



May 23rd, 2019

**Notice Of Meeting**

You are invited to attend the Planning Committee Meeting to be held on **Wednesday, 29th May 2019** at **10:00 am** in **Boardroom, District Council Offices, Monaghan Row, Newry.**

**Committee Membership:-**

- Councillor M Larkin (Chair)
- Councillor H Reilly (Deputy Chair)
- Councillor G Bain
- Councillor W Clarke
- Councillor L Devlin
- Councillor G Hanna
- Councillor V Harte
- Councillor C Mason
- Councillor D McAteer
- Councillor H McKee
- Councillor M Ruane
- Councillor J Trainor

# Agenda

## 1.0 Apologies.

## 2.0 Declarations of Interest.

## 3.0 Agreement on Call-In Panel.

## 4.0 Agreement on Local Development Plan Steering Group.

## 5.0 Declarations of Conflicts of Interest in relation to Paragraph 25 of Planning Operating Protocol.

- **Item 6** - LA07/2018/0650/F - proposed dwelling to the rear of 45 Geenpark Road, Rostrevor - Members who were present for the entire item were **Councillors Casey, Hanna, Harte, Larkin, McAteer and Ruane** (plus former Councillors Craig and Loughran).
- **Item 7** - LA07/2018/1193/F - off site replacement dwellign with detached garage - approx. 215m SW of 15 Ardglass Road, Backaderry, Castlewellan - Members who were present for the entire item were **Councillors Larkin, Casey, Harte, McAteer, Ruane** (plus former Councillors Craig, Macauley and Loughran)
- **Item 8** - LA07/2016/0758/F - new dwelling and garage - lands approximately 50m south of 56 Crawfordstown Road, Drumaness - Members who were present for the entire item were **Councillors Larkin, McAteer, Casey, Clarke, Hanna, Harte and Ruane** (Councillor Devlin apology - plus former Councillors Loughran, Craig and Murnin)
- **Item 10** - LA07/2017/0078/F– erection of 3 light industrial units on lands 20m east of 223a Newcastle Road, Seaforde – Members who were present for the entire item were **Councillors Clarke, Hanna, Larkin, Devlin and Ruane** (plus former Councillors Loughran and Macauley)
- **Item 11** - LA07/2017/1603/0 - housing development comprising of 6 no. semi-detached dwellings to complete the Old Railway Close

development - lands to the west of 34 and 61 Old Railway Close, Leitrim, County Down - Members who were present for the entire item were **Councillors Larkin, McAteer, Casey, Clarke, Hanna, Harte, Ruane** (Councillor Devlin was absent for this application plus former Councillors Craig, Loughran, Macauley and Murnin).

- **Item 12 - LA07/2018/0820/F - erection of semi-detached pair of dwellings and associated car parking - lands to the rear of nos 1 and 2 Sally Gardens and 31-35 Mourne Rise, Newcastle - Members who were present for the entire item were **Councillors Larkin, McAteer, Casey, Clarke, Devlin, Harte, Ruane** (Councillor Hanna apology, plus former Councillors Craig, Loughran, Macauley and Murnin)**

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*Minutes for Confirmation*

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**6.0 Minutes of Planning Committee Meeting held on Wednesday 10 April 2019. (Attached).**

 *Planning Committee Minutes - 10 April 2019.pdf*

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*For Discussion/Decision*

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

 *Addendum list - 29-05-2019.pdf*

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

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**8.0 LA07/2018/0650/F - proposed dwelling to the rear of 45 Greenpark Road, Rostrevor. (Case Officer report attached).**

Rec: REFUSAL

- A request for speaking rights has been received from John Cole, agent, in support of the application. **(Submission to follow under separate cover).**

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

 *rear of 45 greenpark road 2018 0650 F.pdf*

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## 9.0 LA07/2018/1193/F - off site replacement dwelling with detached garage - approx. 215 m SW of 15 Ardglass Road, Backaderry, Castlewellan. (Case Officer report attached).

Rec: REFUSAL

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

📄 *LA07-2018-1193-O\_15\_Ardglass Road.pdf*

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📄 *Item 7 - LA07-2018-1193-F (Ardglass Road).pdf*

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

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## 10.0 LA07/2016/0758/F - new dwelling and garage - lands approximately 50m south of 56 Crawfordstown Road, Drumaness. (Case Officer report attached).

Rec: REFUSAL

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

📄 *LA07-2016-0758-O Crawfordstown Road.pdf*

*Page 35*

📄 *Item 8 - submission of support (LA07-2018-0758-O).pdf*

*Page 40*

## 11.0 LA07/2016/1606/F - proposed development of 8 x 2 storey dwellings and associated site works and alterations to an existing access off main street for 2 dwellings (amended proposal) - Cumran Park, Clough, Downpatrick. (Case Officer report attached).

Rec: REFUSAL

- At the April 2019 Planning Committee Meeting it was agreed this application be removed from the addendum list and given a **full presentation** at the May Committee Meeting.

📄 *LA07\_2016\_1606\_F\_Cumran.pdf*

*Page 46*

## 12.0 LA07/2017/0078/F - erection of 3 light industrial units - 20m east of 223a Newcastle Road, Seaforde. (Case Officer report attached).

Rec: REFUSAL

- A request for speaking rights has been received from Eoin Morgan, Planning Permission Experts, on behalf of objectors Paul and Clodagh Killen. **(Submission attached).**
- A request for speaking rights has been received from Ewart Davis, agent, in support of the application. **(Submission attached).**
- A representative of the Council's Environmental Health Department will be in attendance. **(Attached).**

📄 <i>LA07-2017-0078-f- 3 light industrial units, seaforde.pdf</i>	<i>Page 58</i>
📄 <i>Item 10 - submission of objection (LA07-2017-0078-F).pdf</i>	<i>Page 68</i>
📄 <i>Item 10 - submission of support (LA07-2017-0078-F).pdf</i>	<i>Page 72</i>
📄 <i>Item 10 - Env. Health response Seaforde Industrial Units.pdf</i>	<i>Page 86</i>

**13.0 LA07/2017/1603/0 - housing development comprising of 6 no. semi-detached dwellings to complete the Old Railway Close development - lands to the west of 34 and 61 Old Railway Close, Leitrim, County Down. (Case Officer report attached).**

Rec: REFUSAL

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

📄 <i>LA07-2017-1603-O (Housing) Old Railway Close.pdf</i>	<i>Page 88</i>
📄 <i>Item 11 - LA07-2017-1603-0.pdf</i>	<i>Page 96</i>

**14.0 LA07/2018/0820/F - erection of semi-detached pair of dwellings and associated car parking - lands to the rear of nos 1 and 2 Sally Gardens and 31-35 Mourne Rise, Newcastle. (Case Officer report attached).**

Rec: REFUSAL

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

📄 <i>LA07_2018_0820_F_Sally Gardens.pdf</i>	<i>Page 103</i>
📄 <i>Item 12 - LA0720180820F (Sally Gardens).pdf</i>	<i>Page 111</i>

**15.0 LA07/2018/1194/F - proposed change of use from existing vernacular building used as a domestic store with associated**

**extension to create a 2 bed holiday cottage - 52A Carrigagh Road, Finnis, Dromara, Dromore. (Case Officer report attached).**

Rec: REFUSAL

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

📄 *LA07-2018-1194-F - 52A Carrigagh Road, Finnis.pdf* Page 114

📄 *Item 13 - submission of support (LA07-2018-1194-F) (Finnis).pdf* Page 121

**16.0 LA07/2018/1807/F - replacement dwelling - 55 Ballymaginaghy Road, Castlewellan. (Case Officer report attached).**

Rec: REFUSAL

- A request for speaking rights has been received from Shauna and Paul Middleton, applicants, and Sharon Johnston, agent, in support of the application. **(Submission attached).**

📄 *LA07-2018-1807-F Ballymaginaghy Road - Replacement.pdf* Page 123

📄 *Item 14 - submission of support (LA07-2018-1807-F) Ballymaginaghy Road, Castlewellan.pdf* Page 129

**17.0 LA07/2018/0072/F - erection of 15 No. dwellings, garages, landscaping and all other associated site works (amended proposal) - lands to the rear and south west of Nos 25-35 Forest Hills and to the rear of Nos 15-19 Forest Hills, Newry. (Case Officer report attached).**

Rec: APPROVAL

- A statement of concern has been received from Tom Moore, in relation to the application. **(Attached)**. A request for speaking rights has been received from Gareth McParland, with a statement raising issues of concern. **(Attached)**.

📄 *LA07.2018.0072.F - Forest Hills Housing Development.pdf* Page 140

📄 *Item 15 - LA07-2018-0072-F (objection).pdf* Page 152


📄 *Item 15 LA07-2018-0072-F (Gareth McParland).pdf* Page 154

**18.0 LA07/2018/1556/F - extension and renovation of existing dwelling and new domestic garage - 8 Tamary Hill, Rathfriland.**

**(Case Officer report attached).**

Rec: REFUSAL

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

 *CO Report LA0720181556 8 Tamary Hill.pdf*

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 *Item 16 - submission of support (LA0720181556F) Tamary Hill.pdf*

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**19.0 LA07/2018/1783/F - conversion of existing outhouse to a dwelling - 10m north of 397 Glassdrumman, Annalong. (Case Officer report attached).**

Rec: REFUSAL

- Addendum list

 *397 gdrumman rd annalong LA07 2018 1783 F.pdf*

*Page 171*

**20.0 LA07/2018/1832/F - single storey rear extension to provide disabled person's bedroom and shower room - No. 2 Lassara Heights, Warrenpoint. (Case Officer report attached).**

Rec: REFUSAL

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

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

 *2 lissara heights la07 2018 1832 f.pdf*

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**21.0 LA07/2018/1933/F - proposed new village play park - Jim Steen Playing Field located 100m west of 44 Dungormley Estate, Newtownhamilton. (Case Officer report attached).**

Rec: APPROVAL

- Addendum list

 *LA07.2018.1933.F Play Park Newtownhamilton.pdf*

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**22.0 LA07/2019/0211/F - eastern ball stops and car park extension -**

## **Crossgar Playing Fields, Kilmore Road, Crossgar. (Case Officer report attached).**

Rec: APPROVAL

- Addendum list

📄 *LA07-2019-0211-F Crossgar Playing Fields, Kilmore Road.pdf*

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### ***For Noting***

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#### **23.0 Historic Tracking Sheet. (Attached).**

📄 *Planning HISTORIC TRACKING SHEET - UPDATED 16-05-2019.pdf*

*Page 186*

#### **24.0 April 2019 Planning Committee Performance Report. (Attached).**

📄 *APRIL 2019 Planning Committee Performance Report.pdf*

*Page 194*

#### **25.0 Report of meetings between Planning Officers and Public Representatives. (Attached).**

📄 *Record of Meetings report.pdf*

*Page 197*

#### **26.0 April 2019 Appeals and Decisions. (Attached).**

📄 *Planning Appeals and Decisions April 2019.pdf*

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**NEWRY, MOURNE & DOWN DISTRICT COUNCIL**

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**Minutes of the Planning Committee Meeting of Newry, Mourne and Down District Council held on Wednesday 10 April 2019 at 10.00am in the Boardroom, District Council Offices, Monaghan Row, Newry**

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**Chairperson:** Councillor M Larkin

**Deputy Chairperson:** Councillor D McAteer

**In attendance:** **(Committee Members)**

Councillor C Casey  
 Councillor W Clarke  
 Councillor G Craig  
 Councillor G Hanna  
 Councillor V Harte  
 Councillor K Loughran  
 Councillor M Murnin  
 Councillor M Ruane

**(Officials)**

Mr L Hannaway	Chief Executive
Ms M Ward	Director, Enterprise, Regeneration & Tourism
Mr A McKay	Chief Planning Officer
Ms A McAlarney	Senior Planning Officer
Mr A Davidson	Senior Planning Officer
Mr M Keane	Senior Planning Officer
Ms N Largey	Legal Advisor
Ms C McAteer	Democratic Services Officer
Ms P McKeever	Democratic Services Officer

**P/034/2019: BRIEFING SESSION**

A briefing session took place prior to the meeting formally commencing to discuss Item 7 Planning Application LA07/2018/0758/O and Item 15 Planning Application LA07/2017/0078/F. Following legal advice, and in the absence of a quorum, it was agreed by Members to defer both of these planning applications and for them to be considered afresh when the new Planning Committee had been assembled after the May 2019 local elections.

It was also agreed to review the current list of deferred applications and decide on a suitable course of action to progress these.

**AGREED:** **Following legal advice and in the absence of a quorum, it was unanimously agreed to defer Planning Applications LA07/2018/0758 and LA07/2017/0078/F and that they would be considered afresh when the new Planning Committee had been assembled after the May 2019 local elections.**

**It was also agreed to review the current list of deferred applications and decide on a suitable course of action to progress these.**

**P/035/2019: APOLOGIES AND CHAIRPERSON'S REMARKS**

Apologies were received from Councillors Devlin and Macauley.

**P/036/2019: DECLARATIONS OF INTEREST**

There were No Declarations of Interest received.

**P/037/2019: DECLARATIONS IN ACCORDANCE WITH PLANNING COMMITTEE PROTOCOL PARA. 19 – MEMBER TO BE PRESENT FOR ENTIRE ITEM**

Declarations in relation to Para.19 of Planning Committee Operating Protocol – Members to be present for entire item.

- **Item 6** – P/2014/0427/0 – site for dwelling (amended plans) to the rear and south of 2 Berkley Grove, Warrenpoint – Members who were present and who could take part in the discussion/decision on this application were **Councillors Craig, Harte, Larkin, Loughran, McAteer, Macauley and Ruane.**
- **Item 10** – LA07/2018/00377/0 – replacement dwelling and garage – 20m east of 53 Beechview Road, Crossgar – Members who were present for the entire item and who could take part in the discussion/decision on this application were **Councillors Larkin, McAteer, Clarke, Craig, Hanna, Loughran, Macauley and Murnin.**

**MINUTES FOR CONFIRMATION**

**P/038/2019: MINUTES OF PLANNING COMMITTEE MEETING HELD ON WEDNESDAY 13 MARCH 2019**

Read: Minutes of Planning Committee Meeting held on Wednesday 13 March 2019. **(Copy circulated)**

**AGREED: On the proposal of Councillor Craig seconded by Councillor Loughran it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 13 March 2019 as a true and accurate record.**

**FOR DISCUSSION/DECISION**

**P/039/2019: ADDENDUM LIST**

Read: Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 10 April 2019. **(Copy circulated)**

**AGREED: On the proposal of Councillor Craig seconded by Councillor Hanna it was agreed to remove the following Planning Application from the Addendum List:-**

**Item 14** – LA07/2016/1606/F – proposed development of 8 x 2 storey dwellings and associated site works and alterations to an existing access off main street for 2 dwellings – Cumran Park, Clough, Downpatrick.

**REFUSAL**

**Removed from the Addendum List at the request of Councillor Macauley, to be presented at the next available Planning Committee Meeting.**

**AGREED:** On the proposal of Councillor Craig seconded by Councillor Hanna it was agreed approve the Officer recommendation in respect of the following applications listed on the Addendum List for Wednesday 10 April 2019: -

- **Item 8** - LA07/2017/1067/F – proposed demolition of existing building in ATC and construction of 2 No. holiday let apartments (revised proposal description) **APPROVAL**

**DEVELOPMENT MANAGEMENT -  
PLANNING APPLICATIONS FOR DETERMINATION**

**P/040/2019: PLANNING APPLICATIONS FOR DETERMINATION**

**(1) P/2014/0427/O  
(Audio recorded – YES)**

(Councillors Casey, Clarke, Hanna and Murnin withdrew from the meeting)

**Location:**

To the rear and south of 2 Berkley Grove, Warrenpoint.

**Proposal:**

Site for dwelling (amended plans).

**Conclusion and Recommendation from Planning Official:**

Refusal

**Speaking Rights:**

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

**Speaking Rights:**

DEA Councillor Carr presented in support of the application.

**Power-point presentation:**

Mr A McKay, Chief Planning Officer gave a power point presentation on the application with supporting information including a site location plan, an aerial view of the site and photographs from various critical views of the site.

**Issues raised:**

- The issue of road safety would come under the remit of DFI Roads.
- The plot size within the ATC and that beyond the ATC would differ and as the search widened outside of the ATC area, the plot size would be reduced significantly.

- The ATC was a provision that was formally adopted within the Local Area Plan, and sound planning reasons would be required if Members decided to deviate from policy.
- The Members had had the benefit of a site visit.

Councillor Craig proposed to accept the Officer's recommendation to issue a refusal in respect of Planning Application P/2014/0427/O, Councillor Larkin seconded the proposal.

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

FOR:	4
AGAINST:	1
ABSTENTIONS:	1

The proposal was declared carried.

**Agreed:**                    **On the proposal of Councillor Craig, seconded by Councillor Larkin it was agreed to issue a refusal in respect of Planning Application P/2014/0427/O as per the information and recommendation contained in the Case Officer report presented to Committee.**

**(2)            LA07/2017/1845/F**  
**(Audio recorded – YES)**

(Councillors Casey, Clarke, Hanna and Murnin re-joined the meeting)

**Location:**

Between 4 and 8 Ballintogher Road, Saul, Downpatrick.

**Proposal:**

2 No. new dwellings and garages and associated site and access works.

**Conclusion and Recommendation from Planning Official:**

Refusal

**Speaking rights:**

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

**Power-point presentation:**

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

**Issues Raised:**

- Mr O'Neill stated the entire frontage of No. 4 Ballintogher Road should have been considered by Planning Officials when determining the application.
- Ms McAlarney stated that even taking the entire frontage of No. 4 Ballintogher Road into consideration, the application failed to comply with policy.
- Ms McAlarney stated the building to building measurement used by Planning Officials was a well established mechanism and widely accepted.
- Mr O'Neill said he considered Policy CTY8 referred to a gap site and not the measurement from building to building.

Councillor Murnin proposed to issue an approval contrary to officer recommendation. Councillor McAteer seconded the proposal.

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

FOR:	5
AGAINST:	5
ABSTENTIONS:	0

The Chairman used his casting vote in favour of the proposal to accept the Officer's recommendation to issue a refusal in respect of Planning Application LA07/2017/1845/O, Councillor Craig seconded the proposal.

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

FOR:	6
AGAINST:	4
ABSTENTIONS:	0

The proposal was declared carried.

**AGREED:** On the proposal of Councillor Larkin, seconded by Councillor Craig it was agreed to issue a refusal in respect of Planning Application LA07/2017/1845/O as per the information and recommendation contained in the Case Officer report presented to Committee.

**(3) LA07/2018/0377/O  
(Audio recorded – YES)**

(Councillors Casey, Harte and Ruane withdrew from the meeting)

**Location:**

20m east of 53 Beechview Road, Crossgar.

**Proposal:**

Replacement dwelling and garage.

**Conclusion and Recommendation from Planning Official:**

Refusal

**Speaking rights:**

Ewart Davis, agent in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members

**Power-point presentation:**

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

**Issues Raised:**

- At a previous Planning Committee Meeting it had been agreed the Planning Department had allowed a Certificate of Lawful Development to be submitted in an effort to regularise the structure on site as it was unauthorised.
- It could not be demonstrated that the subject building had been in continuous use for five years as was required by the conditions of the CLUD.
- Planning Officials did not consider the subject building exhibited the characteristics of a dwelling which was a policy requirement for a replacement dwelling, although during discussion it was established that some Members accepted the building had formerly been a dwelling.
- An enforcement had been initiated by Planning Department following the submission of the planning application.
- The supporting letters submitted by the agent all referred to a mobile home as opposed to a dwelling.
- The agent said he was of the opinion that if a building was inhabited for more than five years it would be exempt from enforcement.

Councillor Murnin proposed to issue an approval in respect of Planning Application LA07/2018/0377/O contrary to Officer recommendation on the basis that he believed it had been a former dwelling and had the characteristics of a dwelling. Councillor McAteer seconded the proposal based on the wording of the policy.

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

FOR:	5
AGAINST:	2
ABSTENTIONS	0

The proposal was declared carried.

**AGREED: On the proposal of Councillor Murnin seconded by Councillor McAteer it was agreed to issue an approval in respect of Planning Application LA07/2018/0377/O contrary to Officer recommendation on the basis that the building had been a former dwelling and the interpretation of the wording of planning policy.**

**It was also agreed that Officers be delegated authority to impose any relevant conditions.**

(Councillor Murnin left the Meeting 11.45)

(Break 11.45 – 12.00)

(Councillors Casey, Harte and Ruane re-joined the meeting)

**(4) LA07/2018/0748/F  
(Audio recorded – YES)**

**Location:**

Lands approximately 15m NW of Ballymote Shopping Centre, Killough Road, Downpatrick.

**Proposal:**

Proposed unmanned petrol filling station with associated plant room and alteration to existing parking and pedestrian crossing (amended plans and supporting information received).

**Conclusion and Recommendation from Planning Official:**

Refusal

**Speaking rights:**

Kieran Burns, GM Design Associates, Sean Kennedy, Nicholl Fuels and Nicholas McCrickard, Ballymote Community Project Ltd presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**Power-point presentation:**

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

**Issues Raised:**

- A public consultation conducted on 12 June 2018 had indicated local community support for the proposed application.
- Planning Officials considered the proposed application offended policy with regard to the loss of open space.
- The recently constructed parking spaces at the site were unauthorised.
- The site would have a substantial area of landscaping once completed and there would be increased landscaping on view for the twelve bungalows directly behind the centre.
- No objections had been received from Environmental Health.
- Legal advice was that open land was protected, whether zoned or un-zoned.
- Legal advice was that the Committee needed to focus on the exception to the policy i.e. if there would be substantial community benefit if the application was approved.
- The site would be a 24 hour unmanned amenity that would be continually monitored by CCTV.
- The security system would include a monitored invisible beam signal and the facility could be shut down remotely by a Control Centre.
- There would be a direct link to the PSNI / Medical Services that could be activated if required.
- Payment for fuel could be paid by either debit / credit card with a minimum transaction of £10.00.
- The provision of the amenity would complete the service provision at the site and would secure the sustainability of the Ballymote Centre.

**AGREED:**

**On the proposal of Councillor Clarke, seconded by Councillor Craig it was unanimously agreed to issue an approval in respect of Planning Application LA07/2018/0748/F contrary to Officer recommendation on the basis that the development would have significant community benefit which would outweigh the loss of open space and would secure the sustainability of local businesses and jobs.**

**It was also agreed that Officers' be delegated authority to impose any relevant conditions.**

**(5) LA07/2018/1562/F  
(Audio recorded – YES)**

**Location:**

To the rear of 29a Coney Island, Ardglass.

**Proposal:**

Demolish existing garage and replace it with a new domestic attached garage, living room and bedroom.

**Conclusion and Recommendation from Planning Official:**

Refusal

**Speaking rights:**

Brendan Starkey, O'Toole & Starkey, agents, in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**Power-point presentation:**

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

**Issues Raised:**

- In line with planning protocol, the late information received had not been considered.
- The proposed development would result in the sole private amenity space of No. 29 Coney Island being overlooked.
- The agent advised he could make amendments to the drawings that would be acceptable in planning terms.

**AGREED:**

**On the proposal of Councillor Hanna, seconded by Councillor Craig it was unanimously agreed to defer Planning Application LA07/2018/1562/F to allow further discussions to take place between Planning Officials / agent / applicant regarding revised drawings that would be acceptable in planning terms.**

**It was also agreed that Officers' be delegated authority to impose any relevant conditions.**

**(6) LA07/2018/1663/F  
(Audio recorded – YES)**

**Location:**

Between 153 and 157 Strangford Road, Downpatrick.

**Proposal:**

Proposed dwelling on infill site.

**Conclusion and Recommendation from Planning Official:**

Refusal

**Speaking rights:**

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



**Power-point presentation:**

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

**Issues Raised:**

- Planning Officials considered the gap site was too small to accommodate two dwellings and too big to accommodate one dwelling.
- Using the building to building measurement, the average plot size was 52m, and the application site measured 86m.
- Planning Officials considered the three neighbouring properties, No. 151, No. 153 and No. 157 when determining the average plot size.
- The Agent was of the opinion there were six units along the Strangford Road which included a new dwelling site and a building site that should be considered within the gap site.
- The width of the site field measured 47m.

Councillor McAteer proposed to issue an approval in respect of Planning Application LA07/2018/1663/F contrary to Officer recommendation on the basis that he considered the proposed application to be an infill site, that the road frontage should be taken into consideration and that the gap site should be considered in its entirety. Councillor Loughran seconded the proposal.

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

FOR:	2
AGAINST:	5
ABSTENTIONS:	1

The proposal was declared lost.

Councillor Hanna proposed to accept the Officer's recommendation and issue a refusal in respect of Planning Application LA07/2018/1663/F. Councillor Larkin seconded the proposal.

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

FOR:	7
AGAINST:	2
ABSTENTIONS:	0

The proposal was declared carried.

**AGREED: On the proposal of Councillor Hanna seconded by Councillor Larkin it was agreed to issue a refusal in respect of Planning Application LA07/2018/1663/F as per the information and recommendation contained in the Case Officer report presented to Committee.**

(Lunch 1.20pm – 2.05pm)

**(9) LA07/2018/0582/F  
(Audio recorded – NO)**

(Councillor Clarke left the meeting).

**Location:**

30m South of No. 32 Oldtown Lane, Annalong.

**Proposal:**

Proposed change of use of existing vernacular barn to a dwelling house with extension.

**Conclusion and Recommendation from Planning Official:**

Refusal

**Speaking rights:**

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

**Power-point presentation:**

Mr A McKay, Chief Planning Officer gave a power point presentation on the application with supporting information including a site location plan, an aerial view of the site and photographs from various critical views of the site.

**Issues Raised:**

- Some Members considered the subject building to be of local importance, whilst Planning Officials did not agree this to be the case.
- The Agent referred to a supporting letter received from the Kingdom of Mourne Military History Society.
- Planning Officials had issues with prominence and the scale of the proposed design.
- The Agent advised he could amend the design to make it acceptable in planning terms.

Councillor Hanna proposed to issue an approval in respect of Planning Application LA07/2018/0582/F contrary to Officer recommendation on the basis that he considered the building to be locally important and the fact that this was supported by a letter submitted by the Kingdom of Mourne Military History Society. Councillor Hanna also said the construction of indigenous dry stone walling to the rear and side of the site would enhance the site and that as the Agent had stated, an amended design could be reached following further discussions with Planning Department. Councillor Loughran seconded the proposal.

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

FOR:	5
AGAINST:	3
ABSTENTIONS:	0

The proposal was declared carried.

**AGREED: On the proposal of Councillor Hanna, seconded by Councillor Loughran it was agreed to issue an approval in respect of Planning Application LA07/2018/0582/F on the basis that the subject building was locally important.**

**It was also agreed that Officers' be delegated authority to impose any relevant conditions.**

**(12)**            **LA07/2018/0339/O**  
**(Audio recorded – YES)**

**Location:**

160m SW of 128 Head Road, Killeel.

