

ITEM NO	24			
APPLIC NO	LA07/2016/0091/F	Full	DATE VALID	1/21/16
COUNCIL OPINION	REFUSAL			
APPLICANT	Mr Peter Clarke 14 Upper Dromore Road Warrenpoint BT34 3PW	AGENT	Cole Partnership 12a Duke Street Warrenpoint BT34 3JY 028417 53679	
LOCATION	To the front of no 14 Upper Dromore Road and between Nos. 12 and 16 Upper Dromore Road Warrenpoint BT34 3PW			
PROPOSAL	Proposed dwelling with amendments to access for 14 and 14a Upper Dromore Road, Warrenpoint			
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions
	0	0	0	0
			Addresses	Signatures
			0	0 0 0

- 1 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Planning Policy Statement 7 'Quality Residential Environments' Policy QD1 in that it has not been shown:
 - (a) That the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas;
 - (c) that adequate provision is made for public and private open space and landscaped areas as an integral part of the development;
 - (h) that the design and layout will not cause / create unacceptable adverse impacts on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance;
- 2 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Planning Policy Statement 7 (Addendum) 'Safeguarding the Character of Established Residential Areas' policy LC1 in that:
 - (a) The proposed density is significantly higher than that found in the established residential area;
 - (b) The pattern of development would not be in keeping with the overall character and environmental quality of the established residential character area;
And if approved, the development would therefore erode the local character, environmental quality and residential amenity of the established residential area.



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

Application Reference:

LA07/2016/0091/F

Date Received:

21/01/2016

Proposal:

Proposed dwelling with amendments to access for No. 14 & 14A

Location:

The site is located 0.4 miles from Warrenpoint Town Centre, within an established residential area within the settlement limit of Warrenpoint. The site itself comprises the front garden area of No. 14 Upper Dromore Road and is located between No's 12 & 16 Upper Dromore Road.

Site Characteristics & Area Characteristics:

Surrounding dwellings vary in character, though are predominantly detached. The proposed site is the front garden of No.14, a split level detached dwelling. Set behind this is No.14A, a large two storey red brick property with its primary elevation to the south. The site also lies between No's 12; a modest detached single storey bungalow set back from the road in line with No.14A and No.16 a detached split level property which follows the settlement pattern of number 14. The site itself measuring 0.027 hectares slopes steeply to the south west. There are currently two access points off the Upper Dromore Road, one servicing number 14A to the south of the site and one servicing number 14 in the north east area of the curtilage. The rising topography of the land along Upper Dromore Road appears to have resulted in this variation of housing styles in terms of scale and character.



Site History:

LA07/2016/0063/F - To front of No.12 and between 10 and 14 Upper Dromore Road Warrenpoint, proposed dwelling – permission granted 20/05/2016

P/2012/0512/O

- P/2002/0123/F - Rear of no 14 Dromore Road, Warrenpoint, Permission granted
- P/2000/1751/O – To the rear of 14 Upper Dromore Road, site for dwelling, permission granted
- P/2000/0870/O - To the rear of 14 Upper Dromore Road, Site for dwelling, application withdrawn
- P/1983/0246 – 16 Upper Dromore Road, extension and improvements to dwelling , permission granted
- P/1981/0737 – Proposed erection of a wall, permission granted
- P/1977/0353 – Upper Dromore Road, Proposed bungalow, permission granted

Planning Policies & Material Considerations:

- Strategic Planning Policy Statement for Northern Ireland 2015(SPPS): Planning for Sustainable Development
- Banbridge / Newry and Mourne Area Plan 2015
- PPS 3 Access, Movement and Parking
- PPS 7 Quality Residential Environments
- PPS 12 Housing in Settlements
- 'Creating Places: Achieving Quality in Residential Environments.'
- Development Control Advice Note (DCAN 8) 'Housing in Existing Urban Areas.'

Consultations:

- **Transport NI** – No objections, with conditions attached
- **NI Water** – No objections, with informatives
- **Environmental Health** – No objections , with informatives

Objections & Representations

8 Neighbour notified issued 16th May 2016

No responses received.

Consideration and Assessment:

Under the SPPS, the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

The site is located within the development limits of Warrenpoint / Burren as identified by the Banbridge / Newry and Mourne Area Plan (BNMAP) 2015. The site is designated as whiteland within the BNMAP and is not specifically zoned.

Planning Policy Statement 7 'Quality Residential Environments'

PPS7 states that planning permission will only be granted for a new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. The design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area.

Furthermore, PPS QD1 states: *"In established residential areas, proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas."*

All proposals for residential development will be expected to confirm to all of the following criteria listed under PPS 7 QD1:

(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 surface areas;

The proposed development would result in a loss of valued open garden space which is characteristic of the surrounding residential area. Currently, No. 14 has approximately 766.5 square metres of private open garden space to the front. No's 16, 18 and 20 follow this pattern and No's 12, 10 and 8 albeit with their front amenity space decreasing respectively, in line with the curve of the road. If this proposal were to be developed, the front amenity space of No. 14 would be reduced significantly, to approximately 130 square metres. This is not considered to be respectful of the surrounding context, nor appropriate to the character of the area.

The site slopes steeply to the north, rising by 3.2 metres from the roadside towards the rear curtilage of the site. The proposed plans include sections through the site, with at least 3 metres cut and fill required to integrate the dwelling into the site so as to not obstruct upon existing No.14. This is a significant amount of digging required against the natural contours of the site to support the proposed dwelling and is not considered appropriate to the topography of the site.



It is noted that a recent outline approval has been granted for a dwelling to the front of the adjacent No.12 on 9th March 2015 (Planning application reference P/2014/0512/O) and subsequent full approval granted on 20th May 2016 (application reference LA07/2016/0063/F.) The depth of plot size however on this site is

much greater than the subject site at 27metres, with only 16.5 metres depth of plot on the subject site. The Case Officer in their assessment of this outline application, felt that the proposal did not meet the policy requirements of PPS7 in that it would detract from the overall settlement pattern of the immediate area and would be 'garden grabbing.' Despite this, approval was granted based on the existence of No.14A (approved under application P/2002/0123/F), which the Case Officer felt had similar siting to the proposed development at No.12. I would argue however that this was a poor planning decision and No.14A was approved prior to the publication of the Addendum to PPS7 'Safeguarding the Character of Established Residential Areas,' published in March 2008 which provides additional planning policy provisions on the protection of local character, environmental quality and residential amenity within established residential areas and help protect such areas from further erosion of their character. A previous poor planning decision in my opinion does not constitute grounds for approving a current proposal, a view which the Planning Appeals Commission has supported. With this in mind, it is considered that the proposal would not respect the surrounding context and is inappropriate in this established residential area. If approved, it would further erode the character of the area which should be protected.

(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 archaeological significance within or adjacent to the site.

(c) Adequate provision is made for public and private 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;

'Creating Places' gives guidance as to the level of private amenity space that should be provided for new dwellings. With the close proximity to No. 14, this proposal provides inadequate provision of useable private amenity space behind the building line, with an area of less 70 square metres. I

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

This is a small scale proposal and is within walking distance of Warrenpoint Town Centre.

(e) 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 proposed dwelling is to use an existing private driveway off Upper Dromore Road which is currently used by No.14 As a result of this, an alteration to the existing access to No.14A is proposed to accommodate access to No. 14. There will be low level access to the dwelling from the existing hard surface driveway, forming part of the approach. This surface will facilitate wheelchair movement and manoeuvring. There is pedestrian access provided to both side and rear garden areas of the proposed dwelling

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

2 car parking spaces are provided to the front of the dwelling, which is acceptable in terms of the guidance in section 20 of 'Creating Places: Achieving quality in residential environments.'

(g)The design of the development draws upon the best local traditions of form, materials and detailing; proposed schedule of finishes includes; smooth plaster with white painted finish, white double glazed PVC windows with grey straps, black PVC rainwater goods, and black concrete roof tiles.

(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;

A layout plan which displays the contours of the site shows 2.1metres from the ridge line of the proposed dwelling to eye level if standing on the ground floor of No.14, causing no issue of overlooking from the new dwelling to those existing. However, the proposed dwelling is to be sited below and in front of no. 14A, with 7.85metres separation distance between the two dwellings. This arrangement would give rise to issues of overlooking upon the private amenity space of No14.

Number 16 is presently screened by mature trees. The side elevation of the proposed dwelling will be positioned approximately 9 metres from the existing front garden of No. 16. The proposed floor plans on this side include only two windows, both at upper level to include a hallway window and en-suite window. Given the positioning of the dwelling, there would be no detrimental impact upon the property of No.16 in terms of loss of light or overshadowing internally, though the building block would have an impact upon the enjoyment of the private amenity space to the

front. The above applies also to existing number 12 to the south, which is set back from the proposed dwelling. Nonetheless, no objections have been received from the relevant neighbouring properties. Opposite and across from the site lies No.1 Meadowlands, a storey and a half detached property with the ground floor screened from the road by dense hedgerow. Beside this, No.25 Upper Dromore Road, a modest detached bungalow is sited at an angle with its gable fronting towards the road. It is considered that there is a reasonable space between the proposed development and these two properties to avoid any unacceptable adverse effect.

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

The applicant would be encouraged to incorporate sensible security measures during the development process.

Addendum to PPS 7 'Safeguarding the Character of Established Residential Areas'

The second Addendum to PPS 7 provides additional provisions to help protect areas of established residential character, environmental quality and local amenity. In this assessment, Policy LC1 'Protecting Local Character, Environmental Quality and Residential Amenity' applies:

*"In established residential areas, planning permission will only be granted for the infilling of vacant sites (including extended garden areas) to accommodate new housing, where all the criteria set out in Policy QD1 of PPS 7 **and** all the additional criteria below are met:"*

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

When considering an increase in housing density in an established residential area, great care must be taken to not unacceptably harm local character, environmental quality or amenity of the area. In assessing this, both the site specific and immediate surrounding area must be considered. At present, this comprises low density development, with two dwellings maximum per plot, with predominately detached dwellings which have generous front amenity space. To develop the proposed

dwelling, would increase the density found in the existing area, arguably not significantly but enough in this specific case to result in over-development of the plot.



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

The rising topography of the land along Upper Dromore Road appears to have resulted in a variation of housing styles in terms of scale and character. Nonetheless, numbers 12 to 20 follow an established settlement pattern with relatively large plots and a semi-detached dwelling sited towards the middle of the plot, with a large front amenity space towards the road. The topography and

existing landscape together with this settlement pattern has resulted in a high quality residential area. As briefly mentioned, there have been some previous planning decisions which have compromised this existing settlement pattern, including the approval of No.14a and development to the front of No.12. Arguably, it is therefore even more important to protect the character from further erosion through development.

The proposal includes the development of a dwelling in what is currently the front garden of No. 14. Although an approval has been made on the adjacent site as discussed earlier in this assessment, the proposed site differs in terms of existing plot size and density, topography and character. The proposed development would significantly alter the existing settlement pattern and result in the intensification of this site. In terms of amenity space, the development would encroach upon the existing No.14, leaving only 3.2 metres distance between the rear boundary of the proposal and No.14 (the adjacent approval leaves 9.5metres between the rear boundary of the new development and the existing No.12, highlighting the differences in these two plots.) In addition, the proposal would leave only 6.5 metres to the front which does not fit in with the character of the surrounding front gardens. Furthermore, Para 4.7 of PPS7 reinforces that features that undermine the overall character of an area should not be replicated or used as a precedent. In this instance, the adjacent approvals are not comparable nor do they necessitate grounds to continue this pattern.

The supplementary guidance of DCAN 8 'Housing in Existing Urban Areas' makes clear that 'town cramming' or other inappropriate developments which would adversely affect established residential character and amenity will be resisted. It is my opinion that the proposal is inappropriate in the context of the site and surrounding area. If approved, it would detrimentally change the existing settlement pattern and would not be in keeping with the overall character and environmental quality of the established residential area.

(c) All dwelling units and apartments are built to a size not less than those set out in Annex A.

The proposed dwelling exceeds the minimum design standards of 80/85square metres for a 4-person /3-bedroom house type.

Recommendation: Refusal

Reasons for refusal:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Planning Policy Statement 7 'Quality Residential Environments' Policy QD1 in that it has not been shown:
 - (a) That the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas;

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

(h) that the design and layout will not cause / create unacceptable adverse impacts on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance;

2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Planning Policy Statement 7 (Addendum) 'Safeguarding the Character of Established Residential Areas' policy LC1 in that:

(a) The proposed density is significantly higher than that found in the established residential area;

(b) The pattern of development would not be in keeping with the overall character and environmental quality of the established residential character area;

And if approved, the development would therefore erode the local character, environmental quality and residential amenity of the established residential area.

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

ITEM NO	31			
APPLIC NO	LA07/2016/0557/F	Full	DATE VALID	4/26/16
COUNCIL OPINION	REFUSAL			
APPLICANT	Mr and Mrs Oliver Reavey 81 Newtown Road Camlough Newry BT35 7JH	AGENT	Collins and Collins 18 Margaret Street Newry BT34 1DF 02830266602	
LOCATION	85 Newtown Road Camlough Newry BT35 7JH			
PROPOSAL	Retention of dwelling as constructed previously approved under planning ref P/ 2015/0186/RM			
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions
	0	0	0	0
	Addresses Signatures		Addresses Signatures	
	0		0 0 0 0	

- The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the design of the proposed building is inappropriate for the site and its locality and therefore would not visually integrate into the surrounding landscape.



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**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2016/0557/F

Date Received: 03.07.2015

Proposal: Retention of dwelling as constructed previously approved under planning ref P/2015/0186/RM

Location: 85 Newtown Road, Camlough, Newry, BT35 7JH, South Armagh approximately 1 mile West of the Settlement limit for Camlough.

Site Characteristics & Area Characteristics:

This is a roadside site located adjacent to No 83 Newtown Road, Camlough. The site extends along the rear boundary of this existing dwelling, No 81 and bounds No 79 on the north western side. The land is relatively flat at the roadside and rises gradually towards the north eastern boundary. At the time of my site visit construction was at an advanced stage with the new dwelling completely intact. Landscaping of the site was at an on-going stage. The site is within the rural area where development pressure is increasing.

Site History:

P/2015/0186/RM - Private dwelling & domestic garage - Adjacent to and north and north west of no. 79 Newtown Road, Sturgan, Camlough – Permission Granted – 27/10/2015

P/2000/0325/O - Domestic dwelling - Adjacent to 83 Newtown Road, Camlough, Newry - Sturgan TD – Permission Refused 04.08.2000

P/2011/0440/O - Adjacent North & North West of No 79 Newtown Road, Camlough, Newry BT35 7JJ – Appeal Dismissed - 03.06.2013

P/2014/0581/O - Private dwelling and domestic garage - Adjacent to and North and North West of No 79 Newtown Road, Camlough, Newry, BT35 7JJ

LA07/2016/0013/CA – Alleged dwelling not being constructed in accordance with approval- Adjacent to and North and North West of No 79 Newtown Road, Camlough, Newry, BT35 7JJ - Enforcement case on going.

Planning Policies & Material Considerations:

Banbridge Newry and Mourne Area Plan 2015

Strategic Planning Policy Statement

Planning Policy Statement 21

Planning Policy Statement 3 / Development Control Advice Note 15

Building on Tradition

Consultations:

Transport NI – No objections.

Objections & Representations

3 Dwellings notified on 12.05.2016

Application Advertised on 11.05.2016

No objections or representations received.

Consideration and Assessment:

Strategic Planning Policy Statement / Banbridge Newry and Mourne Area Plan 2015
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 policy of PPS21 will be given substantial weight in determining the principle of the proposal in accordance with paragraph 1.12 of the SPPS / BNMAP 2015. The site lies within the Rural Area as designated in the Banbridge Newry and Mourne Area Plan 2015. There are no objections with regard to the Area Plan.

Principle of Development

The previous application P/2015/0186/RM was approved on 27.10.2015 with the standard time condition. As this application was received on 03.07.2016 the application remains live and determining weight is given to P/2015/0186/RM. The principle of development is established.

The layout of the site including the access replicates that previously approved under P/2015/0186/RM with the main area of discussion, the proposed design. It is noted that a similar design albeit with a lower ridge height was originally submitted as part of the RM application. However this was considered unacceptable at an early stage and a new design with a single storey storm porch and the chimneys located on the ridge of the dwelling was requested prior to approval. In addition to this the rear dormer and upper windows were asked to be removed to comply with the floor restriction imposed at Outline stage. The design for the dwelling under this current application differs from the previous approval in that the a first floor has now been included measuring approximately an additional 97 sq. m. The ridge has been increased by just under a metre and the porch increased in height by approximately 1.8m. A chimney has been located off the ridge of the dwelling, an extra velux window added to the roof at the front and a dormer window added to the rear.

To determine the acceptability of design in the rural area, material consideration is given to supplementary guidance contained in Building on Tradition and the existing development in the area. Page 100 of Building on Tradition shows poor and unacceptable design which includes 2 storey projecting bay windows, porches and

apses. The proposed design includes a 2 storey porch (which was previously decided as unacceptable in the RM application) which appears dominant on the front elevation, out of character with the surrounding dwellings and when considered against the open and exposed nature of the site, appears intrusive at the critical view points along Newtown Road particularly when travelling East. The raised height of the dwelling is out of keeping with the existing character along this stretch of road with neighbouring dwellings Nos 83, 81, 79, 75 and 31 all of a single storey nature and I would concur with the Outline condition of a 5.5m ridge height which would allow the development integrate on to the site more fully and respect the existing development in the area. The additional floor space is not of itself visually intrusive however as explained above it is the increased ridge height to accommodate this that is unacceptable. The chimney off the ridge, whilst is not a traditional feature or one that is encouraged in Building on Tradition, it is however found on neighbouring dwellings therefore the Council can have little objection. The dormer to the rear will not be visually intrusive and is considered acceptable given the limited views. The materials and finishes are acceptable. Whilst the proposal meets the other policy considerations of CTY13 it does however fail part (e) in that the design of the building is inappropriate for the site and its locality.

Recommendation:

Refusal

Refusal Reasons:

1. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the design of the proposed building is inappropriate for the site and its locality and therefore would not visually integrate into the surrounding landscape.

Case Officer:**Authorised Officer:**

Ref: Newry Mourne and Down Council Meeting

Date 22nd September 2016

Dear Colette,

RE: Written Submissions for Council Meeting dated 28th September 2016

- **P/2016/0557/F**
- **LA07/2016/0602/O**
- **LA07/2016/0812/O**

Please see below written submissions for the above three planning applications.

P/2016/0557/F

We disagree with the single reason (CTY13) for refusal because the proposal is:

- (a) compliant with countryside development and is appropriate for the site and its locality;
- (b) It will visually integrate as the dormers and materials are consistent with that already found in the area;
- (c) The design of this retrospective application is not significantly different from that which is approved under P/2015/0186/RM.

LA07/2016/0602/O

We disagree with below three reasons for refusal because we feel that:

- (a) CTY8 – This is a gap site (between no's 8 and 16) within a substantial and continuously built up frontage comprising of no's 4, 6, 8, 15, 16 and 20 Goragh Road;
- (b) CTY15 – This proposal will not result in urban sprawl as it is flanked on both sides by residential development (no's 16 and 20 to the east and no's 6 and 8 to the west);
- (c) CTY1 – This development is consistent with CTY 8 and therefore not an "other type of development". This application is a 'gap' site development' and satisfies CTY1. As such, we feel this is therefore a redundant refusal reason.

LA07/2016/0812/O

We disagree with all six reasons for refusal because we feel that:

- (a) CTY1 – This development is consistent with CTY 8 and therefore not an "other type of development". This application is a 'gap' site development' and satisfies CTY1. As such, we feel this is therefore a redundant refusal reason.
- (b) CTY8 - This is a gap site (between no's 54 and 54a within a substantial and continuously built up frontage comprising of no's 50, 52a, 54a and 54 Mill Road. There is already a series of properties in succession along this road and this proposal will not create ribbon development here;
- (c) CTY13 and CTY 14 – We disagree that this proposal cannot provide a suitable degree of enclosure nor will it result in sub-urban style build-up of development. The sites position among the surrounding properties is almost identical to that of a similarly positioned proposal P/2014/0564/O approved by Newry, Mourne and Down Council on 23rd October 2015 (attached).

Ref: Newry Mourne and Down Council Meeting

- (d) NH6 –The siting of this proposal is entirely consistent with surrounding existing properties and will therefore not visually impact on the AONB or the locality.

Please contact me if you have any queries.

Yours sincerely



Sarah McDowell MRTPI (sarah@resolveplanning.com)

Senior Planner

Resolve Planning & Development



Liam Hannaway
Chief Executive



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and Down**
District Council

OUTLINE PLANNING PERMISSION

Planning Act (Northern Ireland) 2011

Application No: **P/2014/0564/O**

Date of Application: **26th June 2014**

**Between nos. 27 and 31 Barr Road
Belleeks
Newry
BT35 7QD**

Site of Proposed
Development:

Description of Proposal: **Erection of Dwelling with Domestic Garage (Amended P1 Form)**

Applicant: **Mr and Mrs Leo McParland**
Address: **39a Barr Road
Belleeks
Newry
BT35 7QD**

Agent: **Collins and Collins**
Address: **18 Margaret Street
Newry
BT34 1DF**

Drawing Ref: **01 (REV 3)**

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

GRANTS OUTLINE PLANNING PERMISSION

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

1. As required by Section 62 of the Planning Act (Northern Ireland) 2011, application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-
 - i. the expiration of 5 years from the date of this permission; or
 - ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

**Óifig an Iúir
Newry Office**
O'Hagan House
Moaghaghan Row

**Óifig Dhún Pádraig
Downpatrick Office**
Downshire Civic Centre
Downshire Estate, Ardross Road

0300 013 2233 (Council)
0300 200 7830 (Planning)
council@mrnandd.org

Frestal ar an Dúin
agus Ard Mhacha Theas
Serving Down

Reason: Time Limit

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

Reason: To enable the Council to consider in detail the proposed development of the site.

3. Full particulars, detailed plans and sections of the reserved matters required in Conditions 01 and 02 shall be submitted in writing to the council and shall be carried out as approved.

Reason: To enable the council to consider in detail the proposed development of the site.

4. The proposed dwelling shall have a ridge height of less than 6 metres above finished floor level.

Reason: To ensure that the development is satisfactorily integrated into the landscape.

5. The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.45 metres at any point.

Reason: In the interest of visual amenity.

6. No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by the council.

Reason: To ensure the dwelling integrates into the landform.

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 Practice. The works shall be carried out at the first available planting season upon occupation of the dwelling.

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

8. 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.

9. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1.



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

Informatives

Environmental Health Informatives

Should the development proceed, then consent to discharge under the Water Order 1999 shall be required. A Water Order Consent application form can be obtained by applying to Water Management Unit, Calvert House, 17 Antrim Road, Lisburn, Co. Antrim, BT28 3AL.

