shall be begun before the expiration of five years from the date of this decision.

This decision approves the following drawings received by the Council on 25th March 2019:-

1:1250 scale Site Location Map numbered 01

1:200 scale Proposed Site Layout Plan numbered 02

1:100 scale Existing and Proposed Floor Plans and Elevations numbered 03 as amended by condition 2.

1:200 scale Proposed site longitudinal section A-A numbered 04.

COMMISSIONER DAMIEN HANNON

List of Appearances

Planning Authority:-	Ms Ciara Cunningham
Appellant:-	Mr Diarmid Sloan Mrs Caroline Sloan Ms Emma Nellis

List of Documents

Planning Authority:-	COU 1 Statement of Case
Appellant:-	APP 1 Statement of Case
Third Parties:-	SUP 1 Statement of Case of Mr Rodney Howes SUP 2 Statement of Case of Mr Colin McGrath MLA

PLANNING APPEALS COMMISSION

Planning (Control of Advertisement) Regulations (Northern Ireland) 2015

Appeal by

Mr Gerard Rice

**against the refusal of consent to display an advertisement
for a retrospective shop sign with static exterior illumination
at 'Around a Pound', 19 Church Street, Warrenpoint.**

Report

by

Commissioner Kenneth Donaghey

Planning Authority Reference: LA07/2018/1758/A

Procedure: Written Representations

Report Date: 30 June 2020



**Planning Appeals
Commission**

1.0 BACKGROUND

- 1.1 Newry, Mourne and Down District Council received the application on 17th July 2018. By notice dated 17th May 2019 the Council refused consent, giving the following reasons:-
1. The proposal is contrary to the Strategic Planning Policy Statement and Policy ATC 3 of Planning Policy Statement 6 (Addendum) Areas of Townscape Character in that the proposal has an adverse impact upon the character and appearance of the Warrenpoint Seafront and Town Centre Area of Townscape Character in which it is to be displayed by reason of its scale, size, location, proportions, materials, lighting and dominance.
 2. The proposal is contrary to Policy AD1 of Planning Policy Statement 17: Control of Outdoor Advertisements in that the advertisement would, if permitted, adversely affect the amenity of Warrenpoint Seafront and Town Centre Area of Townscape Character in which it is to be displayed by reason of its scale, size, location, proportions, materials, lighting and dominance.
 3. The proposal is contrary to Policy NH6 of PPS 2 in that it is of an appropriate (sic) design, size and scale for the locality.
- 1.2 The Commission received the appeal on 17th September 2019. No representations were received from any third parties.

2.0 SITE AND SURROUNDINGS

- 2.1 The appeal building occupies a site on the corner of Church Street and Kings Lane. The site sits within the Mourne Area of Outstanding Natural Beauty (AONB) and Warrenpoint Seafront and Town Centre Area of Townscape Character (ATC).
- 2.2 The site comprises a three storey end of terrace building. There is a shop unit on the ground floor and what appears to be residential units on the upper two floors. The windows on the upper floors of the front elevation are finished in white uPVC. The upper units are accessed from a solid timber door which sits adjacent to the shop front. The shop front itself is comprised of aluminium and glass with two large panes either side of a double width doorway.
- 2.3 The current signage comprises an internally illuminated fascia sign which is approximately 7m in length and 0.8m in height. It extends across the frontage of the site, projecting almost 40cm from the wall and covering the existing roller shutter box. There is also a round projecting sign on the western edge of the building.

3.0 PRELIMINARY MATTER

- 3.1 Inaccuracies in regards to the plans, which accompanied the application for consent were raised by both parties within their submitted evidence. These are discussed below.

3.2 Case for the Council

The proposal is a retrospective application for a sign which is shown, on the drawings submitted with the application, as measuring 1m high by 8m long with exterior trough lighting. Although the application is described as retrospective, the proposed sign shown on the drawings does not match the sign which was in place at the time of site inspection. The sign shown on the drawings is not as high as the sign in place at the time of inspection, which extends to the bottom of the first floor windows. Proposed materials are not specified on the drawings submitted. Materials for the existing sign at the premises appear to be Perspex. Trough lighting is shown on the drawings provided but do not appear to be installed on site. There is also a small projecting sign on site, however no details of this are shown on the proposed drawings.

- 3.3 It is not clear whether the applicant is applying to retain the sign as it is and the drawings are therefore inaccurate, or whether they wish to retain the sign with the alterations shown on the drawings. It should also be noted that the shop front on site has not been built in accordance with the approved plans (LA07/2018/1758/F).

3.4 Case for the Appellant

The submitted plans did not accurately reflect the proposal. Accurate plans have been submitted with the statement of case to rectify this.

- 3.5 The amended drawings clarify that the sign to be retained is 7000mm by 822mm and 357mm deep. The sign extends over the housing for the roller shutter door and extends the full length of the existing shop front. The sign is made from recycled aluminium. Lettering is flush, individually applied letters. The illumination is proposed as four external bracketed lamps. The proposed method of illumination would be less conspicuous than the current internal illumination. It is also proposed to retain one unilluminated, circular, projecting sign.