**Proposal:**

Site for replacement dwelling and detached garage with minor access alteration.

**Conclusion and Recommendation from Planning Official:**

Refusal

**Speaking rights:**

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

**Power-point presentation:**

Mr A McKay Chief Planning Officer gave a power point presentation on the application with supporting information including a site location plan, an aerial view of the site and photographs from various critical views of the site.

**Issues Raised:**

- Planning Officials considered there were various issues with the proposed application in that it did not have the characteristics of a dwelling, it was located within a floodplain, visibility access was not up to an acceptable standard and therefore it did not represent a replacement dwelling opportunity.
- Some Members considered the building to have the characteristics of a dwelling.
- Policy dictated that a Flood Risk Assessment would require to be conducted.
- Curtilage and access issues could be addressed if the application was deferred.

**AGREED:    On the proposal of Councillor Hanna seconded by Councillor Ruane it was unanimously agreed to defer Planning Application LA07/2018/0339/O on the basis it was an exceptional case and further discussions regarding issues surrounding flood risk, access and siting to be undertaken by Planning Officials and the Agent.**

**It was also agreed that Officers be delegated authority to impose any relevant conditions.**

(Councillor Murnin re-joined the meeting).

**(13)**            **LA07/2018/0936/F**  
**(Audio recorded – YES)**

**Location:**

39 Church Street, Rostrevor.

**Proposal:**

Proposed flat roof, side extension to ground floor restaurant with terrace above.

**Conclusion and Recommendation from Planning Official:**

Refusal

**Speaking rights:**

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

**Power-point presentation:**

Mr A McKay Chief Planning Officer gave a power point presentation on the application with supporting information including a site location plan, an aerial view of the site and photographs from various critical views of the site.

**Issues Raised:**

- Planning Officials considered the site was located within a conservation area and the design was not appropriate to the locality, additionally failure to provide private car parking were all critical issues that needed to be addressed.
- The existing building was not listed with NIEA and the proposed design did not introduce any new materials.
- Planning Officials considered a minimum of twelve car parking spaces should be included in the proposed application, however it was a matter for the Committee to decide.
- The agent had conducted a car parking survey that had indicated there was sufficient public road car parking available in the locality.
- Difficult for businesses to provide private car parking spaces in most towns and villages.
- The steps leading to the terrace were at the front of the building and were accessed from the main footpath.
- The terraced area of the proposed plans had already been reduced and the agent considered it was an integral part of the design, providing an outside seating area and would attract more visitors.

Councillor Ruane proposed and Councillor Loughran seconded to issue an approval in respect of Planning Application LA07/2018/0936/F contrary to Officer recommendation on the basis that it was very difficult for businesses in towns / villages to provide private car parking. Councillor Ruane also said he had concerns regarding the stairs leading to the terrace and this element of the design should be discussed further with Planning Officials.

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

FOR:	7
AGAINST:	0
ABSTENTIONS:	2

The proposal was declared carried.

**AGREED:** On the proposal of Councillor Ruane, seconded by Councillor Loughran it was agreed to issue an approval in respect of Planning Application LA07/2018/0936/F contrary to Officer recommendation on the basis that it was very difficult for businesses in towns / villages to provide private car parking. Additionally, it was also agreed the design of the stairs to the terrace be further discussed between Planning Officials' and the Agent.

**It was also agreed that Officers be delegated authority to impose any relevant conditions.**

**(14)**            **LA07/2018/0785/F**  
**(Audio recorded – YES)**

**Location:**

Approx. 50m NW of 78 Upper Dromore Road, Warrenpoint.

**Proposal:**

Proposed dwelling and detached garage (infill site).

**Conclusion and Recommendation from Planning Official:**

Refusal

**Speaking rights:**

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

**Power-point presentation:**

Mr A McKay, Chief Planning Officer gave a power point presentation on the application with supporting information including a site location plan, an aerial view of the site and photographs from various critical views of the site.

**Issues Raised:**

- Planning Officials considered the proposed application was not reflective of the surrounding plots and therefore did not represent an infill opportunity.
- There was a clearly defined gap and as the neighbouring plot was only at foundation stage, the building to building measurement had not been considered appropriate by Planning Officials.

**AGREED:**    **On the proposal of Councillor Craig seconded by Councillor Hanna it was unanimously agreed to issue a refusal in respect of Planning Application LA07/2018/0785/F as per the information and recommendation contained in the Case Officer report presented to Committee.**

**(15)**            **LA07/2018/0825/F**  
**(Audio recorded – YES)**

**Location:**

Approx. 70m directly south of 36 Finnard Road, Rathfriland.

**Proposal:**

Replacement dwelling and detached garage.

**Conclusion and Recommendation from Planning Official:**

Refusal

**Speaking rights:**

David Maxwell, agent had requested speaking rights and submitted a presentation, however he was not present at the Meeting and had requested, in his absence that the Committee consider his submission.

**Power-point presentation:**

Mr A McKay, Chief Planning Officer gave a power point presentation on the application with supporting information including a site location plan, an aerial view of the site and photographs from various critical views of the site.

**Issues Raised:**

- Discussion regarding whether the subject building resembled a former dwelling.

Councillor Ruane proposed to accept the Officer's recommendation and issue a refusal in respect of Planning Application LA07/2018/0825/F. Councillor Hanna seconded the proposal.

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

FOR:	7
AGAINST:	2
ABSTENTIONS:	0

The proposal was declared carried.

**AGREED:** On the proposal of Councillor Ruane seconded by Councillor Hanna it was agreed to issue a refusal in respect of Planning Application LA07/2018/0825/F as per the information and recommendation contained in the Case Officer report presented to Committee.

**(16)**      **LA07/2015/0825/F**  
**(Audio recorded – YES)**

**Location:**

Lands between 79 and 81 Drumalane Road, Newry.

**Proposal:**

Erection of housing development (2 detached and 10 semi-detached) (amended description)

**Conclusion and Recommendation from Planning Official:**

Refusal

**Speaking rights:**

Aidan Cole, Agent and Michael Graham, Director WYG Planning presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**Power-point presentation:**

Prior to delivering the power point presentation on the application, Mr A Davidson advised the Committee there were inaccuracies, conflicts and missing information with the proposal as currently submitted and there would need to be re – consultation with DFI Roads to address the two conflicting road layouts that had been formerly approved by the Department.

Mr A Davidson, then gave a power point presentation on the application with supporting information including a site location plan, an aerial view of the site and photographs from various critical views of the site.

**Issues Raised:**

- The Agent requested a deferral on the application to allow for further discussions to take place with Planning Officials regarding a scheme that would be acceptable in planning terms.

**AGREED:** On the proposal of Councillor Craig seconded by Councillor Ruane it was unanimously agreed to defer Planning Application LA07/2015/0825/F to allow for further discussions to take place with Planning Officials regarding a scheme that would be acceptable in planning terms.

**(17)**            **LA07/2018/1825/F**  
**(Audio recorded – YES)**

**Location:**

No. 25 Ballyvally Road, Ballyvally, Mayobridge.

**Proposal:**

Proposed erection of replacement dwelling and detached dwelling, new landscaping and associated site works (existing dwelling to be retained as a domestic store).

**Conclusion and Recommendation from Planning Official:**

Refusal

**Speaking rights:**

Stephen Hughes, agent and Larry McPolin, applicant presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**Power-point presentation:**

Mr A McKay, Chief Planning Officer gave a power point presentation on the application with supporting information including a site location plan, an aerial view of the site and photographs from various critical views of the site.

**Issues Raised:**

- Planning permission had been granted in 2008 for a replacement dwelling, and at that time an outbuilding was to be demolished to make way for a garage, however the garage had not been constructed and the house was not sited on its approved position.
- There were road safety issues and visual impact concerns that had to be considered.
- The Agent advised the trees would be retained and the existing access would be shared with No. 18 Ballyvally Road.
- Planning Officials, based on the information submitted, did not consider that the building subject of the planning application had previously been a dwelling.
- Some Members considered the building subject of the planning application had the characteristics of a former dwelling.

Councillor McAteer proposed to issue an approval in respect of Planning Application LA07/2018/1825/F on the basis that the subject building had the characteristics of a former dwelling. Councillor McAteer said he was content with the existing access at No. 18 Ballyvally and that the applicant had indicated he would incorporate the existing old stone work into the proposed plan. Councillor Murnin seconded the proposal.

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

FOR: 8  
 AGAINST: 1  
 ABSTENTIONS: 0

The proposal was declared carried.

**AGREED:** On the proposal of Councillor McAteer seconded by Councillor Murnin it was agreed to issue an approval in respect of Planning Application LA07/2018/1825/F contrary to Officer recommendation on the basis that the subject building had characteristics of a former dwelling and that the existing old stone work would be incorporated into the proposed plan.

#### **FOR NOTING**

**P/041/2019:** **HISTORIC ACTION SHEET**

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

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

**P/042/2019:** **PLANNING COMMITTEE MEETING PERFORMANCE REPORT MARCH 2019**

Read: Planning Committee Performance Report January 2019. **(Copy circulated)**

**AGREED:** It was agreed to note the Planning Committee Performance Report January 2019.

**P/043/2019:** **MEETINGS BETWEEN PLANNING OFFICERS AND PUBLIC REPRESENTATIVES**

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

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

**P/044/2019:** **APPEALS & DECISIONS**

Read: Report re: Appeals and Decisions – March 2019. **(Copy circulated)**

**AGREED:** It was agreed to note the Appeals and Decisions January 2019.



**P/045/2019: REGISTER OF CONTACTS Q JANUARY – MARCH 2019**

Read: Register of Contacts Quarter January to March 2019. (Copy circulated).

**AGREED: It was agreed to note the above report.**

The Meeting concluded at 4.40pm

For confirmation at the Planning Committee Meeting to be held on Wednesday 29 May 2019.

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

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

## Item 5 – Addendum List

### Addendum list - planning applications with no representations received or requests for speaking rights – Planning Committee Meeting on Wednesday 29 May 2019

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

- **Item 17 – LA07/2018/1783/F** - conversion of existing outhouse to a dwelling – 10m north of 397 Glasdrumman, Annalong. **REFUSAL**
- **Item 20 – LA07/2018/1933/F** – proposed new village play park – Jim Steen Playing Field located 100m west of 44 Dungormley Estate, Newtownhamilton. **APPROVAL**
- **Item 21 – LA07/2019/0211/F** – eastern ball stops and car park extension – Crossgar Playing Fields, Kilmore Road, Crossgar. **APPROVAL**

-0-0-0-0-0-



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2018/0650/F

**Date Received:** 26 April 2018

**Proposal:** Proposed dwelling

**Location:** The application site is located to the rear of 45 Greenpark Road, Rostrevor.

**Site Characteristics & Area Characteristics:**

The application site is oblong in shape and located to the rear of an existing single storey dwelling - No.45 Greenpark Road. A large shed measuring 6.2m ridge height is located in the rear garden of 45 Greenpark Road, immediately west of the application site. Immediately to the east is a new dwelling under construction with a 6.2 m ridge height. The site slopes from west to east. The application site is bounded to the east by a steep bank separating the site with the new dwelling under construction. On the opposite side to the west the site is bounded by a fence and shed associated with No.45 Greenpark Road. To the north and south the site is defined by mature hedges. The site is surrounded by a small existing housing development – Greenpark Villas which consists of single storey semi-detached dwellings.

Image 1 Application site



**Site History:**

P/2015/0140/F – Permission granted for new dwelling (currently under construction to the east of the application site).

P/1985/1078 – Permission granted for a bungalow to the east of the application site (the application boundary overlapped with the current application site).

**Planning Policies & Material Considerations:**

This planning application has been assessed against the following policies:

- Banbridge, Newry and Mourne Area Plan 2015,
- Strategic Planning Policy Statement (SPPS) for Northern Ireland,
- PPS 7 Quality Residential Environments
- PPS 7 Addendum Safeguarding the Character of Established Residential Areas
- PPS 2 Natural Heritage
- PPS3 - Access, Movement and Parking,
- DCAN 15 - Vehicular Access Standards
- Creating Places

**Consultations:**

- Environmental Health - There are no objections in principle to this proposal provided as per submission the development is connected to public sewerage system. The applicant should be aware that the proposed development is located in close proximity to an existing shed which the department are unsure of the usage of. However activity on this site may give rise to offensive conditions and a resulting impact upon the amenity enjoyed by the proposed development due to noise. The applicant should be advised that nuisance action cannot be used to subsequently address these prevailing conditions and that only future increases or intensification of adverse impacts may be considered in the determination of nuisance.
- DFI Roads – Roads have recommended conditions that stating that road improvements must take place prior to commencement of the dwelling, otherwise no objection.
- NI Water – There is No Foul Sewer available for this proposal. The applicant may wish to requisition for a Foul Sewer to serve the proposed site. There is no Storm Sewer available for this proposal. The applicant may wish to requisition for a Surface Water (Storm outfall) Sewer to serve the proposed site or obtain approval from Rivers Agency for Discharge to a Watercourse. Waste Water Treatment Facilities Warrenpoint WwTW) are presently available to serve this proposal.
- Rivers Agency – No objection, attach informatives E01, E02, E03, E06.

**Objections & Representations**

Ten neighbour notifications were issued on 9 May 2018 and the application was advertised in the local press on 16 May 2018. Following receipt of amended plans

neighbours were re-notified on 14 August 2018. One representation has been received which outlined the following concerns:

- *A two storey dwelling would destroy the character of the area as dwellings in Greenpark Villas are bungalows. It would seriously detract from the charm of the cul de sac and it is not in keeping with buildings that have been in the area for over 60 years.*
- *Extremely concerned about the environmental impact of another dwelling being built on higher ground and the surface water run off because of concrete and building work when the drain in the corner of the cul de sac doesn't work properly the area is prone to flooding.*
- *Traffic impact – construction traffic thus being blocked in and can't get in or out of our homes*
- *Concerns about direct entrance from Greenpark Villas due to road safety*

Following concerns raised about flooding and given there is a watercourse in close proximity I consulted Rivers Agency, there was no concerns raised from Rivers Agency regarding the proposal - see consultations section of the report. Traffic issues, access and road safety assessment are dealt with in the consultations and in the consideration and assessment sections. I will consider issues regarding the character and design further in my report under the consideration and assessment section.

### **Consideration and Assessment:**

#### **Banbridge, Newry and Mourne Area Plan 2015**

Section 45 of the Planning Act (NI) 2011 requires the Council to have regard to the Local Development Plan (LDP), so far as material to the application and to any other material considerations. The relevant LDP is Banbridge, Newry and Mourne Area Plan 2015 as the Council has not yet adopted a LDP. The site is located within the development limits of Rostrevor and it is within the Mournes AONB therefore PPS 2 applies. There are no specific policies in the Plan relevant to the determination of the application which directs the decision maker to the operational policies of the SPPS and the retained PPS 7, PPS 7 Addendum Safeguarding the Character of Established Residential Areas, PPS 3 access, movement and parking and DCAN 15 Vehicular Access Standards.

#### **Strategic Planning Policy Statement (SPPS)**

As there is no significant change to the policy requirements for residential development following the publication of the SPPS and it is arguably less prescriptive than the retained policies of PPS 7 and PPS 7 Addendum Safeguarding the Character of Established Residential Areas will be given substantial weight in determining the principle of the proposal in accordance with para 1.12 of the SPPS.

#### **PPS 7 Quality Residential Environments Policy QD1**

Policy QD1 sets out nine criteria (a – i) which proposals for residential development must conform to criteria:

- a) The proposal is located in an existing residential area which consists of single storey semi-detached dwellings with rear gardens which are generally long and narrow. The proposed dwelling is irregular in form and sprawls across the majority of the application site. The layout of the proposed site sits at odds with the established dwellings in Greenpark Villas, from which the site reads with. Therefore I consider that the proposed dwelling would detract from the street scene as a result. The application site is approx. 0.5 hectares and sits adjacent to No.45 Greenpark Road, a single storey dwelling and a new dwelling under construction which was approved as 6.2m ridge height, not 6.5m ridge height above FFL as referred to by the agent. The agent states the proposed dwelling has been designed to maximise the use of the site. I consider the proposed layout to be overdevelopment of the site thus failing to respect the surrounding context. The proposed dwelling runs tight to the boundaries of the application site to the east which causes privacy issues. The scale and massing of the proposed dwelling also fails to respect the existing context. For the reasons outlined Criteria A has not been met.
- b) There are no features of archaeological / built heritage within the application site that would be affected as a result of the proposed development. Criteria B is met.
- c) Given the nature of the development public open space is not a requirement. There is adequate space within the application site to accommodate the private open space provision as per Creating Places para 5.19. Criteria C is met.
- d) The provision of local neighbourhood facilities is not applicable to this application given the scale of development.
- e) Given the scale of the development, a movement pattern is not required.
- f) The application site is large enough to provide off-street parking, which is adequate. DFI Roads have no objection provided that road improvements are carried out prior to commencement of works. Criteria F is met.
- g) The overall design of the proposed dwelling fails to respect the existing character of the surrounding area and the proposed dwelling would, if permitted, lead to an undesirable change in the character of the existing area. Criteria G is not met.
- h) The design and layout of the proposed dwelling will create an unacceptable adverse impact on existing properties in terms of overlooking / loss of privacy,

overshadowing, loss of light and dominance. The proposed side elevation to the east contains windows at first floor level which are likely to cause problems of overlooking and loss of privacy in the rear garden of the dwelling under construction. The proposed dwelling would result in an unacceptable direct view into the most private garden areas of the adjacent property. The proposed dwelling is likely to impinge on the immediate outlook from the adjacent site to the east and could result in a hemmed in effect due to the presence of large blank wall sections along the eastern elevation. The shed to the rear of 45 Greenpark Road is excessively large and overbearing and sits on higher ground than the application site which would increase the dominant effect. I consider the shed would impinge on the immediate outlook of the future occupants of the proposed dwelling and it would result in a "hemmed in" effect for the future occupants. Loss of light is usually a consequence of dominance and I would have concerns that the shed would result in a loss of light to the main rooms of the proposed dwelling. In general dwellings in Greenpark Villas are likely to experience increased dominance as these properties are single storey and the proposed dwelling which is 6.3m ridge height is likely to appear more prominent when viewed from these dwellings. For the reasons outlined Criteria H has not been met.

- i) I am content that the proposal will not give rise to crime or antisocial behaviour and it should promote personal safety in the same regard as the existing dwellings. Criteria I is met.

In summary the proposal fails to meet Policy QD 1 Criteria A, G and H.

#### **Addendum to PPS 7 Safeguarding the Character of Established Residential Area Policy LC 1**

The proposal fails to meet Policy LC 1 Criteria B in that the proposed development fails to respect the existing pattern of development, overall character and environmental quality of the established residential area.

#### **PPS 2 – Natural Heritage Policy NH 6**

Policy NH 6 states that planning permission for a new development within an AONB will only be granted where it is of an appropriate design, size and scale for the locality. The proposed development fails to respect the local architectural styles and patterns of the surrounding area and it is not sympathetic to the character of the Mourne AONB.

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

Greenpark Villas is unadopted, improvements are required where it meets the adopted Greenpark Road to the west. Improvements have been included on the plans in accordance with the previous approval P/2015/0140/F. DFI Roads are satisfied with the access improvements as shown on the plans have recommended

conditions to carry these works out prior to commencement. Sufficient off street car parking is provided as outlined above.

#### **Personal and Domestic Circumstances**

In a letter from the agent date stamped 9 July 2018 personal circumstances regarding the applicant's mother is referred to. The Planning Authority has considered this, however in the absence of medical evidence from a qualified doctor setting out the circumstances why the dwelling is required to accommodate the applicant's mother the Planning Authority cannot apply a flexible approach for the personal circumstances in the determination of this application.

#### **Planning Strategy for Rural Northern Ireland Policy DES 2**

The proposed development fails to respect the local architectural styles and patterns of the surrounding area and it is not sympathetic to the character of the surrounding context of the Mourne AONB.

**Recommendation:** Refusal



**Refusal Reasons:**

1. The proposal is contrary to Policy QD1 of the Department's Planning Policy Statement 7: 'Quality Residential Environments' in that it has not been demonstrated through the submitted plans that the development would create a quality and sustainable residential environment. The proposed development fails to meet the requirements of QD1 in that it has not been shown:
  - (a) that the development respects the surrounding context and is appropriate to the character of the site in terms of layout, scale, massing and appearance of buildings;
  - (g) that the design and layout of the development draws upon the best local traditions of form, materials and detailing;
  - (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 and overshadowing.
  
2. The proposal is contrary to Planning Policy Statement 7, Policy LC 1 in that the development fails to meet criteria (b) of the policy:
  - (b) the pattern of development is in keeping with the overall character and environmental quality of the established residential area.
  
3. The proposal is contrary to paragraph 6.187 of the Strategic Planning Policy Statement for Northern Ireland and Policy NH6 of Planning Policy Statement 2, Natural Heritage, in that the site lies in a designated Area of Outstanding Natural Beauty and the development is of an inappropriate layout, scale and size for the locality and is out of keeping with pattern of development and the special character of the Mourne AONB.
  
4. The proposal is contrary to Policy DES2 of the Department's Planning Strategy for Rural Northern Ireland in that the development would, if permitted, be detrimental to the character of the surrounding area by reason of its adverse effect on the amenity of neighbouring developments, scale and layout which are out of character of the area.

<b>Case Officer Signature:</b>
<b>Date:</b>
<b>Authorised Officer Signature:</b>
<b>Date:</b>



Comhairle Ceantair  
**an Iúir, Mhúrn  
 agus an Dúin**

**Newry, Mourne  
 and Down**  
 District Council

**Application Reference:** LA07/2018/1193/O

**Date Received:** 02/08/2018

**Proposal:** Off site replacement dwelling with detached garage

**Location:** Approximately 215 metres southwest of 15 Ardglass Road, Backaderry, Castlewellan



**Site Characteristics & Area Characteristics:**

Characteristics of site: The lands outlined are irregular in shape, located approx. 225m west of No. 15 Ardglass Road. A larger blue line extends to the north, south and west elevations of the site. The structure to be replaced is approx. 185m north of the site which is carved out of a larger agricultural field. The site consists of open grassland, which has been carved out of a larger field. The boundary treatment of the larger square shaped area of site consists of dry stone wall with post and wire fencing above. The site is on a sloping topography with the elevation rising steadily toward the NE corner of the site.

There is currently no access to the site via the lands outlined in red, however there is a field gate located at the south eastern tip of the lands outlined in blue. The structure is sited in an elevated position with sited in an exposed location. There is several outbuildings immediately west of the main structure outside the red line but within the blue line, which cluster to the structure.

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



Views of existing structure (left) and views of site (right & above)

**Site History:**

No planning history associated with this site.

**Planning Policies & Material Considerations:**

Banbridge/Newry and Mourne Area Plan 2015

SPPS - Strategic Planning Policy Statement for Northern Ireland

PPS 2 - Natural Heritage

NH 6 – Area of Outstanding Natural Beauty

PPS 3 - Access, Movement and Parking

AMP 2 - Access to Public Roads

AMP 3 - Access to Protected Routes

AMP 7 - Car Parking and Servicing Arrangements

PPS 21 - Sustainable Development in the Countryside

CTY 1 - Development in the Countryside

CTY 3 - Replacement Dwellings

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

CTY 14 -Rural Character

Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside

**Consultations:**

NI Water - Generic response

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

**Objections & Representations:**

2 Neighbours within close proximity of the site were notified on 18/09/2018. This application was advertised in the local press on 15/08/2018. No objections or representations have been received.

## Consideration and Assessment:

### PPS 21 - Sustainable Development in the Countryside

Policy CTY1 restricts new development in the countryside, but makes an exception for a replacement dwelling in accordance with Policy CTY 3. For planning permission to be granted the replacement dwelling must exhibit the essential characteristics of a dwelling and as a minimum all external structural walls are substantial intact. Furthermore the following lists the criteria that must be met in all replacement cases to satisfy the policy.

Having inspected the site on 23/08/2018, case officer is satisfied that the existing building is a dwelling that exhibits all the essential characteristics of a dwelling house. The building is of a linear form, chimney elevating from the gable end and an internal chimney breast located along the opposite gable. The front elevation consists of 3 window openings and a front door entrance with a small porch entrance. There is a door opening to the rear of the building, but no window openings. The building is divided into three room and appears to be built from stone.

Proposals for a replacement dwelling will only be permitted, whereby the proposed replacement dwelling is sited within the established curtilage of the existing building, unless either (a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or (b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits.

The applicant seeks to locate the replacement off-site to an agricultural green field approx. 185m south of the current location.

The acting agent submitted a statement of support at the time of the original application providing the reasoning to justify the off-site location. The document states that the original access is no longer physically present, and if it was reconstructed it would fail to meet current access standards.

Case officer would question the credibility of this justification, as no demonstrable evidence has been submitted to substantiate this claim. Furthermore case officer questions the agents siting of the historic access as I feel based on an O.S map dated 1957-1986 and 1905-1957 the original access appears to 115m north than what is shown. Therefore case officer is under the opinion that this reasoning fails to satisfy the off-site location.

The document goes further to explain that the existing dwelling is set high on the mountain and if the dwelling was replaced in-situ it would have a significant visual impact. Adding that the replacement dwelling could comfortably integrate into the surrounding landscape, not having a visual impact significantly greater than existing. I would however disagree with this statement, and feel that with if a replacement dwelling was sited accordingly within the established curtilage, with a condition

restricting ridge height the visual impacts would not be significantly greater than existing. Whereas the offsite location given its current use as an open green field, lacking long established natural boundaries would in fact cause a visual impact which is significantly greater than existing. The proposed off site location is not in compliance with CTY 3.



View of existing structure, which is set back approx. 175m from Ardglass Road

Policy CTY 13 - Integration and Design of Buildings in the Countryside, requires a new building in the countryside to be able to be integrated visually within the landscape in which it is set. The area inside the red line takes in a full agricultural field, and no specific site has been pin pointed. As this is an outline application the siting and design would be determined at the Reserved Matters stage. The proposed site relies on new access from the Ardglass Road, and it appears that a laneway can be it could be, as far as practicable, be run alongside existing northern boundary consist of a dry stone wall. However case officer feels that the proposed dwelling and garage would primarily rely on new landscaping for integration and considered to be a prominent feature in the landscape contrary to requirement to CTY 13.

Policy CTY14 requires that buildings in the countryside where it does not cause a detrimental change to or further erode the rural character of the area. The proposed development meets the requirements of Policy CTY 14.

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

#### SPPS - Strategic Planning Policy Statement for Northern Ireland.

This policy affirms that the replacement dwelling must be located within the curtilage of the original dwelling where practicable, or at an alternative position nearby where there are demonstrable benefits in doing so. As discussed above the acting agents justification for the off-site replacement fails to demonstrate the need for the dwelling to be located at alternative position.