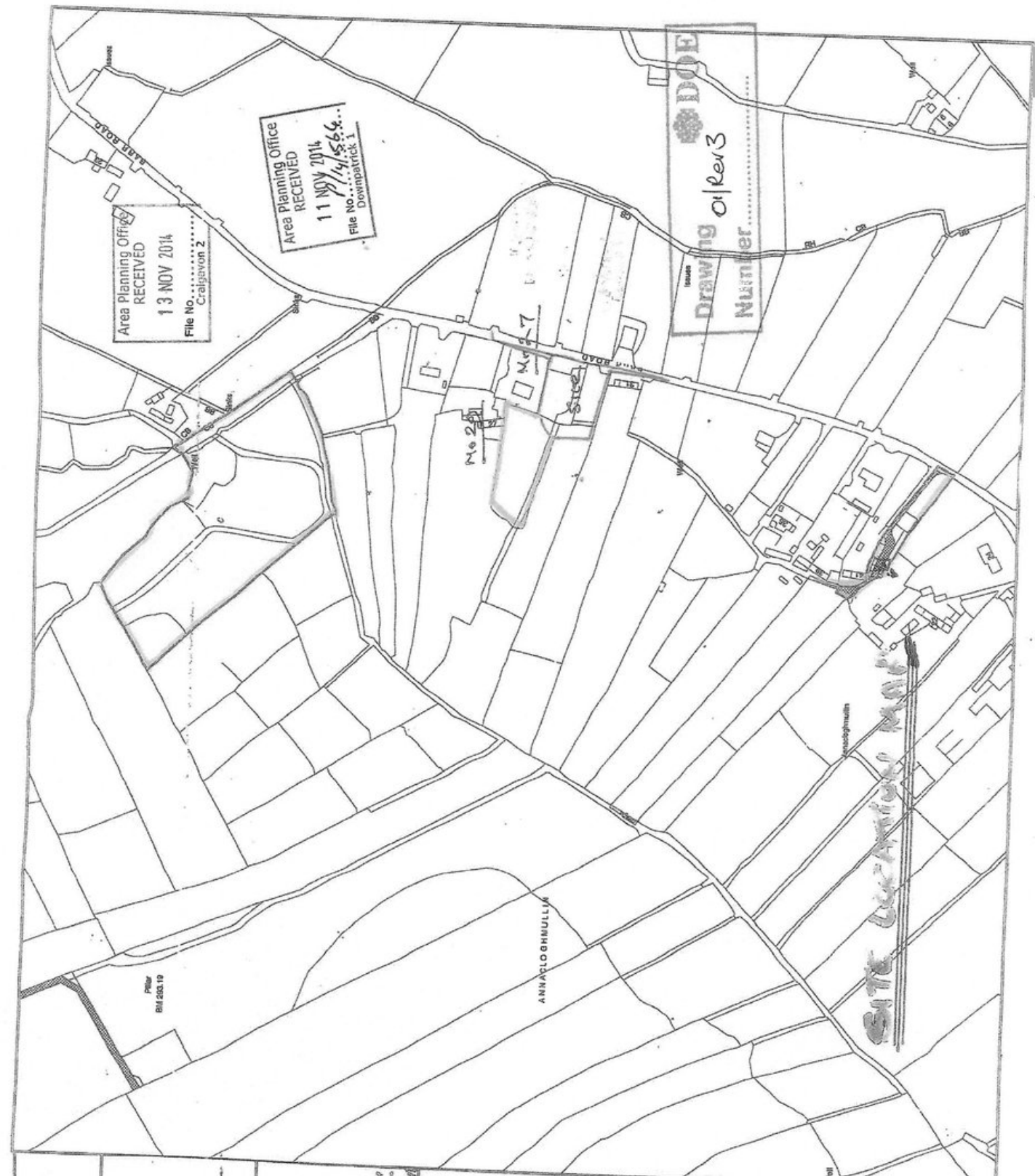
The applicant is to be advised that no work should be undertaken until such is approved. The applicant must ensure that sufficient land is, and will be, available in the final development to accommodate septic tank and effluent effluent dispersal system. To achieve this, the applicant should engage the service of a suitably qualified person.

Energy efficiency and renewable energy:

Applicants should be encouraged to consider the use of renewable energy and energy efficient materials and fittings in association with this development.

Dated: 23rd October 2015 Authorised Officer _____

Y Y



Land & Property Services
THE LAND REGISTRY

Date: 10/11/2014
County: Amagh
Scale: 1:2500
Our Ref: 10/11/2014/10/11/2014
Your Ref: 2011/10/11/2014/10/11/2014
Map Ref(s): 2011/10/11/2014/10/11/2014

7/5/14

MARGARET STREET
ANNAFLOGHMULLA
ANNAFLOGHMULLA

COLLINS & COLLINS
Architectural & Development Consultants
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NEWRY, CO. DOWN, BT34 1DF
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ITEM NO 34
APPLIC NO LA07/2016/0579/O Outline **DATE VALID** 4/28/16
COUNCIL OPINION REFUSAL
APPLICANT Messrs Sean and Eamon **AGENT** Collins & Collins
 McGeeney 37 Loughross Road 18 Margaret Street
 Crossmaglen Newry
 BT35 9AS BT34 1DF
 02830266602

LOCATION Adjacent and immediately north east of No 37 Loughross Road
 Crossmaglen
 Newry
 Co. Down

PROPOSAL Farm dwelling with domestic garage

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

- 1 The proposal is contrary to the SPPS and Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that:
 - the proposed site is on lands within the existing farm business;
 - the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm (and access to the dwelling is not obtained from an existing lane;
 - health and safety reasons exist to justify an alterative site not visually linked (or sited to cluster) with an established group of buildings on the farm; and
 - verifiable plans exist to expand the farm business at the existing building group to justify an alternative site not visually linked (or sited to cluster) with an established group of buildings on the farm.
- 2 The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2016/0579/O

Date Received: 16.03.2016

Proposal: Farm dwelling with domestic garage

**Location: Adjacent and immediately north east of No 37 Loughross Road
Crossmaglen Newry Co. Down**

Site Characteristics & Area Characteristics:

The site is located north east of number 37 Loughross Road, Crossmaglen.

Site History:

No relevant history

Planning Policies & Material Considerations:

The site is located within the countryside and adjacent to Loughross SLCNI as defined in the Banbridge, Newry and Mourne Area Plan 2015.

The Strategic Planning Policy Statement (SPPS)

The Banbridge/Newry and Mourne Area Plan 2015

Planning Policy Statement 3

Planning Policy Statement 21

Consultations:

NIW- statutory

TransportNI- RS1 condition

DAERA- see report below

NIEA WMU- no comments

**NIEA NED- development will not impact on the integrity of the Lisamry Lough
SLNCI.**

Request biodiversity checklist

Objections & Representations

No. of neighbours notified= 1

Advertised= 09.05.2016

No. of representations received=0

Consideration and Assessment:

The applicant has supplied the following information on the P1 C form:

The owner of the farm holding is Eamon McGeeney and he resides at 58 Annaghgad Road, Crossmaglen. The applicant is the owner of the farm holding Mr Eamon McGeeney and his nephew Sean McGeeney. Mr Sean McGeeney resides at 37 Loughross Road, Crossmaglen. The farm has been established for over 125 years and the applicant Eamon McGeeney has a DARD business number (616461 allocated over 15years and that he makes a single farm payment return to DARD).

The holding is 3.63 hectares. The applicant Eamon is 60 years of age and in poor health and has no family. His nephew Sean will inherit the holding and he will continue to farm the same.

From the information provided on the PIC form and the comments from the consultation with DARD the Council can ascertain that the farm business is currently active and has been established for more than 6 years. There does not appear to be any portions of the farm holding have been sold off and from our records there is no other approvals for a dwelling on the farm holding.

The proposed site is approximately 1 1/2miles away from the main farm beside 37 Loughross Road. The applicant Sean wishes to reside at this location to care for his parents. The proposal will not visually link or cluster with an established group of buildings on the farm. The policy states that exceptionally, consideration may be given to an alternative site elsewhere on the farm.

It is noted that the proposed siting for the farm dwelling is not within lands on the farm holding/registered to the farm business. As the site is not within lands on the farm, the siting cannot be considered as an exceptional case.

In my opinion the proposal is contrary to CTY 10.

If the principle of development was to be accepted I am of the opinion that a dwelling appropriately conditioned will not be a prominent feature in the landscape and this is ensured by the natural boundaries and topography surrounding the site.

The proposal as stated above will not be visually linked or sited to cluster with an established group of buildings on the farm.

The proposal will not result in build up and respects the traditional pattern of settlement exhibited in the area. The proposal appropriately sited will not create or add to ribbon of development. The dwelling and associated works will not cause a detrimental change to, or further erode the rural character of the surrounding area.

Recommendation:

Refusal- if application to be approved biodiversity checklist required.

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ITEM NO	35				
APPLIC NO	LA07/2016/0602/O	Outline	DATE VALID	5/9/16	
COUNCIL OPINION REFUSAL					
APPLICANT	Mertin and Lorraine McNeill 11 Drumneath Road Banbridge BT32 3SS	AGENT	Collins & Collins 18 Margaret St Newry BT34 1DF 3026 6602		
LOCATION	Between 8 and 16 Goragh Road Newry Co. Down BT35 6PZ				
PROPOSAL	Erection of dwelling with domestic garage				
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions	
	0	0		0	0
				Addresses Signatures	
				0	0 0 0

- 1 The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that no gap exists within a substantial and continuously built up frontage.
- 2 The proposal is contrary to Policy CTY15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted mar the distinction between the defined settlement limit of and the surrounding countryside (or result in urban sprawl)
- 3 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.



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**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2016/0602/O

Date Received: 9th May 2016

Proposal: Erection of dwelling

Location: Lands between 8 & 16 Goragh Road, Newry

Site Characteristics & Area Characteristics:

The site is located north east of Mullaghglass settlement approximately a mile from Newry City's development boundary. The site is a triangular plot and the eastern boundary is set back and runs parallel to the railway line. The boundary with number 16 is defined by mature trees/hedging as is the roadside boundary. The site is set on a gradient with the frontage sloping in a north easterly direction and the site rising to the north.

The site is located within the countryside area just beyond the settlement boundary of Mullaghglass and within an Local Landscape Policy Area as defined in the Banbridge, Newry and Mourne Area Plan 2015.

Site History:

P/2003/0717/O- site for dwelling and garage- refusal

The proposal is contrary to Policies SP12, GB/CPA1, GB/CPA3 of the Department's Planning Strategy for Rural Northern Ireland in that the site lies within a Green Belt and it does not merit being considered as an exceptional case as the need for this dwelling does not justify a relaxation of the strict planning controls in this area.

Planning Policies & Material Considerations:

*The Strategic Planning Policy Statement (SPPS)
The Banbridge/Newry and Mourne Area Plan 2015
Planning Policy Statement 3
Planning Policy Statement 21*

Consultations:

**NIW- statutory
TransportNI- RS1 condition
NIEA NED- HMU content with proposal**

Objections & Representations

No. of neighbours notified= 2

Advertised= 16.05.2016

No. of representations received=0

Consideration and Assessment:

The site is adjacent to, but outside of the development limit of Mullaghglass as defined in Banbridge, Newry and Mourne Area Plan 2015. The site lies in the countryside in policy terms. Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS21) applies to the development. Policy CTY1 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development.

The preamble to PPS21 states that, for the purpose of that document, the countryside is defined as land lying outside of settlement limits as identified in development plans. Policy CTY8 states that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. Therefore, only No. 16 Goragh Road lies in the countryside in policy terms. The other development does not therefore occupy a rural context in policy terms and cannot be counted when considering development proposals under Policy CTY8. (refer to appeal 2012/A0219). The proposal is therefore contrary to CTY8 in that no substantial and continuously built up frontage exists of a line of 3 or more buildings along the Goragh Road.

If the principle of development was accepted a dwelling appropriately conditioned with the existing natural screening retained would not be a prominent feature in the landscape. There is an existing footpath and verge along the frontage of the site. The required visibility splays 2.4 by 33metres can be achieved without having

detrimental impact on the integration of the proposal and its impact on the surrounding character of the area.

CTY15 is also relevant in this case. The principle of drawing a settlement limit is partly to promote and partly to contain new development within that limit and so maintain a clear distinction between the built up area and surrounding countryside. Development of this site would mar this distinction.

Recommendation:

Refusal- Proposal contrary SPPS, CTY1, CTY8 &CTY15

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Ref: Newry Mourne and Down Council Meeting

Date 22nd September 2016

Dear Colette,

RE: Written Submissions for Council Meeting dated 28th September 2016

- **P/2016/0557/F**
- **LA07/2016/0602/O**
- **LA07/2016/0812/O**

Please see below written submissions for the above three planning applications.

P/2016/0557/F

We disagree with the single reason (CTY13) for refusal because the proposal is:

- (a) compliant with countryside development and is appropriate for the site and its locality;
- (b) It will visually integrate as the dormers and materials are consistent with that already found in the area;
- (c) The design of this retrospective application is not significantly different from that which is approved under P/2015/0186/RM.

LA07/2016/0602/O

We disagree with below three reasons for refusal because we feel that:

- (a) CTY8 – This is a gap site (between no's 8 and 16) within a substantial and continuously built up frontage comprising of no's 4, 6, 8, 15, 16 and 20 Goragh Road;
- (b) CTY15 – This proposal will not result in urban sprawl as it is flanked on both sides by residential development (no's 16 and 20 to the east and no's 6 and 8 to the west);
- (c) CTY1 – This development is consistent with CTY 8 and therefore not an "other type of development". This application is a 'gap' site development' and satisfies CTY1. As such, we feel this is therefore a redundant refusal reason.

LA07/2016/0812/O

We disagree with all six reasons for refusal because we feel that:

- (a) CTY1 – This development is consistent with CTY 8 and therefore not an "other type of development". This application is a 'gap' site development' and satisfies CTY1. As such, we feel this is therefore a redundant refusal reason.
- (b) CTY8 - This is a gap site (between no's 54 and 54a within a substantial and continuously built up frontage comprising of no's 50, 52a, 54a and 54 Mill Road. There is already a series of properties in succession along this road and this proposal will not create ribbon development here;
- (c) CTY13 and CTY 14 – We disagree that this proposal cannot provide a suitable degree of enclosure nor will it result in sub-urban style build-up of development. The sites position among the surrounding properties is almost identical to that of a similarly positioned proposal P/2014/0564/O approved by Newry, Mourne and Down Council on 23rd October 2015 (attached).

Ref: Newry Mourne and Down Council Meeting

- (d) NH6 –The siting of this proposal is entirely consistent with surrounding existing properties and will therefore not visually impact on the AONB or the locality.

Please contact me if you have any queries.

Yours sincerely



Sarah McDowell MRTPI (sarah@resolveplanning.com)

Senior Planner

Resolve Planning & Development



Liam Hannaway
Chief Executive



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District Council

OUTLINE PLANNING PERMISSION

Planning Act (Northern Ireland) 2011

Application No: **P/2014/0564/O**

Date of Application: **26th June 2014**

**Between nos. 27 and 31 Barr Road
Belleeks
Newry
BT35 7QD**

Site of Proposed
Development:

Description of Proposal: **Erection of Dwelling with Domestic Garage (Amended P1 Form)**

Applicant: **Mr and Mrs Leo McParland**
Address: **39a Barr Road
Belleeks
Newry
BT35 7QD**

Agent: **Collins and Collins**
Address: **18 Margaret Street
Newry
BT34 1DF**

Drawing Ref: **01 (REV 3)**

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

GRANTS OUTLINE PLANNING PERMISSION

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

1. As required by Section 62 of the Planning Act (Northern Ireland) 2011, application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-
 - i. the expiration of 5 years from the date of this permission, or
 - ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

**Óifig an Iúir
Newry Office**
O'Hagan House
Moynaghban Row

**Óifig Dhún Pádraig
Downpatrick Office**
Downshire Civic Centre
Downshire Estate, Ardross Road

Freastal ar an Dúin
agus Ard Mhacha Theas
Serving Down

Reason: Time Limit

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

Reason: To enable the Council to consider in detail the proposed development of the site.

3. Full particulars, detailed plans and sections of the reserved matters required in Conditions 01 and 02 shall be submitted in writing to the council and shall be carried out as approved.

Reason: To enable the council to consider in detail the proposed development of the site.

4. The proposed dwelling shall have a ridge height of less than 6 metres above finished floor level.

Reason: To ensure that the development is satisfactorily integrated into the landscape.

5. The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.45 metres at any point.

Reason: In the interest of visual amenity.

6. No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by the council.

Reason: To ensure the dwelling integrates into the landform.

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 Practice. The works shall be carried out at the first available planting season upon occupation of the dwelling.

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

8. 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.

9. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1.



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

Informatives

Environmental Health Informatives

Should the development proceed, then consent to discharge under the Water Order 1999 shall be required. A Water Order Consent application form can be obtained by applying to Water Management Unit, Calvert House, 17 Antrim Road, Lisburn, Co. Antrim, BT28 3AL.

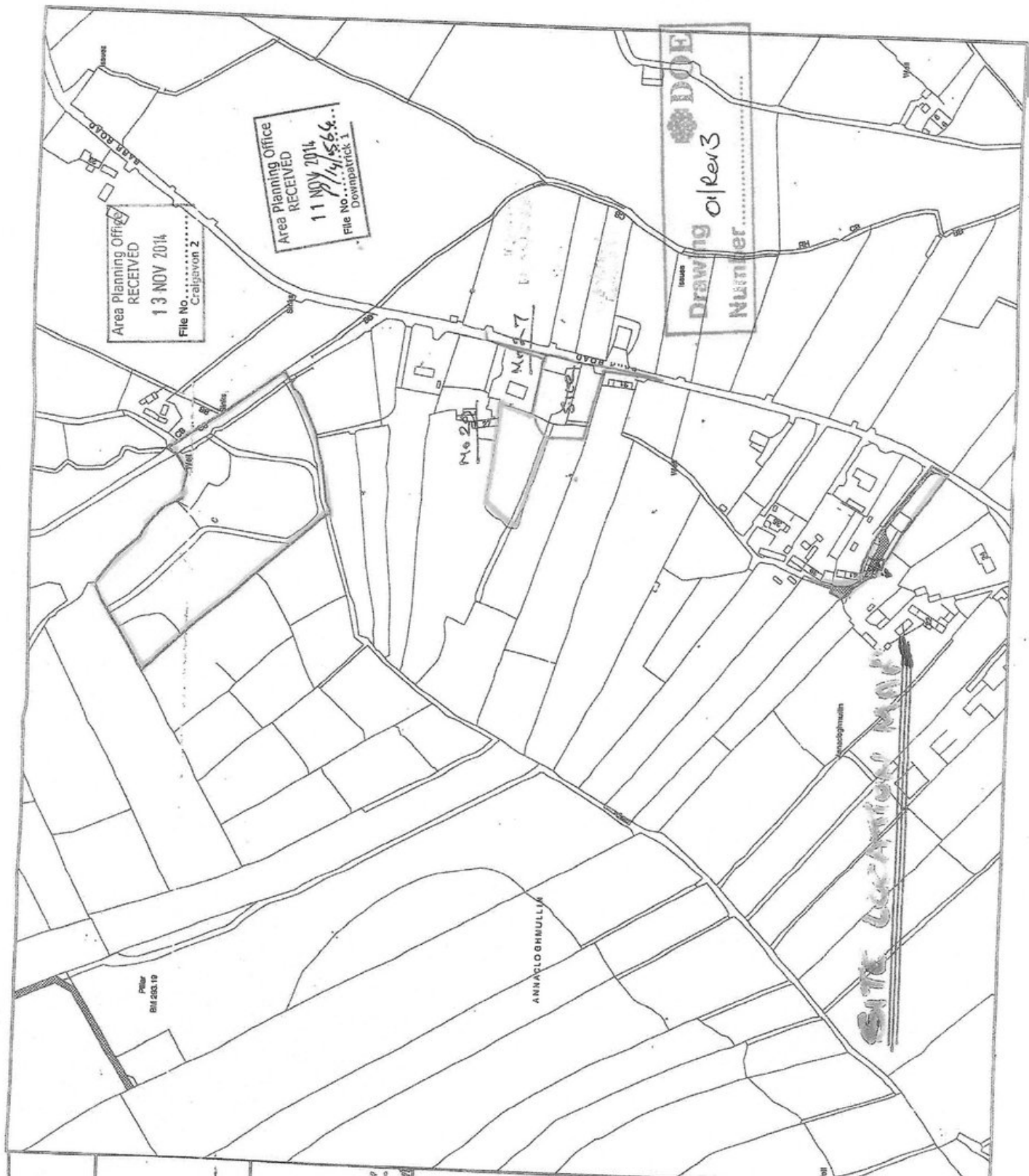
The applicant is to be advised that no work should be undertaken until such is approved. The applicant must ensure that sufficient land is, and will be, available in the final development to accommodate septic tank and effluent effluent dispersal system. To achieve this, the applicant should engage the service of a suitably qualified person.

Energy efficiency and renewable energy:

Applicants should be encouraged to consider the use of renewable energy and energy efficient materials and fittings in association with this development.

Dated: 23rd October 2015 Authorised Officer _____

Y Y



Land & Property Services
THE LAND REGISTRY

Date: 10/11/2014
County: Armagh
Scale: 1:2500
Your Ref: 11/4/566
Map Ref: 2031 NW 2051 SW
Revised 7/5/14

Prepared by: SAUL BAO
Checked: HENRY C. DOWN
By: ALAN L. McARDLE

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ITEM NO	36			
APPLIC NO	LA07/2016/0663/RM	Reserved M	DATE VALID	5/17/16
COUNCIL OPINION	APPROVAL			
APPLICANT	Peter McShane Jnr. 56 Bramblewood Manor Banbridge BT32 4RD		AGENT	Cormac McKay Architectural Services 31 Yellow Road Hilltown BT34 5UD 07834467502
LOCATION	Adjacent to and north of No. 29 Low Road Ayalogue Newry Co. Down BT35 8RH			
PROPOSAL	Erection of a dwelling and detached domestic double garage.			
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions
	0	0	0	0
			Addresses	Signatures
			0	0 0 0



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2016/0663/RM

Date Received: 17/05/16

Proposal:

The application is for reserved matters planning permission for the erection of a dwelling and detached domestic garage.

The proposed dwelling is to have a ridge height of 6 metres above finished floor level. The main block of the dwelling will measure 15.9 metres in width. There is to be a master bedroom on the southern side of the dwelling extending the width of the dwelling by 3.7m. The ridge height of this side extension will be 5.1m from finished floor level and will be stepped down from the ridge height of the main block. A northern extension out from the main block will provide floor space for a utility room, WC and lobby. The ridge height of this side extension will be 4.9m above finished floor level and will be stepped down from the ridge height of the main block. The proposed domestic garage will measure 8.3m X 6.6m and will have a ridge height of 5.4m above ground level.

Location:

The application site is located adjacent to, and north of, Nos. 29 Low Road, Ayalogue, Newry. The application site is located within an agricultural field. The site is located approximately 0.6 miles east of the settlement of Meigh and approximately 3.5 miles south-west of the settlement of Newry City.

Site Characteristics & Area Characteristics:

The site is in a rural area outside settlement limits and within an Area of Outstanding Natural Beauty as defined on the Banbridge, Newry and Mourne Area Plan 2015. The area is rural and there are a number of single dwellings, outbuildings, agricultural buildings and commercial buildings in the area. To the west of the application site is a railway line, bridge and access road, to the north is a shed, yard

used for keeping vehicles and an access road, to the south is No. 29 Low Road, and to the east Low Road and agricultural fields. Approximately 100m south of the site and on the east side of Low Road are large buildings associated with the commercial business SVG Marble and Granites Ltd.

The application site is an agricultural field. The northern boundary abuts an access road and is defined by a wooden fence. The western boundary is defined by a wooden fence. The southern boundary is defined partly by a wooden fence and partly by a post-and-wire fence and a hedgerow. The eastern boundary is defined a wooden fence and small trees. The application site is a relatively flat site.

The application site shares a common road frontage with Nos. 29 and 33 Low Road and the adjacent shed to the north.

Site History:

Planning history within the application site and relevant to the application

1. Planning ref: P/2011/0432/O
Applicant: Peter McShane Jnr
Proposal: Site for dwelling and garage
Decision: Permission Granted
Decision date: 18.06.2013
2. Planning ref: P/2002/1958/O (Appeal Ref: 2003/A022)
Applicant: Mr Peter McShane
Proposal: Site for dwelling (chalet type) and garage
Decision: Appeal Dismissed
Decision date: 29.10.2003
3. Planning ref: P/2001/0920/F
Applicant: Mr Edmond McKevitt
Proposal: Erection of dwelling and garage
Decision: Permission Granted
Decision date: 30.08.2001
4. Planning ref: P/2000/1021/O
Applicant: Mr & Mrs Peter Mc Shane
Proposal: Site for dwelling
Decision: Permission Granted
Decision date: 25.09.2000

Planning Policies & Material Considerations:

The application has been assessed under:

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

Consultations:

Transport NI: advised in a consultation response dated 20/06/16 that the applicant is required to submit a revised plan showing sightlines of 2.0m X 60m as per RS1 form issued with outline approval P/2011/0432/O.

Environmental Health: Environmental Health advised in a consultation response dated 13/06/16 that they have no objections in principle to this proposal, however, it was stated should the development proceed, then a consent to discharge under the Water Order 1999 shall be required.

NI Water: A generic response was received from NI Water dated 10/06/16. NI Water have no objections in principle to this proposal.

Rivers Agency: stated, in a consultation response dated 27/06/16, that they have no specific reason to object to the proposal. They advised that the site is unaffected by any watercourse known to Rivers Agency, that the development does not lie within the 1 in 100 year fluvial flood plain, and that the development is located within a predicted flooded area as indicated on the Surface Water Flood Map.