3.6 Consideration

The Council's decision was based on plans which were inaccurate. Drawing 02 (elevation) which was received by the Council on the 12th November 2019 does not accurately depict the shop front or the sign to be retained. This was confirmed by the appellant in the submitted evidence.

- 3.7 The appellant's statement of case contained an amended drawing which accurately depicts the signage currently on the building to be retained. The position of the sign and its dimensions are different from the drawings upon which the Council made its decision. There is a slight reduction in the overall dimensions of the sign and the position of the sign on the building is higher than originally shown.

- 3.8 The proposal is described on the application form as "*retrospective shop sign with static exterior illumination*". Whilst the application for consent contains retrospective elements to be retained, it also has prospective elements which have not yet been implemented, namely the lighting. This is an acceptable approach. The sign itself is broadly the same as that assessed by the Council, but it is in a higher position on the building. I do not find the amendments to be substantive and the admission of the revised drawing would not be prejudicial to any of the parties involved in the appeal.

- 3.9 The appellant has included a projecting sign in the submitted drawings (PAC 1). No details of this sign were included with the original submission to the Council. It was not described on the submitted application form. This is a new element of the proposal which was not before the Council at the time of its decision. In accordance with Section 59 of the Planning Act (Northern Ireland) 2011 as applied by Regulation 15 of the Planning (Control of Advertisements) Regulations (Northern Ireland) 2015, it is a new matter and is therefore inadmissible. Accordingly, I will assess the proposal based on the plans submitted with the appellant's statement of case, without the added projecting sign.
- 3.10 In reference to the Council's concerns in respect of the alterations to the shop front, this appeal relates solely to the consent to display advertisements. Any amendment to the form of the building does not fall under the jurisdiction of this appeal.

4.0 PLANNING AUTHORITY'S CASE

- 4.1 Section 45 of the Planning (Northern Ireland) Act 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. This site is under the jurisdiction of the Banbridge, Newry and Mourne Area Plan (BNMAP) 2015.
- 4.2 Under BNMAP 2015 this site is within the Mourne AONB, Warrenpoint Seafront and Town Centre ATC and Warrenpoint Town Centre. The site is also within an area of influence of an archaeological site and monument.
- 4.3 The appropriate Policy considerations are found in the Strategic Planning Policy Statement (SPPS), Planning Policy Statement 2; Natural Heritage (PPS2) , Planning Policy Statement 6 (Addendum); Areas of Townscape Character (AdPPS6) and Planning Policy Statement 17; Control of Outdoor Advertisements (PPS17).
- 4.4 The impact of the sign upon public safety has been assessed by DFI Roads, who have no objection to the proposal.
- 4.5 The impact of the proposal upon the scheduled monument to the west of the site has been assessed and found acceptable. It was not necessary to consult Historic Environment Division as there are no below ground excavations planned.
- 4.6 In relation to AdPPS6, the relevant policy is ATC 3. Criterion 'a' of this policy refers that any new signage should maintain the overall character and appearance of the area. Paragraph 2.15 of the justification and amplification of this policy is of relevance as it states that "In assessing the impact of an advertisement or sign on amenity within an ATC, particular regard will be paid to the scale, size, proportions, dominance and siting of the sign, the materials used, whether it is illuminated and whether the proposal will result in clutter. An advertisement should respect the building onto which it is to be fixed and in particular, have regard to any architectural detailing".
- 4.7 The proposed sign does not respect the architectural detailing of the building due to its scale, projection and materials used. The scale of the proposed sign extends

beyond the fascia of the original shop front and is out of proportion with the building. Traditional materials, such as hardwood and washdown external illumination are more appropriate to the area. Due to the scale, projection and materials used, the proposed sign dominates the host building and detracts from both the character of the building and the surrounding area. The proposed lighting would also detract from the character of the area.

- 4.8 In relation to PPS 17, the relevant Policy is AD1. Criterion 'a' of this Policy allows for consent to be given for the display of an advertisement where it respects amenity, when assessed in the context of the general locality. Annex A of PPS 17 sets out the particular guidance for fascia signs. For the reasoning set out above it is considered that the proposal does not meet criterion (i) of Policy AD 1 or the design guidance contained in Annex (A) of PPS17.
- 4.9 In terms of PPS 2, the relevant policy is NH 6 as the proposal is within the Mourne AONB. As the proposed sign is not considered to be appropriate to the area in terms of design, size and scale and is not in keeping with the character of the area, the proposal is contrary to Policy NH6 of PPS 2.
- 4.10 If the appeal is allowed the condition below is recommended, without prejudice:
- This permission takes effect from the date of this notice.