#### PPS 2 - Natural Heritage

As this site is located within a designated Area of Outstanding Natural Beauty (AONB) policy NH 6- requires that new development within a designated AONB must be of an appropriate design, size and scale for the locality. As this is an outline application design would be determined at the Reserved Matters stage. However the siting of a dwelling within the lands marked in red would be considered unsympathetic to the special character of the AONB.

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

The proposal seeks to create a new access to the site located along the Ardglass Road. DFI confirmed on the 03/08/2018 that they have no objections to the proposal with regard to the above policy criteria subject to access being in accordance with the RS1 form.

**Recommendation:**

Refusal

**Refusal Reasons**

1. The proposal is contrary to SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the SPPS and Policies CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed replacement dwelling is not sited within the established curtilage of the existing dwelling and it has not been shown that the alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits.
3. The proposal is contrary to The Strategic Planning Policy Statement (SPPS) and CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed off site replacement dwelling would be a prominent feature in the landscape; boundaries and is unable to provide a suitable degree of enclosure for the dwelling to integrate into the landscape; the proposed dwelling relies primarily on the use of new landscaping for integration.
4. The proposal is contrary to the SPPS and Policy NH6 (criteria a) of Planning Policy Statement 2 Natural Heritage, in that the site lies in a designated Area of Outstanding Natural Beauty and the development would, if permitted, be detrimental to the environmental quality of the area by reason of its siting which does not respect the distinctive character and landscape quality of the locality.

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



### Request for Speaking Rights

1. This application was previously recommended for refusal. At the previous Committee meeting the decision was deferred for a site visit. The site visit occurred and the application is now back before the Committee.
2. It is a matter of regret that applicants and their agents are not invited to accompanied site visits. This has the effect of making the information portrayed to committee members entirely one sided. It also makes it difficult for applicants to find out what issues were discussed at the meeting, and it also makes it impossible for applicants to show committee members relevant facts on the ground, such as critical viewpoints etc.
3. The purpose of the site visit was to view the dwelling to be replaced, the proposed site and the historic access. We trust the site visit enabled Members to see for themselves that the historic access is no longer in place, having become overgrown long ago.
4. We also trust that the Members will have gained an appreciation of how elevated, open and exposed the site of the dwelling to be replaced is. We submit that even a dwelling of modest dimensions would look wholly out of keeping if replaced in-situ.
5. In relation to the alternative site, we have re-visited the site in an attempt to identify any other locations from which there would be a perception that the alternative site would be more open and exposed than the site of the original dwelling.
6. Considerable time was spent trying to appraise the site, from the adjacent roadsides. We trust that all parts of the site will have been properly identified to the members, difficult as this might have been owing to the undulations in the surrounding landscape which shield the site from views from Ardglass Road.
7. While the planning department was considering the possibility of a dwelling anywhere in the host field, in the lead up to the last committee meeting we confirmed the dwelling would be sited in the eastern portion of the field.
8. We acknowledge that the south western part of the host field is open, when viewed from one vantage point. Accordingly, the dwelling will be sited to the east of the field.
9. Whereas it has been opined that the site lacks enclosure, we find it important to highlight that enclosure can be achieved by availing of undulations in the landscape as well as by "hugging" field boundaries. We do not feel the entire site is as open, prominent or exposed as has been inferred at officer level, and in particular the eastern part of the site is entirely less prominent and exposed than the location of the dwelling to be replaced.
10. While the department has considered the adequacy of the means of integration at the proposed location, we do not feel there has been an appropriate level of emphasis placed upon a comparative analysis of the sites of the existing and proposed dwellings.
11. Referring back to the photos of the site contained in the planning report, it is important to note that this view (taken within the site) does not convey the reality that the levels fall by approximately 5.5 metres from the tree to the right of the officer's image. There is no mention of the fact that the lower part of the site is 12 metres lower in elevation than the upper part of the site, or the fact that the eastern side is as much as 8 metres lower than the western side, with no mention of the ridge running from north to south, to the immediate east of the site. These undulations would provide almost total screening and enclosure to the proposed dwelling.



12. In terms of integration, from the adjacent roadside there are clear and uninterrupted views up to the location of the existing dwelling. Due to the likely application of modern materials, it is certain that the visual awareness of a new dwelling would be magnified by way of comparison to the views of the current (incomplete) structure, whereas there are no clear or uninterrupted views into or through the north eastern part of the application site.
13. At the site visit there was some discussion as regards ownership of the historic access and control of the roadside fields. It was indicated that officers would conduct a land registry search prior to the application's return to committee.
14. We have copies of the applicant's land registry maps and we intend to bring copies of same to the Committee meeting, to enable proper comparison with any maps that officers may wish to present, discuss or query.
15. While officers are entitled not to change their mind, there is an obligation to detail the level of consideration given to all material put forward in support of an application. There has been no formal record of any consideration given to the information previously submitted on behalf of the applicant, including the written submission presented to the last planning committee meeting.
16. While officers have expressed their belief that a small dwelling, replaced in situ, may not have a significantly greater visual impact than the dwelling to be replaced, no consideration has been given to the previously posed question of whether or not an on-site replacement would comply with Policy CTY 13 (integration) or how the two sites actually compare in respect of Policy CTY 13's requirements.
17. There appears to be an unwritten acceptance that the new access will not constitute inappropriate ancillary works. However, there has been no attempt to assess whether an on-site replacement would require inappropriate ancillary works (assuming the historical access could be reinstated and assuming it was under the applicant's control).
18. There is a contradiction in the officers' opinion insofar as it is accepted the proposal meets the requirements of Policy CTY 14 (which does contain criteria relating to prominence) but yet the proposal is deemed contrary to CTY 13 (on the basis of prominence and the purported reliance upon new landscaping and planting).
19. The refusal reason relating to the SPPS and Policy NH 6 of PPS 2 would be set aside immediately, if it was accepted that the proposal complied with Policy CTY 3 of PPS 21.
20. On the basis of the foregoing, we respectfully request the Committee to approve this application.





Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference: LA07/2016/0758/O**

**Date Received: 08<sup>th</sup> June 2016**

**Proposal: New dwelling and garage**

**Location: lands approximately 50M South of 56 Crawfordstown Road, Drumanness.**



**Site Characteristics & Area Characteristics:**

The site in question is located along the Crawfordstown Road on what appears to be rocky lands that are heavily overgrown with access lanes running off at differing points. There are differing styles of dwellings and agricultural lands and facilities in the area. The site itself is generally overgrown to the south and east and has what

appears as walls providing an enclosure and container units on the site operating as a yard as such but not clear exactly what. An access lane runs through part of the site that serves two dwellings.

The area is a rural area not located within any settlement development limits as defined in the Ards and Down Area Plan 2015. There are no specific site constraints identified. The character of the area is generally of single dwellings in a nucleated fashion with large curtilages to dwelling and set back away from the road.

#### **Site History:**

R/2001/1281/O – Site for dwelling – 130m South West of 58 Crawfordstown Road, Drumaness – Granted – 04-04-2002

R/2000/0607/O – site for dwelling – 160m N of 48 Crawfordstown Road, Drumaness – site for dwelling – 05-03-2001

R/2001/1007/RM – 160m NW of 48 Crawfordstown Road Drumaness – private domestic dwelling – granted – 16-10-2001

R/2003/0710/RM – 130m SW of 58 Crawfordstown Road – private domestic dwelling – granted – 05-09-2003

R/1993/0224 – Crawfordstown Road (140 M SE of 56 Crawfordstown Road – Refused 24-11-1993

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

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

#### **Consultations:**

NIEA – Water Management Unit – no objections, no specific comments to make.  
NI Water – no objections

Transport NI – originally requested that the applicant amend the 1:500 scale plan clearly showing 2.4m and full frontage setback and amend P1 question 12 accordingly. The agent was not willing to submit the information and Transport NI was re consulted but could not provide comment in the absence of the requested drawings and therefore did not comment due to lack of information.

#### **Objections & Representations**

The application was advertised 22<sup>nd</sup> June 2016 which expired 06<sup>th</sup> July 2016. Neighbour notification took place 23<sup>rd</sup> June 2016 which expired 07<sup>th</sup> July 2016. To date no representations have been made.

#### **Consideration and Assessment:**

The application has not been submitted with any supporting information or clear policy intention, therefore all aspects of PPS 21 must be given consideration.

Policy CTY 2 is clearly not applicable as this is for a single dwelling.

Policy CTY 2A relates to a single dwelling however this application clearly does not meet with this section of policy with there being no focal point, no visual entity.

Policy 3 for replacement dwellings is not applicable as there is no building to replace, the applicant makes reference to a mobile home being on the site, there is a mobile classroom type building on the site but this would not be eligible for replacement.

Policy CTY 4 is not applicable as there are no buildings of permanent construction to convert.

Policy CTY 6 is not applicable as no evidence has been put forward to support an application of this nature which would be essential.

Policy CTY 10 is not applicable as there has not been any information submitted in relation to a farm dwelling and the site demonstrates no farming activity.

Having considered the aspects of PPS 21 it appears the application is most suitably considered against CTY 8 Ribbon Development.

SPPS makes comment on infill and ribbon development however does not add any additional weight than that in PPS 21 Sustainable Development in the Countryside, CTY 8.

The main policy context for this application is PPS 21, CTY 8 Ribbon Development. Policy requirements states that planning permission would be refused where a building creates or adds to ribbon development. Exception would be made for the development of a small gap site sufficient enough to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage provided that the development respects the existing development pattern along the frontage.

The site in question from the public view point's appears as an area of rough growth with an access lane through it. While it is not evident from the road the access through the site serves two properties that are set back off the road and are accessed onto the lane at adjacent points and fork off the lane.

When travelling in a north western direction towards Drumaness there is no perception of a continuous and built up frontage with a small gap in place. The site includes an access lane that serves two dwellings however said dwellings are not visible from the road and face onto the lane, there is no frontage onto the road and the access point is not manicured to either side so there is no perception of dwellings even being located on the lane. When standing on the site, adjacent to the structure shown on the site location plan within the red line there is an awareness of a building either side, being no 56 Crawfordstown Road and 54A Crawfordstown Road. This awareness is not present when moving to the Road and does not constitute or make a contribution to a continuous and built up frontage. 56 Crawfordstown Road does

face onto the road however no 54A clearly does not and is set well back from the road and faces onto a separate access lane.

To the south of the site is an agricultural crush yard, not a building but rather walls and a crush yard for handling livestock. Beyond this fronting onto the road are agricultural fields. Property no 54A is set back from the road, Fronts onto a separate lane and would not be considered to be part of a continuous and built up frontage along the Crawfordstown Road.

There are a number of dwellings in the area however given the siting of the existing dwellings there has been a continuous frontage created and therefore a continuous frontage, nor gap exists to accommodate a dwelling. Furthermore this application would lead to the creation of ribboning along the Crawfordstown Road along with 56 and 58 Crawfordstown Road.

As there is no gap to be filled as there is no development suitable for consideration to the south of the site consideration of the size of the gap cannot be considered. The red line of the application site would however not be an unreasonable plot size when read in the context of the wider area however would offer 67m of frontage in comparison to no 56 which is 25m wide and no 58 which is 40m at the frontage however occupies a narrower plot of 25-27m generally. The plot size curtilage could be reduced to respect the existing pattern. It is important to note the frontage is that of the site outlined in red only as there is no gap size here that can be considered.

It is also noted that the application, being at the end of the lane and not in a gap offers no possibility of fulfilling policy in terms of a gap in an otherwise substantial and continuously built up frontage along the lane.

The application is also considered against CTY 13, Integration and Design of Buildings in the Countryside.

A building would be unacceptable where it would be a prominent feature in the landscape however the site in question could accommodate a well-designed dwelling that would not be a prominent feature in the landscape.

The site has boundaries at present in the form of rough planting and whinn and does sit in a hollow area of land. There are no long distance views of the site given the topography of the land and existing planting. The site would not be considered to lack boundaries or be unable to provide a suitable degree of enclosure, nor would the site rely on new planting and landscaping for integration.

As this is an outline application full particulars of siting and design have not been submitted, however, it is considered that a dwelling could be accommodated on the site to meet with all aspects of CTY 13.

The application is also considered against CTY 14 Rural Character. Planning permission will not be granted for a dwelling where it would cause a detrimental change to or further erode the rural character of the area. It is clear when travelling through this particular area and when viewing the aerial images that this area has seen a considerable amount of development that through the nature of single dwellings has no formal plan, adding to this already heavily developed area will

further erode the rural character of the rural area and lead to further detrimental change.

The application also fails point D of CTY 14 in that the site will create a ribbon of development along the Crawfordstown Road.

Additional information was requested in order to allow Transport NI to fully consider if the application however the agent was not willing to submit the requested information and therefore Transport NI have not been able to provide full comment.

Having considered the relevant policy context the application is not considered acceptable.

**Recommendation:**

Refusal

**Refusal Reasons:**

- The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
- The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal fails to represent a small gap within an otherwise substantially and continuously built up frontage and would, if permitted, result in the creation of ribbon development along Crawfordstown Road.
- The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted create a ribbon of development along Crawfordstown Road and would therefore result in a detrimental change to further erode the rural character of the countryside.
- Having notified the applicant under Article 3 (6) of the Planning (General Development Procedure) Order (Northern Ireland) 2015 the agent has failed to provide information requested by Transport NI. This information is material to the determination of this application.

**Case officer:**

**Authorised by:**

**Date:**



**Speaking Rights Submission – LA07/2016/0758/O – Lands approximately 50m south of 56 Crawfordstown Road, Drumaness**

The starting position on all applications is that permission should be granted in the absence of clearly identifiable harm. The officer's report accepts that the proposal is in accordance with the local development plan (BNMAP 2015) that there are no objections from any 3<sup>rd</sup> parties.

The statutory agencies have raised no objections to the proposal. The Officer has failed to re-consult DFI Roads following receipt of the amended access drawing as outlined overleaf an in my email.

**Reasons for Refusal**

**Policy CTY1 – Principle of development**

The provisions of policies contained within (PPS21) will prevail unless there are other overriding policy or material considerations to outweigh them and justify a contrary decision. On that basis Policy CTY 1 must be considered subject to paragraph 5.0

**Policy CTY2 – Dwellings in existing clusters**

The six tests in CTY2a are not mandatory requirements. Any failure to meet one or more of them must be considered against other material considerations and the broad thrust and direction of the policies objectives.

There is always a duty to consider the objectives and thrust of a policy where a proposal on its face fails to meet the letter of the policy. This is where balanced decision taking and judgement is required.

*The overall thrust of Policy CTY2a, is to round off and consolidate existing development without changing the overall character of the area.*

The area is characterised by numerous single dwellings with road frontage or set back off the road and I note the Case Officer accepts that development is "nucleated" at this location. The proposed site is located in the middle of a concentration of development consisting of >30 buildings and extending for >900m on both sides of the Crawfordstown Road.

There is strong awareness of development, which appears as a visual entity in its own right, considering the scale and saturation of the buildings that are outwith the settlement limits of Drumaness and Loughinisland.

I'm reassured that I have interpreted the policy correctly as the three appeals previously provided did not have the same amount of development over such a prolonged distance. However, in each case were regarded as being a visual entity in the landscape and meeting visual policy test.

In respect of the focal point. I would direct you to the most recent appeal decision (6/06/2018) under 2017/A0222 and I can read this during questioning.

The Commissioner determined that a failure to meet the focal point test was not determining as the overall thrust is to round off and consolidate existing development. I attach a letter from the Deputy Chief Commissioner in this regard.

I would state the same in this case and ask you to find the following factors determining:





- There are several focal points in the wider vicinity of the application site at either end of the Crawfordstown Road, namely St Colemans GAC, cross roads at the Crawfordstown Road/The Heights and Loughinisland GAQ at the junction of Teconnaught Road/Crawfordstown Road;
- The site is previously developed land in the context of the existing buildings, containers and hardcored yard that are present;
- It is contained by adjoining dwellings on two of its three side and taking account of its size and relationship it accords with the existing pattern of development;
- The site is unsuitable for agricultural use and all services are available on site;
- There would be environmental benefits as result of its redevelopment;
- The proposal represents a rounding off, of development within an otherwise substantial and continuously built up frontage that is contained by Nos.56, Nos.58 and No.60 to the North and an agricultural building to the south.
- The vegetation and rocky outcrops contain the development and there is no demonstrable harm if the site was developed for a single dwelling

Collectively, these constitute material considerations **readily justifying approval in the absence of a focal point.**

### **Ribbon Development**

The report accepts that the site has no road frontage onto the Crawfordstown Road, as it is physically and functionally detached from the road by the existing rocky outcrop. By virtue of this it cannot add to the existing ribbon of development if it has no road frontage.

### **Impact on Rural Character**

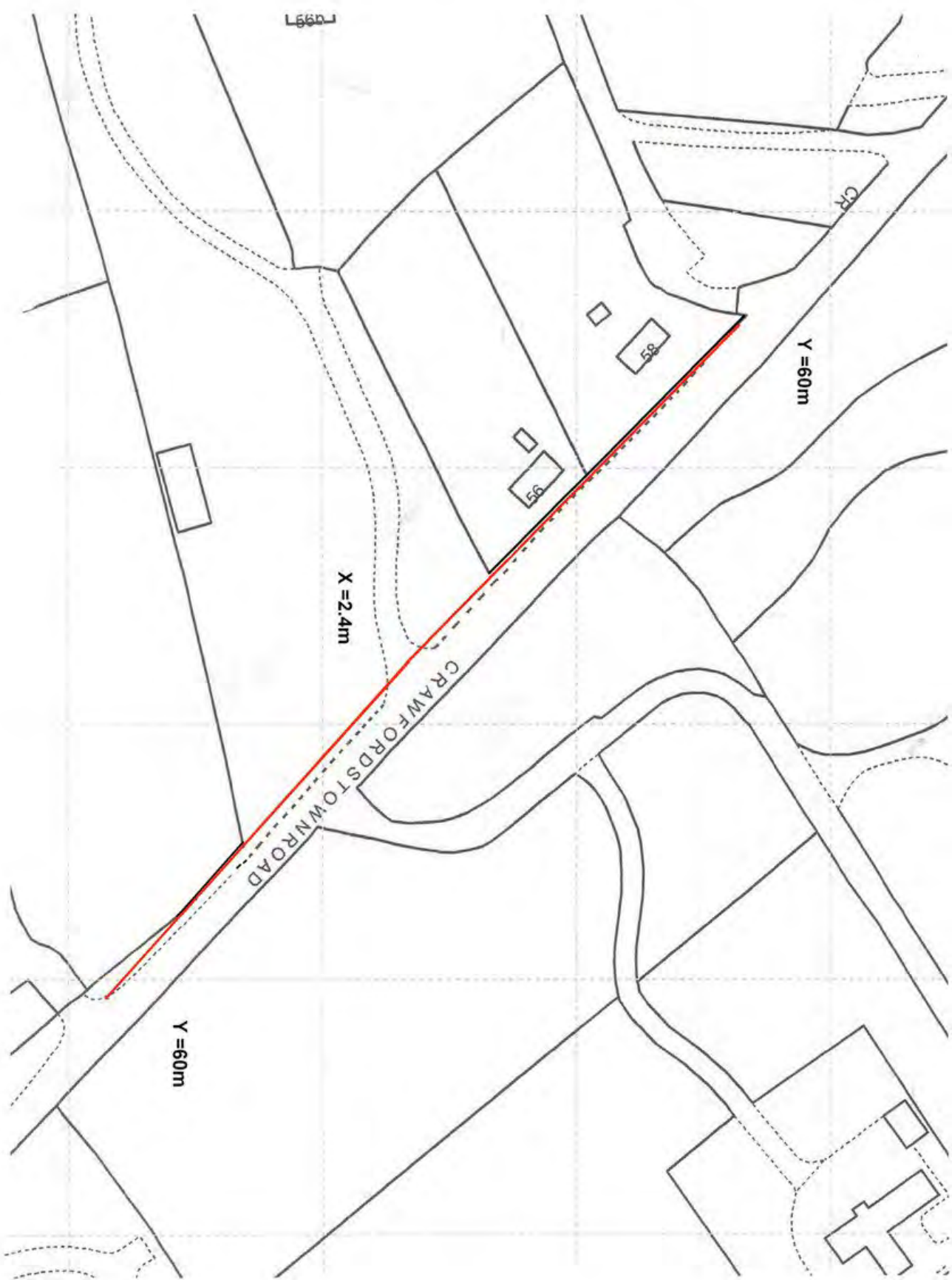
The Case Officer accepts that; "There are no long-distance views of the site given the topography or the land and existing planting" and that the site is well integrated and lacks prominence and "would not be an unreasonable plot size when read in the context of the wider area".

The report openly accepts that "this area has seen a considerable amount of development" by way of single dwellings and that it is "already heavily developed".

On this basis the character has already significantly altered. The introduction of a single dwelling on the site would not cause a detrimental change to or further erode the rural character of the area.

### **Roads Issue**

An email was sent to the Local Planning Office on 12/10/2018 with an attached map depicting visibility splays of 2.4m x 60m. I then followed up with the Planning Office on 2/11/2018 as DFI Roads had not been reconsulted in respect of this amendment. The proposal would accord with paragraph 1.2 of DCAN 15 in that no intensification is considered to occur as the proposed development would not increase the frequency of two-way trips(arrivals/departures using the access by >5% given the two existing properties and that yard have no conditions on the frequency of vehicles visiting the site.



Access Plan

Location - Lands approximately 50m South East of 56 Crawfords Town Road, Drumanness, BT24 8LZ

Applicant - Mr & Mrs Hickland  
Proposal - New Dwelling and Garage  
Date - 8th February 2017

Scale 1:500 @A3



Planning Appeals  
Commission

Ms Ann McCullough  
Head of Planning  
Ards and North Down Borough Council  
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BT23 4AP

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Website: [www.pacni.gov.uk](http://www.pacni.gov.uk)

PAC reference: 2018/K005

Date: 19<sup>th</sup> July 2018



Dear Ms McCullough

**Proposed dwelling at Craigdarragh Road, Helen's Bay (2017/A0222)**

I am replying to your letter of 16<sup>th</sup> July 2018 addressed to the Chief Commissioner, who is currently on annual leave, in which you complain about a recent appeal decision taken on behalf of the Commission by Commissioner Fitzsimons. While you use the phrase "interpretation of policy", it seems to me that your complaint relates to the manner in which policy has been applied.

I wish to make some general points at the outset. I agree with you that failure to comply with every aspect of a policy need not be fatal. It is well established in case law that when making discretionary planning decisions there is no need to adhere slavishly to policy. A tick-box approach to policy criteria is therefore inappropriate.

You refer in your letter to the "ethos" of sustainable development within PPS 21. Sustainable development is not specifically defined in PPS 21. Paragraph 1.5 refers to striking a balance between the need to protect the environment while simultaneously sustaining a strong and vibrant rural community. Paragraph 3.1, which sets out the aim of PPS 21, refers to balancing countryside protection while supporting rural communities.

Sustainable development, therefore, is a multi-faceted concept. It is not solely about environmental protection. It requires a balancing of social, economic and environmental objectives. This is brought out even more clearly in Paragraphs 3.1 to 3.4 of the SPPS.

In the appeal context, there is an onus on those opposed to a development proposal to demonstrate harm to interests of acknowledged importance (see Paragraph 5.72 of the SPPS). If there is no persuasive evidence of such harm, then the development is likely to be found sustainable and to be permitted.

I now turn to Commissioner Fitzsimons' appeal decision. In its statement of case, the Council said there is a loose cluster of buildings surrounding the site, comprising a ribbon of seven dwellings on the south-eastern side of the road and five large dwellings and outbuildings on the north-western side. The Council went on to argue that the cluster does not appear as a visual entity in the landscape and that it is not associated with a focal point.

The existence or otherwise of a visual entity is not a matter of fact but of subjective judgment on which opinions may differ. In this instance, the Commissioner did not agree with the Council's assessment. She found there was a strong awareness of the cluster and that because of relatively undeveloped lands on either side of it the cluster appears as a visual entity in the landscape. That was a planning judgment she was entitled to make.

The Commissioner accepted that the cluster is not located at a focal point or crossroads. She nevertheless did not attach determining weight to the failure of the proposal to meet the third criterion of Policy CTY 2a of PPS 21. You perceive an inconsistency of approach between this decision and seven other appeal decisions you have reviewed. Having studied these decisions, I have noted the following:-

- 2017/A0133** There is no reference to Policy CTY 2a. The main issues related to access.
- 2017/A0099** The Commissioner found that the cluster was not a visual entity in the landscape. The proposal therefore failed not only against Criterion 3 but also against Criterion 2 of Policy CTY 2a.
- 2017/A0080** The Commissioner found that the site was bounded on only one side by other development in the cluster and that the proposed development would not round off or consolidate the cluster. The proposal therefore failed against Criteria 4 and 5 as well as Criterion 3.
- 2017/A0058** The Commissioner found that the proposal failed against Criteria 2, 4 and 5 as well as Criterion 3.
- 2017/A0009** The Commissioner found that there was no existing cluster.
- 2016/A0163** The Commissioner, having found that the proposal failed against Criterion 3, specifically considered whether the failure could be set aside. He rejected the argument that the development would cause no harm as he found it would extend ribboning and erode rural character.
- 2016/A0060** The Commissioner found that the proposal failed against all six criteria of Policy CTY 2a.

As can be seen from the above summary, in all the appeals you have listed where Criterion 3 was found to be offended, other policy failures were also identified. The failure against Criterion 3 contributed to the conclusion that the appeals should be dismissed but in no appeal was it the sole



reason for dismissal. These decisions are all distinguishable from the decision complained of and I do not accept that they disclose an inconsistency of approach.

You may wish to look at two other appeal decisions – 2010/A0202 and 2014/A0245. In each of these decisions, as in the decision complained of, the Commissioner found that, taken in the round, the proposal was acceptable notwithstanding a failure against one of the criteria in Policy CTY 2a. That of course does not necessarily mean that in every instance where only one criterion is offended, that criterion will not be determining. It is important to stress that in applying policy every appeal must be decided on its own merits. That is why comparisons of this kind are of only limited value.

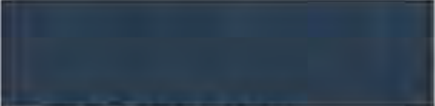
You express concern in your letter that the appeal decision may create a precedent for other dwellings on the western side of Craigdarragh Road. As the approved dwelling has been found acceptable, I do not believe it will create a bad precedent. Any future proposals will have to be considered on their merits against prevailing policy. The appeal decision will be a material consideration but the weight attached to it will depend on the similarities and differences between what has been approved and what is being proposed.