NI Transport Holding Company: in a consultation response dated 25/08/16, NITHC have stated that, in reference to the planning application and drawings Nos. 05 REV 01 and 06, they have no objections to the landscape design proposed.

Objections & Representations

Nos. 29, 30, 31 and 33 Low Road were notified of the application.

No objections or representations were received.

Consideration and Assessment:

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

development plan. The site is located outside settlement limits on the above Plan and is within an Area of Outstanding Natural Beauty. There are no specific policies in the Plan that are relevant to the determination of the application and it directs the decision-maker to the operational policies of PPS21. Impact on the AONB will be considered under PPS2.

Approval for an infill dwelling and domestic garage was granted under application planning ref: P/2011/0432/O.

The outline (P/2011/0432/O) conditions stated that:

1. The proposed dwelling and garage shall be sited within the area shaded green on the approved Site Location Plan (Drawing No. 01) date received 19th April 2011. The proposed dwelling and garage are located within this shaded area.
2. The dwelling hereby permitted shall be single storey to a height of no more than 6 metres above finished floor level. The proposed dwelling is to be single storey has a ridge height of 6 metres above finished floor level, thereby meeting this condition.
3. A plan indicating floor levels of the proposed dwelling and garage in relation to existing and proposed ground levels is required to be submitted. The existing and proposed ground levels are indicated on the site layout plan submitted.
4. No development shall take place until details of gates, fences, walls or any other proposed structures in addition to the proposed dwelling and garage have been submitted to and approved by the Planning Authority. Details of the proposed fences, gates and walls have been submitted.
5. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing:
 - a) An access point, off Low Road, at the centre of the site. This proposed access meets this condition.
 - b) Adequate visibility splays that do not interfere with the visibility of existing users of the laneway to the north. The proposed visibility splays are 2.4m X 33m. The X-value of 2.4m meets the standards set out in Table A of DCAN15 – Vehicular Access Standards. The case officer for Planning Approval Ref: P/2011/0432/O suggested that the y-distance of the visibility splays could be less than required by TransportNI as there was no concern with the application in terms of access and road safety. DCAN15 states that, a reduction in visibility standards, for single or paired dwelling accesses, may be acceptable where, in the judgement of the Planning Authority, there is a slightly lower risk of conflict, particularly when traffic on the priority road is light. Traffic on Low Road was light on the day of the site visit. It is not considered that a reduction of the required visibility splays at this site will compromise road safety. Therefore, the visibility splays as shown on Drawing Ref: 05 REV 01 date stamped 22/07/16 are considered acceptable.
 - c) The gradient of the access not exceeding 1:25 (8%) over the first 5 meters outside the road boundary, i.e. from the edge of the carriageway. On

drawing No. 05 it states that the gradient of the access shall not exceed 1:12.5 for a distance of 5m from the edge of the public road. Therefore this condition is met.

- d) Full off-road parking and turning is required to be provided within the site. There is sufficient turning space within the site. Car parking provision for two cars has been provided. Therefore, this condition is met.

Siting

The dwelling and garage are located within the area shaded green on the approved Site Location Plan date stamped 19th April 2011 (Planning ref: P/2011/0432/O) and is therefore acceptable. The proposed dwelling is sited to front onto Low Road and 2 metres from the boundary with No. 29 Low Road, which is considered acceptable. The proposed garage is sensitively positioned to the rear of the dwelling and over 1 metre from the boundary with No. 29 Low Road. A front garden area is located on the eastern part of the application site. The driveway to the dwelling is straight and located to on the northern part of the application site. This driveway reflects the style and siting of the driveways associated with dwellings Nos. 29 and 33 Low Road. The finished floor level of the proposed dwelling and garage is sympathetic to the existing ground level where the proposed dwelling and garage are to be sited. The site is relatively flat. In summary the siting, driveway and finished floor level of the proposed dwelling and domestic garage are considered acceptable.

Design

The outline permission stipulated that the proposed dwelling must have a ridge height of not more than 6 metres above finished floor level and be single storey. The proposed dwelling is a single storey bungalow and meets the ridge height condition. The windows and doors are in proportion.

The roof of the proposed dwelling and garage are hipped. The Building on Tradition design guide indicates that this type of design is to be avoided. However, the dwellings at Nos. 29, 30 and 33 Low Road have hipped roofs. The garage of No. 29 Low road has a hipped roof. Therefore, this style of roof is considered acceptable in this case as it is in keeping with the style of roof used for other dwellings in the immediate area.

The main block of the proposed dwelling measures 15.9m X 9.9m and is acceptable in size and width. The extensions out from the main block make the design more complex however, these are small in scale. The ridge height of these extensions will be set down from the ridge height of the main block of the proposed dwelling.

The walls of the proposed dwelling will have a smooth rendered plaster finish painted grey and the plinth is to have a smooth rendered plaster finish painted dark grey. The roof tiles are to be grey flat concrete roof tiles. The doors and windows are to be white uPVC and the rain water goods are to be black metal. These finishes are similar to the finishes used for the dwellings at Nos. 29 and 33 Low Road and will therefore not be detrimental to the established character of this particular area.

Overlooking and loss of privacy will not be an issue with this proposal. There is only one small bedroom window facing No. 29 Low Road and this window faces the front garden of this neighbouring property. The proposed dwelling will have a similar

finished floor level to this neighbouring dwelling and a 1.8m vertical timber fence will define this part of the southern boundary. No other dwellings are impacted in relation to the siting of the proposed dwelling.

The proposed domestic garage will measure 8.3m X 6.6m and will have a ridge height of 5.4m above ground level. The scale and size of the garage is considered acceptable for the site. The finishes of the proposed garage will match those of the proposed dwelling.

The design of the dwelling is not considered appropriate given the areas designation as an AONB. However, given the design of other dwellings in the immediate area, it must be accepted that the design of the proposed dwelling and garage will not result in any significant adverse visual impact in this locality, due to the precedent set for this house type in the area by dwellings at Nos. 29, 30 and 33 Low Road.

Landscaping

The landscaping proposed on the block plan (Drawing ref: LA07/2016/0663/RM No. 05 REV 01) indicates planting of white thorn hedging on parts of the western, northern and southern boundaries. There is to be a 1.8m high vertical timber fence erected on part of the northern and southern boundaries and on the full extent of the western boundary. There is currently no vegetation where these proposed fences are to be located.

A 1.4m high wall, with a rendered finish to match the proposed dwelling, is to be constructed behind the visibility splays and at the entrance to the proposed dwelling. This wall type of suburban wall is considered inappropriate for some locations within an AONB. However, the suburban type walls and entrances to Nos. 29 and 33 Low Road mean that the wall and gateway proposed with this application will not have a significant detrimental visual impact on the character of the immediate area surrounding the application site.

The landscaping scheme also shows a tree planting within the curtilage which is acceptable. The boundary features are considered acceptable and NI Transport Holding Company have no objection to the landscape design proposed.

Amenity

The size of the curtilage is sufficient to accommodate domestic activities and there is sufficient turning and parking space for vehicles.

Sewerage

Sewerage will be disposed of using a septic tank. Prior to commencement of development the applicant shall submit a copy of a consent to discharge for the proposed site, to be agreed in writing by the Planning Authority.

Recommendation:

The scale, massing and design of the proposed dwelling and garage are considered acceptable in this area due to the precedent set for this house type within the immediate area of the application site. The proposal meets the conditions set under planning permission ref: P/2011/0432/O. Therefore, the proposal is recommended for approval.

Conditions:

1. The development to which this approval relates must be begun by whichever is the later of the following dates:-
 - i. The expiration of a period of 5 years from the grant of outline planning permission;
 - or
 - ii. The expiration of a period of 2 years from the date hereof.

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

2. The vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No. 05 REV 01 bearing the date stamped 22-07-16 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.

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

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

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

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

5. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the 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.

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

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

Informatives:

1. The applicant's attention is drawn to the need to comply with all conditions imposed on the outline planning permission, some of which may need to be satisfied prior to the commencement of any work on the site pursuant to that permission and to this approval of reserved matters.

2. Notwithstanding the terms and conditions of the Council's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Regional Development's consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the Roads Service Section Engineer whose address is Cecil St Newry. A monetary deposit will be required to cover works on the public road.

It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site.

3. 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.

4. 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.

5. This permission authorises only private domestic use of the proposed garage and does not confer approval on the carrying out of trade or business there from.

6. The onus is on the householder/developer to find out if there is existing water and sewer infrastructure within their property.

- It is an offence under Article 236 of the Water and Sewerage Services (Northern Ireland) Order 2006, to build over or near watermains, sewers, pipes and associated works owned and maintained by Northern Ireland Water unless with the prior consent by NI Water.

- House owners and developers should obtain details of existing infrastructure from NI Water by requesting a copy of the water and sewer records. Copies of our records

are supplied under Articles 257 and 258 of the 2006 Order. There is a nominal charge for this service.

- Where existing water and sewer infrastructure is located within a property and proposed development of the site interferes with the public watermains, sewers and associated works, the householder/developer may make a Notice under Article 247 of the 2006 Order to have the public infrastructure diverted, realigned. Each diversion and realignment request is considered on its own merits and approval is at the discretion of NI Water. The applicant is required to meet any financial conditions for realignment or diversion of the water and sewer infrastructure, including full costs, company overheads, etc.

- It is the responsibility of the house builder/builder/developer to establish if existing public watermains, foul/storm sewers, together with appropriate waste water treatment facilities, have adequate capacity to serve the proposal. To establish how best any development may be served by existing public water and sewerage infrastructure, a Pre Development Enquiry (PDE) would require to be submitted. There is a charge for this service.

- If your proposed development is not near a public watermain, foul sewer or surface water sewer and you cannot discharge your surface water to a natural watercourse you may wish to consider making a requisition Notice asking NI Water to extend the public watermain or foul/storm sewer system to service your development. This can be done by requisitioning a watermain under Article 76 of the 2006 Order and sewers under Article 154 of the 2006 Order. House builders and developers may have to contribute to the cost of extending watermains and sewers.

- Septic Tank emptying. The applicant must provide a hard standing area with a 3.5m wide access capable of supporting the weight of a sludge tanker within 30 metres of the septic tank.

If you wish to find out more about what you can or cannot do if there is existing water or sewer infrastructure in, over or under your property, or you want to find out how your proposed development can be serviced contact NI Water staff on the Developers Services Business Line 08458770002 and ask for the Developers Services Co-Ordination Team.

Copies of our Application Forms can be obtained by contact the Developers Services Business Line 08458770002 or by downloading from our web page www.niwater.com/servicesfordevelopers.asp and Forms.

7. A formal statutory 'Consent to Discharge of Effluent' will be required from the Water Management Unit of the Northern Ireland Environment Agency under the provisions of the Water (NI) Order 1999 in respect of the discharge of foul effluent from a septic tank. Development must not commence until the above consent has been obtained. An application form can be obtained by applying to Water Management Unit, Calvert House, 17 Antrim Road, Lisburn, Co. Antrim, BT28 3AL, or on the website www.doeni.gov.uk/niea/water-home/regulation_of_discharges_industrial.htm. The septic tank should be located at least 15 metres away from the dwelling to minimise potential for odour nuisance. The applicant must ensure that sufficient land will be available in the final development to accommodate the septic tank and effectual effluent dispersal system. To achieve this, the applicant should engage the services of a suitably qualified person.

8. An application to install a septic tank should be made to the Environmental Health Department of Newry, Mourne and Down District Council.

9. All works to NIR boundaries must be carried out under the conditions of the NIR Rule Book with regard to safety of workers and railway passengers. If necessary, NIR will provide safety critical staff to ensure that a safe method of work is established and maintained. Costs incurred by NIR must be borne by the developer.

10. Construction plant or equipment must not be allowed to slew over NIR property at any time. Any works involving cranes must have control measures in place to prevent movement of loads into the path of trains and avoid any unforeseen collapse on or near the line. NIR will need to be informed if it is proposed that a crane will be erected during the installation work. All crane / lifting certificates must be forwarded to NIR for approval.

11. During construction and following completion, no storm or foul water is permitted to be discharged on to NIR property. Please supply NIR with proposed drainage design details prior to works commencing for our comment.

12. The contractor shall give NIR prior notice (4 weeks) for any works commencing on or near NIR property, coupled with an agreed Method Statement and Risk Assessment.

13. Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed.

14. Northern Ireland Railways Co. Ltd. reserve the right to carry out any works to the company's property by any machinery at any time of the day or night as deemed necessary by NIR CO. Ltd Engineers

15. Under the terms of Schedule 6 of the Drainage (Northern Ireland) Order 1973 the applicant must submit to Rivers Agency, for its consent for any proposal to carry out works which might affect a watercourse such as culverting, bridging, diversion, building adjacent to or discharge of storm water etc. Failure to obtain such consent prior to carrying out such proposals is an offence under the aforementioned Order which may lead to prosecution or statutory action as provided for.

16. Developers should acquaint themselves of their statutory obligations in respect of watercourses as prescribed in the Drainage (Northern Ireland) Order 1973, and consult the Rivers Agency of the Department of Agriculture accordingly on any related matters.

17. Any proposals in connection with the development, either temporary or permanent which involve interference with any watercourse at the site:- such as diversion, culverting, bridging; or placing any form of structure in any watercourse, require the written consent of the Rivers Agency. Failure to obtain such consent prior to carrying out such proposals is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.

18. Any proposals in connection with the development, either temporary or permanent which involve additional discharge of storm water to any watercourse require the written consent of the Rivers Agency. Failure to obtain such consent prior

to permitting such discharge is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.

19. If, during the course of developing the site, the developer uncovers a watercourse not previously evident, he should advise the local Rivers Agency office immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the watercourse.

Case Officer Signature: _____ **Date:** _____

Authorised Officer Signature: _____ **Date:** _____

ITEM NO	38			
APPLIC NO	LA07/2016/0716/F	Full	DATE VALID	5/23/16
COUNCIL OPINION	REFUSAL			
APPLICANT	Peter Collins 18 Pats Road Ballymartin Kilkeel BT34 4NX		AGENT	
LOCATION	Main Road Ballymartin east of junction with Wrack Road BT34 4NY			NA
PROPOSAL	Replacement Dwelling			
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions
	0	0	0	0
			Addresses	Signatures
			0	0
			Addresses	Signatures
			0	0

- 1 The proposal is contrary to the policy provisions of the Strategic Planning Policy Statement for Northern Ireland and Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there is no structure that exhibits the essential characteristics of a dwelling.
- 2 The proposal is contrary to Policy AMP 3 of Planning Policy Statement 3 – Access, Movement and Parking in that the A2 Main Road is a Protected Traffic Route and the application does not fall within the exceptions listed in the policy as there is no building to be replaced and the proposal would result in the creation of a new vehicular access onto a Protected Traffic Route.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Ref: LA07/2016/0716/F

Date Received: 23rd May 2016

Proposal: This application seeks full planning permission for a replacement dwelling

Location: The proposed site is located along Main Road, Ballymartin - immediately to the east of its junction with Wrack Road.

Site Characteristics & Area Characteristics:

The application site is located along Main Road, Ballymartin - immediately to the east of its junction with Wrack Road, approximately 0.9km south west of Ballymartin and 0.7km east of Kilkeel. This section of the Main Road has recently been widened as part of a road improvement scheme. The site is an undefined right trapezoid plot within a large agricultural field situated along the Main Road. The field slopes from the north-west corner down to the south east. The field boundaries are defined by a post and wire fence along the Main Road frontage and eastern boundary; a mature hedgerow which is classified as NI Priority Habitat along the Wrack Road boundary; and by hedgerow and sporadic trees along the southern boundary. The Mullagh River is located approximately 120m to the east of the application site.

The proposed site is located in a rural area that is classified as open countryside. It is within the Mournes Area of Outstanding Natural Beauty, an Area of Scientific Interest and an Area of Constraint on Mineral Developments as designated in the Banbridge, Newry and Mourne Area Plan 2015.



Satellite Image of Application Site

Site History:

- P/1987/1324 - Site for Replacement Dwelling – Granted outline permission on 08.12.1987
- P/1990/1149 - Site for replacement dwelling (Renewal of Outline Planning Permission) – Granted outline permission on 14.02.1991. There was an informative attached to this approval which states: *“The Department would advise that as the dwelling to be replaced has now been removed it is unlikely that any further renewals of outline planning permission will be granted as the site lies within an area of strict planning control.”*
- P/1994/0164 – Erection of bungalow – Reserved Matters approval granted on 30.06.1994. Condition number 01 of this approval states: *“As required by Article 35 of the Planning (Northern Ireland) Order 1991 the development to which this approval relates must be begun by whichever is the later of the following dates:
(i) The expiration of a period of five years from the grant of outline planning permission; or
(ii) The expiration of a period of two years from the date hereof.”*
- The later date for commencement was 30.06.1996
- P/1996/0764 - Erection of replacement dwelling – This application was received on 26.06.1996 and granted full planning permission on 27.05.1997. The application was initially recommended for refusal on the basis that there was no dwelling to replace, the design was inappropriate and the proposal was contrary to Main traffic Route Policy. However as the application was received prior to the expiration date (30.06.1996) of the previous Reserved Matters approval, the application was considered to be a change of house type application and was subsequently granted permission. A condition was attached to the approval stating the development must be begun not later than the expiration of five years from the date of approval.
- P/2006/1613/O - Site for replacement dwelling – Outline permission was granted on 04.11.2010. This application was received 4 years after the previous approval had expired and was initially recommended for refusal. The reasons for refusal were based on the fact there is no dwelling to replace and the proposal involved the creation of a new access onto a Protected Route. The application was reassessed and subsequently granted approved.

P/2013/0267/RM - Replacement dwelling – Reserved Matters approval was granted on 16th May 2013. Condition number 01 of this approval states:

“As required by Article 35 of the Planning (Northern Ireland) Order 1991 the development to which this approval relates must be begun by whichever is the later of the following dates:-

- i. The expiration of a period of 5 years from the grant of outline planning permission; or*
- ii. The expiration of a period of 2 years from the date hereof.*

Reason: Time limit.”

The later date for commencement was 04.11.2015.

Planning Policies & Material Considerations:

- The Banbridge, Newry and Mourne Area Plan 2015;
- The Strategic Planning Policy Statement for Northern Ireland;
- Planning Policy Statement 2 – Natural Heritage;
- Planning Policy Statement 3 – Access, Movement and Parking; &
- Planning Policy Statement 21 – Sustainable Development in the Countryside.

Consultations:

Transport NI - If the proposed dwelling to be replaced could be reasonably occupied at present or following minor modifications Transport NI has no objection to the application subject to conditions. However the A2 is a Protected Traffic Route and Planning must be satisfied that this application falls within the exceptions listed in the policy relating to new accesses onto protected routes. If this application does not fall within the exceptions listed then it should be refused.

NIEA - Records of hedgerow habitat occurring within or adjacent to the site that is classified as NI Priority Habitat. A biodiversity Checklist will help identify potential impacts arising from the proposal. NIEA to be re-consulted if deemed necessary.
If the application is to be approved the agent will be asked to submit a completed biodiversity checklist.

NI Water - Standard Response.

Objections & Representations

3 neighbour notification letters were issued and the application was advertised in the local press the week beginning 13th June 2016. No objections or representations have been received to date.

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 currently within the remit of the Banbridge, Newry & Mourne Area Plan 2015. There are no specific policies in the Plan relevant to the determination of the application and it directs the decision-maker to the operational policies of the SPPS, PPS 2, PPS 3 and PPS 21.

As there is no significant change to the policy requirements for a replacement dwelling following the publication of the SPPS, the retained policy of PPS 21 will be given substantial weight in determining the principle of the proposal in accordance with paragraph 1.12 of the SPPS.

Planning Policy Statement 21 – Sustainable Development in the Countryside

Policy CTY1 states there are a range of types of development which are acceptable in principle in the countryside. This includes replacement dwellings if they are in accordance with Policy CTY 3. Policy CTY 3 states planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact.

There is an extensive history of applications for a replacement dwelling on this site dating back to 1987, the details of which have been outlined above. According to a written statement submitted by Clive Henning Architects in support of application reference P/2006/1613/O, planning approval for a replacement dwelling (P/1996/0764) resulted from a proposal by the Roads Service to improve the alignment and visibility on Newcastle Road, Kilkeel - west of its junction with Wrack Road. Implementation of the improvement works required the removal of a house and land around a farmyard. Mr James Martin was the owner of the land at that time and it was claimed in the statement of support to P/2006/1613/O that as part of the compensatory measures for the demolition of the dwelling, planning permission was granted to Mr Martin for a replacement dwelling. The land appears to have been sold at least once, possibly twice since the date of the original 1987 approval.

Further correspondence on P/2006/1613/O from Clive Henning Architects (dated 16th April 1999) states there was an existing dwelling owned by Mr James Martin who obtained permission for a replacement on the 27th May 1997 (P/1996/0764). The correspondence goes on to state that the only change in circumstances from the approval of P/1996/0764 and the submission of application P/2006/1613/O were the demolition of the original dwelling and the publication of draft PPS 21. However according to the planning history this appears to be factually incorrect. The original

dwelling appears to have been demolished prior to the approval of planning application P/1990/1149, hence the inclusion of the informative stating:

“...as the dwelling to be replaced has now been removed it is unlikely that any further renewals of outline planning permission will be granted as the site lies within an area of strict planning control.”

Although the planning history is a material consideration, there is no extant approval on this site. The date for commencement of the most recent planning approval (P/2013/0267/RM) was 4th November 2015. As this application was received on 23rd May 2016 all of the previous permissions had since expired and the development has not commenced.

This planning application will now be assessed against prevailing planning policy. Policy CTY 3 clearly states planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. As the original 1987 outline application file was decided nearly 30 years ago the documents have since been destroyed in line with the Departments Disposal of Records Schedule. There is no record of the condition of the original dwelling prior to its demolition therefore there is no guarantee that it would meet the above policy requirements for replacement had it not been demolished. Nevertheless, as the dwelling was demolished almost 30 years ago there is no building to be replaced.

In addition to the above, proposals for a replacement dwelling will only be permitted under Policy CTY 3 where all of a number of additional criteria are met.

- Criterion 1 requires the proposed dwelling to be sited within the established curtilage of the existing building unless either (a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or (b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits. There is no building on site to be replaced and due to the passage of time it is not clear where the original dwelling was sited. As the original dwelling was demolished for road improvements an off-site replacement may have been the only option.
- Criterion 2 - There is no record of the size, scale, mass or position of the original dwelling prior to its demolition. As a result it cannot be determined if the new dwelling would have a visual impact significantly greater than the original dwelling. However as there has been no building on the site for almost 30 years the provision of a new dwelling on this site would have a significant visual impact on the surrounding landscape, especially when viewed on approach from the east along the A2 Main Road.

- Criterion 3 - The design of the dwelling is the same as that previously approved under reference P/2013/0267/RM and would be considered acceptable.
- Criterion 4 – All necessary services can be provided without significant adverse impact on the environment or character of the locality.
- Criterion 5 – There is good visibility in both directions, however the A2 Main Road is a Protected Route and access onto it must comply with the policy requirements of PPS 3.

PPS 3 – Access, Movement and Parking

Policy AMP 3 of PPS 3 states 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 Protected Route in a number of cases, one of which is for a replacement dwelling. The building to be replaced must meet the relevant criteria for development and should utilise an existing vehicular access onto the Protected Route. As discussed above, there is no building to be replaced and there is no existing vehicular access. The proposed development does not fall within the exceptions listed in the policy relating to new access onto protected routes and is therefore contrary to the policy requirements of AMP 3 of PPS 3.



Image 1 - View of the Application Site

Recommendation:
Refusal

Refusal Reasons:

1. The proposal is contrary to the policy provisions of the Strategic Planning Policy Statement for Northern Ireland and Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there is no structure that exhibits the essential characteristics of a dwelling.
2. The proposal is contrary to Policy AMP 3 of Planning Policy Statement 3 – Access, Movement and Parking in that the A2 Main Road is a Protected Traffic Route and the application does not fall within the exceptions listed in the policy as there is no building to be replaced and the proposal would result in the creation of a new vehicular access onto a Protected Traffic Route.