5.0 **APPELLANT'S CASE**

- 5.1 The site is within Warrenpoint Town Centre. There are a variety of uses, typical to the town centre, in the surrounding area.
- 5.2 It is accepted that the submitted plans were inaccurate but this has been rectified through the submission of additional drawings which accurately reflect the sign to be retained.
- 5.3 The sign to be retained is 7000mm by 822mm and 357mm deep. The sign extends over the housing for the roller shutter door and along the full length of the existing shop front. The sign is made from recycled aluminium. Lettering is flushed individually applied letters.
- 5.4 The fascia sign is to be externally illuminated by four bracketed lamps mounted above and forward of the fascia. The proposed method of illumination would be less conspicuous than the current internal illumination.
- 5.5 The size and location of this sign has been a long-established presence in Church Street. Historical images are provided which demonstrate that there has been signage at this building since 2009. Numerous examples of similar signs are evident in the street. Seven images are provided of existing signage in the surrounding area.

6.0 CONSIDERATION

- 6.1 The site is located within the Town Centre of Warrenpoint, as identified by the BNMAP 2015. It is also within the Mourne AONB and Warrenpoint Seafront and Town Centre ATC.
- 6.2 The BNMAP 2015 sets out the key features of the ATC within the narrative for designation WB 34. This identifies particular characteristics and considerations to be taken into account within the ATC when assessing development proposals. Whilst Church Street is mentioned, the appeal building is not which indicates that it is not a key feature of the ATC. There are no policies within the BNMAP 2015 of relevance to the appeal.
- 6.2 The Strategic Planning Policy Statement for Northern Ireland (SPPS) retains a number of regional Planning Policy Statements. Two of which are of relevance, namely the Ad PPS 6 and PPS17.
- 6.3 Policy ATC 3 of AdPPS6 sets out two distinct tests for the approval of advertisement consent in the ATC. The impact of this proposal on public safety has not been contested by the Council. Therefore, the matter to be considered in the context of Policy ATC 3 is criterion 'a' which requires proposals to maintain the overall character and appearance of the area.
- 6.4 The Council's evidence directs that due to the scale, projection and materials of the sign, it dominates the building, detracting from its character and also the character of the surrounding area. However, no assessment of the existing character or appearance of the ATC has been provided by the Council. Outside of the impact upon the building itself, no evidence has been submitted to quantify the impact of the proposal upon the ATC as a wider entity.
- 6.5 The Council has stated that the sign to be retained does not respect the architectural detailing of the building due to its scale, proportion and materials. In terms of scale, the host building is a three storey newly constructed building which bookends this part of Church Street as it meets Kings Lane. The shop front itself is taller than most of the traditional shop fronts surrounding the development. The fascia sign sits above the shopfront. The bottom of the sign sits flush with the top of the shop front and the top of the sign sits just below the lower sill level of the first floor windows. The host building is of limited architectural merit with little in the way of architectural detailing. Whilst the fascia sign extends to the full width of the building, the scale, positioning and projection of the sign on the building does not obscure any particular architectural features.
- 6.6 The sign to be retained on the building is larger and at a higher fascia level than some of the signage on surrounding buildings. However, the building itself is larger than many of the buildings in this part of Church Street. In fact, the fascia level of most of the signage on both sides of Church Street is varied, with differing depths and heights. Whilst the subject sign rises above the fascia level, this does not read as overtly dominant or at odds with the scale of the host building. The proportions of the sign are generally in keeping with the scale of the building and with others in the wider ATC. In this context, I do not find the projection to be unacceptable.

- 6.7 The materials are of recycled aluminium. The Council has preferred hardwood as a more suitable alternative, however no assessment of why the proposed finishes are considered unacceptable has been provided. Notwithstanding, the shopfront of the existing building is glass and aluminium. Whilst not of any significant architectural merit, these more modern finishes reflect those of the subject signage, more so than hardwood as prescribed. For this reason, I do not consider that the finishes are out of character with the host building or the wider ATC which has a mix of signage types and finishes.
- 6.8 The lighting proposed is four external down lighting bracketed lamps which would project from the upper side of the fascia signage. These lights would be reasonably discrete on the front of the host building. They would not dominate the signage or the elevation of the building. This type of external lighting would be more sympathetic within the ATC than the current internal illumination, which would be removed as part of any consent. In my opinion the proposed lighting would not negatively impact on the overall character and appearance of the ATC.
- 6.9 The appellant has submitted several images of signage within the wider ATC. These images are not labelled. From site inspection, it is evident that these images are taken from the area near the site. Whilst the lack of accompanying detail, such as their planning history or location, limits their usefulness, the images illustrate there is a wide variety of signage types within the ATC as noted above.
- 6.10 In the evidential context provided, I am satisfied that the overall proposal would maintain the appearance and character of the building and the wider ATC. For this reason, the first reason for refusal in respect of AdPPS 6, Policy ATC3, has not been sustained.
- 6.11 The policy test as set out within PPS 17 Policy AD1, criterion 'a', is that the signage respects amenity, when assessed in the context of the general characteristics of the locality. The test in terms of amenity and character set out within Policy ATC 3 is reflective of, and arguably more restrictive than that set out in Policy AD1. Therefore, given the scant analysis provided by the Council and as I have found the proposal acceptable under Policy ATC 3 for reasons already stated, it is also acceptable under Policy AD1. Accordingly, the second reason for refusal has not been sustained.
- 6.12 The third reason of refusal refers to the impact of the signage upon its AONB locality. From the evidence submitted it is clear that this is an argument based on criterion 'a' of Policy NH2. This part of the policy insists that any proposal is sympathetic to the special character of the AONB in general and of the particular locality. As no assessment of the special character of the AONB has been provided by the Council, it is difficult to sustain their argument on this point. I have outlined above that the proposal would not detract from the character of the host building or the ATC. Therefore and in light of the scant evidence provided by the Council, I find that the proposal would not have a significant impact upon the character of the AONB. On this basis, the third reason for refusal has not been sustained.