As you point out, Commissioner Fitzsimons made reference to the lack of definition on the northern boundary of the appeal site not being critical to the provision of a suitable degree of enclosure but went on to impose a condition requiring new planting on that boundary to ensure the proposed development would be further integrated into the countryside. It is important to note that the condition also referred to the retention of the existing vegetation along the eastern, western and southern boundaries of the site.

There is nothing illogical about the Commissioner's approach to enclosure and integration. It is entirely consonant with Paragraph 5.64 of PPS 21, which states that new tree planting for integration purposes will be considered together with existing landscape features.

Having carefully considered all the matters raised in your letter, I do not find your complaint to be justified. I hope that you will nonetheless find this reply helpful in explaining the Commission's approach to the application of policy.

Yours sincerely

  
**TREVOR A RUE**  
Deputy Chief Commissioner



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2016/1606/F

**Date Received:** 30.11.2016

**Proposal:** The application is for full planning permission for a proposed development of 8 x 2 storey dwellings and associated site works. Alterations to an existing access off main street for 2 dwellings.

**Location:** The application site is located inside the settlement limits of Clough and within an Area of Archaeological Potential as designated in the Ards and Down Area Plan 2015.



LOCATION PLAN - 1:1250



Aerial of site – Spatial NI

#### Site Characteristics & Area Characteristics:

The site is located at lands which bound both Main Street Clough and Cumran Park. The site is irregular in shape and forms a roughly 'L' shaped plot. To the north of the site there are open fields and this defines the edge of Clough settlement. This boundary is defined by a substantial native species hedgerow. To the west of the site is No 12 a two storey detached dwelling which runs parallel to part of the site. The eastern boundary is defined by some whinbush and some vegetation and bounds both the rear gardens of No 7 and 9 Main Street and the Main Street, given its irregular shape. The character of the immediate area is a mixture of house types. Cumran Park itself comprises semi detached dwellings and apartments. There are a pair of semi-detached dwellings which front directly onto the Square with parking to the rear and a pair of semi-detached dwellings in Cumran Park which have small front gardens and in curtilage parking to the side. The apartments are designed to resemble a larger dwelling and front directly onto the Square with some parking to the rear. Cumran Park is located close to the Square which is characterised by two storey blocks of terraced dwellings which step down from Main Street as the land slopes in a westerly direction. The primary school, church and hall are located in close proximity.



View on entrance to the site



No 12 – adjacent and west of the site



Western boundary with No 12



Eastern boundary



View to the south towards Cumran Park



The Square



View from No 7 Main Street towards No 12



Edge of settlement limit

**Site History:**

R/1973/0266 Main Street Clough. Alterations And Extension To Dwelling. Permission Granted



R/1981/0035 7 The Square, Clough Change Of Use To Offices - Permission Granted  
 R/1981/0036 7 The Square, Clough Change Of Use To Restaurant Permission Granted  
 R/1984/0174 7, The Square, Clough. Change Of Use To Rest Home For The Elderly.  
 Permission Granted  
 R/1985/0207 11 The Square Clough Extension To Dwelling. Permission Granted  
 R/1987/0461 Adj To No 7 The Square Clough  
 Dwelling Permission Granted  
 R/1990/0284 Ashmore House 7 The Square Clough Single Storey Extension To Residential  
 Home - Permission Granted  
 R/1990/0285 Ashmore House 7 The Square Clough Demolish Existing Single Storey Annex  
 And Replace With Single Storey Pitched Roof Extension - Permission Granted  
 R/1991/0355 11 The Square Clough Alterations And Extension To Dwelling - Permission  
 Granted  
 R/1992/0498 11 The Square Clough Alterations And Extension To Dwelling Permission  
 Granted  
 R/1995/0476 9 The Square Clough Alterations And Extension To Dwelling Permission  
 Granted  
 R/1996/6202 Rear Of 9 Main Street Proposed Dwelling Rear Of 9 Main Street  
 Clough  
 R/2000/0088/F No 5 Main Street, Clough, Co Down. Replacement Two Storey Dwelling  
 House For Use As Private Dwelling. Permission Granted 27.03.2000  
 R/2001/1197/Q Lands To Rear Of 9 The Square Clough Residential Development Pre  
 Application Enquiry - Non Committal  
 R/2002/0855/F Lands Adj To No.9 The Square, Clough. 9 Dwelling Houses. Permission  
 Granted 15.11.2002  
 R/2004/0061CA - 4 Main Street, Clough. Unpermitted Building Enforcement Case Closed  
 R/2006/0514/F 7A & 9 The Square, Clough, Downpatrick. Housing Development Comprising 4  
 No Houses And 4 No Apartments. Permission Granted 20.11.2007  
 R/2008/0084/F 5-9 Main Street, Clough, Residential Development Comprising 12 No  
 Of Apartments And 9 No Of Townhouses And Associated Site Works, Including Minor  
 Relocation Of Bus Stop. Permission Refused 30.06.2009  
 R/2010/0093CA 5-9 Main Street, Clough. Operational Devt Enforcement Case Closed

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

The application site is located within the settlement limits of Clough as designated in the Ards and Down Area Plan 2015 and as such the SPPS is the relevant policy document, which is read in conjunction with relevant regional policy context provided by PPS 3, PPS 7 'Quality Residential Environments' and the second addendum to PPS7 'Safeguarding the Character of Established Residential Areas' (the Addendum). Supplementary guidance contained in 'Creating Places - Achieving Quality in Residential Developments' (CP) is also material to the consideration of the application as is DCAN 8 'Housing in Existing Urban Areas'.

### **Consultations:**

NI water – No objections  
 DFI Roads – objection for the reasons given at the end of this report  
 NIEA Water management – No objections  
 NIEA – Land, Water, Soil – No objections subject to conditions  
 Historic Environment Division – HED-HB – no objections subject to conditions  
 Historic Environment Division – HED-HM – Archaeological evaluation required however, HED will to accept conditions if proposal is approved.  
 Rivers Agency – no objections

### Objections & Representations

In line with statutory requirements sixty one neighbours have been notified on 14.12.2016, 18.12.2017 (amended plans) and again with amended plans on 13/09/2018. The application was advertised in the Mourne Observer and the Down Recorder on 21.12.2016 and again with amended plans 10.01.2018. A total of 49 objections were received.

The main issues raised by the majority of objectors relate to

- **Traffic and Transport** – the proposal would increase the volume of traffic given there is already a would pose an increased risk to both pedestrians and road users.
- **Traffic** – there are already a number of community facilities already located at the Square, Clough including the local primary school, Church and Church Hall, Orange Hall, play park and old school, increased traffic will have an impact on all of these facilities
- **Environmental Impact** – noise and dust during construction. Establishment of a construction site would have a negative impact on surrounding facilities.

The occupant of No 11 The Square makes reference to birds of prey circulating the area and using the area for hunting and nesting ground.

No 12 Cumran Park objects to:

- The area to the left of the entrance was an area of open space for a play area
- How the proposal will operate smoothly in terms of traffic as No's 7 and 8 reverse from their drive and there have been some near mishaps
- Footpath going across their entrance (crossing) which they see as very dangerous, regarding safety of pedestrians

### Consideration and Assessment:

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

#### PPS 7 -Planning Policy Statement 7 Quality Residential Environments

PPS7 sets out planning policy for achieving quality in new residential development. Policy QD1 of PPS7 states that residential development should draw on the positive aspects of the surrounding area's character and appearance. Proposals' layout, scale, proportions, massing and appearance should respect the character and topography of their site. It also states that proposals for housing developments will not be permitted where they would result in unacceptable damage to the local character, environmental quality and residential amenity of the area. Developments should not be in conflict with, or cause adverse impacts upon adjacent land uses. Development Control Advice Note 8 "Housing in Existing Urban Areas" (DCAN 8) similarly notes that a development's impact on the character and amenity of a neighbourhood's are important matters to consider.

Notwithstanding the strategic objective of promoting more housing in urban areas, paragraph 1.4 of PPS7 states that this must not result in town cramming. It adds that in established residential areas the overriding objective will be to avoid any significant erosion of the local

character and the environmental quality, amenity and privacy enjoyed by existing residents. Policy QD1 thereof states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable environment.

Policy LC1 of the Addendum sets out additional criteria to be met in Established Residential Areas (ERA). Criteria (a) and (b) thereof require that the proposed density is not significantly higher than that found in the ERA and that the pattern of development is in keeping with the overall character and environmental quality of such an area. In defining what constitutes an established residential area, Annex E of the Second Addendum to PPS 7 refers to neighbourhoods dominated by medium to low density single family housing with associated private amenity space or gardens. In smaller towns, villages and settlements established residential areas generally display a more intimate character and spatial scale. There is often more local variety in architectural styles and treatments, with building lines, property sizes, plot ratios and road layouts being much more changeable.

The site is irregular in shape and forms a roughly 'L' shaped plot. The site extends from the rear gardens of Nos 1 & 2 Cumran Park to the east of No 12, where the plot at this point has an overall length of approx 345m with a maximum depth of 115m. The site then turns at right angles towards Main Street, where the site extends a further 340m with varying depths from approx. 110m at its narrowest to 143m towards Main Street. This area is currently overgrown. The site bounds open countryside to the north and forms the edge of Clough settlement limit at this point. The wider area or ERA around the site exhibits a broad range of development predominantly characterised by both detached dwellings that front onto Main Street, with long rear gardens, extending to terraced dwellings which front onto the Square.

0.35ha



Plan as originally submitted

Amended plan

Latest plan on which this report is considered



In consideration of the above, the character of this part of the road is predominantly residential with the exception of the primary school and hall. The site is 'L' shaped and the topography of the site is such that it falls gradually from Main Street to the rear of the site. The portion from Cumran Park is relatively flat in nature.

The scheme was initially submitted and it was deemed at this stage that the layout was unacceptable. A meeting was held and the issues regarding the layout were discussed, following the meeting the agent resubmitted plans which were submitted dated 5 March 2018. On the initial application, a dwelling was located on an area which was indicated on previous approval R/2006/0514/F as an area of open space. This open space therefore is gained protection under PPS 8 policy OS1. This was referenced when the meeting was held with the agent/applicant. A further amended scheme was submitted on, 14 December 2017, and 5 March 2018 which were also all deemed to be unacceptable. Further plans were also received on a number of other occasions, the final submission on which this layout assessment is based was submitted on 15<sup>th</sup> August 2018 with house type floorplans and elevations submitted 21<sup>st</sup> May 2018.

The dwelling that was located on this area of open space has since been removed from the latest plans. On the layout at the entrance to the scheme is indicated as a detached house type C. The dwelling is face on and parallel to the shared driveway, with a gable depth of 7.5m, the dwelling is set back approx. 2.2m from the service strip shared with the porch approx. 0.8m from it. House type C has a ridge height of 7.6m to FFL. Parking is to the side

of this dwelling with two spaces indicated. Private amenity is indicated to the rear of this dwelling and the side and while it is above the recommended 70sq metres as referenced in Creating Places guidance, the boundary treatment to the side by way of a low railing would not ensure that this space is private. Boundary treatment along the side of House type B (at the entrance) has not been specified, but reference is made that garden spaces are demarcated by new boundary fences at 1.8m high clearly there would have to be some sort of treatment to ensure that rear gardens remain private. Paragraph 7.16 of CP indicates that where the development abuts the private garden areas of existing properties, a separation distance greater than 20m will generally be appropriate to minimise overlooking, with a minimum of around 10m between the rear of new houses and the common boundary. In this latest plan it is gable on as one enters the site, due to the restricted nature of the site, there is a rear boundary distance of 5m to No 12's gable which lies directly to the rear of house Type C. This dwelling has a width of 8.5m at two storeys, excluding the single storey garage which is a further 3.4m. Given its bulk, massing, design and proximity to the party boundary, the proposed dwelling would be over dominant and visually intrusive to the extent that it would have an unacceptable impact on the residential amenity of occupants of No. 12. The proposal would create conflict with adjacent land uses, fail to respect the surrounding context and consequently offend criteria (a) and (h) of Policy QD 1. Following a number of meetings with the agent whereby House type C at the entrance has been orientated in both directions, and where neither design proved acceptable, thus reinforcing that the site is a difficult one to development appropriately and in keeping with the policy and guidance given.





In the northern corner of the site layout is house a pair of semi detached dwellings of house type A. The houses are located close to the shared driveway and are less than 2m from it, this combined with the way the dwellings are angled into the corner creates a dominant and imposing effect. Rear boundaries are short of the 10m, however, both properties have over the recommended level of private amenity space, parking is located to the side of the dwellings. Continuing east leads towards a turning head whereby 3 further house type B's are located, one detached and one pair of semi detached. There is approx. 1m separation distance between the detached and semi detached property. At the meeting that was held with the agent who is also the applicant, the edge of settlement buffer was also discussed. A requirement to soften the impact of development on the urban edge. This has been shown as 5m buffer which runs to the north of the site along the NW boundary. The service strip from the access road, appears to be within this buffer zone. With the detached house type B running very close to the buffer, thus separation and maintenance of this landscape buffer is compromised by the development.

Indicated as two House type Cs these are located facing onto Main Street with one paired access to serve both dwellings. The dwellings are also two storey and are detached in nature. The dwellings are set back from the main road and share a paired access onto Main Street. In this proposal, there is a 20m back to back separation between new properties, (i.e. the properties fronting Main Street and those 3 properties at the end of the turning head). While these two dwellings are set back slightly from the road (further back than No 7 and 9 main Street), the dwellings do address the road frontage and provide a balanced amount of hardstanding and landscaped area and thus would in Planning terms be deemed acceptable.

The site is an irregular shape, which makes its development very difficult. While views of the proposal would be mainly from Cumran Park, the roofscape and shared surface nature of the access arrangements would be appreciated from the surrounding area. The site's width is too restrictive to suitably accommodate the proposal, and the access road is informing its design. The proposal would result in a contrived landform incompatible with its surroundings. The site's restricted nature would result in unacceptable damage to the area's local character and fail to provide a quality residential environment. The proposed scheme therefore fails the tests of QD 1 in that the development overall does not respect the surrounding context and is not appropriate to the character and topography of the site in

terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas.



### PPS 3 – Access, Movement and Parking – Policy AMP 2

PPS 3 sets out the planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking. It forms an important element in the integration of transport and land use planning. DFI Roads had also been present at the initial meeting regarding the layout. Following consultation regarding the latest plan, they have also considered that the layout does not comply with policy.

1. Sight visibility splays from the existing car parking to the rear of No 1 & 2 The Square cannot meet with the minimum requirements as set out in DCAN 15. 2.0m x 33m.
2. Bollards indicated on plan to be removed.
3. Proposed turning head does not comply with DMRB standards, ie HGVs unable to negotiate bends.
4. Type 5 road does not have any speed humps.
5. Proposed service strip shows buffer zone encroaching on its entire length of the northern boundary.

Thus the proposal is being refused for the reasons given below.

### PPS 6 – Planning Archaeology and the Built Heritage

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

The potential impact of the proposal on the archaeological heritage of the site needs to be assessed.

The proposal is in close proximity to 2-4 Main Street (Grade B2), No.1, The Square Street (Grade B2), and No.7 The Square, Clough Street (Grade B1), which are of special

architectural and historic interest, protected by Section 80 of the Planning Act (NI) 2011. Historic Environment Division, Historic Buildings (HED: HB) was consulted on the application and having considered the drawings is satisfied that the requirements of Planning Policy Statement 6: Planning, Archaeology and the Built Heritage, Policy BH11 (Development affecting the setting of a listed building) and the Strategic Planning Policy Statement for Northern Ireland (SPPS) – Planning for Sustainable Development, 6.12, subject to conditions.

Historic Environment Division: Historic Monuments (HED: HM) has previously requested an archaeological evaluation under Policy BH3 of PPS 6. HED: HM advised that an archaeological evaluation is the preferred option to manage the archaeological risk at this site in terms of the potential for previously unrecorded archaeological remains to be encountered during the course of development works. However, should the applicant be willing to accept the risk of dealing with archaeological mitigation post-planning decision, HED: HM is content that an archaeological mitigation strategy may be implemented by way of planning condition should the local planning authority be minded to approve the application. They have included conditions as per Policy BH 4 of PPS 6.

### **PPS 15 – (Revised) Planning and Flood Risk**

PPS 15 adopts a precautionary approach to development in areas susceptible to flooding.

Rivers Agency have been consulted regarding the proposal and since the development was less than 10 dwellings and the hardstanding did not equate to over 1000m<sup>2</sup> then a drainage assessment was not required. Rivers Agency have no objections to the proposal.

### **Conclusion**

The proposal does not comply with relevant planning policies as dealt with in this report and it is recommended that the application be refused for the following reasons.

### **Recommendation:**

Refusal.

### **Refusal Reasons:**

1. The proposed development is contrary to SPPS and Policy QD 1(a) of Planning Policy Statement 7, Quality Residential Environments in that the development does not respect the surrounding context and is inappropriate in terms of layout, scale, proportions, massing and appearance of the buildings, structures and landscaped and hard surfaced areas.
2. The proposal is contrary to SPPS and Policy QD 1 (c) of PPS 7: Quality Residential Environments in that the design and layout would cause conflict with the adjacent dwelling at No 12 Cumran Park causing an unacceptable adverse effect on their residential amenity due to poor separation distances and over dominance.



3. The proposed development is contrary to SPPS and Policy QD 1 of PPS 7 in that the design and layout of the proposed residential development is not based upon an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area.
4. 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 the proposed access is located in close proximity to a road junction and filling station where the slowing down and turning movements of vehicles entering and leaving the access would conflict with traffic movements at the junction of Main Street.
5. The proposal is contrary to Planning Policy AMP1 Creating and Accessible Environment of Planning Policy Statement 3, access, movement and parking, in that it would, if permitted, prejudice the safety and convenience of road users since the road infrastructure to sustain this type of development is not available within the scope of the application.
6. The proposal is contrary to the Planning Policy Statement 7 Quality Residential Environments in that the submitted details, fails to demonstrate a satisfactory internal layout in accordance with the Departments Guide Creating Places.

Case Officer Signature

Date

Appointed Officer Signature

Date



Comhairle Ceantair  
**an Iúir, Mhúrn  
agus an Dúin**

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2017/0078/F

**Date Received:** 18.01.2017

**Proposal:** Erection of 3 light industrial units

**Location:** 20m East of 223a Newcastle Road Seaforde





Site has been cleared as off Nov 2017

### **RECONSIDERATION FOLLOWING DEFERRAL**

Application was presented to the 19 July 2017 meeting of Newry Mourne and Down Planning Committee with a recommendation to refuse for reasons being contrary to Planning Policy Statement 4, lack of information (Bio Diversity checklist) and impact on neighbouring residential amenity by reason of noise.

Recommendation to Refuse was overturned by the Planning Committee

**AGREED: On the proposal of Councillor Clarke seconded by Councillor Hanna it was agreed to issue an approval, in principle, in respect of Planning Application LA07/2017/0078/F, contrary to Officer recommendation, with Planning Officers being delegated authority to impose relevant conditions to ensure there shall be no adverse impact to residential properties.**

Following deferral of the planning application on 19 July 2017 the Planning Office requested from the agent the submission of a Noise Impact Assessment (NIA) for EHO on the 26 July 2017.

A NIA was received by the Planning Office on the 30 August 2017. EHO were consulted on the 14 September 2017.

EHO responded on the 05 October 2017 requesting further information from the agent, this was requested by the Planning Office on the 5 October 2017.

Additional information was submitted by the agent on the 17 October 2017, EHO consulted on the 17 October 2017.

EHO responded on the 07 November 2017, stating that the proposed development has been approved by the Planning Committee and that conditions be attached to minimise the impact on amenity of nearby residential properties, namely

The hours of operation, to include any HGV activity, should be limited to Monday to Saturday: 09:00 to 17:00 with no operation on Sundays.

No external plant should be used or installed without prior agreement with the Planning Office.

The doors to the rear of the units, as shown on drawing date stamped 18 Jan 17 by Planning Office, must be kept closed when units are operational.

The units shall be constructed as specified on page 10 of the Noise Assessment, dated 21<sup>st</sup> August 2017.

Acoustic report submitted to the Planning Office on the 24 Jan 2018 by Irwin Carr on behalf of the objectors on the application.

EHO were consulted on the Acoustic report on the 25 Jan 2018. EHO responded on the 15 February 2018 stating the following

### Comments

Environmental Health note that, following our last comments of 7<sup>th</sup> November 2018, this application is again under consideration.

Environmental Health had previously raised concerns regarding the conservativeness of the Noise Assessment produced by KRM, dated 21<sup>st</sup> August 2017, and requested that the report be revised. It is noted that a Noise Impact Assessment Review produced by Irwin Carr, dated 8 January 2018, has been submitted and this document has been reviewed by Environmental Health.

It is the opinion of Environmental Health that the Noise Assessment produced by KRM, dated 21<sup>st</sup> August 2017 has not accurately predicted the noise impact at nearby residential properties and no noise mitigation measures have been proposed for this site. It is likely that noise from the proposed development will have a significant adverse impact on the amenity of the nearby residential properties.

The EHO have indicated a significant adverse impact on neighbouring properties.

The application as previously presented to Planning Committee in July 2017 was considered contrary to PPS4 Planning and Economic Development. In particular policies PED 1 and PED 9 of PPS 4.

Policy PED 1 Economic Development in Settlements

In villages and smaller rural settlements the policy states

***A development proposal for a Class B2 light industrial use or Class B3 general industrial use will be permitted where it can be demonstrated that the scale, nature and design of the proposal are appropriate to the character of the settlement and it is not incompatible with any nearby residential use.***

Policy PED 9 General Criteria for Economic Development, states

***A proposal for economic development use, in addition to the other policy provisions of this Statement, will be required to meet all the following criteria:***

***(a) it is compatible with surrounding land uses;***

- (b) it does not harm the amenities of nearby residents;***
- (c) it does not adversely affect features of the natural or built heritage;***
- (d) it is not located in an area at flood risk and will not cause or exacerbate flooding;***
- (e) it does not create a noise nuisance;***
- (f) it is capable of dealing satisfactorily with any emission or effluent;***
- (g) the existing road network can safely handle any extra vehicular traffic the proposal will generate or suitable developer led improvements are proposed to overcome any road problems identified;***
- (h) adequate access arrangements, parking and manoeuvring areas are provided;***
- (i) a movement pattern is provided that, insofar as possible, supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way and provides adequate and convenient access to public transport;***
- (j) the site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity;***
- (k) appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view;***
- (l) is designed to deter crime and promote personal safety; and***
- (m) in the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape.***

Planning officials cannot comply with the directions of the Planning Committee of 19 July 2017. Given the proposals impact on neighbouring properties by reason of noise, Planning Officials must recommend that the Planning Committee reassess their opinion on this application and agree refusal of this application.

### **Refusal Reasons**

- 1.** The proposal is contrary to the SPPS and Policy PED1 of PPS4 Planning and Economic Development, in that the development is incompatible with nearby residential properties.
- 2.** The proposal is contrary to Policy PED9 of PPS4 Planning and Economic Development, in that the development would if permitted, harm the amenities of nearby residents by reason of noise nuisance.

**Appointed Officer Signature:**

**Date:**



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference: LA07/2017/0078/F**

**Date Received: Jan 2017.**

Proposal: Full permission is sought the erection of 3 light industrial units, on lands 20m east of 223a Newcastle Road, Seaforde.

Applicant: Mr D Mahon

**Location:**

The site is located on the inner edge of the settlement development limit of the small settlement of Seaforde, as identified in the Ards and Down Area Plan 2015. It is noted the site is on land regarded as white-land, and is outside the ATC of Seaforde, while it is also noted the Newcastle Road is a Protected Route (within the development limit). The site is located to the southern edge of this small settlement whereby the southern boundary of the site forms the boundary and edge of the development limit. The lands beyond to the south are rural in character, while the lands adjoining the remaining boundaries including to the far side of the Newcastle Road are largely residential in character with the exception of a commercial yard which is located to the rear of 1-4 Austin Terrace.

It is also noted there are scheduled monuments and listed buildings in the vicinity of the site.

**Site Characteristics & Area Characteristics:**

The site outlined in red extends to include a roughly square shaped plot of land off Newcastle Road, located between the ruins of a former structure to the east and the dwelling and curtilage of no.223a to the west, whereby the red line also extends down to adjoin the Newcastle Road. This site includes a small solid/permanent single storey structure at present, with concrete yard area, and overgrown area of hard-standing and mounding. It is not clear what this small structure is or was last used as.

The dwelling (side gable), driveway and boundary wall of No.4 Austin Terrace and also commercial yard form the northern boundary of the site. No.4 comprises a 2 storey end terrace dwelling whereby the boundary comprises a wall which is approx 1m high to the front of this dwelling which steps up and is approx 2m high to the rear. The dwelling and curtilage of no.223a adjoin the western boundary of the site, whereby this boundary includes a wall which is approx 2m high. This dwelling at

no.223a is also 2 storey high. The commercial yard, although closed during the date of the site visit in Feb 2017, advertises digger hire and refers to heavy plant.

### Site History:

A history search has been carried out for the site and surrounds whereby it is noted there have been several previous applications in the vicinity of the site, the most relevant of which observed includes:

LA07/2017/0072- Lands 15m south of 4 Austin Terrace, Car wash, Full, Pending, Applicant: Mr D Mahon

R/2007/0376- Lands to the rear of 223 Newcastle Road, Housing development of nine townhouses and one detached dwelling, Full, Withdrawn, 2008, Applicant: Mr N Killen

### Objections & Representations

7 representations in opposition to the proposal have been received to date (20-06-17) from the owner/occupiers of no.2, 3, and 4 Austin Terrace, 233a Newcastle Road (which is 223a as confirmed by the owner of this property) 219 Newcastle Road, 1a Kennel Road, and Seaforde and District Community Association (c/o 186 Newcastle Road), whereby the main issues/concerns raised include:

- the plans/information submitted are inaccurate,
- the lands is not vacant, as there is a house on the site,
- increased traffic volume from the proposal and impact it will have on area
- the entrance to the site is used as a bus stop,
- the site is close to the edge of Seaforde where there is a hidden dip where traffic will be travelling at speed in to this small settlement and passed the site entrance, site lines at the entrance are very poor,
- approving this development will deprive properties of a safe environment, and will have a negative impact on adjacent residents
- the site is accessed via a right of way and yard area,
- ownership challenges,
- there are bats in the vicinity of the site,
- existing sewers cannot cope with surface water and this proposal will make the situation worse,
- the industrial nature of the proposal is not in keeping with the character of this small settlement and is contrary to PPS4,
- there are no commercial properties that line the main road in Seaforde. Seaforde has retained its traditional character, and is not over-developed which is one of its best features. Seaforde has no industrial sites in evidence, and to change the use of this site from residential to industrial is not in keeping with the character of the village,
- there is no street lighting in this stretch of Seaforde, which causes hazards,
- the entrance to the site is close to the junction with Kennel Road, while there is also an agricultural gate entrance adjoining the site,
- the industrial use will cause noise, light and emissions pollution, vapour and water pollution, and fire hazard affecting residents and wildlife,
- there is a lack of information regarding hours of business in this residential area,

See file for full content of reps received as the above is only a summary of the main issues raised which are considered in the assessment below.