Case Officer Signature: _____ **Date:** _____

Authorised Officer Signature: _____ **Date:** _____

Newry, Mourne and Down Council
O'Hagan House
Monaghan Row
Newry
BT35 8DJ

20th September 2016

Dear Sir / Madam,

Your Ref: LA07/2016/0716/F
Applicant: Peter Collins 18 Pats Road, Ballymartin, Kilkeel
Proposal: Replacement Dwelling
Location: Main Road, Ballymartin, east of junction with Wrack Road

1. I refer to the above planning application, which is to be presented to the Council's planning committee on 28th September 2016.
2. The reasons for refusal are:

The proposal is contrary to the policy provisions of the Strategic Planning Policy Statement for Northern Ireland and Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there is no structure that exhibits the essential characteristics of a dwelling.

The proposal is contrary to Policy AMP 3 of Planning Policy Statement 3 – Access, Movement and Parking in that the A2 Main Road is a Protected Traffic Route and the application does not fall within the exceptions listed in the policy as there is no building to be replaced and the proposal would result in the creation of a new vehicular access onto a Protected Traffic Route.

3. The second reason for refusal is directly relevant to the principle of development. If a new dwelling is deemed acceptable in principle, the second reason for refusal will be addressed automatically. Therefore, the key issue is the principle of development.



RTPI
Chartered Town Planner



4. O'Callaghan Planning has only just received formal instructions in respect of this matter, and the Council is therefore, respectfully, requested to refrain from determining this application until a meeting is held with senior planning officials, in order to allow me an opportunity to address the refusal reasons. Until this time, the applicant has had no professional representation.

Background

5. There is an extensive planning history on this site and associated with this proposal. The earliest planning approval was for a replacement dwelling and this dated back to December 1987.

Chronology:

P/1987/1324 – Outline permission granted for replacement dwelling

P/1990/1149 – Renewal of outline permission.

- i. At this time, the dwelling to be replaced was already demolished and an informative comment on the planning approval advised that it was unlikely any further renewals would be granted. However, in short, permission was granted to replace the dwelling notwithstanding that there was no dwelling to replace.

P/1994/0164 Approval of reserved matters was granted for the erection of a dwelling. This permission expired on 30th June 1996.

P/1996/0764 This full application was approved on foot of an extant reserved matters approval. It was initially recommended for refusal since there was no dwelling to replace and due to purported failure to comply with protected routes policy. However, greater weight was ultimately given to the fact that there were ten days remaining of the RM approval at the date of this application's submission. This approval received the standard 5 year time limit, notwithstanding that the dwelling to be replaced was no longer in situ and that this permission effectively extended the previous permission's time limit, contrary to advice previously tendered.



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Chartered Town Planners



P/2006/1613/O This outline application was submitted four years after the previous permission expired. Despite being initially recommended for refusal (because there was no dwelling to be replaced) the application was approved on foot of a file note signed by the Area Planning Manager (Appendix 1).

The rationale that justified the granting of outline permission is no less relevant then than it is now.

P/2013/0267 Approval of reserved matters was granted on 16th May 2013. The latter date for the commencement of development was 04th November 2015.

It would appear that development had not commenced on the site and that the new application was submitted almost seven months after the expiry of the original approval.

6. Since the date upon which the original approval was granted, the ownership of the site has changed at least twice. Two previous owners have in effect benefitted from pragmatic planning decisions that allowed the replacement of a dwelling that was no longer in situ. In these narrow circumstances it would be unreasonable to deny the current applicant the same opportunity to build a dwelling on the site.
7. In 1990, when permission was sought to renew the earlier outline permission, the date of submission of an application for approval of reserved matters had passed. Therefore, the submission of an application for full permission within the 5 year lifetime of the outline permission (the only way the application could have been granted) required the dispensation of a special degree of flexibility. One might argue that it is only right that such flexibility and goodwill be extended towards individual applicants on occasion, and that such courses of action should not be repeated. However, in 2010, a different landowner benefitted from a planning approval with precisely the same justification as before, only this time the reasons for so doing were formally laid out on the Area Planning Manager's summary of the reasons for the approval. As the circumstances pertaining at the present time are in effect unchanged from those pertaining at the dates of the earlier decisions, to refuse permission now would in effect be unreasonable, since it would be a significant departure from the pragmatic attitude directed to previous landowners.



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8. In 2010, when outline permission was granted for a replacement dwelling, the previous application had expired by four years. In this case, the delay submitting the current application was but a mere seven months.
9. The previous area planning manager's decision cannot be dismissed lightly or brushed off as a "mistake" or an error in the application or disapplication of policy. The key fact is that the previous planning manager's decision was entirely lawful.
10. If the members of the Planning Committee have any fears in relation to approval of this application (i.e. that such a course of action could be construed as unlawful, or ultra vires) I would point to the long held point of planning practice, enshrined in planning case law, that it is perfectly lawful to depart from or to disapply a planning policy.
11. Planning policy does not need to be adhered to slavishly, particularly where planning authorities' wider goals are not compromised. In this respect, the *Lamont* judicial review is particularly relevant. Therein, it was stated that:

"Of course, the Planning Service need not 'slavishly' follow the policy. The policy is one of many under the Planning Policy Statement 21 which focuses on sustainable development in the countryside. Within PPS21 a number of like situations are grouped together, for example, proposals for dwellings on farms. The policy indicates the preferred approach to these like cases in order to achieve the broader social and environmental goals relating to development in the countryside. However, the policy itself, and much case law on this and similar issues, acknowledges that no policy can take into account the myriad considerations that may arise in individual fact scenarios that arise in the broad policy area. No planning policy can anticipate the personal, environmental, logistical etc. circumstances of all the individual planning applications made under the policy that need to be considered. However, what is contained in the policy, which cannot be ignored is the thrust of the desired result of the policy".

"In short compass, the policy should be adhered to where possible. It can and should be disapplied in circumstances where there is good reason to do so for example if strict adherence to the policy would damage some other important interest unacceptably and a balance needs to be struck. It is entirely lawful for



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the department to choose to disapply or modify a policy. The key test for when a department can be said to have lawfully disappplied a policy is found in ***EC Gransden + Co. Ltd and Falkbridge Ltd. v Secretary of State for the Environment:***

- i. ... It seems to me, first of all, that any policy, if it is to be a policy which is a proper policy for planning purposes, must envisage that in exceptional circumstances the minister has the right to depart from that policy. If the situation was otherwise it would not be a statement of policy but something seeking to go beyond that and, bearing in mind the terms of section 29 of the Town and country Planning Act of 1971, it would be an improper attempt to curtail the discretion which is provided by the Act, which indicates that in determining planning applications regard is not only to be had to the provisions of the development plan so far as material, but also to any other material considerations."

12. The Council wrote to the applicant on 13th September 2016, confirming that the application had been recommended for refusal for the two reasons set out above. The Council planning officer's professional planning report summarises the Council's assessment of the case thus far. This assessment points out that "although planning history is a material consideration, there is no extant approval on the site". However, the Council's assessment of the case made no attempt to examine the reasons why two previous permissions were granted in circumstances similar if not identical to those that pertain at the present time. The failure to explain why it was appropriate to depart from policy on two previous occasions but not to depart from policy now renders the Council's assessment of this proposal incomplete, Wednesbury unreasonable, and administratively unfair towards the current applicant. In light of the above, the Council is respectfully requested to reconsider its assessment of the proposal. If not outwardly minded to approve the application, the Council should as a minimum give some thought to the reconsideration of the proposal in light of this new evidence.



RTPI
Chartered Town Planners



13. In light of the late stage of my involvement, it would be reasonable to afford some additional time to address the issues of concern and in that respect I look forward to hearing from you.

Yours Faithfully,



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



RTPI
Chartered Town Planner



APPENDIX 1

File note: Previous Chief Planning Officer's justification for approval of application P/2006/1613/O



Divisional Planning Office

Marlborough House
Central Way
Craigavon
Co. Armagh
BT64 1AD

P/2006/1613/0

Replacement Dwelling at Main Road, Ballymartin for Mr G Coulter

I have reviewed this case and am of the opinion that in this particular case it would be appropriate to grant permission for a dwelling.

I have reached this conclusion for the following reasons:

- a strict reading of current policy would indicate that this should be refused permission as there is no dwelling to be replaced. However, the purpose of policy is to give guidance and as the applicant has indicated all particular and peculiar circumstances cannot be covered as exceptions – this is a matter of judgement.
- The dwelling was removed in the public interest and permission granted and renewed for the replacement. The presence of a dwelling was not in these circumstances an issue and had the owner been timely in renewing his permission, the Department would not now need to make a judgement on the issue. The application was received in August 2006 and the previous approval expired in May 2002.
- The site remains within the AONB and accesses onto the MTR. However, PPS21 has now removed the status of greenbelt/GPA.

Given that the circumstances of this application have not changed since the dwelling was demolished. I feel that it would be perverse to now refuse the replacement simply because a renewal of permission had been *missed* in 2002.

IAN McALLISTER
Divisional Planning Manager

4 August 2010



Application ID: P/2006/1613/O

Case Officer: Mr P Fitzsimons

Development Control Officer's Professional Planning Report

Case Officer: Mr P Fitzsimons		Application ID: P/2006/1613/O	
		Application Type: Outline	
Applicant Name and Address:	Mr G Coulter M.B.E. 125 Harbour Road Kilkeel BT34 4AT	Agent Name and Address:	Mr C Henning Clive Henning Architects 4 Carleton Street Portadown Co.Armagh BT62 3EN

Location: Main Road, Ballymartin, east of junction with Wrack Road

Development Type: Replacement

Proposal: Site for replacement dwelling

Date Valid: 10th July 2006

Statutory Expiry Date: 9th October 2006

Date of last Neighbour Notifications: 25th August 2006

Date of District Council Consultation: 6/3/08 defer
7/10/10 agree

Date of A31 Determination & Decision: No

EIA Determination:

Date First Advertised: 8th September 2006

Date Last Advertised: 8th September 2006

Consultees

Newry and Mourne District Council (COUNCIL), Monaghan Row, NEWRY

Roads Service - Downpatrick Office (DEPARTMENTAL), Rathkeltair House, DOWNPATRICK, BT30 6EA

Water Service - Downpatrick Office (DEPARTMENTAL), Cloonagh Road, DOWNPATRICK, BT30 6ED

Notified Neighbours

The Owner/Occupier (NEIGHBOUR), 181 Main Road, Ballymartin, Kilkeel, Co. Down

The Owner/Occupier (NEIGHBOUR), 185 Main Road, Ballymartin, Kilkeel, Co. Down

NEIGHBOUR, 40 Main Road, Ballymartin, Kilkeel, Co. Down

Representations

Application ID: P/2006/1613/O**Case Officer: Mr P Fitzsimons**

Clive Hennings (UNSOLICITED), Clive Henning Architects, 4 Carleton Street, Portadown, Co Armagh, BT62 3EN

KOMRADE (UNSOLICITED), Dr A W Mitchell (Chairman), 18 Ballyardle Road, Kilkeel

Letter, Non-committal, Clive Hennings (UNSOLICITED), Clive Henning Architects, 4 Carleton Street, Portadown, Co Armagh, BT62 3EN

Letter, Non-committal, KOMRADE (UNSOLICITED), Dr A W Mitchell (Chairman), 18 Ballyardle Road, Kilkeel

08 Consultations Summary

No data found

Consultation Summary

No data found

Consultation replies text

Newry and Mourne District Council

Roads Service - Downpatrick Office

Water Service - Downpatrick Office

Consultee replies

Newry and Mourne District Council, Monaghan Row, NEWRY (COUNCIL), Substantive Reply, Letter, 18th September 2006

Roads Service - Downpatrick Office, Rathkeltair House, DOWNPATRICK, BT30 6EA (DEPARTMENTAL), Add Info Requested, Letter, 8th September 2006

Water Service - Downpatrick Office, Cloonagh Road, DOWNPATRICK, BT30 6ED (DEPARTMENTAL), Statutory, Letter, 5th September 2006

Site History

P/1987/1326

Mr H Magill

6 Flagstaff Road Newry

Erection of bungalow

70 METRES WEST OF NO6 FLAGSTAFF ROAD NEWRY

Full

Erection of Building(s)

Local Authority decision

Approval (historical)

11-JAN-88

P/1990/1149

Mr J Martin

No17 Anthonys Road Ballymartin Kilkeel

Site for replacement dwelling (Renewal of Outline

Planning Permission)

Application ID: P/2006/1613/O**Case Officer: Mr P Fitzsimons**

MAIN ROAD (EAST OF JUNCTION WITH WRACK ROAD) BALLYMARTIN KILKEEL

Outline

Erection of Building(s)

Local Authority decision

Approval (historical)

14-FEB-91

P/1992/1222

C E Stevenson & Sons

No74 Newcastle Road Kilkeel

Extension to sand and gravel works

OPPOSITE NOS181 & 185 NEWCASTLE ROAD KILKEEL

Full

Engineering Operation

Local Authority decision

Approval (historical)

14-SEP-93

P/1994/0164

Mr James Martin

Erection of bungalow

MAIN ROAD (EAST OF JUNCTION WITH WRACK ROAD) BALLYMARTIN KILKEEL

R M

Erection of Building(s)

Local Authority decision

Approval (historical)

30-JUN-94

P/1996/0764

Mr James Martin

17 Anthony's Road Ballymartin

Erection of replacement dwelling

MAIN ROAD, BALLYMARTIN (EAST OF ITS JUNCTION WITH WRACK ROAD)

Full

Erection of Building(s)

Local Authority decision

Approval (historical)

27-MAY-97

P/2002/0718/Q

Coulter Industries Ltd.

c/o Agent

Tourist Development

Kilkeel - Annalong Road, Kilkeel

Pre App Preliminary Enquiry

Erection of Building(s)

22nd May 2002

Constraints

AONB/0013 - Mourne (N&M)

Newry and Mourne

AONB - Environment Areas

Declared

Application ID: P/2006/1613/O

Case Officer: Mr P Fitzsimons

ASI/028 - Mullartown Point
Newry & Mourne District
ASI - Environment Areas
Designated

SD - South Down
South Down
Parl Constituency Boundary - RESIDUAL ITEMS
Effective

Representations – including objections

1. Brief Summary of Issues – see below.
2. Consideration of Issues – see below.

Policies

APB/P/003 - Mourne Area Plan Boundary
Newry & Mourne District
Area Plan Boundary - PLAN POLICIES
Adopted

SUBA/P/003 - Mourne Area Plan Boundary
Newry & Mourne District
Area Plan Boundary - PLAN POLICIES
Adopted

APB/P/002 - Newry & Mourne District Rural Area Subject Plan Boundary
Newry & Mourne District
Area Plan Boundary - PLAN POLICIES
Adopted

SUBA/P/002 - Newry & Mourne District Rural Area Subject Plan Boundary
Newry & Mourne District
Area Plan Boundary - PLAN POLICIES
Adopted

CPA/P/002 - Zone B
Mourne AONB
CPA - PLAN POLICIES

DC0901MW

Application ID: P/2006/1613/O**Case Officer: Mr P Fitzsimons**

Adopted

DB/P/001 - Newry & Mourne District Council Boundary

Newry & Mourne District

District Boundary - PLAN POLICIES

Statutory

Case Officer Report**Date of Site Visit:** 4/9/07

SITE VISIT DETAILS/DESCRIPTIONS

1. Characteristics of Site

The application site is an undefined rectangular plot within a larger roadside field. It is located on the southern side of the main road. The field is bounded to the front by a roadside hedge and post & wire fence. To the west it is bounded by a steep bank with gorse bushes which rises up to Wrack Road.

The field falls gradually towards the SE, away from the main road. The site boundaries are undefined – cut out of the larger field.

2. Characteristics of Area

This is a rural area within the Mourne AONB. The field is low lying relative to Wrack Road and it was probably an old sand extraction site. There is a traditional cottage to the east and a number of single storey cottages further to the west of the site.

3. Description of Proposal

The proposal seeks outline planning permission for site for replacement dwelling – the application is accompanied by a letter referring to the planning history on the site and explains that the application is to renew a planning permission for a replacement dwelling granted to Mr James Martin on 27 May 1997 under reference P/1996/0764.

ASSESSMENT OF POLICY AND OTHER MATERIAL CONSIDERATIONS

Site History:

There have been permissions on this site since 1987 on the basis of replacement of a house, the demolition of which was required to facilitate road improvement works. The house was demolished and the works carried out. The applicant was advised under reference P/190/1149/O that there would be no further grant of outline planning approval as the building had been demolished. A reserved matters approval was obtained in 1994 under reference P/1994/0164/RM.

Despite the above, the Dep't granted planning permission for the erection of a replacement dwelling under reference P/1996/0764/F, approved 27/5/1997. This application was initially recommended for refusal on the basis of no dwelling to replace, inappropriate design and contrary to Main Traffic Route Policy. It was

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ultimately approved because the RM permission expired on 30/6/96 and the full application was submitted on 24/6/96 and was effectively a change of house type application.

Policies relevant in the determination of this application include:

- PPS1 General Principles
- PPS3 Access, Movement and Parking
- SP6, HOU8, DES5, DES6, DES7 and PSU4 of A Planning Strategy for Rural Northern Ireland
- The Newry and Mourne District Rural Area Subject Plan 1986-1999
- The Banbridge/Newry and Mourne Draft Area Plan 2015

A draft version of PPS14 Sustainable Development in the Countryside was published on 16th March 2006. This publication bears substantial weight in the determination of all applications received after this date. This application was submitted on 7/6/06.

Policy CTY 1 of draft PPS 14 states that there will be a presumption against new development in the countryside with the exception of a limited number of types which are as follows:-

- a farm dwelling in accordance with Policy CTY 2;
- a dwelling for a retiring farmer in accordance with Policy CTY 3;
- a dwelling to meet the essential needs of a non-agricultural business enterprise in accordance with Policy CTY 4;
- a replacement dwelling in accordance with Policy CTY 5; or
- the development of a small gap site sufficient only to accommodate one house within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 12.

There is no dwelling on the site to be replaced. There is relevant history, however, the Dep't made it quite clear early on that there would be no further outline permissions granted on this site. The former dwelling was demolished approx. 20 years ago.

In the Newry and Mourne District Rural Area Subject Plan 1986-1999 the site is located within the Kilkeel Green Belt. In the draft Banbridge/Newry & Mourne Area Plan 2015, the site is located within the proposed Kilkeel Green Belt. On this basis Prematurity to the draft plan is not an issue. In any case, the application can be considered under policy CTY5 of Draft PPS14.

The applicant purchased the site from Mr Martin (previous applicant). It is not stated when the purchase occurred. The present applicant put in a preliminary application inquiry under reference P/2002/0718/Q. He may have owned the site at this time. The inquiry was submitted on 19/4/02. The Full permission granted under P/1996/0746/F expired on 27/5/2002. The present application for outline planning permission is intended as a renewal of a full permission. It was submitted on 7/6/06, that is, just over four years after the full permission expired.

Having considered the planning history, it is my recommendation that this application warrants a recommendation for refusal. The dwelling was demolished about 20 years ago and it was made clear that no further outline permissions would be granted for the replacement of the former dwelling. The permission issued in 1997 was on the basis of a change of house type application given that it was submitted before the previous RM application had lapsed.

In terms of siting, the site is road frontage and is visible on approach from the east. The site does not have sufficient screening vegetation to allow a dwelling to be satisfactorily integrated on this site.

The Environmental Health Department of Newry and Mourne District Council have no basic objections in relation to this proposal subject to consent to discharge.

Water Service has no objection subject to standard informatives.

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Roads Service had requested confirmation that this is a genuine replacement. Also requested confirmation of the access location approved under P/1996/0764. When advised of recommendation to refuse, i.e. no dwelling to be replaced, Roads Service advised that a refusal reason based on Protected Routes Policy should be included – reason M01.

No objections received, however, a standard representation has been received from KOMRADE.

Recommendation: Refusal is recommended on the grounds of:

- Contrary to policy CTY5;
- CTY 10 (lack of integration); and
- M01 (Protected Route Policy)

Recommendations

Refusal - Recommendation

Recommendations

Refusal - Recommendation

Case Officer

Brief Summary of Reasons for Recommendation

Brief Summary of Conditions

Case Officer's Recommendation

Case Officer

Recommendation - Refusal

Refusal Reasons

1 - A18B (HOUSING - Policy CTY 5 - Other Dwellings/ Buildings to be Replaced)

The proposal is contrary to Policies CTY1 and CTY5 of Draft Planning Policy Statement 14, Sustainable Development in the Countryside, and the accompanying Ministerial Statement and does not merit being considered as an exceptional case in that no dwelling exists on the site.

2 - A19 (HOUSING - Policy CTY 10 - Integration and Design of Buildings in the Countryside)

The proposal is contrary to Policy CTY10 of Draft Planning Policy Statement 14, Sustainable Development in the Countryside, and the accompanying Ministerial Statement 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. *omit.*

3 - M01 (PPS3 - ROADS CONSIDERATIONS)

The proposal is contrary to Policy AMP3 of Planning Policy Statement 3, Development Control: Roads Considerations in that it would, if permitted, result in the creation of a new vehicular access onto a Main Traffic Route (Protected Route), thereby prejudicing the free flow of traffic and conditions of general safety.

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Conditions

No data found

Informatives

No data found

DC Officer's Signature:



Date:

12/2/08


Application ID: P/2006/1613/O

Case Officer: Mr P Fitzsimons

Brief Summary of DC Group Discussion

Refuse as per PCO recommendation.

D.C. Group Signatures:



P. Lacey
E. Duggan
P. Fitzsimons

Date:

15 Feb 08

Council View

- No Comment
- Agree
- Disagree
- Defer
- Referral

Application ID: P/2006/1613/O

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Late Items

1. *Amended Plans -*
- 2.
- 3.
- 4.
5. *Additional/Outstanding Consultations*
- 6.
- 7.
- 8.
9. *Late Representations*

Application ID: P/2006/1613/O

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Deferred Application – Consideration

Reassessed under PPS 21 (Final Version).
 Given the planning history associated with this proposal, on balance Approval.

- | | |
|---|--------|
| 1. Any new material factor(s) raised? | YES/NO |
| 2. Any different weight attached to planning judgement? | YES/NO |
| 3. Changed opinion? | YES/NO |

D.C. Group Signatures:

M. Wade
S. Green
P. Chapman

Date:

22/9/10

ITEM NO	39			
APPLIC NO	LA07/2016/0731/O	Outline	DATE VALID	5/31/16
COUNCIL OPINION	REFUSAL			
APPLICANT	Ms Sheena Gribben 50 Castlewellan Road Ballyaughian Hilltown BT34 5YJ		AGENT	
				NA
LOCATION	60 metres South East of 47 Castlewellan Road Hilltown			
PROPOSAL	Site for dwelling and garage on farm			
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions
	0	0	0	0
			Addresses Signatures	Addresses Signatures

1. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland (SPPS) and Planning Policy Statement 21 'Sustainable Development in the Countryside' Policies CTY1 and CTY10 and does not merit being considered as an exceptional case in that it has not been demonstrated that:
 - the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm
 - health and safety reasons exist to justify an alterative site not visually linked or sited to cluster with an established group of buildings on the farm)
 - verifiable plans exist to expand the farm business at the existing building group to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm
2. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland (SPPS) and Planning Policy Statement 3 'Access, Movement and Parking' Policy AMP3 in that the proposal does not fall within the exceptions listed relating to new accesses onto Protected Routes and would therefore result in the intensification of an existing access onto a Protected Route.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference:

LA07/2016/0731/O

Date Received:

24/05/2016

Proposal:

Site for dwelling and garage on a farm

Location:

60m south east of No. 47 Castlewellan Road, Hilltown

Site Characteristics & Area Characteristics:

The site is located 2 miles north east of Hilltown in a rural area which forms part of the Mourne Area of Outstanding Natural Beauty. The area is predominantly rural in character and borders the Mourne Foothills and Ballroney Basin Landscape Character Areas, with undulating landscape. The area has faced a degree of development pressure over recent years, with a dispersal of single dwellings, primarily contemporary dwellings to the roadside, with numerous established farm steads located off existing laneways.

The site itself, currently 0.7 acres of agricultural land, is set back some 190 metres from the road, and is currently accessed via an established concrete laneway off the B8 Castlewellan Road, which is a designated Protected Traffic Route. This lane, which steeply slopes upwards towards the site, serves one other property, No. 49 Castlewellan Road, an established single storey bungalow. The site has well defined boundaries, with mature hedgerow on all four boundaries of the site, in addition to mature trees along the northern boundary which screen No.47, an existing two storey farm dwelling with detached agricultural buildings. The site is well screened from the road in terms of critical views, as shown further below.