- 6.13 In respect of imposing conditions, the Council has advised of one condition that relates to a standard time limit in respect of the retrospective application. I do not find this condition necessary as the signage is already in place. However, a condition in respect of the removal of the internal illumination would be necessary in the interest of visual amenity in the ATC.

7.0 RECOMMENDATION

- 7.1 I recommend to the Commission that the appeal be allowed and that consent be granted subject to the condition below:-

1. The internal illumination of the fascia sign shall be permanently removed and replaced with the lighting scheme shown on drawing PAC1 within 3 months from the date of this decision.

- 7.2 This recommendation relates to Drawing 01 which was received by the Council on the 9th May 2019 and drawing PAC 1 (manually amended to remove the projecting sign) which was received by the Commission on the 7th November 2019.

List of Documents

Planning Authority:-

"A" Written statement of case
Newry, Mourne and Down District Council

Appellant(s):-

"B" Written statement of case
CMI Ltd

PAC 1 – Amended elevation (Rec 7th November 2019)



Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
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Appeal Reference: 2019/A0121
Appeal by: Mr Gerard Rice
Appeal against: The refusal of consent to display an advertisement
Proposed Development: Retention of shop sign and provision of static exterior illumination
Location: "Around A Pound", 19 Church Street, Warrenpoint
Planning Authority: Newry, Mourne and Down District Council
Application Reference: LA07/2018/1758/A
Procedure: Written representations and Commissioner's site visit on 28 April 2020
Decision by: The Commission, dated 1st July 2020

The Commission has considered the report by Commissioner Donaghey and accepts his analysis of the issues and recommendation that the appeal should succeed. The Commission agrees that the reasons for refusal have not been sustained.

Decision – the appeal is allowed and consent to display an advertisement is granted, subject to the following condition:-

The internal illumination of the fascia sign shall be permanently removed and replaced with the lighting scheme shown on Drawing PAC 1 within three months from the date of this decision.

This decision approves Drawing 01 which was received by the Council on 9th May 2019 and the attached drawing PAC 1 (manually amended to remove the projecting sign) which was received by the Commission on 7th November 2019.