The above summary is only intended to grasp the main issues raised, and does not seek to provide an exhaustive list of each and every representation received, whereby similar issues have often been raised by more than 1 person.

Having account the extent of the red line and current practice neighbour notification was initially undertaken with a number of properties along Newcastle Road, Austin Terrace and Kennel Road as part of this application in Jan 2017, while it was also advertised in the local press in Feb 2017. Following receipt of further information a further round of NN was undertaken in April 2017.

#### **Consultations:**

Having account the nature of this proposal, and constraints and zonings of the site and area, and representations received consultation was undertaken with a number of bodies including Transport NI, NI Water, NIEA, Historic Environment Division (HED) and Environmental Health as part of this application.

NI Water and HED offer no objections, while the remaining consultees have requested further information.

Further information was requested from the agent in May, whereby a detailed letter and Transport Assessment were then received in April. No other surveys/bio diversity checklist or information has been received to date (20-06-17). A Bio Diversity checklist is required to fully assess and consider any potential impacts arising from the proposal. As such it is considered insufficient information has been submitted to fully assess the proposal. It is noted concerns were expressed from interested parties regarding bio diversity related matters.

#### **Policy- RDS, Ards & Down Plan 2015, SPPS, PPS3, PPS4, PPS11 and supplementary guidance**

As outlined above the site is located on the inner edge of the settlement development limit of the small settlement of Seaforde, as identified in the Ards and Down Area Plan 2015, on land regarded as white-land,

#### **Assessment**

It is proposed to erect a row of 3 industrial units on this site, which will front towards the Newcastle Road, and will back towards No.223a. the existing building on site is to be demolished with parking to the front. (It is noted the site is not vacant as indicated on the P1 form).

Having account the nature of this proposal it is considered the provisions of the recently published SPPS, and also PPS3 and PPS4 apply.

The SPPS has retained policies PPS3 and PPS4, whereby it is considered there is no conflict or change in policy direction between the provisions of the SPPS and those of PPS3 and PPS4.



As such it is considered PPS3 and PPS4 remain the applicable policy context to consider the proposed development under

These units will be sited close to the boundary with no.223a (approx 1m from the boundary), and will be set back approx 40m from the road.

This Newcastle Road is a busy road which carries a large volume of traffic each day. The development of Seaforde is identified as a small settlement in the Area Plan, whereby the frontage to Newcastle Road is considered to have largely retained its historical character comprising low density development, which is largely residential in character.

It is noted there is a hall within this small settlement, while there was also formerly a PSNI station in this settlement, although which has since been converted to residential use. The remainder of this development fronting Newcastle Road is largely residential in character, although it is also noted there is a yard area with digger hire available, although which is located beyond the rear of no.1-4 Austin Terrace, which is associated with no.223a.

Newcastle Road is the main road through the small settlement of Seaforde, whereby the development fronting this road including mature trees has largely been preserved and unaltered thereby retaining and protecting the distinctive character of this small settlement, which includes an ATC.

It is noted light industrial units fall with Use Class B2 of The Planning (Use Classes) Order (NI) 2015.

This development of 3 light industrial units will be sited to the south side of Austin Terrace and in front of the dwelling of no.223a Newcastle Road, and will be accessed via the existing concrete laneway serving no.223a and digger hire yard. The current application for the car wash is located between the site and the Newcastle Road.

These units will be located in 1 row, each measuring approx 11.5m by 6m, with office and WC. These units will be constructed in blockwork walls with green profiled sheeting and roller doors, and will include a mono pitch roof being 5m high to the front and 3.5m high to the rear.

With regards to PPS4 it is considered the applicable policy provisions include PED1 and PED9.

It is considered the introduction of such a use in this small settlement of Seaforde which has largely retained its historical character and frontage to Newcastle Road, is not compatible with the surrounding land uses, and is not appropriate to the character of this area.

In addition it is considered the use of this site for 3 industrial units in such close proximity to a number of residential properties will have an adverse impact on the amenity of these nearby residents from vehicles, persons and equipment on site.

Following initial consideration of the case a letter was issued to the agent in March advising that the principle of development is not acceptable and is likely to be

recommended for refusal. Reference was also made to the comments from the consultees and representations received.

In response to this a letter and Transport Assessment were submitted from the agent, whereby TNI are now content, however Environmental Health continue to object as the proposal may adversely impact on the amenity of nearby residential properties. (No other supporting information was supplied by the agent.

Environmental Health have also advised the applicant may wish to submit a Noise Impact Assessment to support their case, however as the principle of this use is not considered acceptable, it is considered there is no merit in requesting this additional information at some cost to the applicant).

It is noted the building of no.223 is partly located within the red line and is not shown on the proposed site plan, thus it is understood it is being removed to accommodate this development and can be conditioned as such.

It is also noted from the information submitted the water supply and foul sewage will be sourced from/disposed off to the mains, while surface water will be disposed off to storm drains.

As outlined above the site accesses on to the existing concrete laneway serving no.223a, and then accesses onto the Newcastle Road, which is a Protected Route Policy AMP3 of PPS3 makes provision for a development proposal involving direct access, or the intensification of the use of an existing access where access cannot reasonably be taken from any adjacent minor road.

It is noted there is no existing minor road to access from, whereby the development will access on to a laneway. As such it is considered the proposal does not offend PPS3.

While it is noted several concerns have been expressed regarding roads related matters, TNI have been consulted as part of this application, who provide professional advice and have offered no objections to this proposal.

The Planning Authority raised the ownership issue with the agent, who has advised there is an ongoing legal dispute regarding the precise dimensions of the applicants ownership and any ROW which exists, and this is currently with solicitors.

Current experience indicates there are no known sewerage capacity issues in this Seaforde area at present, whereby consultation has also been undertaken with NI Water.

However taking into account the above, the principle of development is not acceptable whereby the use is not considered compatible or appropriate to the character of the settlement of Seaforde. In addition it is considered the proposal will adversely impact on the amenity of nearby residents.

As such refusal is recommended.

### **Recommendation: Refusal**

#### **Reason:**

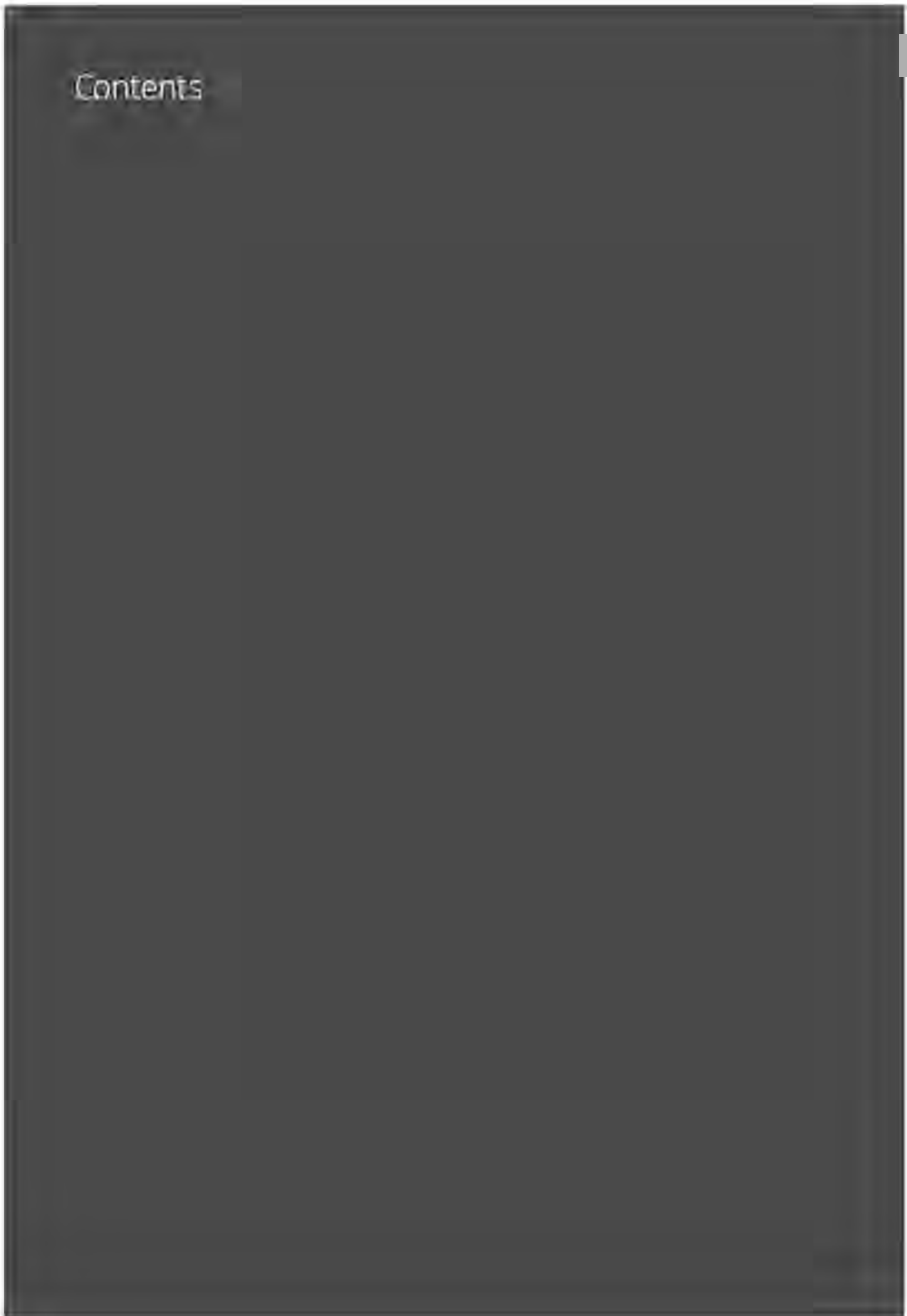
**- The proposal is contrary to Policy PED1 of PPS4 Planning and Economic Development, in that the development is incompatible with the surrounding land uses.**

- The proposal is contrary to Policy PED9 of PPS4 Planning and Economic Development, in that the development would if permitted, harm the amenities of nearby residents, and will create noise nuisance.
- Having notified the applicant/agent under Article 3 (6) of the Planning (General Development Procedure) Order (Northern Ireland) 2015 that additional information (Bio Diversity checklist) is required to allow the Council to determine the application, and having not received sufficient information, the Council refuses this application as it is the opinion of the Council that this information is material to the determination of this application.



Representation submitted on Behalf of Paul and Clodagh Killen  
Erection of 3 light industrial units immediately east of 223A Newcastle  
(LA07/2017/0078/F)

# Contents





## 1 Introduction

1.1.1 This information has been prepared for the planning committee meeting on Wednesday 10 April 2019. Below is a summary of the main objections to planning application (LA07/2017/0078/F).

### 1.2 Noise Impact

1.2.1 The applicant has engaged the services of Chris Todd of Irwin Carr acoustic consultants in order to carry out an independent review of KRM's noise assessment and also to carry out a further noise assessment<sup>1</sup>. In their findings Irwin Carr have concluded that there are substantial differences between the KRM's report and his own which could result in a much greater impact on the residents of the surrounding neighbouring properties.

1.2.2 More specifically Tim Carr found a difference of +18.5 dB between his own assessment and KRM's report meaning that this would be an indication of significant adverse impact resulting from the industrial units and also a cumulative adverse impact from the car wash. Additionally, Irwin Carr have stated that there is uncertainty regarding the findings of the applicant's report with regard to method of assessment: "As demonstrated above, the uncertainty is so great that it has the possibility of changing the final impact rating from 'low impact' to 'significant adverse impact'."

### 1.3 Suitability of industrial use

1.3.1 PED1 states: "A development proposal for a Class B2 light industrial use or Class B3 general industrial use will be permitted where it can be demonstrated that the scale, nature and design of the proposal are appropriate to the character of the settlement and it is not incompatible with any nearby residential use."

1.3.2 The case officer in his report has stated that he feels that the proposed uses are incompatible with that of the surrounding residential use due. In relation to application for the car wash and the light industrial units, both of these uses in deed have an industrial appearance and therefore should be deemed unsuitable for this site. In my view, the proposed corrugated metal sheds are industrial in appearance and fall short of the standard of design expected upon either exiting or entering an area of townscape character. At no other point of visible roadside frontage in Seaforde are there Indian serial style buildings located.

1.3.3 No sufficient reason has been given for the departure from PED1.

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<sup>1</sup> The highly detailed findings of Irwin Carr's analysis were submitted during the planning process.

### Re LA07/2017/0078/F – Erection of 3 Light Industrial Units on Lands 20m East of 223A Newcastle Road, Seaforde for Mr Dan Mahon

This application was originally scheduled 19th July 2017 for refusal as contrary to Policies PED1 & PED9 and non supply of Biodiversity checklist. **Planning Committee determined the application should be approved** and delegated authority be passed to Planning Officers to attach the necessary conditions. (See letter 7<sup>th</sup> August 2018). When I requested an update 26<sup>th</sup> March 2019 the application was rescheduled as a refusal.

#### 1. PLANNING FRAMEWORK

The Ards Down Area Plan 2015 zones this 0.1ha site as White Land within Seaforde's Development Limit. It is set back 28m from Newcastle Road and accessed via the applicant's 5m wide concrete lane. The site is vacant and bounded on the west by a concrete wall and on the south by a straggly hedge. (See Photos 1 & 2)



Photo 1



Photo 2

#### 2. THE PROPOSAL

Three x 63m<sup>2</sup> Class B2 light industrial units, of which 6.7m<sup>2</sup> floorspace is occupied by an office and toilet. The Planning (Use Classes) Order defines B2 uses as *"any industrial processes which can be carried out without detriment to amenity by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit."* Due to this definition Class B2 uses are normally acceptable in residential areas.



Mr Mahon intends to use the units as overnight parking for his mobile vans or lease them to a printer or picture framer. He would be happy to restrict the opening hours to 9am to 5pm Monday to Saturday with no opening on Sunday, no external plant used without prior agreement, and doors to be kept closed when units are operational.

### 3. ADJOINING DEVELOPMENT

**3. 1** On 29<sup>th</sup> July 2017 Councillors accepted his proposal for a Car Wash sited between Newcastle Road and the Light Industrial Units. This has still to be issued.

**3. 2** Directly opposite the proposal is a large builder's yard. Through the gate can be seen lorries, low loaders and 2 large corrugated sheds where the vehicles are maintained. These premises back directly onto the houses in Nos 1-4 Austin Terrace. (See Photos 3 & 4)



Photo 3 – View of Lorry and Sheds through gate



Photo 4 – Maintenance shed backing onto Austin Terrace

**3. 3** 60m to the north is the Young Farmers' Hall. This is used as a community hall as well as for Young Farmers meetings and dances. Activities include bowling, keep fit and dance classes, funeral catering and tractor runs in the yard once per year. (See Photo 5)



**Photo 5 – Young Farmers' Hall and Car Park**

**3. 4** At the north end of the yard is a mobile shop with outside picnic tables. (See Photo 6)



**Photo 6**

**3. 5** Council granted approval in December 2016 to County Down Stoves for a showroom, sales and stores for wood burning stoves. They also sell logs and run a chimney sweeping business. 40 foot long lorries make deliveries twice a week and customers also arrive to view stock in the showroom. There are advertising signs at the gates and north of the entrance. (See Photos 7 & 8)



Photo 7 – Signs at showroom gate



Photo 8 – Showroom sign

#### 4. CONSULTATION REPLIES

- No objections were raised by Transport NI
- No objections were raised by Archaeology and Built Heritage
- No objections were raised by Drainage and Water

#### Environmental Health – Noise

A Noise Report was submitted 21<sup>st</sup> August 2017. A follow-up clarification requested by Environmental Health was submitted 17<sup>th</sup> October 2017. **This explained the noise levels figures used were appropriate for Class B2 Light Industrial, not the figures appropriate for Class B3, General Industrial advocated by the objector.** (Copy of Clarification letter of 17<sup>th</sup> October 2017 enclosed)

The Environmental Health comment of 7<sup>th</sup> November 2017 (Copy enclosed) notes this proposed development **has been approved**. They suggested the following conditions:-

- Opening hours 9am – 5pm Monday to Saturday
- No external plant to be used without prior agreement with Planning
- The unit doors to be kept closed during operation

Mr Mahon is happy to comply with the above. KRM Acoustics has provided a further clarification letter dated 1<sup>st</sup> April 2019. (Copy enclosed)

### **Natural Heritage**

As the submitted photos show the site contains no buildings and only a straggly hedge along its southern boundary. Natural Heritage did not visit the site but commended him for the additional planting shown on the 18<sup>th</sup> January 2017 plans. In fact a Landscape Plan showing reinforcement planting was submitted 29<sup>th</sup> August 2017.

### **CONCLUSION**

This application concerns 3 small light industrial units located on White Land inside the Development Limit. The surrounding land uses are a mix of general industrial, community, retail and residential. On 19<sup>th</sup> July 2017 Planning Committee determined the application should be approved. Following neighbour objection a Noise Report was submitted 21<sup>st</sup> August 2017 and a follow up justification of the figures used was submitted 17<sup>th</sup> October 2017. Environmental Health commented 7<sup>th</sup> November 2017 that the proposal was approved and provided appropriate conditions, all of which are acceptable to Mr Mahon. In Mr Mahon's view the proposal is not incompatible with the surrounding mixed uses (PED1) and would not harm the amenities of nearby residents due to noise nuisance. (PED9) He also completed a Bio Diversity Checklist 13<sup>th</sup> July 2017. Mr Mahon has been expecting his approval for 18 months and is surprised that the Council's planners have again scheduled the proposal for refusal.

Liam Hannaway  
Chief Executive

Date: 07 August 2018  
Our ref: LA07/2017/0078/F  
LA07/2017/0072/F  
Your Ref:



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

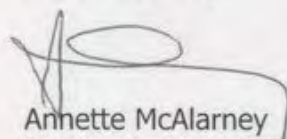
Ewart Davis  
14 Killynure Avenue  
Carryduff  
Belfast  
BT8 8ED

Dear Mr Davis

**Re: Erection of 3 light industrial units and Car Wash 20m East of 223a Newcastle Road Seaforde**

I refer to the above planning applications which were presented to the Planning Committee on the 19<sup>th</sup> July 2017. The Planning Committee determined that the application should be approved and delegated authority be passed to Planning officers to attach the necessary conditions. Both applications remain under consideration with senior officials.

Yours Sincerely

  
Annette McAlarney  
Senior Planning Officer



Annette McAlarney  
Newry Mourne and Down District Council  
Downshire Civic Centre  
Downshire Estate  
Ardglass Road  
Downpatrick  
BT30 6GQ

12th October 2017

**KRM ACOUSTICS**  
**Noise, Vibration and Acoustics**  
119A Bridge Street, Portadown, Co. Armagh  
Tel: 0798 44 2 88 17  
Tel: 028 38 337546  
Email: karl@krmacoustics.co.uk



**PL REF: NOISE ASSESSMENT Erection of 3 light industrial units. 20m East of 223a Newcastle Road, Seaforde, BT30 8NP. PL Ref: LA07/2017/0078/F**

Dear Annette,

With reference to application LA07/2017/0078/F it is hoped that the following information will help clarify any outstanding issues. These comments relate to the submitted noise report. (*'NOISE ASSESSMENT Erection of 3 light industrial units. 20m East of 223a Newcastle Road, Seaforde, BT30 8NP' and dated the 21st August 2017*).

a) The applicant is applying for full planning permission. The use class for the units is B2 'light industrial' and B4 'Storage'.

The figure of 70 dB  $L_{Aeq}$  is the sound level incident at the facade. Equating to 75 dB  $L_{Aeq}$  at the centre of the floor space. It is not envisioned that the hourly activity level would exceed 70 dB  $L_{Aeq}$  at the facade. The units are relatively small with a floor area of only ~64m<sup>2</sup> Incl the office and the WC. A 70 dB  $L_{Aeq,1hr}$  level, incident at the internal facade is considered to be representative of the upper levels that will occur at the units.

An increase in the internal noise levels of +5 dB would increase the levels at the closest receptor R1 Austin Terrace to 42.9 dBA with the doors closed and 44.9 dB LA with the doors open, still below the modal background level of 46 dB  $L_{A90}$ . See the attached Table.

b) A tonal correction was added to the source level for the Lorry Unloading activity as detailed in Table 5 of the submitted report.

c) The rating level is the predicted level presented in Table 8 of the submitted report. The measured background level is the mode level which is determined to be 46 dB  $L_{A90}$ . The use of the mode background level is the most common accepted approach to determining the background level as detailed in section as it represents the 'typical' level in line with section 8.1 of BS4142(2014) and figure 4 of BS4142(2014). The most frequently occurring background level was 46 dB  $L_{A90}$ .

Sincerely,

Karl McElroy BSc M.I.O.A.  
KRM Acoustics

## Appendix. 1.

The table below illustrates the change in predicted levels if +5 dB is added to the sound levels of the proposed units.

Source and Receptor	Predicted levels dBA		Predicted levels dBA with +5 dB Added to facade source levels.	
	Closed	Open	Closed	Open
<b>R1. 4 Austin Terrace Facade</b>	42.8	43.6	42.9	44.9
East	19.3	35.8	24.3	40.8
North	-0.3	-0.3	4.7	4.7
Roof	18	18	23	23
South	-1.7	-1.7	-1.2	-1.2
Vehicle 1	32.3	32.3	32.3	32.3
Vehicle 2	30.9	30.9	30.9	30.9
Vehicle 3	29.7	29.7	29.7	29.7
Vehicle 4	28.4	28.4	28.4	28.4
Vehicle 5	27.3	27.3	27.3	27.3
Vehicle 6	26.3	26.3	26.3	26.3
Vehicle 7	41.3	41.3	41.3	41.3
West	-10.6	-10.6	-5.6	-5.6
<b>R1. 4 Austin Terrace Front Garden</b>	39.4	40.1	39.5	41.3
East	15.2	31.7	20.2	36.7
North	-10.8	-10.8	-5.8	-5.8
Roof	13.7	13.7	18.7	18.7
South	-18.1	-18.1	-13.1	-13.1
Vehicle 1	28	28	28	28
Vehicle 2	27.4	27.4	27.4	27.4
Vehicle 3	26.8	26.8	26.8	26.8
Vehicle 4	26	26	26	26
Vehicle 5	25.3	25.3	25.3	25.3
Vehicle 6	24.7	24.7	24.7	24.7
Vehicle 7	37.8	37.8	37.8	37.8
West	-15.9	-15.9	-10.9	-10.9
<b>R1. 4 Austin Terrace Yard</b>	35.0	36.7	35.2	39.1
East	15.5	32	20.5	37
North	-4	-4	1	1
Roof	15.9	15.9	20.9	20.9
South	-19.8	-19.8	-14.8	-14.8
Vehicle 1	23.1	23.1	23.1	23.1
Vehicle 2	22	22	22	22
Vehicle 3	21.3	21.3	21.3	21.3
Vehicle 4	20.4	20.4	20.4	20.4
Vehicle 5	19.4	19.4	19.4	19.4
Vehicle 6	18.7	18.7	18.7	18.7
Vehicle 7	33.6	33.6	33.6	33.6
West	-13.1	-13.1	-8.1	-8.1
<b>R2. 3 Austin Terrace Facade</b>	37.2	38.5	40.6	41.2
East	16.3	32.8	37.9	38.9
North	-2.4	-2.4	2.6	2.6
Roof	16.4	16.4	21.4	21.4
South	-18.9	-18.9	-13.9	-13.9
Vehicle 1	23.9	23.9	23.9	23.9
Vehicle 2	23.7	23.7	23.7	23.7
Vehicle 3	24.5	24.5	24.5	24.5
Vehicle 4	24.9	24.9	24.9	24.9
Vehicle 5	24.5	24.5	24.5	24.5
Vehicle 6	23.9	23.9	23.9	23.9
Vehicle 7	35.5	35.5	35.5	35.5
West	-11.3	-11.3	-6.3	-6.3
<b>R2. 3 Austin Terrace Yard</b>	28.8	31.1	29.3	34.1
East	10.9	27.4	15.9	32.4
North	-7.2	-7.2	-2.2	-2.2
Roof	14.2	14.2	19.2	19.2
South	-22.4	-22.4	-17.4	-17.4
Vehicle 1	12.5	12.5	12.5	12.5
Vehicle 2	12.2	12.2	12.2	12.2
Vehicle 3	12	12	12	12
Vehicle 4	11.5	11.5	11.5	11.5
Vehicle 5	11	11	11	11
Vehicle 6	10.6	10.6	10.6	10.6
Vehicle 7	28	28	28	28
West	-14.5	-14.5	-9.5	-9.5
<b>R3. 2 Austin Terrace Facade</b>	34.8	36.1	35.0	38.2
East	13.9	30.4	18.9	35.4
North	-4.3	-4.3	0.7	0.7
Roof	14.8	14.8	19.8	19.8
South	-20.7	-20.7	-15.7	-15.7
Vehicle 1	22.4	22.4	22.4	22.4
Vehicle 2	21.8	21.8	21.8	21.8