Above: view taken from Castlewellan Road towards proposed site.

Site History:

There have been no previous applications on this specific site. Relevant surrounding history is shown below on the aerial overview image.

Relevant surrounding site history:



Planning Policies & Material Considerations:

The planning policies and material considerations relevant to the proposal include:

- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- The Banbridge / Newry and Mourne Local Area Plan 2015
- PPS2 Natural Heritage
- PPS 3 Access, Movement and Parking
- PPS 6 Planning, Archaeology and the Built Heritage
- PPS 21 Sustainable Development in the Countryside
- 'Building on Tradition' A Sustainable Design Guide for the Northern Ireland Countryside
- 'Dwellings in the Mourne' A Design Guide

Consultations:

Transport NI – No objections in principle to the proposal. However as the B8 is a protected traffic route, planning must be satisfied that the application falls within the exceptions listed relating to the intensification of existing accesses onto protected routes. If this is not the case, then it should be refused.

DAERA Countryside Management Compliance Branch – in a consultation response dated 08/06/2016 it has been confirmed that the farm business ID as identified on the P1c form (660376) was created in 2015 in inheritance for business ID 605138 which started in 1998 and claimed until 2016, confirming that the farm business is both established and active.

NI Water – Generic response received

Department for Communities Historic Environment Division – was consulted due to the proximity of the site in relation to designated monument DOW048:018. HED Historic Monuments are content that the proposal is satisfactory to the SPPS and PPS 6 Planning, Archaeology and the Built Heritage policy requirements.

Objections & Representations

3 Neighbours notified 13/06/2016

No objections / representations received

Consideration and Assessment:**Banbridge / Newry & Mourne Area Plan 2015**

The site is located out with settlement development limits as identified by the Banbridge / Newry and Mourne Area Plan 2015. It is also within the designated Mourne Area of Outstanding Natural Beauty. In addition, the site is located off the B8, a protected route as indicated on Countryside map 3/01 of the Local Area Plan.

SPPS

As there is no significant change to the policy requirements for dwellings on farms following the publication of the SPPS and it is arguably less prescriptive, the retained policy of PPS21 will be given substantial weight in determining the principle of the proposal in accordance with paragraph 1.12 of the SPPS.

PPS 2 Natural Heritage

Policy NH6 of PPS2 applies to development within Areas of Outstanding Natural Beauty. Conditions can be imposed to ensure that the proposed farm dwelling is of an appropriate scale for the locality, that its siting is acceptable and that it respects local character. The retention of the locally distinctive stone walls will also be conditioned. The detailed design can be assessed against this policy at reserved matters stage.

PPS 6 Planning, Archaeology and the Built Heritage

The proposal is satisfactory to the requirements of PPS 6 Archaeology and policy requirements, as per consultation response outlined above from Historic Environment Division.

PPS 21 Sustainable Development in the Countryside

PPS21 Policy CTY1 states that a number of developments are acceptable in principle in the countryside. This includes farm dwellings if they are in accordance with Policy CTY10. There are three criteria to be met:

Criterion (a) requires that the farm business is currently active and has been established for at least 6 years.

DAERA Countryside Management Compliance Branch in their consultation response dated 08/06/2016 have confirmed that the relevant farm business ID 660376 was created in 2015 in inheritance for business ID 605138 which was started in 1998 and claimed Single Farm Payment, Less Favoured area Compensatory Allowances or Agri Schemes up until 2016. The information provided on the P1C form supporting this application tell us that the farm business ID 605138 transferred to farm business ID 660376 following the death of the previous farm owner. In this instance, a change of ID was required to transfer the farm business into the new name following inheritance. This consultation response together with supporting information is sufficient to satisfy criterion (a.)

Criterion (b) seeks to confirm that no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application.

For clarity, para.5.40 states that 'sold-off' refers to any development opportunity disposed of from the farm holding to any other person including a member of the

family. The provision of this criterion only applies from the introduction of draft PPS 21 in November 2008. There have been no prior development opportunities attached to either farm business ID 605138 or 660376; therefore criterion (b) is met.

Criterion (c) requires the new building to be visually linked or sited to cluster with an established group of buildings on the farm.



Principal farm buildings & No.50

In this case, the established group of buildings are the cluster of No. 50 Castlewellan Road and detached farm buildings. A dwelling on the proposed site would not be considered to cluster with an established group of buildings on the farm, with approximately 240 metres separation distance between the farm buildings and the nearest point of the site.

The applicant was afforded the opportunity to determine if there are demonstrable health and safety reasons or verifiable plans to expand the farm business at the existing building group(s.) which would merit the siting away from an established group of buildings on the farm. A submission was made by Councillor Ennis on 8th September on behalf of the client which outlines that the applicant has health and safety concerns regarding the use of an access which runs through an active farm. There are three existing access points which exist at the farm (shown below.) The existing access which is used by No.50 is separate to the access to the farm, which has its own access, therefore I would contest that an existing access point could be used which does not run through the farm.



Existing access point 1



Existing access point 2 to No. 50



Existing separate Farm yard access

The submission also expresses concerns regarding integration, stating that the area around the farm is quite open to view and a new dwelling would be clearly visible and prominent and lack integration. Having considered this in detail, it is my opinion that this proposal fails to meet criterion c and there are other available suitable sites on the farm holding which could meet the policy criteria of PPS3 in terms of the use of an existing access and PPS21.

PPS3 Access, Movement and Parking

The B8 Castlewellan Road is a Protected Traffic Route. Following consultation, Transport NI has advised that planning must be satisfied the application falls within the exceptions relating to the intensification of existing accesses onto protected routes. If this is not the case, then it should be refused. This consultation response refers to the exceptions listed under Annex 1 to PPS 21 Consequential amendment to Policy AMP3 of PPS 3. Under this revision, planning permission will only be granted for a development proposal involving access onto a Protected Route in the following cases:

- a) **A replacement dwelling** - N/A to this application;
- b) **A farm dwelling** – where the farm dwelling would meet the criteria set out in policy CTY 10 of PPS 21 and access cannot be reasonably obtained from an

adjacent minor road. Where this cannot be achieved proposals will be required to make use of an existing vehicular access onto a Protected Route – the proposal does not meet criteria c of CTY 10 under PPS 21 therefore would not be considered an exception under this revision;

- c) **A dwelling serving an established commercial or industrial enterprise** – N/A to this application;
- d) **Other categories of development** – approval may be justified in particular cases for other developments which would meet the criteria for development in the countryside and access cannot reasonably be obtained from an adjacent minor road. – This proposal does not meet the criteria for development in the countryside as aforementioned under PPS 21 CTY10.

For the reasons outlined above, the proposal is not considered an exception to Policy AMP3 of PPS 3 Access, Movement and Parking.

Recommendation: Refusal

Reasons for Refusal:

1. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland (SPPS) and Planning Policy Statement 21 ‘Sustainable Development in the Countryside’ Policies CTY1 and CTY10 and does not merit being considered as an exceptional case in that it has not been demonstrated that:
 - the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm;
 - health and safety reasons exist to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm;
 - verifiable plans exist to expand the farm business at the existing building group to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm;
2. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland (SPPS) and Planning Policy Statement 3 ‘Access, Movement and Parking’ Policy AMP3 in that the proposal does not fall within the exceptions listed relating to new accesses onto Protected Routes and would therefore result in the intensification of an existing access onto a Protected Route.

Case Officer Signature:
Date:
Appointed Officer Signature:
Date:

Thank you for your response.

The points I will be seeking to address at the meeting are as follows;

Planning officers have concerns that the proposal does not visually link or cluster with a group of buildings on the farm and it has not been demonstrated that the proposed site should be considered as an exception to the requirement of policy.

The site and farm complex accesses onto a Protected Route, which policy requires a new dwelling on a farm shall access onto a nearby minor road in the first instance and if this is not practical, access shall be made by use of an existing access on the farm. The policy does not permit the creation of a new access onto a protected route for a dwelling on a farm. In this case there are three vehicular accesses at the farm complex accessing onto the Castlewella Road and an access opposite the farm which is proposed to be used to access the site.

I believe there to be valid health and safety grounds why the dwelling cannot use the existing accesses and must be sited away from the farm complex.

The farm is an active farm that keeps livestock and so there are obvious concerns that there would be a risk of cross contamination into and out of the farm from future occupiers of the new dwelling driving and walking through the farm yard. I have been advised by the farm's veterinarian that the use of an access running through the active farm would present a biosecurity risk of potential cross contamination, which he advised would create a clear issue in the effective management of the farm and present a risk to animals. He also noted that in the event of a case of a real or suspected epizootic disease outbreak the dwelling would be inaccessible and would render it uninhabitable for an indeterminate time. The veterinarian advised that, where possible, an alternative access arrangement should be sought for the proposed dwelling.

My partner is employed by Almac in Craigavon, concerns about biosecurity would not only present a risk to the farm but may also put his employment with Almac at risk. I believe that if officers were to consult with DARD veterinarian services they would agree with the farm vets statement that the use of the existing accesses at the farm would present a biosecurity risk. In this case there is only one other alternative access, the one opposite the farm complex, which serves an existing dwelling on the lane and a number of fields. In order to comply with the policy to use an existing access on the farm the dwelling must be sited away from the farm and there are demonstrable health and safety reasons why it cannot be beside the farm complex.

More generally, I have concerns that having a future family home sited so close to the main farm and a busy road would present a risk in future to my family. Whilst it is appreciated that the policy does require a visual link or clustering, in most cases this can be achieved with a degree of separation. However, the area around the farm is quite open to view and any separation from the farm would leave the new dwelling clearly visible from the Castlewella Road and it would be prominent and lack any suitable backdrop or integration. The proposed site would be well removed

from the active farm complex and there would be significantly less visual impact from the proposed site than anywhere adjacent to the farm. Considering this is part of the AONB this is of critical importance.

I believe I have valid grounds to seek an off site replacement in this instance. The choice of site allows me to use an existing access onto the Protected Route so to ensure the safe movement of traffic, and it will preserve the visual amenity of the AONB.

I believe that the planning department had failed to recognise that the building adjacent to the current dwelling house is an active farm building and so the access is not solely for domestic use as the planning report suggested. I also feel that no consideration has been given to the visual impact that a dwelling adjacent to the farm would have on the AONB as this was not addressed in the planning report.

I would like to submit some photographic evidence to support my concerns regarding health and safety at the 3 access points currently in active use by the farm business and to better demonstrate the farm layout. If you could advise me of how I could do this that would be greatly appreciated.

I have attached them to this email if that is suitable.

Thank you

Sheena Gribben































ITEM NO	42			
APPLIC NO	LA07/2016/0812/O	Outline	DATE VALID	6/16/16
COUNCIL OPINION	REFUSAL			
APPLICANT	George Kelly 97B Maphoner Road Mullaghbawn Newry BT35 9TR		AGENT	Collins & Collins 18 Margaret St Newry BT34 1DF
				3026 6602
LOCATION	Between No. 54 & 54a Mill Road Mullaghbawn Newry Co. Down			
PROPOSAL	New dwelling with domestic garage. Gap/Infill site			
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions
	1	0	0	0
			Addresses Signatures	Addresses Signatures
			0 0 0 0	

- 1 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
- 2 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent a gap site in an otherwise substantial and built up frontage that respects the existing development pattern, and would, if permitted, result in the creation of ribbon development along Mill Road.
- 3 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site is unable to provide a suitable degree of enclosure for the proposed dwelling and garage to visually integrate into the surrounding landscape.
- 4 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted, result in a suburban style build-up of development when viewed with existing and approved buildings and would therefore result in a detrimental change to the rural character of the countryside.
- 5 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, not respect the traditional pattern of settlement exhibited in that area and create a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.
- 6 The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy NH6 of Planning Policy Statement 2 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.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2016/0812/O

Date Received: 16/06/16

Proposal:

The application is for outline planning permission for a new dwelling with domestic garage in a gap/infill site.

Location:

The application site is located adjacent to, and to the north of, No. 54A Mill Road, Mullaghbawn, Newry. The application site is located within an agricultural field. The site is located approximately 1.5 miles north of the settlement of Mullaghbawn and approximately 4 miles south-west of the settlement of Camlough.

Site Characteristics & Area Characteristics:

The site is in a rural area outside settlement limits and within an Area of Outstanding Natural Beauty as defined on the Banbridge, Newry and Mourne Area Plan 2015. There are a number of single dwellings and farm groups in the area. An agricultural field and the curtilage of No. 54 Mill Road abuts the western boundary of the site. The curtilage of No. 54A Mill Road abuts the southern boundary of the site. Mill Road abuts the eastern boundary of the site. The access lane to No. 54 Mill Road abuts the northern boundary of the site. To the north-east of the site is No. 55 Mill Road. There are agricultural fields to the west, north and east of the site. A public road, which joins Mill Road, is to the south of the application site. Adjacent to the junction to the south is are two agricultural fields which abut Nos. 50 and 52A Mill Road.

The application site is a level agricultural field which sits below the level of the road. The northern boundary and part of the western boundary are defined by a wooden post and rail fence. The southern and eastern boundaries and part of the western boundary are defined by a post-and-wire fence.

Site History:

Planning history within the application site:

1. Planning ref: P/2005/2607/RM (Permission for No. 54A Mill Road)
Applicant: Mr & Mrs Brian Kirwan
Proposal: Site for dwelling
Decision: Permission Granted
Decision date: 12.01.2007
2. Planning ref: P/2001/1937/O (Permission for No. 54A Mill Road)
Applicant: Mrs Therese McEvoy
Proposal: Site for dwelling.
Decision: Permission Granted
Decision date: 07.11.2002

Planning Policies & Material Considerations:

The application has been assessed under:

- The Strategic Planning Policy Statement for Northern Ireland (2015)
- The Banbridge / Newry & Mourne Area Plan 2015
- PPS2 – Natural Heritage
- PPS3 – Access, Movement and Parking
- DCAN15 – Vehicular Access Standards
- PPS21 – Sustainable Development in the Countryside
- The Building on Tradition Sustainable Design Guide will also be considered

Consultations:

Transport NI: advised in a consultation response dated 07/07/16 that a scale plan and accurate site survey at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed and other requirements in accordance with the attached form RS1.

NI Water: A generic response was received from NI Water dated 30/06/16. NI Water have no objections in principle to this proposal.

Historic Environment Division: stated, in a consultation response dated 08/07/16, that on the basis of the information provided, the proposal is satisfactory to SPSS and PPS6 archaeological policy requirements.

Objections & Representations

Nos. 54, 54A and 55 Mill Road were notified of the application.

One objection was received on 06/07/16.

- The objector argues that there is no substantial and continuously built up frontage at this location, and that No. 52a does not front onto Mill Road. The objector also argues that No. 54 is set back behind the roadside field.
- The objector argues that the proposal would create a ribbon of development.
- The objector argues that the site has no natural screening and is an open and exposed site.
- The objector argues that the proposed dwelling would be unduly prominent, contribute to suburban style build-up and fail to respect the traditional settlement pattern.
- The objector argues that the siting of the proposal is not sympathetic to the special character of the AONB and fails to respect the settlement pattern through the creation of ribbon development.

Consideration and Assessment:

Principle of Development

As there is no significant change to the policy requirements for infill dwellings following the publication of the SPPS, the retained policy of PPS21 will be given accorded weight in determining the principle of the proposal in accordance with paragraph 1.12 of the SPPS. The Banbridge / Newry & Mourne Area Plan 2015 makes provision for up to 2 dwellings in a gap site where it is in accordance with policy CTY8 of PPS21 and other planning considerations and policies.

Policy CTY1 of PPS21 list particular cases in which planning permission will be granted for an individual dwelling house in the countryside. One of these cases is the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY8.

CTY8 states that, "planning permission will be refused for a building which creates or adds to a ribbon of development." However, an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage, provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.

The application site is large enough for one dwelling and would respect the plot size of neighbouring curtilages. There is a dwelling and garage located within the curtilage of No. 54a Mill Road and within the curtilage of No. 54 Mill Road.

CTY8 defines a substantial and built up frontage as a frontage which includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

The site is located between a dwelling and garage at No. 54A Mill Road, which is adjacent the southern boundary of the site, and the access lane to No. 54 Mill Road, which is adjacent the northern boundary of the site. No. 54 Mill Road sits back 36 metres from Mill Road and adjacent to the north-western part of the application site. The access to No. 54 Mill Road is via Mill Road and the dwelling faces onto Mill Road. However, the dwelling at No. 54 Mill Road is located behind rear boundary of the application site. No. 54 Mill Road cannot, therefore, share a common road frontage with any dwelling on the application site. Therefore, the application site only shares a common road frontage with the dwelling and garage at No. 54A Mill Road.



Application site and No. 54 Mill Road

In relation to this part of Mill Road there is no substantial and continuously built up frontage. The T-junction to the south and the two agricultural fields adjacent to, and north of, No 50 Mill Road provide a significant visual break between No. 54A Mill Road and No. 50 Mill Road. No. 54 Mill Road is set behind the application site. There are no dwellings on western side of Mill Road to the north of the application site. No. 52A Mill Road is set back by approximately 45 metres from the T-junction on Mill Road, and fronts onto the public road which runs west-to-east. No. 52A does not therefore share a common road frontage with Nos.50, 54a or 54 Mill road. Any dwelling on the application site would only have a common road frontage with the dwelling and garage at No. 54A Mill Road. As such any proposed dwelling and garage on the application site would create a ribbon of development.



Application site with No. 54A to the south and No. 54 to the rear of the site

In summary, the application site is not considered a small gap site within a substantial and continuously built up frontage. The proposed dwelling would only share a common road frontage with the dwelling and garage at No. 54A Mill Road. The dwelling at No. 54 Mill Road would be located behind the curtilage of the proposed dwelling.

Integration

CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and is of an appropriate design.

The application site lacks mature vegetation on all boundaries. The boundaries of the application site are defined by wooden post-and-rail fencing or post-and-wire fencing. As such the site lacks a suitable degree of enclosure for any proposed building to integrate into the landscape. Due to the lack of vegetation on the boundaries there are strong critical views of the site when approaching the site from the north and south along Mill Road. The site is an open and exposed site and is unable to provide a suitable degree of enclosure for the proposed dwelling and garage to integrate into the landscape. For these reasons, the proposal is contrary to Policy CTY13 of PPS21.



View of application site from Mill Road

Rural Character

Under CTY14 of PPS21 the application for a dwelling and garage on this site is unacceptable. The proposed dwelling and garage would result in an accumulation of buildings in this open and exposed setting, resulting in suburban style build-up of development. The pattern of settlement exhibited in this area is dispersed single dwellings in the countryside. The addition of a dwelling and garage on the application site would not respect this traditional settlement pattern as it would lead to a build-up of development in this locality and would create a ribbon of development. Therefore, the proposal is contrary to Policy NH6 of PPS2 as the siting of the proposal is not sympathetic to the special character of the Ring of Gullion Area of Outstanding Natural Beauty in general and of this particular locality as it would lead to an erosion of the rural character of this area by reason of build-up of development and the creation of ribbon development.

Recommendation:

The proposal fails to comply with Policies CTY1 and CTY8 of PPS21 as the application site is not considered a small gap site within an otherwise substantial and continuously built up frontage. The site is an open and exposed site and the proposal will erode the rural character of the area and create a ribbon of development. The proposal is therefore contrary to Policies CTY13 and CTY14 of PPS21 and Policy NH6 of PPS2. Therefore, the application is recommended for refusal.

Reasons for Refusal:

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

- 2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent a gap site in an otherwise substantial and built up frontage that respects the existing development pattern, and would, if permitted, result in the creation of ribbon development along Mill Road.
- 3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site is unable to provide a suitable degree of enclosure for the proposed dwelling and garage to visually integrate into the surrounding landscape.
- 4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted, result in a suburban style build-up of development when viewed with existing and approved buildings and would therefore result in a detrimental change to the rural character of the countryside.
- 5. 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 not, if permitted, respect the traditional pattern of settlement exhibited in that area and create a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.
- 6. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy NH6 of Planning Policy Statement 2 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 Officers signature: _____

Authorised Officers Signature: _____

Ref: Newry Mourne and Down Council Meeting

Date 22nd September 2016

Dear Colette,

RE: Written Submissions for Council Meeting dated 28th September 2016

- **P/2016/0557/F**
- **LA07/2016/0602/O**
- **LA07/2016/0812/O**

Please see below written submissions for the above three planning applications.

P/2016/0557/F

We disagree with the single reason (CTY13) for refusal because the proposal is:

- (a) compliant with countryside development and is appropriate for the site and its locality;
- (b) It will visually integrate as the dormers and materials are consistent with that already found in the area;
- (c) The design of this retrospective application is not significantly different from that which is approved under P/2015/0186/RM.

LA07/2016/0602/O

We disagree with below three reasons for refusal because we feel that:

- (a) CTY8 – This is a gap site (between no's 8 and 16) within a substantial and continuously built up frontage comprising of no's 4, 6, 8, 15, 16 and 20 Goragh Road;
- (b) CTY15 – This proposal will not result in urban sprawl as it is flanked on both sides by residential development (no's 16 and 20 to the east and no's 6 and 8 to the west);
- (c) CTY1 – This development is consistent with CTY 8 and therefore not an "other type of development". This application is a 'gap' site development' and satisfies CTY1. As such, we feel this is therefore a redundant refusal reason.

LA07/2016/0812/O

We disagree with all six reasons for refusal because we feel that:

- (a) CTY1 – This development is consistent with CTY 8 and therefore not an "other type of development". This application is a 'gap' site development' and satisfies CTY1. As such, we feel this is therefore a redundant refusal reason.
- (b) CTY8 - This is a gap site (between no's 54 and 54a within a substantial and continuously built up frontage comprising of no's 50, 52a, 54a and 54 Mill Road. There is already a series of properties in succession along this road and this proposal will not create ribbon development here;
- (c) CTY13 and CTY 14 – We disagree that this proposal cannot provide a suitable degree of enclosure nor will it result in sub-urban style build-up of development. The sites position among the surrounding properties is almost identical to that of a similarly positioned proposal P/2014/0564/O approved by Newry, Mourne and Down Council on 23rd October 2015 (attached).

Ref: Newry Mourne and Down Council Meeting

- (d) NH6 –The siting of this proposal is entirely consistent with surrounding existing properties and will therefore not visually impact on the AONB or the locality.

Please contact me if you have any queries.

Yours sincerely



Sarah McDowell MRTPI (sarah@resolveplanning.com)

Senior Planner

Resolve Planning & Development



Liam Hannaway
Chief Executive



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

OUTLINE PLANNING PERMISSION

Planning Act (Northern Ireland) 2011

Application No: **P/2014/0564/O**

Date of Application: **26th June 2014**

**Between nos. 27 and 31 Barr Road
Belleeks
Newry
BT35 7QD**

Site of Proposed
Development:

Description of Proposal: **Erection of Dwelling with Domestic Garage (Amended P1 Form)**

Applicant: **Mr and Mrs Leo McParland**
Address: **39a Barr Road
Belleeks
Newry
BT35 7QD**

Agent: **Collins and Collins**
Address: **18 Margaret Street
Newry
BT34 1DF**

Drawing Ref: **01 (REV 3)**

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

GRANTS OUTLINE PLANNING PERMISSION

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

1. As required by Section 62 of the Planning Act (Northern Ireland) 2011, application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-

- i. the expiration of 5 years from the date of this permission, or
- ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

**Óifig an Iúir
Newry Office**
O'Hagan House
Moaghaghan Row

**Óifig Dhún Pádraig
Downpatrick Office**
Downshire Civic Centre
Downshire Estate, Ardubess Road

Freastal ar an Dúin
agus Ard Mhacha Theas
Serving Down

Reason: Time Limit

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

Reason: To enable the Council to consider in detail the proposed development of the site.

3. Full particulars, detailed plans and sections of the reserved matters required in Conditions 01 and 02 shall be submitted in writing to the council and shall be carried out as approved.

Reason: To enable the council to consider in detail the proposed development of the site.

4. The proposed dwelling shall have a ridge height of less than 6 metres above finished floor level.

Reason: To ensure that the development is satisfactorily integrated into the landscape.