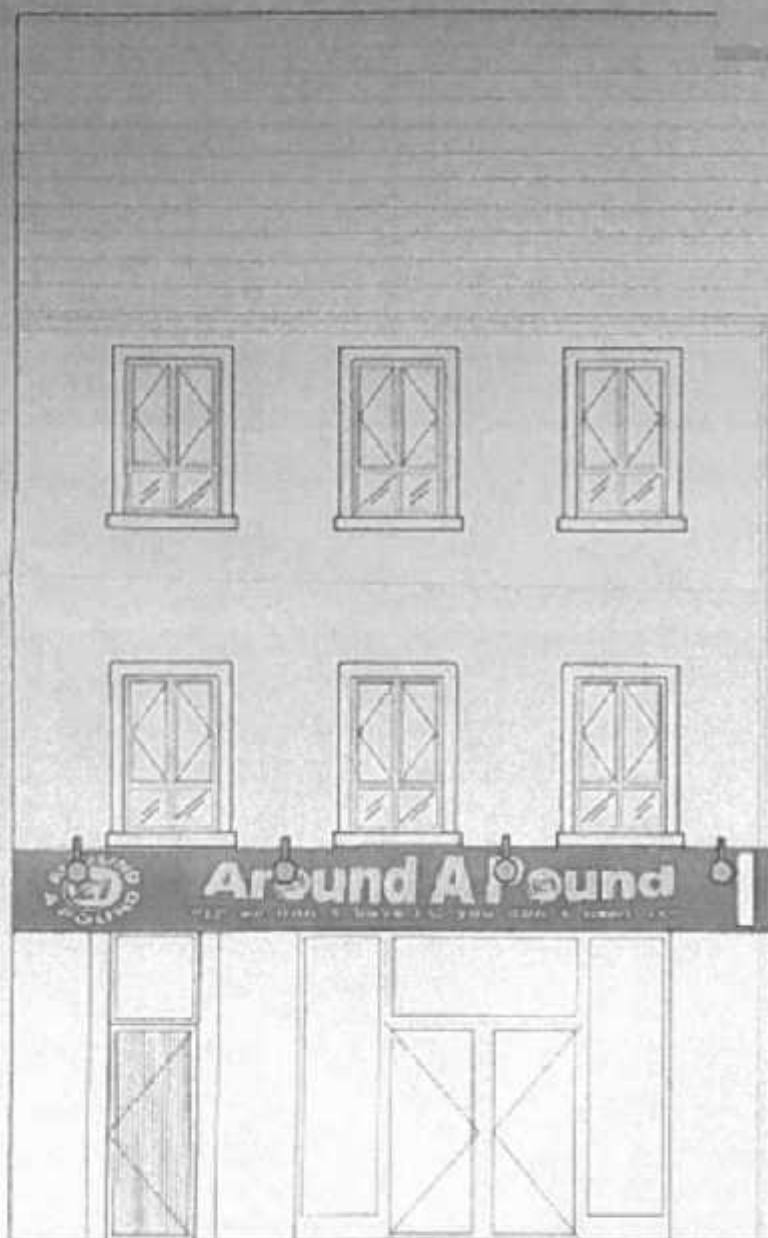
TREVOR A RUE
Deputy Chief Commissioner

Section of Proposed
Exterior Trough Lighting
Cool Grey 9c 4No (or Similar)



Existing Signage

Signage Detail:
Scale 1:2



Front Elevation
Scale 1:50

~~Existing Projection
AroundAPound Sign
Retained~~



PAC 1 (existing sign
retained)
7/11/19

CMI Planners Ltd

38 Ashford Road
The Craggs
Teddington
Middlesex
TW20 1NS

10 Chiswick Valley
Chiswick
Middlesex
Windsor
Tel: 020 766 81100

Client	Mr Gerard Rice	Scale/Sheet	1:50 @ A3	Drawing no.	LD1
Project	Proposed Alterations / New Lighting to Shop Sign At 18 Church Street, Warrenpoint BT34 3HN	Date	Nov 2019	Revision	B
Drawing Title	Elevation	Rev No.	1.668	Drawn By	N.G.



Appeal Decision

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199

Appeal Reference:	2019/A0192
Appeal by:	Ms J Groves
Appeal against:	The refusal of outline planning permission
Proposed Development:	Erection of a dwelling
Location:	To the rear of 15a Lisoid Road, Rossglass with access from Ballylig Road, Rossglass
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2018/1975/O
Procedure:	Written representations and Commissioner's site visit on 22 July 2020
Decision by:	Commissioner D McShane dated 28 July 2020.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Appellant's statement of case referred to an alternative access from Lisoid Road. However, the development as per the submitted application and appeal is described as "erection of a dwelling to the rear of 15a Lisoid Road, Rossglass *with access from Ballylig Road* (my emphasis) Rossglass. The development has been advertised as such at both application and appeal stage. The purpose of publicising a planning application is to inform people of the substance of what is proposed and to give them an opportunity, if they so desire, of following the matter up and making representations. The alternative access is located a significant distance away and on a different road from that advertised. Its consideration would prejudice those who may have wished to make representations. Accordingly, my assessment is based upon the proposed access from Ballylig Road.

Reasons

3. The main issues in this appeal are:
 - whether the proposed development is acceptable in principle; and
 - its impact on visual amenity.
4. Section 6 (4) of the Planning Act (NI) 2011 requires that the determination of proposals must be in accordance with the local development plan (LDP) unless material considerations indicate otherwise. The Ards and Down Area Plan (2015) operates as a LDP. The appeal site is located outside any settlement development limit defined in the plan and is within the open countryside; there are

no operational plan policies pertinent to this specific proposal. I therefore turn to other material planning considerations. As the appeal site is in the open countryside, Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21) provides the relevant policy context. It is identified by the Strategic Planning Policy Statement (SPPS) as a retained policy document.

5. 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. The circumstances wherein planning permission will be granted for housing development are set out. A number of instances when planning permission will be granted for an individual dwelling house are outlined. The Appellant argues that the proposed dwelling would be located at a cluster in accordance with Policy CTY 2a.
6. Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster provided six specified criteria are met. The parties dispute the second, third, fourth and fifth criteria.
7. From viewpoints along Lisoid Road, Minerstown Road and Rossglass Road, the cluster, comprising more than four dwellings, appears as a visual entity in the landscape, as required by the second criterion of Policy CTY 2a.
8. The third criterion requires the *cluster* (my emphasis) to be associated with a focal point or to be located at a crossroads. The Council accept that there is a crossroads but consider that the appeal site is too far distant from it. However, the third criterion relates to the cluster. As the cluster is located at a crossroads, the third criterion of Policy CTY 2a is met.
9. The fourth criterion requires the identified site to provide a suitable degree of enclosure and be bounded on at least two sides with other development in the cluster. Whether the appeal site would provide a suitable degree of enclosure is considered below under Policy CTY 13.
10. A cluster of development is not defined by the policy, but its first three criteria give an indication of the intended meaning. The first criterion requires that the cluster of development must lie outside of a farm and consist of four or more *buildings* [my emphasis] (excluding buildings such as garages, *outbuildings* [my emphasis] and open sided structures) of which at least three are dwellings.
11. The appeal site is bound to the west by No.15a. No.13 does not stand directly south of the appeal site. Rather it and its outbuilding are offset to its south west and stand directly south of No.15a. In any event, as the structure to the rear of No.13 comprises an outbuilding, in policy terms it cannot constitute part of the cluster.
12. The Appellant also argued that a sewage discharge system located to the north east of the appeal site constitutes development within the cluster that bounds the appeal site. In this respect, reference was made to the Town and Country Planning Act 1990 and the definition of development as "the carrying out of building, engineering, mining or other operations in, on, over, or under land, or the making or any material change in the use of any buildings or other land (S.55). Notwithstanding that this legislation applies only to England and Wales, the