Vehicle 3	21	21	21	21
Vehicle 4	19.2	19.2	19.2	19.2
Vehicle 5	19	19	19	19
Vehicle 6	19.1	19.1	19.1	19.1
Vehicle 7	33.6	33.6	33.6	33.6
West	-11.9	-11.9	-6.9	-6.9
R3. 2 Austin Terrace Yard	26.6	28.9	26.6	29.4
East	8.7	25.2	8.7	26.2
North	-9	-9	-9	-9
Roof	11.7	11.7	11.7	11.7
South	-24.1	-24.1	-24.1	-24.1
Vehicle 1	9.4	9.4	9.4	9.4
Vehicle 2	9.4	9.4	9.4	9.4
Vehicle 3	9.2	9.2	9.2	9.2
Vehicle 4	9	9	9	9
Vehicle 5	8.7	8.7	8.7	8.7
Vehicle 6	8.4	8.4	8.4	8.4
Vehicle 7	25.9	25.9	25.9	25.9
West	-14.7	-14.7	-9.7	-9.7
R4. 1 Austin Terrace Facade	32.6	33.9	41.5	43.2
East	11.8	28.3	40.9	42.7
North	-6.2	-6.2	8.7	26.2
Roof	13.3	13.3	-9	-9
South	-22.3	-22.3	11.7	11.7
Vehicle 1	20.1	20.1	20.1	20.1
Vehicle 2	19.7	19.7	19.7	19.7
Vehicle 3	19.1	19.1	19.1	19.1
Vehicle 4	18.4	18.4	18.4	18.4
Vehicle 5	16.5	16.5	16.5	16.5
Vehicle 6	16.1	16.1	16.1	16.1
Vehicle 7	31.3	31.3	31.3	31.3
West	-13	-13	-8	-8
R4. 1 Austin Terrace Yard	26.0	28.4	40.2	42.1
East	8.2	24.7	40.1	41.9
North	-12	-12	8.7	26.2
Roof	11.3	11.3	-9	-9
South	-23.8	-23.8	11.7	11.7
Vehicle 1	9.6	9.6	9.6	9.6
Vehicle 2	9.7	9.7	9.7	9.7
Vehicle 3	10	10	10	10
Vehicle 4	10	10	10	10
Vehicle 5	9.9	9.9	9.9	9.9
Vehicle 6	9.8	9.8	9.8	9.8
Vehicle 7	25.1	25.1	25.1	25.1
West	-17.9	-17.9	-12.9	-12.9
R5. 1a Kennel Road Facade	31.0	31.8	39.9	41.7
East	7.6	24.1	39.3	41.1
North	-22.9	-22.9	8.7	26.2
Roof	8.2	8.2	-9	-9
South	-12.1	-12.1	11.7	11.7
Vehicle 1	17.7	17.7	17.7	17.7
Vehicle 2	17.8	17.8	17.8	17.8
Vehicle 3	18	18	18	18
Vehicle 4	18.2	18.2	18.2	18.2
Vehicle 5	18.3	18.3	18.3	18.3
Vehicle 6	18.4	18.4	18.4	18.4
Vehicle 7	29.4	29.4	29.4	29.4
West	-19.9	-19.9	-14.9	-14.9
R5. 1a Kennel Road Garden	32.2	32.9	38.6	40.5
East	8.6	25.1	37.5	39.7
North	-19.7	-19.7	8.7	26.2
Roof	9	9	-9	-9
South	-15.8	-15.8	11.7	11.7
Vehicle 1	19.2	19.2	19.2	19.2
Vehicle 2	19.3	19.3	19.3	19.3
Vehicle 3	19.3	19.3	19.3	19.3
Vehicle 4	19.4	19.4	19.4	19.4
Vehicle 5	19.4	19.4	19.4	19.4
Vehicle 6	19.4	19.4	19.4	19.4
Vehicle 7	30.5	30.5	30.5	30.5
West	-19.6	-19.6	-14.6	-14.6
R6. 1 Kennel Road Facade	30.0	30.8	35.9	38.6
East	6.7	23.2	34.6	37.6
North	-20.5	-20.5	8.7	26.2
Roof	6.9	6.9	-9	-9
South	-23.9	-23.9	11.7	11.7
Vehicle 1	15.1	15.1	15.1	15.1
Vehicle 2	16	16	16	16
Vehicle 3	16.5	16.5	16.5	16.5
Vehicle 4	16.8	16.8	16.8	16.8



Vehicle 5	16.7	16.7	16.7	16.7
Vehicle 6	16.6	16.6	16.6	16.6
Vehicle 7	28.6	28.6	28.6	28.6
West	-21.7	-21.7	-16.7	-16.7
R6. 1 Kennel Road Garden	28.5	29.5	32.8	36.4
East	6.5	23	30.7	35.1
North	-18.8	-18.8	8.7	26.2
Roof	7.7	7.7	-9	-9
South	-23.7	-23.7	11.7	11.7
Vehicle 1	14.7	14.7	14.7	14.7
Vehicle 2	14.6	14.6	14.6	14.6
Vehicle 3	14.8	14.8	14.8	14.8
Vehicle 4	16.1	16.1	16.1	16.1
Vehicle 5	17.7	17.7	17.7	17.7
Vehicle 6	17.5	17.5	17.5	17.5
Vehicle 7	26.5	26.5	26.5	26.5
West	-20.9	-20.9	-15.9	-15.9
R7. 223a Newcastle Road Facade	24.3	25.5	26.7	33.2
East	2.9	19.4	24.8	31.8
North	-7.8	-7.8	8.7	26.2
Roof	21.8	21.8	-9	-9
South	-12.1	-12.1	11.7	11.7
Vehicle 1	4.3	4.3	4.3	4.3
Vehicle 2	4.1	4.1	4.1	4.1
Vehicle 3	4	4	4	4
Vehicle 4	3.9	3.9	3.9	3.9
Vehicle 5	3.9	3.9	3.9	3.9
Vehicle 6	3.8	3.8	3.8	3.8
Vehicle 7	19.4	19.4	19.4	19.4
West	11.7	11.7	16.7	16.7
R7. 223a Newcastle Road Garden	17.2	19.0	21.0	29.8
East	-2.1	14.4	18.1	26.8
North	-23	-23	8.7	26.2
Roof	10.8	10.8	-9	-9
South	-15.8	-15.8	11.7	11.7
Vehicle 1	-0.5	-0.5	-0.5	-0.5
Vehicle 2	-0.4	-0.4	-0.4	-0.4
Vehicle 3	-0.2	-0.2	-0.2	-0.2
Vehicle 4	0	0	0	0
Vehicle 5	0.4	0.4	0.4	0.4
Vehicle 6	1.1	1.1	1.1	1.1
Vehicle 7	15.2	15.2	15.2	15.2
West	-3	-3	2	2



## Newry, Mourne and Down District Council Environmental Health

Environmental Health Ref: 1797/17c

Planning Application Ref: LA07/2017/0078

Date Received:

1. <b><u>NOISE (includes vibration)</u></b> a) Potential to cause adverse impact. b) Proposal may be adversely affected.	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
2. <b><u>AIR POLLUTION</u></b> a) Potential to cause adverse impact. (eg odour, dust) b) Proposal may be adversely affected.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
3. <b><u>GENERAL AMENITY</u></b> a) Potential to cause adverse impact (vermin/litter) b) Proposal may be adversely affected.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
4. <b><u>AMBIENT AIR QUALITY</u></b> a) Potential to cause adverse impact. b) Proposal may be adversely affected.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
5. <b><u>CONTAMINATED LAND</u></b> Potentially contaminated due to: a) a previous use of the site b) use, or a previous use, of adjacent land c) naturally occurring levels of contamination.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
6. <b><u>OTHER CONSIDERATIONS</u></b> a) Other Environmental Health considerations	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Accompanied by Environmental Statement (ES) Has ES Been considered.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Has 3 <sup>rd</sup> party (eg objector/EHS) comment been received Has 3 <sup>rd</sup> party (eg objector/EHS) comment been considered	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Should Other agencies be involved as additional consultees? (Please Specify) E.g. NIEA, Land Resources Unit, IPRI, HSENI, etc.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>



### Environmental Health Recommendation

No Issues of Concern Arising	
Essential Information Not Provided	
Substantive Response Provided	✓
Considered – No Comment Necessary	
Superseded by Further Consultation	
Issues to be Addressed in Future ES	
Issues to be Addressed in Future Application	
Consulted on Error	

#### Comments

Environmental Health note that this proposed development has been approved. Upon reviewing the information submitted in support of the application we would suggest the following conditions be attached to minimise the impact on amenity of nearby residential properties:

The hours of operation, to include any HGV activity, should be limited to Monday to Saturday: 09:00 to 17:00 with no operation on Sundays.

No external plant should be used or installed without prior agreement with the Planning Office.

The doors to the rear of the units, as shown on drawing date stamped 18 Jan 17 by Planning Office, must be kept closed when units are operational.

The units shall be constructed as specified on page 10 of the Noise Assessment, dated 21<sup>st</sup> August 2017.

This response has been provided on behalf of Environmental Health, Newry, Mourne and Down District Council.

Date 7<sup>th</sup> November 2017

**NOTE:** Any consultation response provided by the Environmental Health Service is based on:

- information supplied by the applicant, and
- other information currently available.



**KRM ACOUSTICS**  
**Noise, Vibration and Acoustics**  
 118A Bridge Street, Portadown, Co. Armagh  
 Tel: 0798 44 2 88 17  
 Tel: 028 38 337546  
 Email: karl@krmacoustics.co.uk

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Annette McAlarney  
 Newry Mourne and Down District Council  
 Downshire Civic Centre  
 Downshire Estate  
 Ardglass Road  
 Downpatrick  
 BT30 6GQ

1st April 2019

**PL REF: NOISE ASSESSMENT Erection of 3 light industrial units. 20m East of 223a Newcastle Road, Seaforde, BT30 8NP. PL Ref: LA07/2017/0078/F**

Dear Annette,

With reference to application LA07/2017/0078/F it is hoped that the following information will help clarify any outstanding issues. These comments relate to the submitted noise report. (*'NOISE ASSESSMENT Erection of 3 light industrial units. 20m East of 223a Newcastle Road, Seaforde, BT30 8NP' and dated the 21st August 2017*). The report prepared by Chris Jordan (Irwin Carr Consulting) and dated the 8th of January 2018 is also noted.

#### Background Noise Levels,

The background noise level submitted as representative of the site in the assessment report (KRM) was a Modal Value of 46 dB  $L_{A90}$ , the ambient level was considered as a numerical average of 58.2 dB  $L_{Aeq,1hr}$ . The Irwin Carr report details noise monitoring completed between the 19th of December 2017 to the 3rd of January 2018. This was over the Christmas holiday period so the Christmas week between the 25th of December to the 1st of January was excluded. The daytime background noise level was determined to be 45 dB  $L_{A90}$ . It is not known if the Irwin Carr assessment also excluded the Saturday evening and Sunday (daytime) periods when the premises will be closed. The Irwin Carr modal background level only deviates from the KRM Acoustics considered background level by 1dB (decibel).

It is noted that no consideration of the context of the site and residual levels at the site was made in the Irwin Carr report. The residual levels were not presented. It is a requirement of BS4142:2014 that the context of the site and the residual levels should be considered. The residual levels at the site are known to be high and were measured by KRM Acoustics as between 53 and 61.3 dB  $L_{Aeq}$ . The site is beside the busy Newcastle A24 Road and is directly adjacent to a commercial yard.

#### Source Noise Levels,

The use class for the units is B2 'light industrial' and B4 'Storage'. According to the 'Planning (Use Classes) Order (Northern Ireland) 2004' the classification B2 is defined as 'Use for any industrial process which can be carried out without detriment to amenity by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit'. Class B4 is defined as 'Use for storage or as a distribution centre'. The applicant is not applying for Class B3 use, i.e. General Industrial.

The figure of 70 dB  $L_{Aeq}$  is the sound level incident at the facade. Equating to 75 dB  $L_{Aeq}$  at the centre of the floor space. It is not envisioned that the hourly activity level would exceed 70 dB  $L_{Aeq}$  at the facade. There are no private external yard areas that would facilitate the use of the premises as a large engineering works. The units are relatively small with a floor area of only ~64m<sup>2</sup> incl the office and the WC. A 70 dB  $L_{Aeq,1hr}$  level, incident at the internal facade is considered to be representative of the upper levels that will occur at the units.

A submission was made on the 10th October 2017 considering a higher source noise level of 75 dBA. An increase in the internal noise levels of +5 dB would increase the levels at the closest receptor R1 Austin Terrace to 42.9 dBA with the doors closed and 44.9 dB LA with the doors open, still below the (Irwin Carr) modal background level of 45 dB  $L_{A90}$ .

It is submitted in the Irwin Carr Report that a 15dB correction figure has been applied to an open roller shutter door. This is incorrect the correction figure is -6 dB as detailed in the sixth row of Table 6 is '6dB'. The composite sound reduction value of the whole of the front facade was considered as 9.61 dB in the noise model.

A tonal correction was added to the source level for the Lorry activity as detailed in **Table 5** of the submitted report. This is considered to be representative as it is defined as 'Clearly Perceptible' in section 9.2 of BS4142:2014.

The noise model was re-calculated using an internal level of 80 dBA a single vehicle source level of 70.7 dBA SWL and a lorry level of 78.2 dBA. The predicted levels are presented in **Table 1** below. A small exceedance is noted at R1, 4 Austin Terrace. It is however not +5dB over the Modal background level (45+5 = 51) and as such does not indicate an adverse impact. The exceedance only occurs when the doors are open and a lorry is being loaded. In any case this is the level predicted 4m high incident at the rear facade. The internal level is predicted to be 33dBA. The predicted levels indicate no exceedance over the prevalent modal background levels under all of the other scenarios and when the doors are closed. The predicted rating levels are well below the existing residual levels which will mask the predicted levels to a large extent.

The BS8233:2014 guideline level for resting of 35 dBA is note predicted to be exceeded, in any of the receptors.

Receptor	Predicted level Externally DAYTIME (Through Partially Opened Window) dB $L_{Aeq}$ FACADE		Predicted level Internally DAYTIME (Through Partially Opened Window) dB $L_{Aeq}$ FACADE		Predicted level in Amenity Space DAYTIME dB $L_{Aeq}$		Measured background Noise Levels DAY dB $L_{Aeq}$
	OPEN	CLOSED	OPEN	CLOSED	OPEN	CLOSED	
Doors							
R1. 4 Austin Terrace	48	44.1	33	29.1	43	36.2	KRM MODE: 46 dB $L_{A90}$  Irwin Carr MODE: 45 dB $L_{A90}$
R2. 3 Austin Terrace	44.2	38.7	29.2	23.7	37.9	29.1	
R3. 2 Austin Terrace	41.6	35.8	26.6	20.8	35.7	26.9	
R4. 1 Austin Terrace	39.5	33.7	24.5	18.7	35.2	26.6	
R5. 1a Kennel Road	35.2	31.1	20.2	16.1	34.8	30.3	
R6. 1 Kennel Road	36.3	32.5	21.3	17.5	37.4	33.7	
R7. 223a Newcastle Road	31.1	26.3	16.1	11.3	25.3	18	

**Table 1.** Predicted noise levels at the receptors, and limits (All values are referenced to the 1hr daytime period).

Sincerely,

Karl McElroy BSc M.I.O.A.  
KRM Acoustics

**Environmental Health submission in relation to LA07/2017/0078 (3 light industrial units 20m east of 223a Newcastle Road, Seaforde)**

**Summary of Environmental Health Comments to Planning Office:**

**07/02/17** – Environmental Health requested a full operational plan for the proposed units. It was requested that the operational plan include proposed operating hours, details of all plant to be utilised on site (fixed and mobile), a drawing showing all openings in the proposed buildings (doors, windows, vents etc) and details of any acoustic measures to be incorporated on site.

In addition, Environmental Health stated that the applicant may be required to submit a noise impact assessment due to the proximity of the development to residential properties.

**22/05/17** – Environmental Health were consulted on 28/04/17 and advised that further information had been received. This was in the form of information from Ewart Davis, Town Planner (date stamped 27<sup>th</sup> April 2017).

Environmental Health raised an objection since the units will be accessed via roller shutter doors. These roller shutter doors are likely to be open during operating times and noise from activities inside the units may adversely impact on the amenity of nearby residential properties.

Environmental Health advised that the applicant may wish to submit a noise impact assessment to predict the impact and if necessary offer noise mitigation measures to protect amenity.

**05/10/17** – Environmental Health consulted on 14/09/17 due to additional information being received. This was in the form of a Noise Assessment from KRM Acoustics (date stamped 30<sup>th</sup> August 2017).

Environmental Health raised several concerns regarding the noise assessment. Namely, the façade level used within the consultant's noise model, the lack of character correction to the likely noise sources and the clarity of the impact of the predicted noise levels.

**07/11/17** – Environmental Health were consulted on 17/10/17 due to additional information being received. This was in the form of a letter from KRM Acoustics (date stamped 17<sup>th</sup> October 2017).

At this stage in the consultation process, Environmental Health was informed that this application had been approved, several conditions were therefore suggested which may assist in reducing the impact of the noise on the nearby residential properties. These conditions included restriction of operating hours (Monday – Saturday 09:00 to 17:00),

prohibiting of any external plant, doors to the rear of the building being kept shut and construction of units in line with that proposed in noise assessment.

Environmental Health had been unaware that the approval in principle had occurred earlier in 2017.

**15/02/18** – Environmental Health were consulted on 25/01/18 due to additional information being received. This was in the form of a Noise Impact Assessment from Irwin Carr Consulting (date stamped 24<sup>th</sup> January 2018). This assessment was concerned with the current proposal and a proposal for a car wash on adjacent land. This assessment raised several issues with the accuracy of the assessment carried out by KRM Acoustics. In addition to this the assessment carried out by Irwin Carr indicated that noise from the proposed industrial units would have a significant adverse impact on amenity at 4 Austin Terrace.

Environmental Health stated that they were aware that the proposal was again under consideration and had concerns regarding the accuracy of the Noise Assessment carried out by KRM Acoustics and that no noise mitigation measures have been proposed. Environmental Health stated that it is likely that noise from the proposed development will have an adverse impact on the amenity of nearby residential properties.

#### **Environmental Health's current position.**

Both consultants' reports have areas that Environmental Health would query.

However, Environmental Health based on current information supplied would consider the proposed development likely to result in an adverse impact of the amenity of nearby residential properties.

*James Campbell*

*Head of Environmental Health-Residential*

*Health and Wellbeing Department*

*Newry Mourne and Down District Council.*



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

<b>Application Reference:</b>	LA07/2017/1603/O
<b>Date Received:</b>	19.10.2017
<b>Proposal:</b>	Housing development comprising of 6 no. semi-detached dwellings to complete the Old Railway Close development.
<b>Location:</b>	Lands to the west of 34 and 61 Old Railway Close Leitrim Co Down

#### **Reconsideration following Deferment**

The application was presented to the Planning Committee in January 2019 with a recommendation to refuse on the following grounds

1. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Designation LM 01 of Banbridge, Newry and Mourne Area Plan 2015, in that it is located outside the settlement development limit of Leitrim, which was designated to prevent ribboning and encroachment into the Mourne AONB.
3. The proposal is contrary to Policy CTY 15 of Planning Policy Statement 21, in that the proposal would, if permitted, mar the distinction between the settlement of Leitrim and the surrounding countryside.
4. The proposal is contrary to Policy NH 6 of Planning Policy Statement 2, in that the proposed siting of the development is not sympathetic to the special character of the AONB given its location outside the settlement of Leitrim.



- 5. The proposal is contrary to Policy AMP 5 of Planning Policy Statement 3, in that it would, if permitted, prejudice the future re-use of a disused transport route identified in a Development Plan for transport and recreational purposes.

This reconsideration note should be read in conjunction with the DCO report dated 21 December 2018.

The application was deferred on the following grounds

**AGREED: On the proposal of Councillor Clarke seconded by Councillor Murnin it was agreed to defer Planning Application LA07/2017/1603/0 to allow time for more information to be submitted in terms of the potential for any zoned land within the settlement to be developed. It was agreed Planning Application LA07/2017/1603/0 be brought back to Committee.**

Information has been submitted by the agent dated 19 March 2019. Information refers to the apparent unavailability of lands within Leitrim to cater for demand. A letter from Quinn Estate Agents has been submitted stating that demand has always “outweighed” supply in Leitrim and that the approved building lands at Ballydrumman Road has been inactive for a period of 7 years and that Old Railway Close is the desired location for purchasers.

The agent reiterates the above in relation to the approved building site at Ballydrumman approved under Q/2007/0794/F for 49 dwellings and again under Q/2010/0096/F. The agent states that 9 units have been constructed on this site to date with the development ceasing 7 years ago. The agent states that there are servicing issues with the approved site. Agent maintains that the current application site constitutes brownfield lands. The current application is located within the countryside and does not represent brownfield lands.

The Planning office maintain its position that the current application site lies outside the settlement limits of Leitrim and is therefore contrary to the provisions of the Newry Banbridge and Mourne Area Plan 2015.

The planning permissions granted under Q/2007/0794/F and Q/2010/0096/F provide for sufficient housing to meet the needs of the small settlement of Leitrim over the Plan period.

Should the applicant wish to have the current application site considered for inclusion within the Settlement limits of Leitrim for housing development then this request should be made through the current Development Plan process as per normal procedure.

A recommendation to refuse is offered for the reasons as previously offered..

Signed .....

14 May 2019



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

**Application Reference:** LA07/2017/1603/O

**Date Received:** 19<sup>th</sup> October 2017

**Proposal:** Housing development comprising of 6 no. semi-detached dwellings to complete the Old Railway Close development.

**Location:** Lands to the west of 34 and 61 Old Railway Close, Leitrim

**Site Characteristics & Area Characteristics:**



The site is comprised of a 0.23 hectare site, which forms the western edge of an existing residential development currently under construction. The development contains a mix of dwelling types single and two storey, detached and semi-detached. Those immediately adjacent the proposed site are comprised of two-storey semi-detached dwellings with in-curtilage car parking for two vehicles.

The site is relatively flat, with boundary vegetation on all sides. The site is within proximity of an adjacent watercourse, but outside its floodplain, however, parts of the site are within the predicted flooded areas as indicated on the Surface Water Flood Map.

The site is defined on all sides by vegetation.

The site is located outside the settlement limits of Leitrim and is therefore located in a rural area, which predominantly used for agriculture.

**Site History:**

Q/2001/0634/F

Old Railway Close, Leitrim Road, Castlewellan.

Erection of housing development (13 dwellings and garages)

PERMISSION GRANTED

19.06.2002

Q/2004/1559/F

Lands to the rear of Old Railway Close, Leitrim Road, Castlewellan

Erection of 16 dwellings and garages (Phase 4 - comprising 2 detached 1.5 storey dwellings and 14 semi-detached two storey dwellings)

PERMISSION GRANTED

20.06.2008

LA07/2016/0108/F

Old Railway Close, Leitrim Village, Ballyward, Co Down,

Change of house type for 6 dwellings (sites 26-31) and 2 additional dwellings (sites 28A and 31A)

PERMISSION GRANTED

20.04.2016

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

In assessment of this proposal regard shall be given to the Strategic Planning Policy Statement (SPPS), Banbridge, Newry and Mourne Area Plan (BNMAP) 2015, PPS2, 3, and 7, Creating Places (Guidance Document), in addition, to the history and any other material consideration.

The application was advertised in the local press on 01.11.17

### **Consultations:**

In assessment of the proposal consultations were carried out with Transport NI, Rivers, NIEA, NIW. No objections have been received.

The following neighbours were notified of the proposal 22.05.17

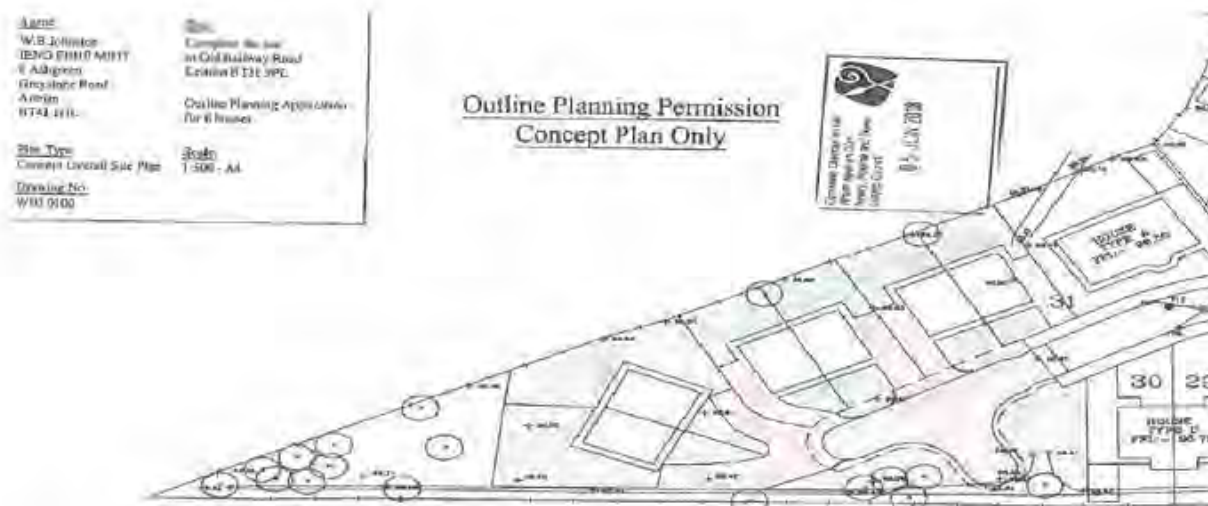
- Nos 27 – 39 Old Railway Close, Leitrim
- Nos 41, 43, 45, 47, 49, 51, 53, 55, 57, 59 and 61 Old railway Close Leitrim

### **Objections & Representations**

No objections or representations have been received

### **Consideration and Assessment:**

The proposal seeks outline planning permission for the erection of 6No semi-detached dwellings.



As the proposal is outline, the proposed design / appearance of the dwellings is not known.

### Principle of development

The application site is located outside the Settlement Limit of Leitrim as designated in the Banbridge, Newry and Mourne Area Plan (BNMAP) 2015 and is therefore positioned within the rural area. The policy context is therefore contained within CTY 1 of PPS 21.

CTY 1 of PPS 21 states that there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. Given the proposal is for a residential development of 6 dwellings, it is considered that Policies CTY 2 and 5 are most applicable.

#### CTY 2 – Development in Dispersed Rural Communities

As the site has not been designated as a DRC within the BNMAP the proposal does not meet the requirements of this policy.

#### Policy CTY 5 – Social and Affordable Housing

As the application has not been submitted by a registered Housing Association but a private developer, the proposal cannot be considered under this policy.

It is noted from the applicants supporting statement that he considers there to be a need for more affordable housing in the Leitrim, however, as the proposal does not comply with the above, it is considered therefore that the proposal is contrary to CTY 1 of PPS 21.

### PP3

#### Policy AMP 2

In consideration of the proposal (from a road safety perspective), Transport NI has been consulted. A response has been received with no objections, subject to submission of a 1:500 scale plan showing construction of the access in accordance with the RS1 Form. It is considered therefore, that the proposal is compliant with Policy AMP 3 of PPS 3.

### Policy AMP 5

This policy is applicable given the presence of a disused rail track bed within the site. Policy AMP 5 states that planning permission will not be granted for development that would prejudice the future re-use of a disused transport route identified in a Development Plan for transport and recreational purposes.

BNMAP 2015 states that the disused rail track bed could be used for transport and or recreational purposes and is protected under the above policy.

The track has not been identified in the concept plan but it appears that it could be affected by the proposed development.

The proposal is therefore contrary to Policy AMP 5 of PPS 3.

### PPS 15 Planning and Flood Risk

The site is located outside the fluvial floodplain of Leitrim River, however, parts of the site are located within a predicted flooded area as indicated in the Surface Water Flood Map. As such Policy FLD 3 of PPS 15 is applicable which states that a Drainage Assessment will be required for all development proposals that exceed the listed thresholds. In assessment of those thresholds it is noted that the proposal is comprised of less than 10 dwellings, is less than 1 hectare in size, and the amended indicative layout plan, dated 5<sup>th</sup> June 2018, shows that the areas of hardstanding are not in excess of 1000sqm. A Drainage Assessment is not therefore required.