5. The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.45 metres at any point.

Reason: In the interest of visual amenity.

6. No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by the council.

Reason: To ensure the dwelling integrates into the landform.

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 Practice. The works shall be carried out at the first available planting season upon occupation of the dwelling.

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

8. 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.

9. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1.



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

Informatives

Environmental Health Informatives

Should the development proceed, then consent to discharge under the Water Order 1999 shall be required. A Water Order Consent application form can be obtained by applying to Water Management Unit, Calvert House, 17 Antrim Road, Lisburn, Co. Antrim, BT28 3AL.

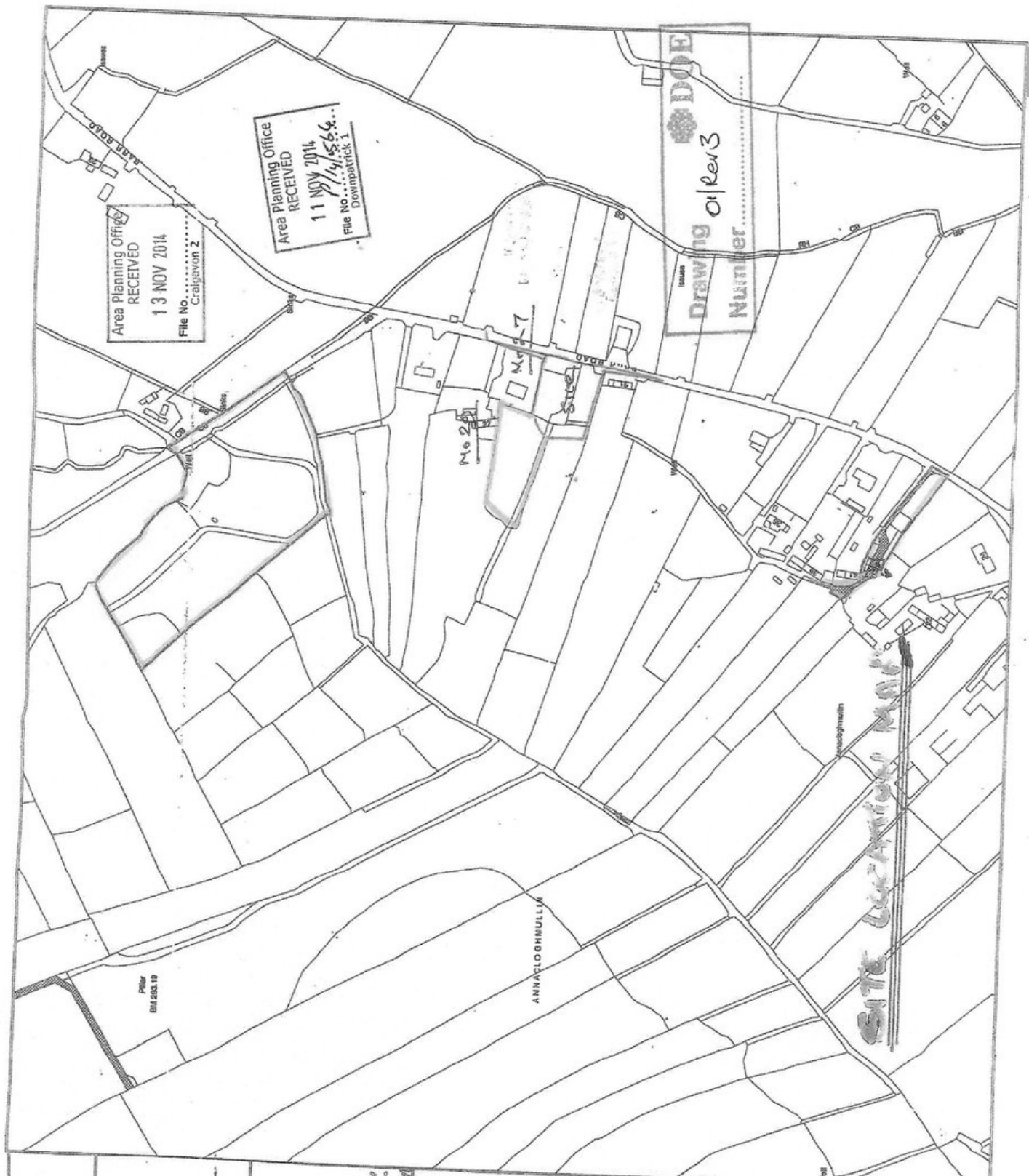
The applicant is to be advised that no work should be undertaken until such is approved. The applicant must ensure that sufficient land is, and will be, available in the final development to accommodate septic tank and effluent effluent dispersal system. To achieve this, the applicant should engage the service of a suitably qualified person.

Energy efficiency and renewable energy:

Applicants should be encouraged to consider the use of renewable energy and energy efficient materials and fittings in association with this development.

Dated: 23rd October 2015 Authorised Officer _____

Y Y



Land & Property Services
THE LAND REGISTRY

Date: 10/11/2014
County: Amagh
Scale: 1:2500
Our Ref: 10/11/2014/10/11/2014
Your Ref: 2011/10/11/2014/10/11/2014
Map Ref(s): 2011/10/11/2014/10/11/2014

Revised 7/5/14

Prepared by: SAUL BARR
Checked by: HENRY C. DOWN
SIGNED: L. McARDLE

Collins & Collins
Architectural & Development Consultants
18 MARGARET STREET
NEWRY, CO. DOWN, BT34 1DF
Tel: 028 302 66602 Fax: 028 302 60467

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ITEM NO	43			
APPLIC NO	LA07/2016/0826/O	Outline	DATE VALID	6/20/16
COUNCIL OPINION	REFUSAL			
APPLICANT	Kevin Donaghy 46 Clontigora Road Killean Newry BT35 8RZ	AGENT	Blueprint Architectural 79 Chapel Road Killeavy Newry BT35 8JZ 07855978205	
LOCATION	Lands to the west and rear of nos 22 and 24 Ballynabee Road Maghernahely Bessbrook Newry			
PROPOSAL	Proposed erection of detached dwelling and garage			
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions
	0	0	0	0
			Addresses	Signatures
			0	0 0 0

- 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 Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it would not be possible within the application site to provide an access with visibility splays (of 2 metres x 60 metres), in accordance with the standards contained in the Department's Development Control Advice Note 15.



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**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2016/0826/O

Date Received: 19.07.2016

Proposal: The application seeks Outline permission for proposed erection of detached dwelling and garage. The site is within South Armagh

Location: Lands to the west and rear of Nos 22 and 24 Ballynabee Road, Maghernahely, Bessbrook. The site straddles the development limit for Bessbrook.

Site Characteristics & Area Characteristics:

The site as defined in red on the site location plan takes in an irregular shaped field that includes a laneway to the public road between Nos 22 and 24 Ballynabee Road. The land falls towards the West and the field boundaries contain a mix of mature hedging and sparsely populated trees. The area whilst partially within the Settlement Limit the area has in the main a rural appearance with strong development pressure, predictable along the public road.

Site History:

N/A

Planning Policies & Material Considerations:

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

Consultations:

Transport NI – The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it would not be possible within the application site to provide an access with visibility splays (of 2 metres x 60 metres), in accordance with the standards contained in the Department's Development Control Advice Note 15.

NI Water – No objections / standing advice
Historic Environment Division – no objections

Objections & Representations

4 neighbours notified on 29.06.2016
Application advertised on 06.07.2016
No objections or representations received

Consideration and Assessment:

As there is no significant change to the policy requirements for single dwellings in the countryside following the publication of the SPPS and it is arguably less prescriptive, the retained policy of PPS21 will be given substantial weight in determining the principle of the proposal in accordance with paragraph 1.12 of the SPPS. The proposal straddles the development limit for Bessbrook, with the access within the settlement limit and siting of the dwelling in the rural area – as designated in the Banbridge Newry and Mourne Area Plan 2015. There are no objections in relation to the Area Plan.

PPS21 Sustainable Development in the Countryside.

As the proposed dwelling is to be sited outside the development limit in the rural area PPS21 is applicable. Policy CTY1 makes provision for a new dwelling in the countryside where the proposal meets one of the exceptions listed under policies CTY2a, CTY3, CTY6, CTY7, CTY8 or CTY10.

There was no accompanying information with the application to determine which policy permission was being sought under. I phoned the agent on 11th August 2016 to request again which policy the permission was being sought under and the agent confirmed whilst it didn't appear to meet any of the policies listed in PPS21 he just wanted to apply for a single dwelling.

The proposal is not within an existing cluster that appears as a visual entity and is not associated with a focal point or located at a crossroads. The proposal does not meet the policy criteria of CTY 2a. There is no dwelling to replace to qualify under policy CTY 3 and there has been no special personal or domestic circumstances submitted to be considered under policy CTY 6. A business does not exist at the site to be considered under policy CTY 7 and the site does not occupy a gap in an otherwise substantially and continuously built up frontage to comply with policy CTY 8. There are no farm buildings or farm details for the application to be considered under policy CTY 10. As a consequence of the above considerations the proposal does not meet any of the exceptions listed under CTY 1 for a new dwelling in the countryside and with no overriding reasons why this development is essential and cannot be located in a settlement, the proposal is contrary to policy CTY 1.

With strong boundaries and development to the south and east of the site, critical views of the proposed dwelling are likely to be minimal if conditioned to a 6m ridge height. The majority of development around the site, within the settlement, the proposed dwelling will not lead to a suburban style build-up of development. The proposal is not considered prominent or would add to / create a ribbon of

development. The proposal, on balance, is in compliance with policies CTY 13 and 14.

Policy CTY 15 is a material consideration for this proposal given the site straddles the boundary of the development limit for Bessbrook. It is accepted that CTY 15 is a visual test and it is my assessment that the dwelling could be sited to be virtually invisible from public viewpoints so that visually, despite the close proximity to the boundary, the dwelling would not appear to visually mar the distinction between the settlement and surrounding countryside.

Planning Policy Statement 3 / DCAN 15

Transport NI were consulted with regard to the access arrangements of the proposed site and have confirmed the required visibility splays of 2m x 60m cannot be achieved at this application site. The proposal is therefore contrary Policy AMP 2 of Planning Policy Statement 3 in that the development would, if permitted, prejudice the safety and convenience of road users since it would not be possible within the application site to provide an access with visibility splays (of 2 metres x 60 metres), in accordance with the standards contained in the Department's Development Control Advice Note 15.

Planning Policy Statement 6

Historic Environment Division was consulted as the application sites lies within the consultation zone of an archaeological site and monument. Historic Monuments has assessed the application on the basis of the information provided are content that the proposal is satisfactory to the SPPS and PPS6 archaeological policy requirements.

Recommendation:

Refusal

Reasons for Refusal:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it would not be possible within the application site to provide an access with visibility splays (of 2 metres x 60 metres), in accordance with the standards contained in the Department's Development Control Advice Note 15.

Case Officer:

Authorised Officer:

ITEM NO	44				
APPLIC NO	LA07/2016/0875/F	Full	DATE VALID	6/28/16	
COUNCIL OPINION	APPROVAL				
APPLICANT	Community Rescue Service 22 Ballybrakes Road Ballymoney County Antrim BT53 6LQ	AGENT	Estates Section Council Offices Greenbank Industrial Estate Newry BT34 2QU 02830313233		
LOCATION	Hardstanding located between playing fields at Fathom Line and to the rear of No.s 31-65 Drumalane Park Newry BT35 8AT				
PROPOSAL	Erection of building occupied by South Down Community Rescue Service for the purposes of training and to store water safety/rescue equipment.				
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions	
	0	0	0	0	
			Addresses Signatures		Addresses Signatures
			0	0	0 0



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2016/0875/F

Date Received: 28.06.2016

Proposal: Full permission for the erection of building occupied by South Down Community Rescue Service for the purposes of training and to store water safety/rescue equipment.

Location: *Hardstanding located between playing fields at Fathom Line and to the rear of No.s 31-65 Drumalane Park. The site is located to the Southern area of the City alongside the Canal and within the Development Limit for Newry City.*

Site Characteristics & Area Characteristics:

The site as defined in red on the site location plan takes a rectangular shape alongside the Fathom Line that includes two playing fields and an area of hardstanding. Wire mesh fencing surrounds the site which remains flat in landform. Residential is the most dominant land use activity in the area with obvious recreational activities also carried out at the playing fields.

Site History:

P/2014/0402/F

Erection of community centre to include a multi-purpose hall with parking provision, vehicular access from Fathom Line, boundary treatment and associated works.

Lands between existing playing fields at Fathom Line Newry to the rear of Nos. 45-51 Drumalane Park (off Drumalane Road)

Permission Granted 01.12.2014

P/2006/0357/F

Erection of 254m of 6m high fencing and 13.5m of 9m high fencing, all to replace existing 5 m high fencing

Drumalane Playing Fields, Drumalane Park

Approval, dated 11 December 2006

*P/1995/0303/F
Drumalane Community Centre, Drumalane, Newry
Playing Field, Play areas Car Park and extension to Community Centre
Approval, dated 25 August 1995*

*P/1987/1235/F
Drumalane, Newry
Reinstatement of Drumalane Community Centre, Newry
Approval, dated 10 December 1987*

*P/1986/0564/F
Drumalane, Newry
Retention and extension of Community Centre
Approval, dated 18 September 1986.*

Planning Policies & Material Considerations:

*Banbridge Newry and Mourne Area Plan 2015
Strategic Planning Policy Statement for Northern Ireland
A Planning Strategy for Rural Northern Ireland
Planning Policy Statement 6
Planning Policy Statement 15*

Consultations:

Rivers Agency – No objections
Transport NI – No objections
HED – No objections
NI Water – No objections
Environmental Health – No objections

Objections & Representations

No neighbours qualified for a Neighbour Notification. Application advertised on 20.07.2016. No objections or representations received.

Consideration and Assessment:

The application is situated on 'whitelands' as designated in the Banbridge Newry and Mourne Area Plan 2015. The SPPS is largely silent on community facilities in urban areas and therefore the retained policies will hold the material weight to the application. The proposal is not in conflict with either the Area plan or SPPS.

A previous application P/2014/0402/F for a Community Centre was approved in 01.12.2014 at this location. As this application is on a site that incorporates the previous application which is still live for a community facility it is my assessment that the community use has been established at this site and principle of development is acceptable.

Design / Townscape Character:

Policies SP 18 and DES 2 of Planning Strategy for Rural Northern Ireland (PSRNI)

Policies SP 18 and DES 2 both require development proposals in towns and villages to make a positive contribution to townscape and be sensitive to the character of the

area surrounding the site in terms of design, scale and use of materials. New developments within town centres should minimise visual, functional and physical disruption and enhance or create interest, vitality and variety.

The proposed design does not cause concern. Its scale is suitable and would not dominate the neighbouring dwellings, which are elevated above the main site by a few metres. The building is a portable metal frame building which will be visually unobtrusive, small in scale and basic in form. The visual impact of the building would be further reduced by the fence screening along Albert Basin. The screening effect lessens as you approach the site, as the angle improves. The proposed building is minimalistic in character and will not a significantly adverse impact on the character of the area. The proposal is in general compliance with the PSRNI.

Historic Environment Division have no objections to the proposal with regard to the SPPS and PPS 6. Rivers Agency were also consulted with regard to PPS15 and have since responded with no objections.

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. 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

3. 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.

Case Officer:

Authorised Officer:

ITEM NO	45			
APPLIC NO	P/2014/0071/F	Full	DATE VALID	1/17/14
COUNCIL OPINION	APPROVAL			
APPLICANT	Mr John Perry C/O Agent	AGENT	Jobling Planning & Environment Ltd. 1 Inverary Valley Larne BT40 3BJ 028 2827 7736	
LOCATION	Lands South East of No. 54 Newcastle Street Kilkeel BT34 4AQ			
PROPOSAL	Change of use to part of commercial (pre-cast concrete works) yard to a waste management facility for the depollution and dismantling of End of Life Vehicles (ELVs) and the sorting and bulking of scrap metal. Works will include the use of existing vehicle workshop for the ELV depollution process, external storage of ELVs (unpolluted and polluted) and erection of walled enclosure for storage of non-ferrous scrap metal, roofing of existing enclosure for the storage of ferrous metals, bunded fuel storage, and associated boundary treatments.			
REPRESENTATIONS	OBJ Letters	SUP Letters	OBJ Petitions	SUP Petitions
	33	1	0	0
	Addresses Signatures		Addresses Signatures	
	0	0	0	0



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: P/2014/0071/F

Date Received: 18th January 2014

Proposal: Change of use to part of commercial (pre-cast concrete works) yard to a waste management facility for the depollution and dismantling of End of Life Vehicles (ELVs) and the sorting and bulking of scrap metal. Works will include the use of existing vehicle workshop for the ELV depollution process, external storage of ELVs (unpolluted and polluted) and erection of walled enclosure for storage of non-ferrous scrap metal, roofing of existing enclosure for the storage of ferrous metals, banded fuel storage, and associated boundary treatments.

Location: Lands South East of No. 54 Newcastle Street, Kilkeel, BT34 4AQ

Site Characteristics & Area Characteristics:

The site is south east of No. 54 Newcastle Street, Kilkeel and is accessed by an avenue between No. 56 Newcastle Street and an existing petrol filling station. This is a narrow avenue taking you in a south easterly direction off Newcastle Street to an existing concrete yards/works. This yard is approximately three metres above the land to the north. The land to the west and south is at a higher level.

Upon entering the yard there is an existing office building to the east and hoppers along the north west. There is then a large building that is used to produce the precast products located within the centre of the yard. The southern third of this building is a workshop and this and the land beyond it to the SE is within the site outlined in red. The land is flat and currently has a concrete surface.

The site is enclosed along the southern boundary by whin bushes, the northern and western boundaries are not defined. The eastern boundary is not defined however there is a row of concrete blocks in piles along this boundary.

The area is within the Development Limits for Kilkeel and lies just off Newcastle Street. The site is to the south east of Local Landscape Policy Area KL 33 whose features are a large house and gardens (No. 54 Newcastle Street). It is within the Mournes and Slieve Croob Area of Outstanding Natural Beauty.

To the south east of the site there is the existing sewage works and a factory for processing fish. The entrance to the site runs along the boundary with Alexandra Drive, a cul-de-sac of semi-detached two storey dwellings and a filling station.



Site History:

The use of the yard for making concrete blocks was approved under application P/1977/0713 on 22.09.1977. The existing shed on the site for pre-cast concrete manufacturing was approved under application P/1981/0982 on 15.03.1982. The planning history demonstrates that the existing use as a commercial yard is established.

Planning Policies & Material Considerations:

- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Banbridge, Newry & Mourne Area Plan 2015
- PPS2 – Natural Heritage
- PPS3 – Access, Movement & Parking
- DCAN15 – Vehicular Access Standards
- PPS11 – Planning and Waste Management

Consultations:

Consultations were carried out with Environmental Health, TransportNI, NIEA Water Management Unit, NIEA Land and Resource Management Unit.

Environmental Health - have not received any complaints regarding noise associated with the overall site. The dwellings in the vicinity benefit from some screening from the site due to topography and layout. Therefore in view of the proposed end use being a facility dealing with ELV Scrap Metal, Environmental Health would have no objections to the proposed development.

Roads Service have no objection following the receipt of the revised P1 form in particular the traffic figures.

NIEA: WMU have no objections in principle to this proposal providing all the relevant statutory permission for this development are obtained.

NIEA: LRM Unit have no objections.

Objections & Representations:

The application was advertised in local newspapers on 28th March 2014, 27th June 2014, 21st October 2015 and 4th November 2015. 30 neighbouring properties were notified of the proposal in the initial round of consultation on 14th March 2014. Subsequent notifications were sent to neighbours and objectors on 17th June 2014 and 19th October 2015. Objections were received from a total of 26 properties in the surrounding area (most of which were copies of the same letter template), as well as from Mr Jim Wells MLA and Gordon Bell and Son Solicitors on behalf of an adjacent landowner (Bannerville Developments Ltd.)

The main issues raised in the letters of objection were noise impact, effect on property values, that a full EIA was not undertaken, potential pollution of harbour area, additional traffic generated, sub-standard entrance, and use unsuitable within a residential area. The correspondence from the solicitor centres on land ownership, specifically, whether the owners of the site had the right to access the site over his clients' property.

A noise assessment was undertaken by Lester Acoustics and submitted with the application. This found that the normal operations of the plant will not exceed recommended noise levels and this was accepted by Environmental Health. They have recommended mitigation conditions regarding operating hours and activity when the baler is present on site to ensure no unacceptable impacts on residential amenity. Therefore this concern cannot be given determining weight. Effects on the value of private property are not a material planning consideration. The proposal is of a relatively small scale as these facilities go and appropriate mitigation measures will be employed to ensure no pollution of the surrounding environment (including use of bunded tanks and interceptors in drains). The point of the facility is to reduce the risk of pollution by properly depolluting and disposing of the end of life vehicles. Following consultation with statutory bodies, a request for a full Environmental Statement could not be justified as the relevant matters can be assessed through the normal application process. Following clarification on the level of traffic to be attracted to the site, TransportNI has no road safety concern with the use of the existing access from Newcastle Street. The site has an established industrial use and is considered suitable for the proposal given the separation distances from residential properties (over 50m).

With regard to the matter of land ownership, the planning authority wrote to the agent concerning the challenge to the P2 certificate. The agent provided a solicitor's letter with accompanying title documents and a map to show that the applicant has an easement over the objector's site for use of the lane. Notice was served on the owner of the land on 10th September 2014 and an amended P2 certificate C was submitted on 11th September 2014. The Council is satisfied that the challenge to the ownership has been addressed, that the applicant controls the land necessary to carry out the development, and that the interested parties have had the chance to have their say. TransportNI was consulted and there was no change to their position. Any further disputes on the issue are a civil matter between the parties, but the planning application cannot be further held. Further correspondence was received

from Gordon Bell and Son Solicitors alleging inconsistency in the approach adopted by TransportNI on another application by their client using the same laneway. The Council is satisfied that each application is assessed on its own merits having regard to the circumstances of the proposal, policy requirements and consultee advice. As this application is considered acceptable (as indeed was the other one referred to – P/2014/0664/F), there is no prejudice and the application should be determined without further delay.

Consideration and Assessment:

The main issues to be considered are the principle of the waste management use proposed, visual issues associated with the storage of waste on the site, road safety and impacts on amenity.

The proposal exceeded the threshold of Category 11(E) of Schedule 2 of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2012. The previous planning authority was required under Regulation 10 to make a determination as to whether the proposal was for EIA development. Following the receipt of a number of consultation responses, it was determined on 16th April 2014 that an Environmental Statement would not be required as the environmental effects were not likely to be significant and could be assessed through the normal planning process.

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is currently within the remit of the Banbridge / Newry & Mourne Area Plan 2015 as the new council has not yet adopted a local development plan. The site is located within the settlement limit of Kilkeel, and is unzoned. There are no specific policies in the Plan that are relevant to the determination of the application and the application will be assessed against the operational policies of the SPPS and the retained PPS11.

Sustainable waste management is essential for the health and well-being of society, and our quality of life. The waste management industry is an important provider of jobs and investment across the region, with the potential to support future business development, investment and employment. The provision of waste facilities and infrastructure can make a valuable contribution towards sustainable development. The aim of the SPPS in relation to waste management is to support wider government policy focused on the sustainable management of waste, and a move towards resource efficiency. This proposal aims to sustainably manage waste by de-polluting and recycling end of life vehicles.

With regard to site selection, the planning authority will be guided by paragraph 6.313 of the SPPS which replicates much of the retained policy WM2 of PPS11. A suitable site must meet one or more of the five locational criteria. This site is considered to meet at least two of these criteria. It is located within an existing industrial area with an established use as a commercial yard. The pre-cast concrete works will remain in the western part of the yard and the development proposal will share a similar character with this existing use. It also makes use of previously developed land and will make use of part of an existing building. The Minister for the

Environment issued a statement in November 2013 to state that Best Practicable Environmental Option (BPEO) was no longer a material planning consideration following the publication of the revised Waste Management Strategy. The SPPS confirms at paragraph 6.323 that this remains the case. Therefore there is no requirement to demonstrate need for the facility provided it meets the locational criteria.