meaning of development set out in Section 23 of the Planning Act (NI) 2011 is identical. However, Section 23 is providing an interpretation of the 2011 Act. A reading of Policy CTY 2a clarifies that a cluster must consist of a specific number and type of buildings. In policy terms, a sewage discharge system cannot comprise part of a cluster.

13. There is an agricultural field to the north of the appeal site and fields beyond, dense vegetation to the south with agricultural fields beyond and a marsh field to the east that extends to Ballylig Road. The site is bound on only one side, to the west, by development within the cluster. As the appeal site is not bound on two sides by development within the cluster it fails to meet the fourth criterion of Policy CTY 2a.
14. The proposed dwelling would not be absorbed into the existing cluster through rounding off and consolidation. Notwithstanding that the appeal site is used as an extended garden area for No.15a, the erection of a dwelling would extend built development into the open countryside. Consequently, the proposed development fails to meet the fifth criterion of Policy CTY 2a.
15. Policy CTY 1 states that other types of development will only be permitted where there are overriding reasons why the development is essential. A reference is made to the Appellant's parents' home, however the Appellant clarified in her statement of case that she did not want to rely upon Policy CTY 6 and no evidence was presented in this respect. Reference was also made to the absence of development in the area over the past 15 years and an associated decline in local services. However, I have not been persuaded that there are any overriding reasons for the development at this location. Accordingly, the development is unacceptable in principle and the Council has sustained its first, second and third reasons for refusal based upon Policies CTY 1, CTY 2a and CTY 6 of PPS 21.
16. Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and is of an appropriate design. From Ballylig Road, the site would provide adequate enclosure for the proposed dwelling given the set back from the road and the vegetation to the north and south of the appeal site. However, the access, which would cross an open field for a distance of approximately 50m and require the removal of 120m of roadside hedging to provide the necessary visibility splays of 2m by 60m, would not integrate into its surroundings and it would have a detrimental visual impact upon the landscape. Accordingly, the Council has sustained its fourth reason for refusal based upon Policy CTY 13 of PPS 21.
17. Even in the event that I had considered an alternative access onto Lisoid Road and had found it to be acceptable, the appeal would fail, given that the proposed development has been found to be unacceptable in principle.

This decision is based on the following drawing:-

- LPA Drwg No.01 (Rev A):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

"APP 2" Rebuttal Statement and Appendices



Appeal Decision

Park House
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Appeal Reference:	2019/A0157
Appeal by:	Ms Brigid Kelly
Appeal against:	The refusal of outline planning permission
Proposed Development:	Dwelling
Location:	Between 125B and 135 Cullaville Road, Crossmaglen
Planning Authority:	Newry, Mourne and Down Council
Application Reference:	LA07/2019/0307/O
Procedure:	Written representations with Commissioner's site visit on 24 th June 2020
Decision by:	Commissioner Diane O'Neill, dated 2 nd July 2020

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether the proposed development:
 - is acceptable in principle in the countryside
 - would be sited within an existing cluster of buildings
 - would create ribbon development
 - would adversely impact on rural character
3. Section 45 (1) of the Planning Act (NI) 2011 requires the Commission, in dealing with an appeal, to have regard to the local development plan, so far as material to the application, and to any other material considerations. The Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) operates as the local development plan for the area where the appeal site is located. The site is outside any settlement development limit within BNMAP and is in the countryside. The BNMAP has no material policies for dealing with dwellings in the countryside.
4. The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area. The SPPS retains certain existing planning policy statements and amongst these is PPS 21 which provides the relevant policy context for the appeal proposal.
5. Policy CTY 1 of PPS 21, which is the basis for the first reason for refusal, sets out a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. A number of instances when planning permission will be granted for a single dwelling are outlined. The appellant argued that the appeal proposal

meets the overall intent of Policies CTY 2a and CTY 14 in that it would round off and consolidate an existing cluster of development without changing the area's character and also that it would be an infill development in accordance with Policy CTY 8. A previous planning application (LA07/2017/1802/F) for a dwelling and garage on the appeal site was refused planning permission and this was dismissed at appeal on 3rd December 2018 (2018/A0064). The appellant however argued that in the current appeal the site conditions have materially changed since the appeal was determined namely that the dwelling at No.135 has been completed and the screening vegetation along the Cullaville Road has been significantly reduced.