### PPS 7

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

- (A) The development is considered to respect the surrounding context given its residential nature and is considered appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas;
- (B) There are no features of archaeological / built heritage within or adjacent the development.
- (C) In terms of private amenity space, it is noted that each dwelling will have its own area of private amenity space to the rear of each dwelling. It is considered that each dwelling will have above the minimum amount of space recommended (as per Creating Placed guidance document), sufficient space has been provided.

- (D) There is no requirement for the developer to provide necessary local neighbourhood facilities
- (E) The site is located outside the settlement limit of Leitrim but is within walking distance of all the facilities within the settlement and convenient to public transport etc.
- (F) The proposed dwellings will be accessed via the existing road through the residential development and each will have an individual driveway with in-curtilage car parking for at least 2 cars.

No objections have been received from Transport NI.

- (G) The design of the dwellings is not before the Planning Authority given the outline nature of the proposal; therefore, design should be conditioned as part of any forthcoming approval.
- (H) In consideration of the adjacent residential properties it is noted that concept plan shows the dwellings to be sufficiently separated from those existing and adjacent and will not therefore have detrimental impact on the amenity and privacy of those dwellings. The concept layout shows a pattern of development which is in keeping with those dwellings existing and adjacent which is acceptable.

It is considered therefore that the proposal complies satisfactorily with Policy QD1 of PPS 7

#### Wastewater Treatment Works (WwTWs)

Northern Ireland Water have advised the Council that Leitrim WwTWs is available at present for the proposed development.

#### Summary

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

**Recommendation: REFUSAL**

**REASONS**

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

The proposal is contrary to Designation LM 01 of Banbridge, Newry and Mourne Area Plan 2015, in that it is located outside the settlement development limit of Leitrim, which was designated to prevent ribboning and encroachment into the Mourne AONB.

The proposal is contrary to Policy CTY 15 of Planning Policy Statement 21, in that the proposal would, if permitted, mar the distinction between the settlement of Leitrim and the surrounding countryside.

The proposal is contrary to Policy NH 6 of Planning Policy Statement 2, in that the proposed siting of the development is not sympathetic to the special character of the AONB given its location outside the settlement of Leitrim.

The proposal is contrary to Policy AMP 5 of Planning Policy Statement 3, in that it would, if permitted, prejudice the future re-use of a disused transport route identified in a Development Plan for transport and recreational purposes.

Signed .....

Date .....

Signed .....

Date .....

**PLANNING STATEMENT IN SUPPORT OF PLANNING  
APPLICATION LA07/2017/1603 – HOUSING DEVELOPMENT  
COMPRISING 6 NO. SEMI-DETACHED DWELLINGS TO  
COMPLETE THE OLD RAILWAY CLOSE DEVELOPMENT  
AT LEITRIM, CO DOWN**

**D J CLELAND BA, MRTPI**



The refusal recommendation states that the development is outside the settlement limit of Leitrim and would be detrimental to the character of the Mourne AONB and the setting of Leitrim. The Planning Act (NI) 2011 requires that planning applications have to be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, there are significant material considerations in support of the proposals, and environmental impact will be minimal.

The Banbridge, Newry and Mourne Area Plan 2015, was published in August 2006 and adopted in October 2013. While it remains the statutory plan, it is now over 3 years past its end date. Completion of a new Local Development Plan is some years away.

#### Local housing demand in Leitrim

Old Railway Close is the only housing site being developed in Leitrim to provide the opportunity for local people to buy their own home in their local area. MRC Builders have developed 45 dwellings at Old Railway Close over the past 18 years, predominantly semi-detached dwellings tailored to meet local needs, and at prices which local people can afford. Significantly 80% have been bought by local people.

A copy letter from Quinn Estate Agents dated 2 February 2019 is attached (Fig.1). This confirms the importance of the Old Railway Close development. It states that demand for homes in Old Railway Close has always outweighed supply, and confirms that the Agency has 11 interested parties on the waiting list to purchase properties. This is a clear indication of the strength of local demand for the type and price of the housing proposed.

#### Land availability in Leitrim

As indicated at the January meeting, there are other undeveloped lands within Leitrim to the north of Old Railway Close. Planning approval was granted on these lands under planning application Q/2007/0794/F for 49 residential units comprising 35 houses and 14 apartments (Fig.2). 9 units have been constructed, comprising a terrace of 7 dwellings and a pair of semi-detached dwellings. However, development ceased 7 years ago and the site remains inactive. Further, the undeveloped lands within the site are not fully serviced and are in part within a river floodplain (Fig.2). In addition, the letter from Quinn Estate Agency states that when the two sites were active, Old Railway Close was the desired location for purchasers in the area. Given these circumstances, it is open to question whether there can be certainty that these lands will deliver the housing needed now to meet the immediate demand from local people for homes in Leitrim.

By contrast development on the application lands can commence immediately all necessary approvals have been received:

- no objections have been received from consultees – the lands are not subject to flooding; access arrangements are acceptable; and all services are available;
- no objections have been received from members of the public – the proposal has no adverse impact on existing properties;
- the planning report to the Committee accepts that the proposals comply with policy QD1 of PPS7- Quality Residential Environments; and
- the development is an extension to an existing, active housing site.

The last semi-detached dwelling in Old Railway Close will be completed and sold by the end of June. Without approval of this application, house building in Leitrim will cease. If local people do not have the opportunity to buy a home locally, the only option is to move out of the area.

We recognise that the lands are outside the settlement limit and that there may be concerns over setting a precedent for greenfield proposals outside settlement limits. However, there are features which distinguish this site, and minimise the potential for it to set a precedent.

Firstly, this is not a greenfield site in agricultural use. The proposed site and the existing Old Railway Close development are brownfield lands previously occupied by the buildings and track-beds of Leitrim railway station (Fig.3). The site is the last undeveloped piece of the station lands, and was occupied by the signal box. In addition, it is clear from the map that the former railway lands formed a continuous unit without any internal boundaries. The development limit for Leitrim does not follow any fence line on the ground but artificially subdivides the brownfield lands leaving the lands in this application as a detached part outside the settlement limit. Development of the entire brownfield site has always been the intention of MRC Builders – Building Control approval was granted by Banbridge District Council on 14 November 2001 for Old Railway Close including 3 semi-detached dwellings on the lands included in this planning application (Fig.4). It should also be noted that the proposed site has been in use by MRC Builders for the last 18 years to store building materials for the Old Railway Close development. This reinforces its role as previously developed land.

Contrary to the reason for refusal recommended to the Committee, the proposed development will have minimal visual impact and minimal impact on the environment:

- The proposal is small-scale, 0.23 hectares, comprising 3 blocks to provide 6 semi-detached dwellings. It is designed with a clear and specific purpose to round off and complete the cul-de-sac of Old Railway Close. It does not open up other lands for development outside the existing settlement limit;
- The lands are low-lying with no distinctive landscape features. They are not prominent but are well set back from viewpoints on public roads;
- They have established boundaries of hedges and mature trees, which will be retained to screen the development and provide a clearly defined limit to Leitrim;
- Because it has been used as a storage area for the last 18 years, it makes no contribution to agriculture, the setting of Leitrim, or the character, amenity and quality of the Mourne AONB; and
- The lands contain no features of archaeological and built heritage and they are not subject to any site-specific conservation or heritage designation.

#### Provision for a Greenway through the site

The last reason for refusal is that the proposals are prejudicial to the re-use of the disused railway through the site. The existing Old Railway Close development has already removed the former track bed but the internal roads, including through the proposed site, provide a ready-made cycle/pedestrian route. In addition, the applicant is prepared to facilitate a cycle/pedestrian only link within his ownership from the internal road network to the disused railway to the west of the site towards Banbridge.

**The Committee is respectfully requested to take account of these matters and to grant planning permission.**

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General Email:  
 info@quinnestateagents.com

Web:  
 quinnestateagents.com

Date 02 February 2019

Dear Sirs

**OLD RAILWAY CLOSE, LEITRIM,CASTLEWELLAN**

I write in relation to the housing need in the location of the above site.

I am the selling agent and can advise that demand has always outweighed supply. Currently we have eleven interested parties on the waiting list to purchase within this development.

In relation to other land in the area, I am not aware of any additional ground which could be purchased for the purpose of development. I am however aware of development site in close proximity. This site has been inactive for the last seven years. I can also advise that when the two sites were active, Old Railway Close was the desired location for the purchasers in the area.

If you require any further information, please do not hesitate to contact me.

Yours faithfully

**MR JONTHAN QUINN FNAEA FARLA  
 FOR QUINN ESTATE AGENTS**

Quinn Estate Agents is a trading name of Quinn Property Sales Ltd  
 Registered Office: 3 The Square, Ballynahinch BT24 8AE  
 VAT No. GB 109 3485 12. Company registration No. NI 604653



Fig.1 – Copy letter from Quinn Estate Agency

Volume 2 - SMALL SETTLEMENTS

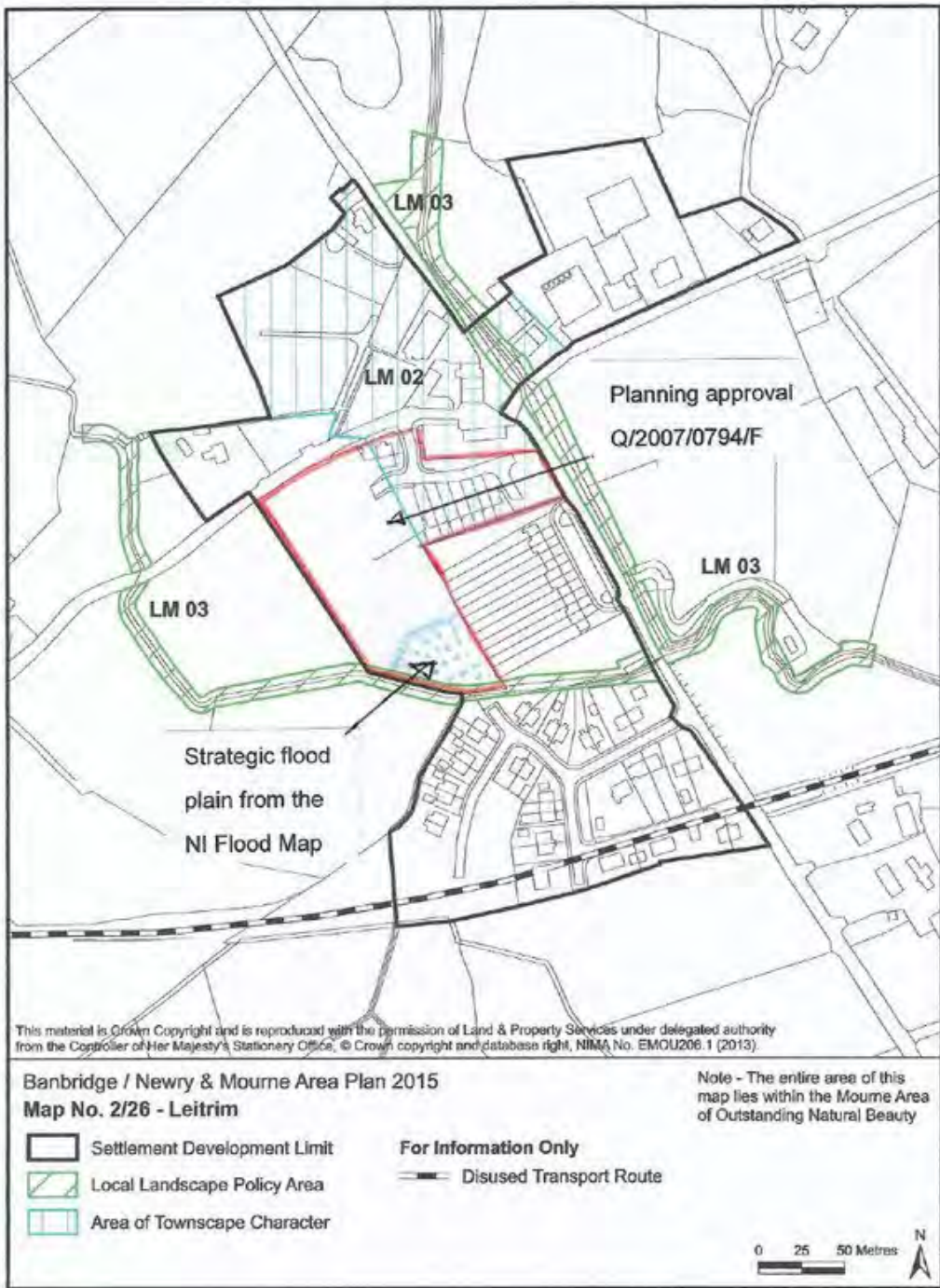


Fig.2 – Lands to the north of Old Railway Close

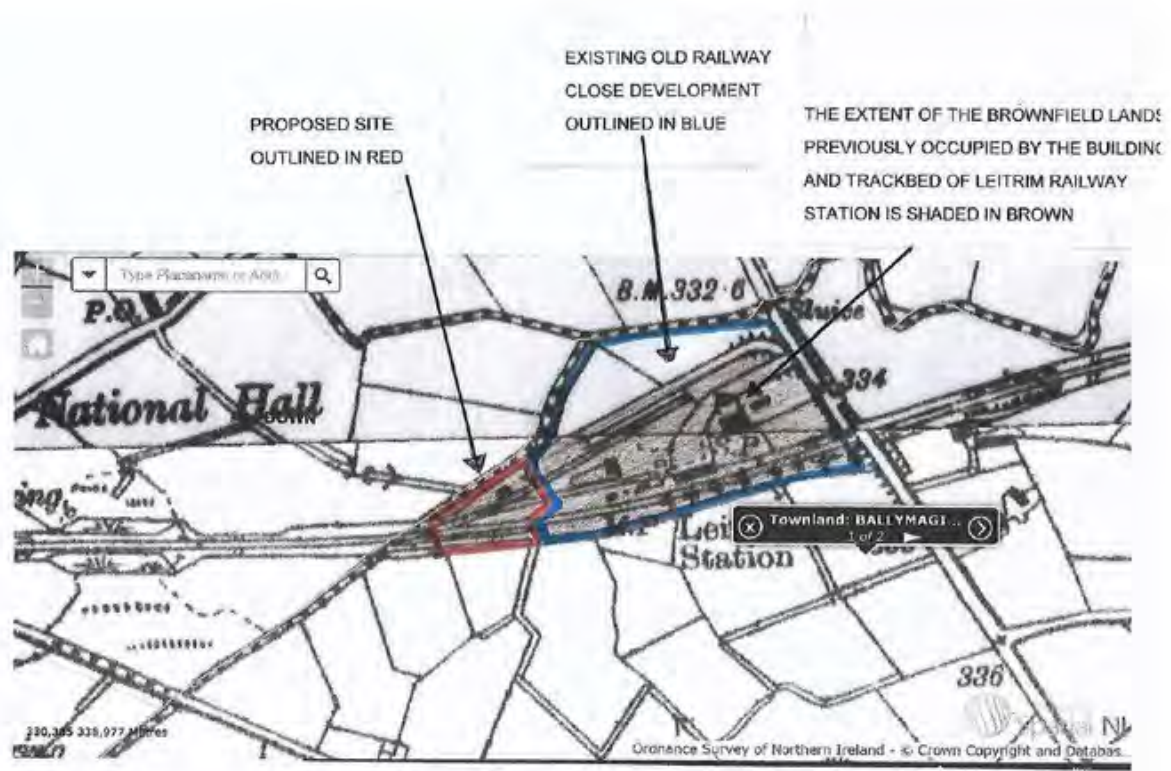


Fig.3 – The extent of former railway lands at Leitrim



Fig.4 - Site layout granted Building Control approval by Banbridge District Council on 14 November 2001, including the lands in the present planning application.



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2018/0820/F

**Date Received:** 22.05.2018

**Proposal:** The application is for full planning permission for the erection of a semi-detached pair of dwellings and associated car parking.

**Location:** The application site is located within the settlement limits of Newcastle as designated in the Ards and Down Area Plan 2015.



Site location plan

**Site Characteristics & Area Characteristics:**

The site outlined in red comprises a plot of land located between Nos 1 and 2 Sally Gardens and 31-35 Mourne Rise. It lies adjacent to the Castlewellan Road which is vacant and slightly overgrown at present. Sally Gardens comprises a small cul-de-sac of 6 dwellings (3 pairs of 2 storey semi-detached dwellings). Mourne Rise is a larger development and cul-de-sac of Mourne Rise to the east.

The site is relatively flat whereby the boundaries include a mix of fencing, planting and a wall. A grass verge and footpath run along the frontage of the site. The curtilage of No.1 Sally Gardens accommodates a detached garage which runs to the side and rear of No 1, running parallel to the main Castlewellan Road (which is a protected route). Several properties also include sheds and outhouses to the rear of their properties. A pedestrian access/private right of way, also runs along the rear of no's 33-35 Mourne Rise which provides access to the rear of these properties.

The site is located within the development limits of Newcastle on land regarded as white-land as identified in the Ards and Down Area Plan 2015. The site is located off the Castlewellan Road, which is predominantly residential in character and is characterised by 2 storey semi-detached and terraced units.



#### Site History:

##### Relevant to the site

R/2013/00013/F - Land to the rear of 1 and 2 Sally Gardens and 31 to 35 Mourne Rise, Erection of 2 dwellings, full, approval

R/2007/0099/F- Land to the rear of 1 and 2 Sally Gardens and 31 to 35 Mourne Rise, Erection of 2 dwellings, full, approval, 19-03-08, Applicant: P and S Brannigan,

R/2005/1586/F- Lands adjacent to 1 Sally Gardens, Erection of 2 dwellings, full, refusal, 09-06-06, Applicant: P and S Brannigan,

R/00/0728/O- Lands adjacent to 1 Sally Gardens, 1 dwelling, outline, withdrawn, 29-01-01, Applicant: S Brannigan,



**Planning Policies & Material Considerations:**

Policy- RDS, Ards and Down Area Plan 2015, PPS1, PPS3, PPS7, PPS12, Creating Places, DCAN8

**Consultations:**

NI Water – Statutory response  
DFI Roads – No objections subject to conditions  
NIEA Water Management – No objections  
Historic Environment Division – No objections  
Rivers Agency – Contrary to Policy revised PPS 15

**Objections & Representations**

In line with statutory requirements twenty five neighbours have been notified on 14.06.2018. The application was advertised in the Mourne Observer and the Down Recorder on 13.06.2018.

**Representations**

13 letters of objection have been received in relation to the proposal, some of these objection letters are from the same household, however, they are from 7 different addresses and thus the application would have to be presented to Planning Committee.

The main issues are:

- Development would close out light and sun to the rear of their properties
- Development would impact on the enjoyment of their homes through loss of privacy

**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. In practice this means that development that accords with an up-to-date development plan should be approved and proposed development that conflicts with an up-to-date development plan should be refused, unless other material considerations indicate otherwise.

Any conflict between retained policy and the SPPS is to be resolved in favour of the SPPS

As stated above the site is located off the Castlewellan Road between the developments of Sally Gardens and Mourne Rise.

There is history on the site by way of two previous approvals on this site and this application has been submitted as a renewal application. The most recent previous application R/2013/0021/F was approved 25/06/2013 and at the time of submitting this application there was an extant permission for two dwellings on this site. This permission has since expired.

The house type and layout are identical to the previous scheme submitted. This includes the erection of a pair of semi-detached dwellings which are 2 storey high with a roof-space conversion (3 floor areas) and a single storey return to the rear. These dwellings have a ridge height of approx 8.6m (eaves height of approx 5.65m) and are finished in wet dash render walls, grey concrete roof tiles, and white upvc windows. They front the Castlewellan Road, however due to the shape of the site they are slightly staggered whereby the separation distance to the road varies. Each dwelling has an integral garage with parking and a turning area to the front and amenity space to the rear. The separation distance to the remaining boundaries also varies due to the shape of the site and siting of the units. Levels are provided and a new timber fence (1.8m high) is proposed to be erected along each boundary. The grass verge and footpath along the frontage of the site is shown to be retained either side of the entrance drives. Taking into account the existing character and house types and history of the site, no objections are offered to the principle of such units on this site.

The character of the area may have changed since the completion of the social housing development opposite the site. This should not preclude development of the site subject to complying with the relevant policies and no objections from statutory consultees. Thus as this is a renewal of a previously approved proposal, the issues for consideration for the Council relate to any change in circumstances since the last approval.

As part of this application consultations have been carried out with DFI Roads, NIW, NIEA WMU, Rivers Agency and Historic Environment Division.

Revised PPS 15 – Planning and Flood Risk is a policy that was introduced in September 2014. The Strategic Planning Policy Statement for NI (SPPS) was also introduced in September 2015 and Flood Risk is covered under section 6.99 of the SPPS. Both these policies were introduced after the granting of the previous approval and thus presents new circumstances on which to base assessment of the proposal.

#### SPPS

Para 6.105 refers to the Regional Strategic Objectives for the management of flood risk which includes; to prevent inappropriate new development in areas known to be at risk of flooding, or that may increase the flood risk elsewhere and to ensure that the most up to date information on flood risk is taken into account when determining planning applications amongst other objectives that are listed under para 6.105.

#### Revised PPS 15

Policy FLD 1 of PPS 15 addresses development in fluvial and coastal flood plains and states that normally, development will not be permitted within the 1 in 100 year fluvial flood plain (AEP of 1%) or the 1 in 200 year coastal flood plain (AEP of 0.5%). Paragraph 5.3 of PPS 15 states that all planning applications, including those for the renewal of planning permission, will be determined with reference to the most up to date flood risk information available to the Planning Authority. Paragraph 5.4 states that the planning authority will consult Rivers Agency on planning applications where it appears that flood risk is a material consideration.

Rivers Agency have been consulted regarding the proposal and have commented that a culverted designated watercourse known as the Murlough Drain MW3204 flows within the site along the eastern boundary. The site is located within the flood plain of the Burren River but in a defended area protected by Flood Defence 1044.

### **FLD 1 - Development in Fluvial (River) and Coastal Flood Plains**

DfI Rivers PAU deems the proposal to be contrary to policy.

The above Policy states *"Development will not be permitted within the 1 in 100 year fluvial flood plain (AEP7 of 1%) or the 1 in 200 year coastal flood plain (AEP of 0.5%) unless the applicant can demonstrate that the proposal constitutes an exception to the policy.*

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

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

#### *Exceptions - Defended Areas*

- a) Development of **previously developed land** protected by flood defences that are confirmed by DARD, as the competent authority, as structurally adequate and provide a minimum standard of 1 in 100 year fluvial or 1 in 200 year coastal flood protection".*

This site is not previously developed land and is within a defended area. No exception applies to this site. The proposed development for 2 dwellings is not relevant to Overriding Regional or Sub-Regional Economic Importance.

Paragraph 6.16 (Justification and Amplification) of Revised Policy PPS 15 States

*"6.16 There will be a presumption against development of green field sites in defended areas. As well as exposing more people and property to the residual flood risk, this form of development could remove valuable flood storage should the defences overtop or breach".*

DfI Rivers PAU deems the proposal to be contrary to the current Revised Planning Policy Statement 15 dated September 2014.

### **FLD 2 – Protection of Flood Defence and Drainage Infrastructure**

A culverted designated watercourse known as the Murlough Drain MW3204 flows within the site along the eastern boundary. The policy states *"Planning authority will not permit development that would impede the operational effectiveness of drainage infrastructure or hinder access to enable their maintenance".*

Paragraph 6.32 requires a working strip of 5-10m in order to facilitate maintenance. The policy states *"The working strip should have a minimum width of 5 metres, but up to 10 metres where considered necessary, and be provided with clear access and egress at all times".*

The Site Plan Drawing 0249/L015 does not provide a working maintenance strip in accordance to this sub-policy FLD2.

**FLD 3 - Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains.**

The proposal does not exceed the thresholds to require a Drainage Assessment. It is the developer's responsibility to assess the flood risk and drainage impact and to mitigate the risk to the development and any impacts beyond the site. Consideration should be given to the use of SuDs as the preferred drainage solution.

**FLD 4 – Artificial Modification of Watercourses.** Not applicable to the already culverted Murlough Drain MW3204 flows within the site along the eastern boundary

**FLD 5 – Development in Proximity to Reservoirs.** The current Revised Planning Policy Statement 15 dated September 2014 now includes this sub-policy for Development in Proximity to Reservoirs. DfI River's Flood Maps (NI) for Reservoir inundation indicate that this site is in an area of inundation emanating from Lough Island Reavy Reservoir and should therefore have Policy FLD 5 applied to it.

Paragraph 6.120 of the SPPS advises that "New development within the flood inundation area of a controlled reservoir can only be justified where the condition, management and maintenance regime of the reservoir are appropriate to provide assurance regarding reservoir safety". Accordingly, planning permission for new development should only be granted subject to such assurance being provided by a suitably qualified engineer and supported by DfI Rivers, as the responsible body for the management of flood risk".

There is insufficient information submitted to demonstrate that FLD 5 has been met.

Given this change in policy since the previous approvals on site, the application is now contrary to FLD 1, FLD 2 and FLD 5 of Revised PPS 15.



NI Flood Map

## **Planning Policy Statement 7 Quality Residential Environments**

Planning Policy Statement 7 Quality Residential Environments (PPS7) sets out planning policies for achieving quality in new residential development. Policy QD1 of PPS7 states that in established residential areas proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas.

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

Notwithstanding the issues above. In terms of the application and PPS 7, this is a renewal application for full permission. It is acknowledged that at the time of submission there was an extant permission on the site which has since expired. The plans submitted are the same as those previously approved. The side gables of the main dwelling are blank, thus will not result in any unacceptable direct overlooking over the adjoining properties to either side, while it is also considered the single storey return to the rear will not result in any unacceptable impact due to its nature and the existing and proposed boundary treatments. In addition it is considered the units are located a sufficient distance to the rear boundary in line with current guidance to prevent any unacceptable impact. Taking into account the letters of objection which do not carry determining weight in this case, and given the previous approval on the site, the design and layout would therefore be deemed acceptable.

### **Access, Movement and Parking**

PPS 3 sets out the planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking. It forms an important element in the integration of transport and land use planning. DFI Roads have been consulted and have offered no objections to the proposal with conditions attached.

### **Conclusion**

With the introduction of new policy since the previous approval, the proposal is now considered to be contrary to policies SPPS and revised PPS 15 – FLD 1, 2 and 5.

### **Recommendation:**

Refusal is recommended.

### **Refusal Reasons:**

- 1.) The proposal is contrary to the Strategic Planning Policy Statement 2015 (SPPS) and Revised Planning Policy Statement 15, policy FLD 1 in that the site is within the Q100 fluvial floodplain where development is not permitted and it cannot be demonstrated that the proposal constitutes an exception to the policy.
- 2.) The proposal is contrary to the Strategic Planning Policy Statement 2015 (SPPS) and Revised Planning Policy Statement 15, policy FLD 2 in that the development would impede the operational effectiveness of flood defence and drainage infrastructure

and hinder access to enable their maintenance, as the proposal does not provide a working maintenance strip.