The environmental impact of the waste management facility must be assessed under paragraph 6.321 of the SPPS and policy WM1 of PPS11. The volume and tonnage of ELVs to be processed on the site has been specified in the supporting statement and the recycling of much of the material recovered is to be welcomed. Key consultees have no concerns regarding the type or volume of waste or the method of disposal. The proposal will not cause demonstrable harm to human health or result in an unacceptable adverse impact on the environment. The principal concern for residential amenity would be noise arising from the site. A noise assessment was undertaken by Lester Acoustics and submitted with the application. This found that the normal operations of the plant will not exceed recommended noise levels and this was accepted by Environmental Health. It is intended that a mobile baler will be brought onto the site either quarterly or monthly when there is sufficient volume of waste to be baled and removed. As this process would create additional noise on the particular days when it is present, Environmental Health have recommended mitigation conditions restricting the other machinery that can operate concurrently to a single excavator. They have also recommended restricted operating hours of 9am – 5pm Monday to Friday and 9pm – 2pm on Saturday to ensure no unacceptable impacts on residential amenity. Measures have been taken to ensure that in the event of a spill, there is no risk of pollution of the surrounding environment. This includes a detailed drainage plan, the use of an interceptor and bunds around storage tanks. Water Management Unit is content with the measures proposed. While it is acknowledged that there are residential areas beyond the site (principally off Newcastle Street and Rooney Road), the primary character of this area is commercial and industrial. The site's established use is as a concrete works while there is a sewage works and factories to the SE and a former sale yard and joinery works to the NW. The proposed use is considered compatible with these land uses. Its visual impact is mitigated by its depressed landscape setting and the screening provided by existing industrial development on the site. There are limited public views of the site and the proposed volume of outside storage is limited. Therefore the proposal will not harm the townscape of this part of Kilkeel, or the landscape quality of the Mourne AONB as required by PPS2 policy NH6. There will be no effects on archaeological or built heritage interests and no changes to flood risk. There will be no loss of agricultural land and no risk to air, water or soil resources.

The traffic assessment form in the planning statement submitted by the agent states that the proposal involves the processing of 5,400 tonnes of waste per annum. This equates to 19 tonnes into the site and 1 No. removal trip from the site per day. Overall this proposal will generate 10 No. two-way trips to/from the site on a daily basis. Vehicle types to and from the site will consist of 2 No. vehicles used by staff members and 4 No. HGVs for the traffic movement of waste deliveries to the site. The agent has subsequently submitted an amended P1 form which has shown that there are 2 staff vehicles, 10 visitor/customer vehicles and 15 good vehicles attending the premises daily and that this will not increase for this proposal.

TransportNI initially felt that the proposal was an unacceptable intensification of use of the existing access, but following a meeting and receipt of the amended P1 form with clarification on the existing level of traffic using the laneway, they are now content that there will be no intensification. They have no road safety concerns under PPS3 or DCAN15 with the existing access point and the nature and frequency of traffic movements associated with the proposed use. As there will be a reduction in the use of the concrete plant, the new use should result in less dirt and dust nuisance at adjoining properties. There is adequate space within the site for parking and circulation of vehicles.

In summary, the proposal has been found to comply with the relevant policies, is appropriately sited and will not harm the environment, residential amenity or other interests of acknowledged importance. The concerns raised by objectors have been fully assessed and cannot be given determining weight.

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 storage areas/facility shall only be for the use of the ELV depollution process and associated recycling of components.

Reason: To prevent other waste being brought onto the site.

3. No machinery shall be operated, no process shall be carried out and no deliveries taken at, or dispatched from the site outside the following times:
 Monday to Friday 9am – 5pm
 Saturday 9am – 2pm
 nor at any time on Sundays, Bank or Public Holidays.

Reason: To safeguard the living conditions of residents in adjoining and nearby properties.

4. At times when the Baler is operating on site only one Excavator shall be permitted to operate.

Reason: To ensure that acceptable noise levels are not exceeded at nearby residential properties.

Case Officer Signature:

Date:

Appointed Officer Signature:

Date:

Item 57 – Submission of objection

Re: Request for Speaking Rights - P/2014/0071/F - Item 57 on the agenda

wesley mcmurray to Colette.McAteer@nmandd.org

The points I would like to raise are as follows and are not the totally inclusive as I will want to include photos etc. and perhaps other items as well.

The main reason for our opposition to this proposal is the fact that having more and more vehicles gaining access to this property directly adjacent to the driveway to our home, & will create more of nuisance to us who live adjacent to this lane. At the moment access to this property has and is causing damage to our dividing wall and vehicles endeavouring to gain entry are having to swerve onto the oncoming traffic lane and this has already caused damage to a parked car across from this entrance. Also, has the current owner even looked at obtaining an alternative route into their establishment (as we residents were informed that there is a way to gain access via the harbour entrance) and thus have a safer and better way to conduct their business.

To show how flexible we have been, when this business originally opened we the residents gave the owner then over three foot of our dividing wall to enable them better entry. We also have to endure the 'bad look' to our driveway entrance, as a lorry knocked down our lovely brick pillar and neither the previous or new owners have reinstated it! We also have to endure the constant dust kicked up by the big lorries and we surely don't want to be increased!

As this is mostly a residential area we our concerned that if this is given the go ahead it could lead to a devaluation of our home property.

Best regards,

William McMurray



GORDON BELL & SON
S O L I C I T O R S

9 - 11 Newry Street, Rathfriland, Co. Down, BT34 5PY
T: 028 4063 0248 F: 028 4063 1016 E: info@gordonbellandson.co.uk

470

Our Ref: DB/JQ/5920F

Your Ref:

21st September 2016

Democratic Services
Newry, Mourne and Down District Council
Local Planning Office
O'Hagan House
Monaghan Row
Newry
BT35 8DJ

SENT VIA EMAIL ONLY: democratic.services@nmandd.org

Dear Sir,

Formal request to speak about the application listed below at the 28 September 2016 meeting of the Planning Committee

Planning reference: P/2014/0071/F

Proposal: Change of use to part of commercial (pre-cast concrete works) yard to a waste management facility for the depollution and dismantling of End of Life Vehicles (ELVs) and the sorting and bulking of scrap metal. Works will include the use of existing vehicle workshop for the ELV depollution process, external storage of ELVs (unpolluted and polluted) and erection of walled enclosure for storage of non-ferrous scrap metal, roofing of existing enclosure for the storage of ferrous metals, banded fuel storage, and associated boundary treatments

Location: Lands South East of No. 54 Newcastle Street Kilkeel BT34 4AQ

I refer to the above application which appears on page 46 of the Planning Schedule which will be considered at the Planning Committee Meeting due to be held on 28 September 2016.

I am the solicitor for an adjoining business and I submitted correspondence dated 3rd September 2014, 18th September 2014, 28th September 2015, 23rd October 2015 and 16th February 2016 while the application was being considered.

In keeping with the '*Planning Committee Operating Protocol*' I wish to arrange an appearance before the committee to present information on behalf of my client.

The information which I wish to present is set out below.

Please confirm that my request to appear before the Committee has been granted.

David J.G. Beil LL.B. | William V. McMurray LL.B.

Also at 11A Bridge Street, Kilkeel, Co. Down. Tel: (028) 4176 4857 (Tuesday Afternoons)
and 1 Rampart Street, Dromore, Co. Down. Tel: (028) 9269 8066 (Wednesday Afternoons)
www.gordonbellandson.co.uk

INFORMATION WHICH I WISH TO PRESENT TO THE COUNCIL

As per correspondence dated:

- 1. 3rd September 2014,**
- 2. 18th September 2014,**
- 3. 28th September 2015,**
- 4. 23rd October 2015,**
- 5. 16th February 2016.**
- 6. Photographs as attached.**

Yours faithfully

Gordon Bell & Son.

Encs.



GORDON BELL & SON
SOLICITORS

9 - 11 Newry Street, Rathfriland, Co. Down, BT34 5PY
T: 028 4063 0248 F: 028 4063 1016 E: info@gordonbellandson.co.uk

DB/JQ/5920F

Your Ref:

3rd September 2014

Southern Area Planning Office
Marlborough House
Central Way
CRAIGAVON
BT64 1AD

Dear Sirs,

Re: Planning application P/2014/0071/F
Our Client: Bannerville Developments Limited

We refer to the above application and to your letter of 27 August 2014.

Our client has not yet received the notification required by Article 22 of the Planning (NI) Order 1991, however, we have been instructed to make the Department aware of the situation regarding access to the site which is the subject of planning application reference P/2014/0071/F.

The lane way from Newcastle Street to the site which is the subject of planning application reference P/2014/0071/F runs through our client's land. The 'Right of Way' to the subject site is restricted to the width of the existing lane way until it meets the public footpath where it splays very slightly across our client's frontage towards the junction of Mill and Newcastle Roads. Attached is a copy of the Land Registry map of folio DN141910 Co. Down which is owned by our client. The "Right of Way" is indicated with blue hatching and you will note that almost all of the easement is registered over the public roadway at Newcastle Street and in fact grants rights over only a small portion of our clients folio.

As can be seen from the damage to the surface of our client's forecourt the narrowness of the lane way where it joins Newcastle Street forces vehicles to encroach on the forecourt as they turn into the lane way.

Our client has never consented to vehicles encroaching on its land. In fact, our client intends to totally enclose and secure its land, and through planning application reference P/2014/0664/F has sought permission to do so. However, even before our client's application is approved all vehicles entering the lane way which serves the site which is the subject of planning application P/2014/0071/F will be prevented from encroaching

on its land. Encroachment will, of course, be permanently stopped when our client carries out the works proposed in planning application reference P/2014/0664/F.

The information contained in this letter is clearly highly material to the Department's decision on planning application reference P/2014/0071/F and therefore, we would ask the Department to forward this letter to Transport NI and ask Transport NI to review their position on planning application reference P/2014/0071/F in light of the contents hereof. We would further request that the Department reassesses planning application reference P/2014/0071/F when the comments received from Transport NI are available.

Please acknowledge safe receipt of this letter.

Yours faithfully

A handwritten signature in black ink, appearing to be 'J. ...', followed by a period.

DB/JQ/5920F

18th September 2014

Southern Area Planning Office
Marlborough House
Central Way
CRAIGAVON
BT64 1AD

Dear Sirs,

Re: Planning application P/2014/0071/F
Our Client: Bannerville Developments Limited

We refer to the above planning application and note that Hoy and Dorman Ltd, acting on behalf of the applicant, has, by letter dated 10 September 2014 informed the Department that they intend to submit a map showing the extent of the easement enjoyed by the applicant.

Clearly, given our clients title, it is important that we are provided with an opportunity to comment on the map Hoy and Dorman Ltd intend to submit.

Please ensure that both our client and this office are alerted when Hoy and Dorman Ltd furnish the Department with the map referred to in their 10 September 2014 letter.

Yours faithfully

DB/SR/5920/F

28th September 2015

Mr Anthony McKay
Chief Planning Officer
Newry, Mourne & Down District
Council,
Downshire Estate
Ardglass Road
DOWNPATRICK
BT30 6GQ

Dear Sir

PLANNING REFERENCE: P/2014/0071/F – SOUTH EAST OF 54 NEWCASTLE STREET, KILKEEL, CO DOWN

We refer to our letters of 3rd September 2014 and 18th September 2014 regarding the above planning application. Both letters are on the Planning Portal NI file on the subject application.

In our letter of 3rd September 2014 we pointed out that the laneway which serves the proposed development runs through our client's land. DOE NI, the then planning authority, wrote to Hoy Dorman, the applicant's agent, requesting confirmation that the applicant owned all of the site outlined in red on the map submitted with the application. Hoy Dorman, by letter dated 10th September 2014, indicated that they would submit a map which would show their client's easement.

We wrote again on 18th September 2014 and referred to Hoy and Dorman's intention to provide an easement map. Our letter also stressed the need to ensure that our client was notified when the easement map was submitted and he be given an opportunity to examine it and make representations.

Our client has not been notified of any easement map or other new information being submitted by or on behalf of the applicant, yet the Council appears to have purported to decide that the application can be approved. This raises a number of questions.

Firstly, if an easement map or other information has been submitted, our client has not been informed and therefore has been deprived of his legal right to examine it and make representations.

Secondly, if no easement map or other information has been submitted then we cannot understand how clarification of ownership could be required and then, in the absence of any clarification, a decision could be taken to approve without ownership being clarified.

If the first scenario is correct then the Council is in breach of its statutory duty which requires it to ensure that those with an interest in land which is the subject of a planning application are provided with an opportunity to make representations on any relevant information regarding that land.

If the second scenario is correct then the Council has acted in a totally unreasonable manner in that it was originally decided (rightly), that ownership needed to be clarified then this requirement was ignored and the Council decided it could approve the application without clarifying ownership.

We now require the Council to immediately confirm in writing that:-

- The application will be held until the Council confirm if a map or other information regarding ownership has, or has not, been received and,
- If a map or other information has been received the application will be held and reconsidered when our client has examined and made representations on the map or any other information which may have been received, and
- If no map or other information has been received the Council explain by return how it could ignore the original request for clarification regarding ownership and decide that the application could be approved without the required clarification.

We note that the issue of ownership is not considered in the Case Officer's Report on the Planning Portal NI.

We await hearing from you as a matter of urgency and in the event that the Council proceeds to purport to approve this application without fully addressing the issues raised in this letter our client reserves the right to commence such Legal Proceedings as may be required to protect his position and to ensure compliance by the Council with its statutory duties. Should such proceedings be required this and previous correspondence will be produced to the Court and furthermore the costs of any legal action sought against the Council.

Yours faithfully

cc. Mr Anthony McKay, Newry Mourne & Down District Council, Council Offices, Monaghan Row, Newry, Co Down

cc. Mr Liam Hannaway, Newry Mourne & Down District Council, Downshire Estate, Ardglass Road, Downpatrick, BT30 6GQ

DB/JQ/5920F

23rd October 2015

Mr Anthony McKay
Chief Planning Officer
Newry, Mourne & Down District Council
Council Offices
Monaghan Row
Newry
Co Down

Dear Sir,

**Re: Planning Ref: P/2014/0071/F – South East of 54 Newcastle Street, Kilkeel,
Co. Down**

I refer to the above application and our letter of 28th September 2015.

I note from the Planning Portal NI (PPNI) that a document referred to as a 'Transfer Document' was posted online on 6 October 2015. I further note that while the 'Transfer Document' was submitted along with a letter from C Murnion and Co Solicitors dated 9 October 2014, the PPNI records the date of receipt as 6 October 2015.

Having examined the 'Transfer Document' we would point out that the applicant has no legal entitlement to cross our client's forecourt when entering the subject lane. Furthermore, our client has now begun preparing to implement the development which he obtained planning approval for under reference P/2014/0664/F on 7 August 2015. This approval permits the erection of a 1 metre high permanent metal post to support a 6 metre wide hinged barrier. The approved metal post is located on the 'out of town' side of the subject lane at the point where the lane abuts the footway. The erection of this post will prevent vehicles crossing our client's forecourt when entering the subject lane.

It is clearly important that the Council sends a copy of this letter to Transport NI and takes into account Transport NI's response when it reconsiders application P/2014/0071/F

Yours faithfully

DB/JQ/5920F

16th February 2016

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

Dear Sirs,

Our client: Mr R Sloan

Application reference: P/2014/0071/F

Location: Lands South East of No. 54 Newcastle Street, Kilkeel, BT34 4AQ

Proposal: Proposed change of use to part of commercial (pre-cast concrete works) yard to a waste management facility for the depollution and dismantling of End of Life Vehicle (ELVs) and the sorting and bulking of scrap metal. Works will include the use of existing vehicle workshop for the ELV depollution process, external Storage of ELVs (unpolluted and polluted) and erection of walled enclosure for storage of non-ferrous scrap metal, roofing of existing enclosure for the storage of ferrous metals, bunded fuel storage, and associated boundary treatments.

I refer to the above application and to my previous letters dated 28th September 2015, 23rd October 2015.

Transport NI (TNI) replied to your re-consultation on application P/2014/0071/F on 8 December 2015 (copy enclosed). The heading on TNI's reply refers to our letter.

In its response, TNI has indicated that it has no objections to application P/2014/0071/F provided the information submitted is accurate.

When our client's application (reference P/2014/0664/F) to replace 2 existing car wash machines and erect a new boundary wall, gated entrances, removable bollards and shelter for car wash staff, was under consideration, TNI indicated that a 6m entry/exit radius was required at the existing lane. It was stated that the 6m radius was required to ensure adequate pedestrian protection and enhance traffic progression (see enclosed response dated 15 December 2014).

The laneway referred to by TNI in its 15 December 2014 response is the laneway which

serves the P/2014/0071/F proposal.

After considering our clients application for 12 months, the Council approved it. However, the presence of a 1 metre high barrier support at the entrance to the lane means that the 6m entry/exit radius required by TNI cannot be provided. From TNI's 8 December 2015 response on application P/2014/0071/F we now know that it is content with this proposal, even though the required 6m radius at the existing lane can no longer be provided.

In short, TNI's demand for 6m entry/exit radius at the entrance to the lane delayed our client's consent by nine months, yet, TNI is now prepared to support the P/2014/0071/F proposal, which uses the same lane, even though the previously required 6m radius cannot be provided.

Transport NI is the statutory authority charged with responsibility for ensuring that pedestrians and road users' safety is not compromised by development. It is therefore difficult to understand how TNI could regard a 6m radius at the entrance to the subject lane to be essential when considering our client's application but not a requirement when responding to application P/2014/0071/F, which uses the same lane.

The safety of pedestrians and road users is an important consideration when assessing application P/2014/0071/F, therefore, we contend that the Council must ask TNI to explain why it no longer requires a 6m radius at the entrance to the lane.

Yours faithfully

Encs.

C.C. Mr W N R Laughlin, Transport NI, Downpatrick









Statement to be presented Planning Committee 28th September 2016

RE: P/2014/0071/F for Mr John Perry

Proposal: Change of use to part of commercial (pre-cast concrete works) yard to a waste management facility for the depollution and dismantling of End of Life Vehicles (ELVs) and the sorting and bulking of scrap metal. Works will include the use of existing vehicle workshop for the ELV depollution process, external storage of ELVs (unpolluted and polluted) and erection of walled enclosure for storage of non-ferrous scrap metal, roofing of existing enclosure for the storage of ferrous metals, bunded fuel storage and associated boundary treatments.

Lands at: Lands South East of No. 54 Newcastle Street, Kilkeel

Speaker: Gemma Jobling
JPE Planning

Agent acting on behalf of
applicant, Mr John Perry, J
Perry & Sons

On behalf of my client, the applicant, J Perry & Sons thank you for the opportunity to address the Committee.

We welcome the Planning Officer's recommendation to approve this application. We firmly believe this proposal fully accords with planning policy and is respectfully designed to fit within the local context. We are in attendance today to answer any questions or concerns the Committee may have in respect of the proposal. We don't wish to repeat the synopsis provided by your planning officers; instead we would like to highlight the key benefits of this proposal for the local area and address concerns raised by the objectors to the scheme.

J Perry & Sons- Well Respected Family Business

The applicant, J Perry & Son is a very well respected and long established local family business in Kilkeel with strong ties to the local community. This subject proposal

is to be operated by this established family business and will contribute the existing portfolio business operated by the firm.

This family business started in 1926, some 90 years ago with the coal business. Some 30 years ago the business diversified into supplying home heating oil to the town and the district. The business then acquired the subject site, from 'Kilkeel Concrete Company' in 2013. They took over this business as a going concern and continue to operate 'Kilkeel Concrete' at this site producing concrete blocks on the site.

The wider family business employs over 20 people in the town and have sustained these jobs in recent difficult times. The business regularly contributes to local community events, such as sponsoring local football teams and events at the Mourne Golf Club.

Diversification & Growth of Existing Business

This proposed development seeks to further diversify the family business to include a waste facility for reclamation of vehicle parts from end of life (scrap) vehicles. This will operate alongside the existing 'Kilkeel Concrete' business.

This application will utilise an un-used part of the existing concrete yard. The end of life vehicles will be stored on the existing concrete yard in the back corner beside the sewerage works, and the depolluting and dismantling operations will take place within an existing workshop (which is currently used to repair and maintain vehicles of Kilkeel Concrete), inside the existing shed.

Jobs and Employment

This will create a further 2 -3 jobs and help to sustain the existing jobs at Kilkeel Concrete by off-setting high running costs of the Kilkeel Concrete business, such as rates and utilities.

Utilising Existing Brown Field Site

This proposal is entirely consistent with the planning policy for waste operations such as this. The prevailing policy, PPS 11, promotes these types of development to be located within towns, in existing industrial areas and where possible to re-use existing buildings. This proposal wholly accords with this:

- The site is located within a long established industrial area and sits adjacent to the town's sewerage works and neighbouring industrial land uses.
- The operation will re-use an existing industrial concrete yard and an existing shed, which conveniently already operates a work shop.
- It will be accessed via the existing entrance in to the Concrete business.
- It will benefit from the existing screening around the yard, and as a result the proposed waste operation will be difficult to discern from surrounding area.

Waste Management Licence

I must emphasise that all waste operations are extremely heavily regulated by the NIEA and operated under the strict terms of a Waste Management Licence. This will be tightly controlled and will limit;

- Type of wastes to be accepted/ processed at the site
- Volume of waste to be processed at the site
- Volume of waste that can be on the site
- Time that any waste stream can be stored on the site

As the NIEA monitor all waste operations and carry out regular visits, this should allay any concerns about the site operations.

Response to Objections;

We understand some residents within Kilkeel have raised concerns about the proposal. Whilst not all of these residents occupy neighbouring properties and/or will not be directly affected by the proposal we are nevertheless happy to address these concerns:

Noise

In terms of Noise – the site occupies a much lower ground level than the surrounding development and benefit from a high degree of enclosure. It is bound by fences, treed boundaries and is screened by existing operations of the Concrete Business.

The business will involve end of life vehicles being brought into the site and offloaded in the rear corner of the site. Vehicles will then be moved into the shed where the depolluting and dismantling will all occur internally within the shed. The vehicle shells will then be moved outside for storage. Similarly scrap metal will be stored externally in a designed walled bay. The noise will be limited to vehicle movements and occasionally lifting and moving of vehicles and waste metal.

A Noise Assessment was undertaken by an independent expert. This confirmed that the noise impact of the operation would not unduly affect neighbouring properties.

In fact, owing to the nature of the operation the existing concrete business results in greater noise emissions than those resulting from the proposal.

Traffic

The proposal is for a small scale waste operation to run alongside the existing Concrete Business. The volume of traffic will not be significant in this context.

This was accepted and agreed by Transport NI.

Odour/ Smell

There will be no smell or odour arising from the proposal.

Summary

It is therefore our respectful view that this application ought to be approved:

- It is sensitively located in a long established industrial area, which observes a suitable separation distance from housing uses.
- It benefits from a strong degree of enclosure that will minimise any visual or other environmental effects.
- It will offer the town with a facility for the treatment of end of life vehicles and collection of waste metal.
- It will help to create new employment and sustain existing jobs at Killeel Concrete
- It is proposed by a reputable local business that has supported local community events for almost 100 years.
- Finally this proposal will contribute to Northern Ireland obligations to increase the amount of waste to be recycled and reclaimed, as laid down by the EU Landfill Directive. It is wholly consistent with the Waste Hierarchy and the Waste Management Strategy. It therefore ought to be welcomed

Gemma Jobling MRTPI

JPE Planning Ltd

ITEM NO 46
APPLIC NO P/2014/0670/F **Full DATE VALID** 8/14/14
COUNCIL OPINION REFUSAL
APPLICANT Mr Frank King C/O Agent **AGENT** ERES Limited
 Mourne House
 41-43 Downshire
 Road
 Newry
 BT34 1EE
 02830250135

LOCATION Lands to the rear of No. 33 Flagstaff Road and associated farm complex (shed approx. 45 metres to the west of existing dwelling with hardstanding extending approx. 50 metres further west and 33 metres further north-west of shed)

PROPOSAL Retention of existing shed and hard standing area for agricultural purposes (revised address and plans)

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

- 1 The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY11 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not demonstrated that it is to be run in conjunction with the agricultural operations on the farm, it does not involve the re-use or adaptation of existing farm buildings and it has not been demonstrated that there are no other buildings available to accommodate the proposal.
- 2 The proposal is contrary to the Strategic Planning Policy Statement and Policy CTY12 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that the applicant has not provided sufficient information to confirm that there are no suitable existing buildings on the holding or enterprise that can be used and it has not been demonstrated that there are no alternative sites available at another group of buildings on the holding and that health and safety reasons exist to justify an alternative site away from the existing farm buildings and that the alternative site away is essential for the efficient functioning of the business..
- 3 The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy NH 6 of the Planning Policy Statement 2, Planning and Nature Conservation in that the site lies within an Area of Outstanding Natural Beauty and the development is not of an appropriate design which is not sympathetic in appearance and design to the special charcteter of the AONB.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: P/2014/0670/F

Date Received: 14.08.14

Proposal: Retention of existing shed and hard standing area for agricultural purposes

Location: Lands to the rear of No. 33 Flagstaff Road and associated farm complex (shed approx. 45 metres to the west of existing dwelling with hard standing extending approx. 50 metres further west and 33 metres further north-west of shed)

Site Characteristics & Area Characteristics:

Site is located 1.7 miles south of Newry within the open countryside within an Area of Outstanding Natural Beauty. The existing shed and hard standing are located within an existing commercial yard/ fuel business known as Fathom Fuels.