6. Policy CTY 8, which was the basis for the second reason for refusal, states that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception is however permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses. Policy CTY 8 requires four specific elements to be met: the gap site must be within an otherwise substantial and continuously built-up frontage; the gap site must be small; the existing development pattern along the frontage must be respected; and other planning and environmental requirements must be met. The planning authority raised objection to the first criterion of Policy CTY 8 in that, while the dwelling at No.135 has a frontage onto the public road, they considered that the dwellings at Nos. 125b, 125a and 125 Cullaville Road do not and therefore the appeal site is not within a substantial and continuously built up frontage.
7. The appeal site is located along the Cullaville Road to the north-east of the dwelling at Nos. 135 Cullaville Road and to the south-west of the dwellings and associated buildings at Nos.125b, 125a and 125 Cullaville Road. No.135 has direct access onto the Cullaville Road and there is an intervening hedgerow and field between the dwelling and the road. Nos. 125b, 125a and 125 Cullaville Road are set back from the road with an intervening field and hedgerow; all are accessed via a driveway located to the south-east of No.125. A dwelling and garage at No.123 Cullaville Road are accessed directly from the Cullaville Road and are located to the south-east of the property at No.125.
8. Policy CTY 8 states that for the purpose of the policy that the definition of a substantial and built up frontage includes a line of three or more buildings along a road frontage without accompanying development to the rear. A building has a frontage to a road if the plot on which it stands abuts or shares a boundary with that same road. The appellant considered that the appeal site reads as a small gap in a substantial and continuously built up frontage comprising of the residential development at Nos. 135, 125b, 125a, 125 and 123 Cullaville Road with the proposed dwelling located between Nos. 135 and 125b. However, whilst Nos.123 and No.135 have a frontage onto the Cullaville Road, as has already been concluded within appeal 2018/A0064, Nos. 125b, 125a and 125 are separated from the road by an intervening field and their plots abut their shared driveway as opposed to the Cullaville Road. It therefore follows that there is no line of three or more buildings to meet Policy CTY 8's definition of a substantial and continuously built up frontage. The appellant referred to the perception of the development from the Cullaville Road however the reference to 'visual linkage' within Policy CTY 8 is used to refer to what constitutes a ribbon of development and not what qualifies as an exception under infill. The proposal therefore fails to meet

the first element of Policy CTY 8 which is determining and accordingly the second reason for refusal is sustained.

9. Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all of the following criteria are met: the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings; the cluster appears as a visual entity in the local landscape; the cluster is associated with a focal point such as a social/community building/facility, or is located at a crossroads; the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster; development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and development would not adversely impact on residential amenity.
10. The planning authority accepted that there was a cluster of development lying outside of a farm, that the site provides a suitable degree of enclosure, that it appears as a visual entity in the local landscape and that it could be designed so that it would not adversely impact on residential amenity. However, they disputes the third and fifth criteria of Policy CTY 2a in that a dwelling on the site would not round off and consolidate the existing development but rather would extend its linear form thus having a detrimental impact on the rural character of the area. It was also considered that it would not be associated with a focal point and is not located at a crossroads.
11. The appellant argued that the existing dwellings along this section of the Cullaville Road read together in the landscape and that a dwelling sited in the small gap site would round off an existing cluster of development, not alter the suburban character of the area given the presence of development on both sides of the road and would not intrude into the open countryside. The proposal is not however an acceptable infill development and would add to the ribbon of development which would be detrimental to the character, appearance and amenity of the countryside. It would reinforce the built-up appearance of this stretch of the Cullaville Road. The appellant stated that the residential property at No.135 Cullaville Road has been completed since appeal 2018/A0064 however it is evident from that decision that the 'recently erected dwelling (P/2006/0918/RM) on the other side of and southwest of the appeal site' was factored into the Commissioner's considerations. The appellant provided a photograph in her rebuttal evidence to illustrate the site conditions at the time of the previous appeal. However, the previous Commissioner carried out a site visit where the site was assessed from more than this one screened view and concluded that the existing gap between the two recently erected dwellings provided a visual break in the developed appearance of the locality. Irrespective of the argument in relation to the completion of No.135 and the reduction in the screening vegetation along the Cullaville Road since appeal 2018/A0064, the appeal site still provides relief and acts as a visual break in the developed appearance of the locality thus helping to maintain the rural character. The reduction in the level of roadside screening has served to increase the visibility of the development and the importance of maintaining this visual break. The proposal therefore fails to meet the fifth criterion of Policy CTY 2a.