The existing shed is constructed of concrete block and cladding with a roller shutter door and entrance doorway. A hopper is attached to the building along with fuel pipes which run from adjacent storage tanks. At the time of inspection the building was used for the storage of bagged coal, sticks, blocks etc. The overall premises and yard are in use for the storage and sale of fuel.

Site History:

EN/P/2012/0070/CA/01 – Unauthorised change of use from agriculture to storage and sales of fuels, siting of associated office, creation of associated areas of hard standing and concrete base and erection of associated buildings and walls.
Outcome: The enforcement notice wording is amended but overall the appeal is upheld and a period of 6 months given for compliance. (Informal hearing 27.06.13, decision 29.07.13 - Application site)

P/2012/0070/CA - 31 Flagstaff Road, Fathom Lower (Main Portion), Cloghoge, Newry, Armagh, BT35 8NR, Unauthorised fuel sales yard. (Court action being pursued)

Planning Policies & Material Considerations:

Banbridge/ Newry and Mourne Area Plan 2015: The site is within the open countryside within an AONB

Planning Policy and Advice considered: SPPS, PPS2, PPS3, PPS21 and DCAN15

Additional Information Provided:

Correspondence was forwarded to the agent on the 19th September 2014 during initial stages of processing where he was invited to provide additional information to support the applicant's case, from this only farm maps and an amended P1C form were provided.

It is noted that correspondence attached to the adjacent application P/2014/0678/F and dated 28th October 2014 is also relevant to this case and has also been considered.

SPPS and PPS21 (CTY1, CTY 11 and CTY12)

The policy provides a list of acceptable non-residential which includes provision for farm diversification proposals as well as agricultural development in accordance with policies CTY 11 and 12 respectively.

Farm Diversification (SPPS and PPS21 - CTY11):

The Department of Agriculture in their consultation response dated 26.11.14 have indicated that the applicant has been a member of the farm business since 1994, having a farm business i.d. for more than 6 years with single farm payments claimed within this time, thus indicating that the farm business is currently active and established.

The agent in correspondence dated 28th October 2014 indicates that the 'existing farm yard and fuel sales are intertwined'. Whilst the extent of the application site includes ground within the farm holding (fields 11A and 11B) the existing shed and hard standing are nevertheless a separate entity from the farm activities on the holding and are clearly contained within an existing commercial enterprise. Whilst the agent states that there the existing building is necessary as all other buildings on the holding are fully utilised for farming activities and there are no options available. Despite this assertion, this has not been fully demonstrated nor how it will be run in conjunction with agricultural operations of the farm.

Whilst the green clad and concrete block finishes are typical materials found on agricultural buildings within the locality. The building itself has been purpose built and designed for commercial use in association with a fuel business and not for agricultural purpose. The building does not link or cluster with any other farm buildings as characterised within the AONB locality. Whilst an agricultural use is deemed an appropriate land use at this location the retention of such a suburban building for such purpose is inappropriate and excessive in terms of size and scale for its intended use. The retention of the building and hard standing will continue to detract from the area despite its proposed use. Given the overall existing suburban

form which will be maintained through retention this will still contribute negatively to the visual quality of the area.

Whilst there is scope within CTY 11 for the reuse or adaption of buildings for farm diversification proposals this is only applicable when they are existing farm buildings. Given the current use of the building and yard as part of a commercial enterprise this is not relevant in this case. Overall proposals fail to meet the policy tests of SPPS and CTY11.

Agricultural Development (SPPS and PPS21 – CTY12)

Given the comments from the Department of Agriculture dated 26.11.14 it is acknowledged that the applicant has an active and established farm however no information has been submitted to justify why the proposal is necessary for the efficient operation of the holding or enterprise.

The farm business is registered to the applicant at No. 83 Flagstaff Road with an extensive agricultural holding, the existing shed and hard standing lie outside the farm holding. Although planning policy gives consideration to an alternative site away from the existing farm buildings this is only in exceptional circumstances. However, in this instance no justifiable case has been presented as to why the development could not have been located elsewhere within the holding.

The existing building and hard standing area are currently in use commercially, as part of a fuel storage and distribution business and is not used for agricultural purpose. The building/ hard standing area are within a self-contained yard separated from the remainder of the farm holding with no case presented that the building and hard standing will be specifically for an agricultural use.

Furthermore the building has been designed for the purposes of a commercial nature with the appearance, height, size, scale along with roller shutter doors, link to oil tanks and a hopper have a suburban appearance which is not typical of agricultural development expected within the countryside.

Proposals fail to meet the requirements of planning policy.

Impact to Amenity (4.11 and 4.12 of the SPPS)

Whilst Environmental Health in their consultation response dated 2nd December 2014 raised no concerns. However due to the nature of development at the site including the level of activity the Planning Authority would have concern in terms of potential noise, general nuisance and visual intrusion therefore recommend refusal on this basis.

Development within the AONB (SPPS and PPS2)

Although the shed and hard standing already exist at this location the overall design, appearance and use for commercial purposes are out of context within the rural setting of the AONB. Although the proposed retention for agricultural purpose may be more acceptable in terms of land uses expected within this designated area it cannot overcome the fact that the existing building/ hard standing are suburban in form.

The continued retention of the building and hard standing will continue to be inappropriate to this location and will maintain an adverse visual appearance which is and will continue to be unacceptable.

Consultations:

Transport NI (20.11.14) – A 1:500 scale plan showing access details with sightlines

Environmental Health (02.12.14) - Retention of agricultural shed is located 75m from a domestic dwelling not associated with the farm, potential for nuisance

DARD (26.11.14) - Business i.d. and single farm payments claimed for more than 6 years, a member of the business since 1994

NIW (14.11.14) – Generic response

Objections & Representations

Neighbour notification and re-notification 23.08.16 due to changes in plans and amended address to 6 properties

Advertised 19.08.14 and re-advertised

No objections received

Consideration and Assessment:

Proposals are located outside the existing agricultural holding of the applicant, contained within an existing commercial enterprise which is separated and self-contained. It has not been clearly demonstrated that the proposed uses will be run in conjunction with and are required for the efficient running of existing agricultural operations or that 'existing farm buildings' could not be utilised for such purposes elsewhere within the farm holding. The existing building and hard standing are inappropriate within the AONB designed for commercial enterprise which in itself has detracted from the visual appearance of the area the retention of such will not overcome its suburban appearance and will continue to have adverse visual consequences for the area.

Overall proposals fail to meet planning policy requirements of SPPS, PPS21 (CTY11 and CTY 12) and PPS2, therefore it is recommended to refuse the application.

Recommendation: Refusal

Refusal Reasons:

1. The proposal is contrary to the Strategic Planning Policy Statement and Policy CTY 11 of Planning Policy Statement 21 in that:
 - the applicant has not demonstrated that it is to be run in conjunction with the agricultural operations;
 - the character and scale of the development is not appropriate to its location
 - it has not been demonstrated that there are no suitable existing buildings on the holding that can be used or that there are no sites available at another group of buildings on the holding before considering this alternative site for the location of the farm diversification proposal
 - the development, if permitted, will have an adverse impact on the natural heritage;

- it does not involve the re-use or adaptation of existing farm buildings and it has not been demonstrated that there are no other buildings available to accommodate the proposal.

and that there are no overriding reasons why this development is essential and justifiable at this rural location.

2. The proposal is contrary to the Strategic Planning Policy Statement Policy CTY 12 of Planning Policy Statement 21 of PPS 21, in that:
 - it has not been demonstrated that it is necessary for the efficient functioning of the agricultural holding
 - its character and scale are not appropriate to its location
 - the development will have an adverse impact on designated AONB
 - it will not result in detrimental impact on the amenity of residential dwellings outside the holding or enterprise
 - it has not been demonstrated that there are no suitable existing buildings on the holding that can be used or that there are no sites available at another group of buildings on the holding before considering this alternative site.
 - the design is not sympathetic to the locality and is not sited beside existing farm buildings
3. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy NH 6 of the Planning Policy Statement 2, Planning and Nature Conservation in that the site lies within an Area of Outstanding Natural Beauty and the development is not of an appropriate design which is sympathetic in to the character and appearance of the AONB.
4. The proposed development would if permitted harm the living conditions of residents of Flagstaff Road by reason of noise, visual intrusion and general nuisance.

Case Officer:

Authorised Officer:

Photographs:



Existing shed to be retained



Existing shed to be retained



Existing shed to be retained



Existing shed and yard to be retained

Existing yard



Existing yard and shed



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NEWRY, MOURNE & DOWN COUNCIL

Local Planning Office

Monaghan Row,

Newry,

BT35 8DJ

Reference: P/2014/0670/F
Applicant Name: Mr Frank King
Proposal: Retention of existing shed and hard standing area for agricultural purposes (revised address and plans)
Site Location: Lands to the rear of No. 33 Flagstaff Road and associated farm complex (shed approx. 45 metres to the west of existing dwelling with hardstanding extending approx. 50 metres further west and 33 metres further north-west of shed)

Newry, Mourne & Down Local Planning Office intends to refuse this application on the grounds that:

1 The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY11 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not demonstrated that it is to be run in conjunction with the agricultural operations on the farm, it does not involve the re-use or adaptation of existing farm buildings and it has not been demonstrated that there are no other buildings available to accommodate the proposal.

2 The proposal is contrary to the Strategic Planning Policy Statement and Policy CTY12 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that the applicant has not provided sufficient information to confirm that there are no suitable existing buildings on the holding or enterprise that can be used and it has not been demonstrated that there are no alternative sites available at another group of buildings on the holding and that health and safety reasons exist to justify an alternative site away from the existing farm buildings and that the alternative site away is essential for the efficient functioning of the business..

3 The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy NH 6 of the Planning Policy Statement 2, Planning and Nature Conservation in that the site lies within an Area of Outstanding Natural Beauty and the development is not of an appropriate design which is not sympathetic in appearance and design to the special character of the AONB.

Preliminary Matters

The Planning Authority has based their first refusal reason around Policy CTY11 from PPS 21 and the SPPS which relate to farm diversification. This application does not seek to diversify from the existing farm. This application is for the retention of the existing building and hard standing area for agricultural purposes in relation to the existing farm holding. Any reference to Policy CTY11 should therefore be removed from this application as it does not reflect the proposal.

Consideration

The application site is within the countryside as defined in the Adopted Banbridge, Newry & Mourne Area Plan 2015. There are no specific policies within the plan of relevance to the appeal proposal. The Strategic Planning Policy Statement for Northern Ireland Planning for Sustainable Development (SPPS) was published on 28th September 2015. It states that until such times as a Plan Strategy for the whole of the council area has been adopted, Local

Planning Authorities (LPAs) will apply existing policies within the Planning Policy Statements (PPSs) that have not been cancelled. Planning Policy Statement 21: Sustainable development in the Countryside (PPS 21) provides the relevant planning context for determining this appeal.

Planning Policy Statement 21: Sustainable Development in the Countryside, (PPS 21), Policy CTY 1 sets out a range of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development and that other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement. One of these is an agricultural shed in accordance with Policy CTY 12.

Policy CTY 12 states that planning permission will be granted for development on an active and established agricultural holding where it is demonstrated that it meets five criteria.

The policy is permissive in nature and outlines exactly which criteria are required for planning permission to be granted.

Appendix 1 contains details of the existing farm holding which includes the farm maps previously submitted to the Planning Authority. I have also included a spatial map identifying the farm in its entirety for ease of use.

The existing farm buildings are centred around the application site. This is the location of the principle group of farm buildings. **Appendix 2** contains an aerial photograph of the existing farm yard which includes the application building and 3 other existing buildings on the farm. These buildings are all full to capacity with either cattle or farm materials and machinery. There is no room within the buildings for additional use. The application shed is therefore essential to facilitate the longevity and efficiency of this considerable farm enterprise.

The Case Officer's report states "Correspondence was forwarded to the agent on the 19th September 2014 during initial stages of processing where he was invited to provide additional information to support the applicant's case, from this only farm maps and an amended P1C form were provided."

Despite numerous requests from our office over the past 2 years for an update on the application did any of the case officers involved request any additional information relating to the justification of the proposal. It therefore comes as a disappointment that this application has now been presented to the Council as a refusal.

While the applicant resides at No. 83 Flagstaff Road, the principle group of buildings on this holding is located at the application site. This fact would have been quite evident to the case officer during her site visit. It is therefore not necessary to provide health and safety reasons for an off-site location as the proposal is located beside existing agricultural buildings.

The Case officer also states "Whilst the green clad and concrete block finishes are typical materials found on agricultural buildings within the locality." Despite the assertion that the building was initially designed for commercial purposes, the Case Officer has inadvertently agreed that the building bears a resemblance to agricultural design. This application seeks the retention of the shed for agricultural purposes only. This type of shed is entirely appropriate to this rural area as it represents modern agricultural building design where many agricultural buildings now utilise concrete walls and green metal sheeting in their construction. The shed is also located within an existing agricultural yard and beside other agricultural buildings of similar scale. It is therefore contended that this shed is easily assimilated into this landscape.

Whilst there is an enforcement notice on this site, the applicant is exercising his right to regulate the development through the submission of a planning application.

It is proposed to use this building for various agricultural uses throughout the year. Cattle are grazed in these fields throughout the year and this shed will act as shelter for the animals

from the elements and as a storage facility for animal bedding, feedstock and medicines. The shed will also be utilized for the storage of farm machinery.

The welfare of an animal includes its physical and mental state and it is considered that good animal welfare implies both fitness and a sense of well-being. Any animal kept by man, must at least, be protected from unnecessary suffering.

An animal's welfare, whether on farm, in transit, at market or at a place of slaughter should be considered in terms of 'five freedoms' as defined by the Farm Animal Welfare Council. These freedoms define ideal states rather than standards for acceptable welfare. They form a logical and comprehensive framework for analysis of welfare within any system together with the steps and compromises necessary to safeguard and improve welfare within the proper constraints of an effective livestock industry.

1. Freedom from Hunger and Thirst - by ready access to fresh water and a diet to maintain full health and vigour.
2. Freedom from Discomfort - by providing an appropriate environment including shelter and a comfortable resting area.
3. Freedom from Pain, Injury or Disease - by prevention or rapid diagnosis and treatment.
4. Freedom to Express Normal Behaviour - by providing sufficient space, proper facilities and company of the animal's own kind.
5. Freedom from Fear and Distress - by ensuring conditions and treatment which avoid mental suffering.

As mentioned above, the other existing sheds within this agricultural yard are fully utilised and there are no other examples of agricultural buildings on the holding. Although the

applicant lives at 83 Flagstaff Road there are no available agricultural buildings at that address. The principle group of agricultural buildings on the holding is at the application site.

As part of the Ulster Farmers Union the Applicant must, under the welfare legislation, take all reasonable steps to ensure that he does not cause any unnecessary pain, suffering, injury or distress to his animals. I feel it must be stressed at this point that Criteria A from CTY12 requires that the proposal is necessary for the **efficient** use of the agricultural holding. For the Applicant to remain as part of his existing animal schemes and memberships it is essential that shelter facilities are provided at this isolated part of the holding.

The main role of any farmer with breeding stock is to ensure that his stock is healthy and produce a calf every year. Farmers every day carry out routine general health inspections of their stock, and on numerous occasions throughout the year must carry out various routine treatments. This ranges from foot trimming, ultra-scanning, administering of prescribed medicines such as routine worming, fluke dosing etc. On many occasions assistance with calving is essential to ensure the health of the mother and newly born calf. It is therefore vital that Mr. King has the appropriate type and amount of facilities for his herd size to allow him to carry out these inspections and assistance when necessary.

In light of the above submission and the information previously submitted to the Council I would respectfully request that this application be deferred for further consideration.

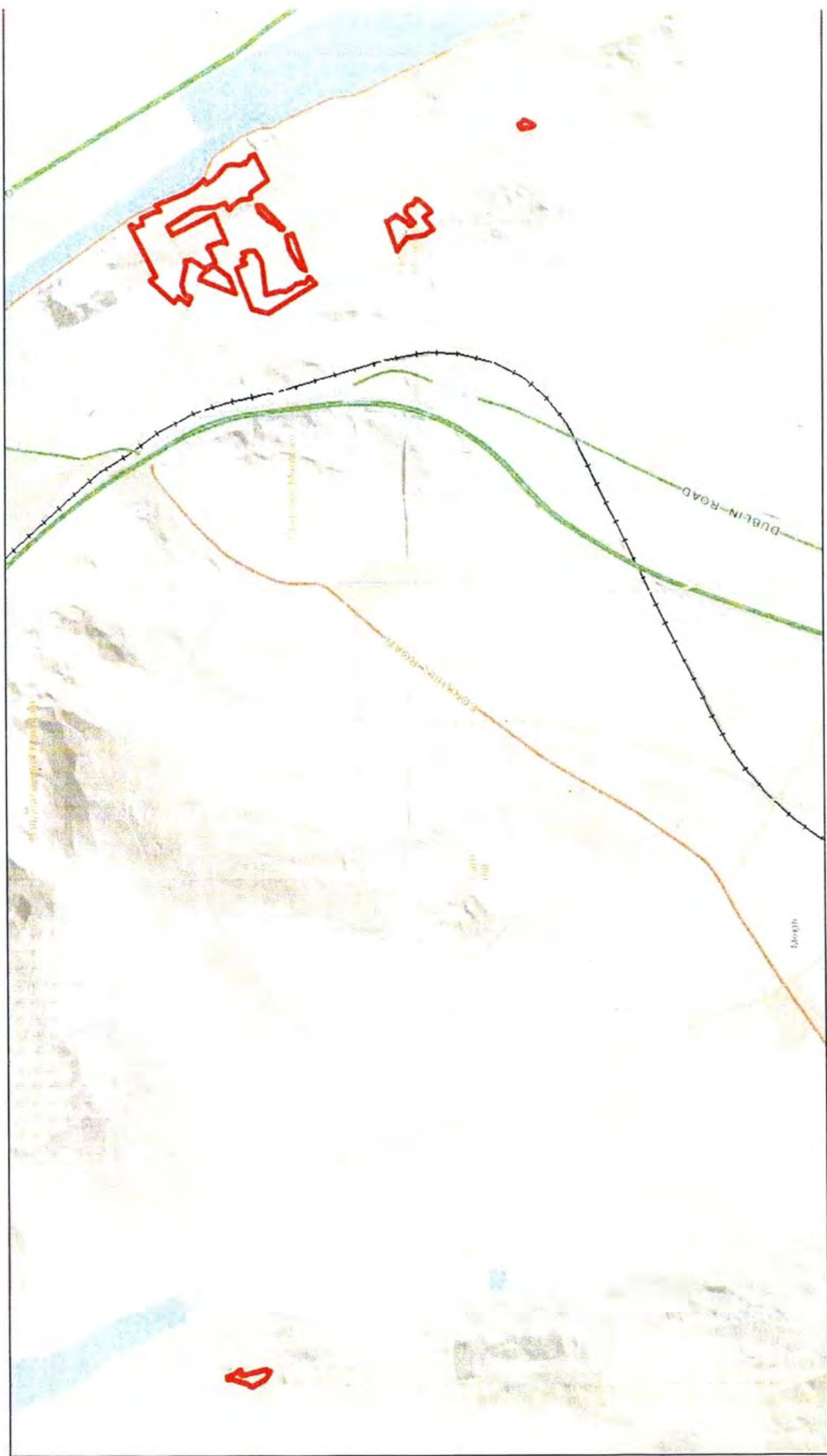
Yours Sincerely,



Stephen Hughes

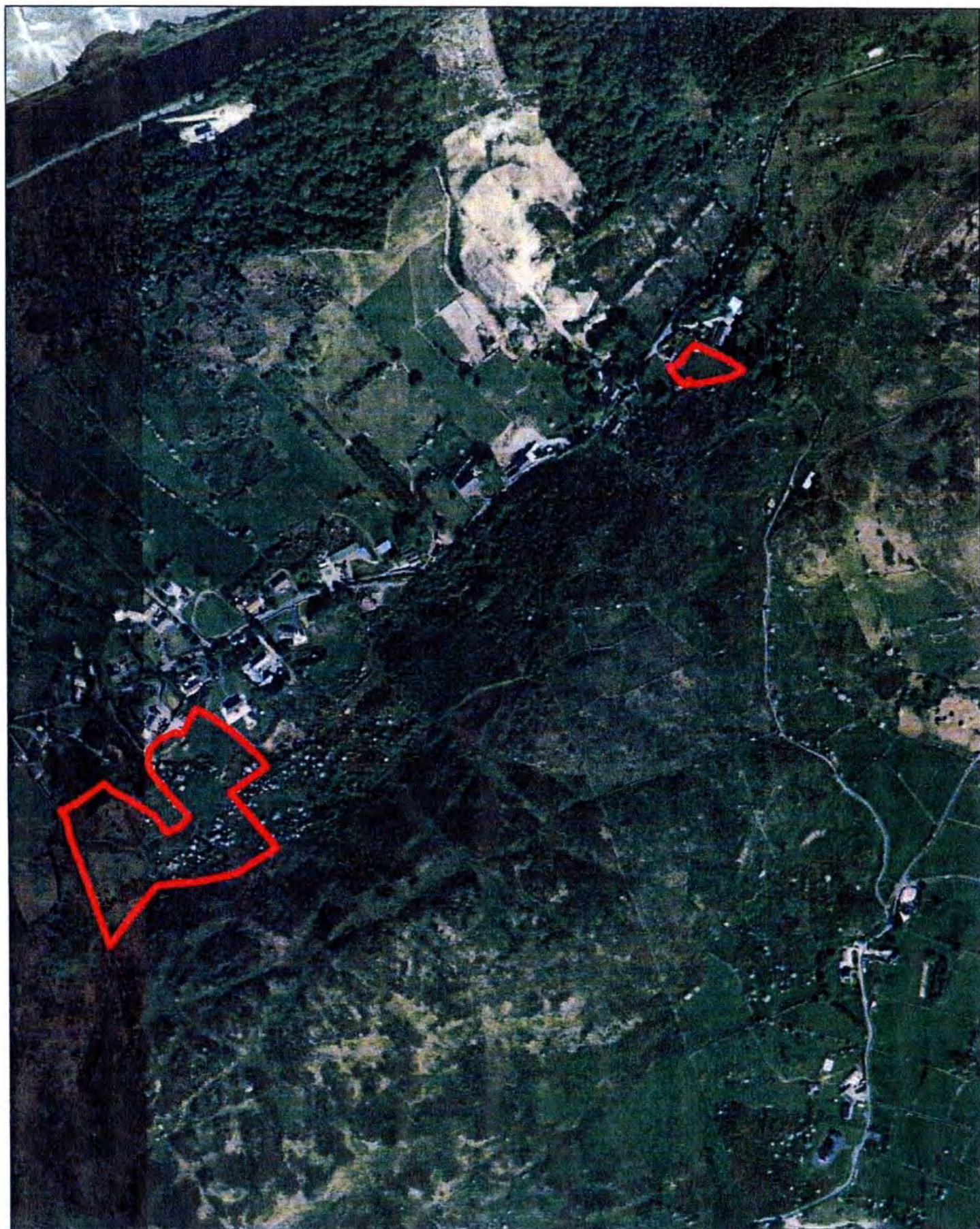
ERES Ltd.

APPENDIX 1
Existing Farm Holding









APPENDIX 2
Existing Agricultural Yard