12. In terms of the third criterion, the appellant did not argue that the appeal site was located at a crossroads but rather, due to a number of recent planning decisions, the lack of a focal point or crossroads need not be determining to a proposal. Appeal decision 2010/A0202 was cited by the appellant however that appeal was decided based on its particular set of site specific circumstances which are not replicated here. Irrespective of two of the cited decisions being within the same Council area as the appeal site, the 2010/A0202 case and the other decisions referred to by the appellant (LA08/2015/0056/F, LA07/2015/0135/F, 2016/A0095, LA07/2017/0132/O and 2017/A0222), unlike the current case, also met the other criteria of Policy CTY 2a. At any rate, each case has to be judged on its own merits and individual circumstances. As the proposal would not meet the third and fifth criteria of Policy CTY 2a, accordingly the forth reason for refusal is sustained.
13. The proposal would add to the ribbon of development visible along this section of the Cullaville Road. When viewed with the residential development at Nos. 123, 125, 125a, 125b, 135 Cullaville Road it would result in a suburban style build-up of development which would further erode the rural character of the area. Accordingly, the third reason for refusal in relation to Policy CTY 14 is sustained.
14. As the proposal does not meet Policies CTY 2a or CTY 8, it is not one of the specified types of development considered to be acceptable in the countryside under Policy CTY 1. As no overriding reasons were presented as to why the development is essential and could not be located in a settlement, it is contrary to Policy CTY 1 of PPS 21. Accordingly the first reason for refusal is sustained.
15. As the four reasons for refusal are sustained, the appeal must fail.

This decision is based on Drawing 01 1:2500 site location plan dated received by the planning authority on 15th February 2019

COMMISSIONER DIANE O'NEILL

List of Documents

Planning Authority
(Newry, Mourne and Down District Council):- Statement of Case (PA 1)

Appellant (O'Toole & Starkey Ltd-agent):- Statement of Case (A 1)
Rebuttal (A 2)



Appeal Decision

Park House
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Appeal Reference:	2019/A0150
Appeal by:	Felix McEvoy.
Appeal against:	The refusal of full planning permission.
Proposed Development:	Proposed holiday chalet with retention of sub structure as commenced on site.
Location:	Land 60m south east of No. 36 Derrynell Road, Ballyward.
Planning Authority:	Comhairle Ceantair an Iúir, Mhúrn agus an Dúin. Newry, Mourne and Down District Council.
Application Reference:	LA07/2019/1056/F
Procedure:	Written representations and Accompanied Site Visit on 11 th February 2020.
Decision by:	Commissioner Damien Hannon, dated 8th July 2020.

Decision

1. The appeal is dismissed.

Reasons

2. The main issue raised by this appeal is whether the proposed development is acceptable in principle in the countryside.
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. Furthermore, in the absence of conflict between the provisions of the Strategic Planning Policy Statement for Northern Ireland - Planning for Sustainable Development - September 2015 (SPPS) and retained policy regarding issues raised by this appeal, the relevant policy context is provided by Planning Policy Statement 21 - Sustainable Development in the Countryside (PPS 21).
4. The appeal site is a sloping, roadside plot that formerly accommodated two stone buildings. Planning permission was granted in August 2019 for the change of use from outbuilding to holiday chalet with associated extension and alterations (Ref LA07/2016/0583/F). During works to implement this permission, that appellant was advised by a structural engineer that the existing walls were in danger of falling into the road and that underpinning was 'unfeasible'. Pursuant to this advice, the appellant decided to remove the existing buildings and begin construction of a new building of similar dimensions and siting to the previously approved conversion. At the time of my visit, building work had ceased. However, the appeal proposal is partly retrospective as the subfloor is in place.

5. Policy CTY 1 of PPS 21 sets out a range of types of development which are acceptable in the countryside in principle. LA07/2016/0583/F was approved as the conversion of a locally important, non-residential building to a dwelling in accordance with Policy CTY 4 of PPS 21 and paragraph 6.73 of the SPPS. 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 that the proposal fell within any of the specified categories or that it was essential or could not be located in a settlement. I conclude therefore that the proposal runs contrary to Policy CTY 1 of PPS 21.
6. 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 argued the planning history to be the 'most relevant aspect of the current proposal'. It was stated that the appellant was unaware that a new building would be assessed under a different policy context to that of the approved conversion. I accept that the appellant, acting on professional advice and in the interests of safety, made an honest mistake in demolishing the existing buildings and thereby removing any possibility of implementing the approved scheme. I am also mindful that the absence of support for the appeal proposal in Policy CTY 1 should be weighed against the fact that the Council conceded that the dimensions of the proposed building 'mirrored' those of the approved conversion and raised no objection on the grounds of design or impact on rural character.
7. The particular circumstances pertaining to this case are undisputed. However, although unfortunate, they do not, either individually or cumulatively, constitute overriding policy or material considerations that either outweigh the objection to the proposal on policy grounds 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 reason for refusal based on Policy CTY 1 to be sustained and determining.

This decision is based on the following drawings received by the Council on 23rd May 2019:-

1:2500 scale ordnance survey extract and numbered 01.

1:200 scale Site Plan numbered 02.

1:100 scale Plans and Elevations numbered 04.

COMMISSIONER DAMIEN HANNON

List of Appearances

Planning Authority:-

Ms Annette McAlarney

Appellant:-

Mr G. Tumelty (Tumelty Planning)
Mr Felix McEvoy
Mr Joseph McEvoy

List of Documents

Planning Authority:-

COU 1 Statement of Case

Appellant:-

APP 1 Statement of Case
APP 2 Rebuttal