- 3.) The application is unacceptable as insufficient information has been submitted regarding the site's proximity to reservoirs to enable the Authority to make an informed decision on the proposal.

Case Officer Signature

Date

Appointed Officer Signature

Date

## Planning Application – Sally Gardens – LA07/2018/0820/F

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History of the applications on site and timeline of critical events

- Planning Application LA07/2018/0820/F is a renewal of planning permission R/2013/0012/F;
- R/2013/0012/F expired on 24<sup>th</sup> June 2018;
- LA07/2018/0820/F was submitted on 21<sup>st</sup> May 2018 and stamped received by the Council on 22 May 2018 – approximately 5 weeks prior to the expiry of R/2013/0012/F;
- At the time the application was made the applicant had a valid fallback position – to erect the development approved which is the same as that for which a renewal is sought under LA07/2018/0820/F;
- Despite having the application in good time, the Council did not consult with DfI Rivers until 13<sup>th</sup> June – 23 days after the submission of the application – this was done despite the Council knowing of the impending expiry of the extant planning permission;
- DfI Rivers responded to the consultation request by the Council on 25<sup>th</sup> June which is within their response time limit;
- Had this consultation request by the Council been made in a more timely manner for instance 1 week after the submission of LA07/2018/0820/F (on 28<sup>th</sup> May) and Rivers Agency had responded in the same timeframe (12 days) they would have responded raising the issues now apparent on 11<sup>th</sup> June;
- A response on 11<sup>th</sup> June would have allowed the applicant approximately 2 weeks to commence development under R/2013/0012/F and hence secure his permission and the development afforded. As the applicant is a building that would have been ample time to have made a valid start on site.
- Amended Plans were submitted on 20<sup>th</sup> March and have not been considered by the planning officials; equally DfI Rivers have not been consulted on these amended plans and hence there is no objection from DfI Rivers to the amended scheme in front of the Committee.
- The Council has a history of approving development for renewal of applications after the expiry of previous planning permissions – P/2011/1062/F expired on 10<sup>th</sup> May 2012 and was granted planning permission subject to a 3 year time period – it expired on 9<sup>th</sup> May 2015. LA07/2015/0141/F was submitted on 14<sup>th</sup> April 2015 approximately 5 weeks prior to the expiry of P/2011/1062/F and was not approved until 15<sup>th</sup> May 2018. This kind of situation does exist within the Council area and is not unique.

Planning Policy

- The site is within a 1 in 100 year floodplain but is within a defended area, meaning that DfI Rivers' flood defenses protect the site from flooding – this means that in fact it does not flood;

- These flood defenses have been utilised in the past to create the Burren Meadow development directly opposite the application site – this contains 148 properties within the floodplain;
- Within defended areas there is an exception which allow development to take place – that is for previously developed land;
- This site is surrounded on all sides by development it is within the settlement limited of Newcastle and on this basis should be considered to be previously developed land;
- Further the site has benefitted from planning permission since 2007 and has a long history of planning permissions granting development rights to the applicant which furthers the argument that the site is previously developed land;
- The site has not been developed because it forms part of the applicant's pension plan – he will develop it prior to retirement, and will the return will form part of his retirement fund;
- Where the policy fails is that it does not define "previously developed land" in the glossary which allows the Council to interpret the planning policy and define what that means;
- In this instance, given the long planning history on site; the fact that the site is surrounded by development; the fact that the site does not actually flood due to DfI Rivers' flood defenses; the fact that the application was made within the lifetime of the extant planning permission create a unique set of circumstances which will be difficult to replicate and which mean that the site is "previously developed land".

#### Other planning issues

- There are no other objections from consultees only the objections raised by DfI Rivers;
- Their first objection reason is dealt with above;

Their consultation response adds that there will be a presumption against development of greenfield sites in defended areas – this site is not a greenfield site, it is a brownfield site where the thrust of planning policy indicates that development should take place;

It is DfI Rivers responsibility to ensure that their flood defenses are adequate and do not overtop or breach it is incorrect to inhibit development in case DfI Rivers do not meet their statutory obligations and it is incorrect for them to seek to divert that responsibility onto the public;

- The 2<sup>nd</sup> objection is in relation to the protection of drainage infrastructure which requires a minimum 5m maintenance strip – this can be accommodated through an amended scheme;

This 2<sup>nd</sup> objection is dealt with through the amended plans submitted by the applicant on 20<sup>th</sup> March;

- The 3<sup>rd</sup> comment can be dealt with through the production of a SuDs drainage solution once the principle of development is accepted;
- The 4<sup>th</sup> comment is not an objection;
- The 5<sup>th</sup> comment can be dealt with through discussions with the reservoir owner and DfI Rivers once the principle of development is accepted.

#### Summary

- If the principle of the site constituting an exception under "previously developed land" the other matters can be resolved;



- As set out above had the Council consulted DfI Rivers in a prompt manner the issues would have been flagged up in time for the applicant to act on the previous planning permission, despite that critical error the site is "previously developed land" within a defended area, which in reality does not flood, and is therefore an exception to policy FLD1. The other matters can be addressed through a Flood Risk Assessment, an amended scheme with SuDs drainage solution and discussions with a third part reservoir owner and DfI Rivers.
- This application therefore ought to be granted planning permission.



Comhairle Ceantair  
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agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference: LA07/2018/1194/F**

**Date Received: 27<sup>th</sup> July 2018**

**Proposal: Proposed change of use from existing vernacular building used as domestic store with associated extensions to create a 2 bed holiday cottage.**

**Location: 52 Carrigagh Road, Finnis, Dromara**



**Site Characteristics & Area Characteristics:**

The site in question is a previously occupied residential dwelling located along the road side with development to the rear. The building still has the appearance of a residential dwelling though clearly not occupied. New development sits to the rear with the vehicular access to the side of the dwelling.

The site is not located within any settlement development limits as defined in the Banbridge, Newry and Mourne Area Plan 2015. The site sits just off the Carrigagh Road and is a single storey linear building tin sections to the side and rear.

**Site History:**

LA07/2018/0635/LDE – 52 Carrigagh Road, Finnis – retention of vernacular building not in compliance with condition no 2 of planning approval Q/2002/0282/RM for use as a domestic store for 52A – Permitted development – 06<sup>th</sup> July 2018.

Q/1999/0537/O – 53 Carrigagh Road, Finnis – site for replacement dwelling – 26-11-1999 – granted.

Q/2008/0354/RM – 49 Carrigagh Road, Dromara – erection of replacement dwelling – 20-08-2008- granted.

Q/2002/0282/RM – No 52 Carrigagh Road, Dromara – erection of replacement dwelling 21-05-2002 – granted.

Q/2001/0930/O – 52 Carrigagh Road, Dromara – site for a replacement dwelling – 21-05-2002 – granted.

Q/2005/0110/O – 49 Carrigagh Road, Finnis – erection of replacement dwelling – granted – 22-06-2006

Q/2000/0473/RO – 52 Carrigagh Road, Finnis – erection of replacement dwelling – 27-09-2000 – granted.

**Planning Policies & Material Considerations:**

The application is considered against the Banbridge, Newry and Mourne Plan 2015 and in addition to this is considered against PPS 3 Access, Movement and Parking, PPS16 Tourism, PPS 21 Sustainable Development in the Countryside and SPPS.

**Consultations:**

Transport NI was consulted in relation to the proposal requested additional information on several occasions, following the submission of amended drawings Transport NI responded with no objections however have stipulated conditions.

NI Water has responded with no objections.

**Objections & Representations**

The application was advertised in the local press on 15<sup>th</sup> August 2018 which expired 29<sup>th</sup> August 2018, neighbour notification issued 7<sup>th</sup> August 2018 which expired 21<sup>st</sup> August 2018. To date there have been no representations received in relation to the proposal.

**Consideration and Assessment:**

The application initially is considered against PPS 16 Tourism and TSM 5 Self Catering Accommodation in the Countryside however the proposal fails to meet with the criterion set out in TSM 5 in that the proposal is not for a unit located within the grounds of an existing or approved hotel, self catering complex, guest house or holiday park, nor is the proposal for three or more units located in or close proximity to an existing or approved tourist amenity that is or will be a significant attraction in its own right and the proposal is not for the restoration of an existing clachan or close therefore the proposal fails to meet with the eligible criterion set out in TSM 5 and fails to meet with any of the provisions of PPS 16, Tourism.

The application is also considered against PPS 21, CTY 4 The Conversion and Reuse of Existing Buildings.

The application relates to a building that was previously used as a dwelling however permission was granted for the replacement of this building and the replacement was constructed to the rear of this building. It was a condition of the approval that upon occupation of the new dwelling the existing dwelling was to be demolished however this was not done and the applicant made a Certificate of Lawfulness Application for confirmation that the building is immune from enforcement action, a certificate was issued in this respect. The building has been used as an ancillary building serving the main dwelling constructed on site.

CTY 4 states that planning permission will be granted to proposals for the sympathetic conversion of a suitable building for a variety of alternative uses including use as a single dwelling where this would secure its upkeep and retention. The SPPS is more prescriptive in relation to the conversion of buildings and states that the conversion of a locally important building will be considered.

The SPPS also states that a former dwelling previously replaced and retained as an ancillary building to the new replacement dwelling will not be eligible for conversion back into residential use under CTY 4.

In relation to the SPPS the application is not eligible for conversion to a holiday let as firstly the building is not locally important, the building is an old building that would have some vernacular qualities however it is not a locally important building and does not make an important contribution to the local landscape. In addition to this this building was previously conditioned to have been demolished and is now being used as ancillary storage to the replacement dwelling.

The proposal is considered against the remainder of CTY 4.

- **The building is of permanent construction.**

The proposed building is of a permanent construction and the proposed extension would also be of a permanent construction.

- **The reuse or conversion would maintain or enhance the form, character and architectural features, design and setting of the existing building and not have an adverse effect on the character or appearance of the locality.**

The form and character of the building do not warrant retention, there are no outstanding architectural features that would be desired to be retained. There is no advantage in securing the upkeep and retention of this building. It is however noted that the proposal in terms of what exists at present is not considered to be likely to have an adverse impact on the character and appearance of the locality.

- **Any new extensions are sympathetic to the scale, massing and architectural style and finishes of the existing building.**

There is an extension proposed to the rear of the existing building, centrally located. The existing buildings main form and what will be retained is 14.7m in length and 5.2m wide and 5.5m in height. The proposed extension is 6m wide and 10.9m from the rear of the existing rear wall and is 4.9m in height, the extension is angled at the end. The extension is vulgar and is not sympathetic to the style of the main building. The proposed boundary treatment has also been poorly thought out and in an attempt to separate this building off from no 52 it has been proposed to create a parking area and patio area bounded with the use of 1.8m close board timber fencing which is considered totally inappropriate at this rural location. The works proposed to the building are not sympathetic to the existing building but could be tolerated given they are to the rear of the building, the finishes to the extension are however considered acceptable.

- **The reuse or conversion would not unduly affect the amenities of nearby residents or adversely affect the continued agricultural use of adjoining land or buildings.**

The proposal is to be operated as guest accommodation by the owner/occupier of the adjacent dwelling. Given the relationship between the two and the nature of the use it is not considered the amenities of no 52 would be impacted on demonstrably. It is however noted that the attempt to create privacy using privacy wooden fencing is not acceptable and is not an appropriate solution to help give either party more privacy in this instance and in a rural setting.

- **The nature and scale of any proposed non-residential use is appropriate to a countryside location.**

The nature and scale of the proposed non-residential use as a commercial let is considered acceptable at this location and if it met with all other policy requirements could operate from this location.

- **All necessary services are available or can be provided without significant adverse impact on the environment or character of the locality.**

Necessary services can be provided without having a significant adverse impact on the environment and character of the locality.

- **Access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic.**

Transport NI has responded with no objections having sought amendments to the original approval, it is considered that the proposal will not impact on road safety or prejudice road safety.

The application is also considered against CTY 13 Integration and Design of Buildings in the Countryside. Planning permission would not be forthcoming in a number of circumstances set out below.

- **It is a prominent feature in the landscape.**

While a more sympathetic extension could have been proposed to the rear of the building it is not considered that the works overall would be considered a prominent feature in the landscape. The main structure is there at present and the additional works would not be considered to lead to the development becoming a prominent feature in the landscape.

- **The site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape it relies primarily on the use of new landscaping for integration.**

Given that this building is currently being used as an ancillary store to the occupied dwelling to the rear (no 52) and given that the building and extension sit within the curtilage of no 52 it is necessary to separate the two properties and to do this a considerable boundary of close board timber fencing is proposed, the site requires some form of boundary treatment or to be defined in some way to create privacy however it is not necessary for the purposes of integration and the site will not rely on new planting for integration.

- **Ancillary works do not integrate with their surroundings.**

The ancillary works in terms of the close board timber fencing surrounding the building is not considered to be a sympathetic boundary treatment or means of enclosure. A native planted hedge would be more appropriate to be used in the rural setting. The close board timber fence would poorly integrate into the surroundings.

- **The design of the building is inappropriate for the site and its locality.**

As commented upon previously the design of the extension proposed to the building could have been more suitably designed however the works are to the rear of the building and given that the materials are to match the existing and the extension sits adjacent to other buildings and from public view points is read in conjunction with existing buildings on this basis the proposal is considered acceptable on these grounds.

- **It fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop.**

The application does not cause any issue in relation to the above aspect of policy.

- **In the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.**

This aspect of policy is not applicable.

The application is also considered against CTY 14 Rural Character which states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.

- **It is unduly prominent in the landscape.**

As commented upon previously the proposal will not result in a prominent feature in the landscape.

- **It results in a suburban style build-up of development when viewed with existing and approved buildings.**

The works will not result in a suburban style build-up of development when viewed with the existing and approved buildings. Notably it would have been more desirable had the original condition of approval Q/2001/0930/O been adhered to (demolition of building) as this would have avoided the situation now where the collection of buildings exist in the rural setting however it is not considered that by adding a side and rear extension to this property and converting it that it will result in a suburban style build-up of development.

- **It does not respect the traditional pattern of settlement exhibited in that area.**

The traditional pattern of settlement exhibited in the area will not be impacted upon as a result of this proposal.

- **It creates or adds to a ribbon of development (see Policy CTY 8).**

The proposal will not create or add to a ribbon of development and does not offend CTY8 Ribbon Development.

- **The impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.**

As stated previously the ancillary works in terms of the close board timber fence is not considered a suitable boundary treatment for the rural area and would damage rural character. A planted boundary with post and wire fence would be more acceptable and would soften the overall appearance of the boundary rather than the use of a 1.8m high timber privacy fence as is noted on the drawing.

### **Recommendation:**

Refusal

**Reasons for Refusal:**

- The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
- The proposal is contrary to SPPS and Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building is not a locally important building and therefore is not suitable for conversion.
- The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the ancillary works (boundary treatment of 1.8m high timber privacy fence) would not integrate with their surroundings and therefore would not visually integrate into the surrounding landscape.
- The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the impact of ancillary works would damage rural character and would therefore result in a detrimental change to (further erode) the rural character of the countryside.
- The proposal is contrary to the SPPS and Policy TSM5 of Planning Policy Statement 16: Tourism, as it is not within the grounds of an existing or approved hotel, self-catering complex, guest house or holiday park; it is not at or close to an existing or approved tourist amenity that is a significant visitor attraction in its own right, and; it does not involve the restoration of an existing clachan or close, through conversion or replacement of existing buildings.

**Case officer:****Authorised by:****Date:**



LA07/2018/1194/F

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This is one of the last few remaining vernacular/traditional style houses on the Carrigagh Road and extended area and is ideally situated within the Slieve Croob region. This area serves walkers/hikers, cyclists and tourists on a regular basis and with Newry, Mourne and Down being one of the few councils regions with a Tourism Strategy promoting the Mourne and surrounding areas, this application will lend its way to enhancing the vision and enable me to "work with the council to build a unified and entrepreneurial industry that is customer focused and succeeds in delivering a destination experience to the international marketplace," as set out in the opening preface of the NMandD Tourism Strategy.

The proposal would ensure the continued use of this house that has been part of my own life and many of the neighbours in proximity and it would be mindful of the rural and environmental needs of the area with its return to its former glory. The house itself has been central in the community over the years as a hub for music/folklore sessions with musicians coming on a regular basis to ply their skills. One of the former residents that lived in the house was the local barber and served the locals in this area whilst also working as a TV engineer with many other engineers coming to him when they couldn't mend something themselves. Also, at the time of the Belfast Blitz, the cottage housed an evacuee who was moved out of the city. All these points lead to the view that this house is a locally important building albeit that this is a subjective viewpoint.

The cottage is situated in the shadow of the Slieve Croob and Cratlieve Mountain range and serves tourists to this area as promoted by the Slieve Croob Scenic Loop signposted from nearby towns in the locality. In close proximity is Tollymore and Castlewellan Forest Parks and the world-renowned Royal County Down Golf course and many others close by. The cottage is situated on the Giro D Italia cycle route and was showcased to the world during this prestigious event. Within minutes from the cottage we have Finnis Souterrain and The Windy Gap Viewpoint, 15 minutes from Newcastle and 30 minutes from Newry and Belfast and all the well-known major tourist attractions situated within a close radius of the cottage as well.

This application has received no objections from anyone in the local community and has received local support from neighbours in the area pledging support and outlining the need for more self-catering accommodation to feed the tourism demand within the locality. The application has received support from local councillors, MLA's and MP's from all parties within the local council and constituency area, although it appears some of these letters have not appeared on the Planning Portal for some reason, but when I contacted the relevant parties concerned, they stated that they sent the correspondence in on my behalf. I have copies of the correspondence with me.

The councillors unfortunately do not have an opportunity to see the typical country cottage appeal from looking at the planning officers report to showcase the traditional vernacular style of the structure as unlike a lot of other planners reports showing different facades of the proposed application, the report only has an image that looks to have been captured from Google Maps. I have copies of photographs from the house with me also.

I hope the committee can see the viability of this application and aspire to my vision to reinstate this cottage and I thank you for your time.

**Thank you for the opportunity to speak at this meeting. I will address the reasons for refusal and Francis will speak regarding the benefits of the proposal.**

There are 5 recommended reasons for refusal and I would comment on each as follows;

1. Newry, Mourne & Down District Council are actively promoting tourism and within the SPPS which applies to the whole of Northern Ireland it states "The Executive identifies tourism as one of the building blocks to underpin its priority of growing a sustainable economy and investing in the future" Part 6.2 of SPPS goes on to elaborate and reinforce this statement. The application under consideration is for a holiday cottage in the countryside and this is the "overriding reason why this development is essential in this rural location" This proposal could not be located in a settlement.

2. Clarification is sought from Planning on their interpretation of their reason for refusal pertaining to CTY4. SPPS does refer to "locally important buildings" but CTY4 of PPS21 does not. Any conflict between the SPPS and any pertaining Policy retained under the transitional arrangements must be resolved in favour of the provisions of the SPPS so CTY14 should not be included in this reason for refusal. In any effect whether the building is deemed locally important is not a decision a single Case Officer or Group Meeting can make. This decision must be made by the Planning Committee.

3. The 1.8m high timber fence referred to has been omitted and amended drawings submitted and acknowledged by Planning but not referred to in the Case Officers Report. This reason for refusal is not sustainable.

4. The ancillary works associated with this proposal are minimal. Two old stone buildings in a poor state of repair are to be demolished with the referred to ancillary work being mostly in this general area. To say this work "damage rural character" and "further erode the rural character of the countryside" is totally incorrect. This reason for refusal is not sustainable.

5. Within PPS16; Tourism the relevant paragraphs to this application are 5.3 and 7.29. Paragraph 7.29 is as follows; " The policies in PPS21 relating to the conversion and reuse of rural buildings, farm or forestry diversification and development in dispersed rural communities may provide other opportunities for small scale, including single unit self catering accommodation in the countryside. **The criteria referred to in PPS16 by Planning is an incorrect and negative interpretation to this policy.**

**Finally**, in the interests of administrative fairness the application is directly comparable to the recently approved application LA07/2018/0489/F for the "proposed conversion of garage and shed to holiday accommodation at 76 Drumnaconagher Road, Crossgar. Here the buildings were deemed of local importance and subsequently approved.

**In summary**, as to whether the existing building is deemed of local importance is the main consideration of this application. Local elected representatives in the form of the Planning Committee must be afforded the opportunity to make this decision and as Planning Policies are open for interpretation the Committee must rule on whether the Planning Department are incorrect in their interpretation of policies CTY1, CTY4 and the negative reading of PPS16.



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2018/1807/F

**Date Received:** 19<sup>th</sup> November 2018

**Proposal:** Replacement Dwelling

**Location:** 55 Ballymaginaghy Road, Castlewellan

**Site Characteristics & Area Characteristics:**



The site is located along the minor Ballymaginaghy Road, Castlewellan. It is comprised of a 0.2 hectare portion of land, which contains a detached single storey dwelling and associated out-buildings and an enclosed garden area which is positioned at a lower level than the existing dwelling. The buildings are accessed directly from Ballymaginaghy Road.

The site is defined by a post and rail fence along all boundaries with a rendered wall along the road frontage of the site.

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



**Site History:**

There is no planning history relating to this site.

**Planning Policies & Material Considerations:**

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

The application was advertised initially in the local press on 12.12.18

No57 Ballymaginaghy Road, Castlewellan was notified of the proposal on 30.12.17.

**Consultations:**

In assessment of the proposal consultations were carried out with the following Transport NI

– No objections

NIW – Statutory Response informative apply

**Objections & Representations**

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

**Consideration and Assessment:**

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

SPPS

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

Paragraph 6.73 of the SPPS provides strategic policy for residential and non-residential development in the countryside. In respect of replacement dwellings the policy is broadly consistent with the policies set out in PPS21.

Policy CTY 3

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

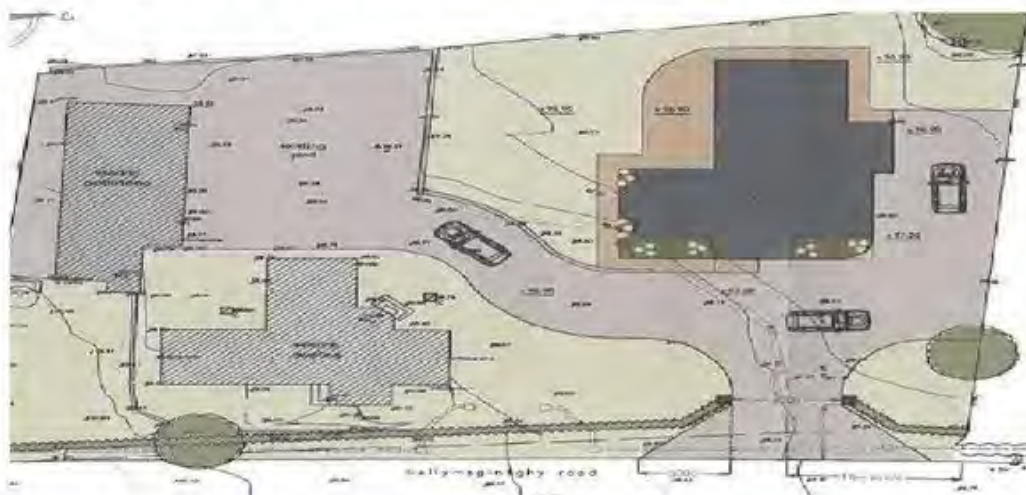
In assessment of this initial criterion, it is considered that the dwelling exhibits the essential characteristics of a dwelling and all external structural walls are substantially intact.

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



In addition, to the above, proposals for a replacement dwelling will only be permitted where 5 additional criteria are met. The applicant seeks full planning permission for a detached dwelling which he proposes to site on the lower level grassed area within the curtilage of the existing dwelling. The proposed dwelling will have a maximum ridge height of 7.5m above finished floor levels and a frontage of 12.9m. The proposed dwelling is modern in design and a departure from that which is typical in the immediate area i.e. single storey of modest design.

In consideration of the additional criteria it is noted that the proposed dwelling would be sited within the established curtilage of the existing dwelling, in that it is positioned within the existing garden area of the current dwelling. While, the proposed dwelling will have an increased height from that of the dwelling currently noted on site, it will be positioned on a slightly lower level than the existing and may therefore be less conspicuous given this positioning and its proposed set back from the road frontage.



The proposed dwelling is larger than the existing in terms of scale and form and would therefore have a visual impact which is greater than the existing, however, they are not considered to be significantly greater than the existing dwelling given the proposed lower level of siting and set back from the public road. The proposed design of the dwelling, however, is not in keeping with that immediately surrounding the site. It is considered that the varying roof scapes and projections proposed, result in a dwelling which appears excessively fussy and therefore not the simplified form suitable for the rural setting within the Area of Outstanding Natural Beauty (AONB).



PROPOSED FRONT ELEVATION

In consideration of the remaining criteria, it is considered, that all necessary services could be provided without significant or adverse impact on the environment or character of the area. There are no objections to the proposed access, which has been revised from its current location to provide improved safety for ingress and egress from the site.

In summary therefore, it is considered that the proposal does not meet the requirements of CTY3, in terms of design.

#### Policy CTY 13

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

A new building will be unacceptable where criteria A – G are not met. As discussed above the design of the building is considered inappropriate for the site and its locality. The guidance document Building on Tradition provides advice with regard to new buildings in the countryside and states that new dwellings should be simple in form with few add-ons such as dormers, bay windows or rooflights, the roof shapes should not be complex and a mix of gable widths, roof pitches should be avoided, as should excessive use of dormers and roof lights. Unfortunately, the proposed dwelling has several of these features and therefore appears to have an awkward and overly fussy form which is unacceptable in this AONB

PPS 2Policy NH 6 - Areas of Outstanding Natural Beauty

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

- (A) The siting and scale of the proposal is sympathetic to the special character of the AONB in general and of the locality; and
- (B) Its respects or conserves features of important to the character and appearance of heritage of the landscape; and
- (C) The proposal respects:
  - Local architectural styles and patterns
  - Traditional boundary details, by retaining features such as hedges, walls, trees and gates and
  - Local materials, design and colour.

In consideration of this, it is noted that the site lies within Mourne and Slieve Croob AONB and specifically the Mourne Foothills. As such therefore, the area is quite distinct in its landscape character and proposals should respect the local architectural style and pattern. It is considered that the proposal does not achieve this in terms of its design as discussed above. The proposal therefore also fails to comply with this policy and should be refused accordingly.

Conclusion

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

**Recommendation:**

REFUSAL

**Reasons:**

1. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the design of the replacement dwelling is not of a high quality appropriate to its rural setting and does not have regard to local distinctiveness.
3. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the design of the proposed building is inappropriate for the site and its locality and therefore would not visually integrate into the surrounding landscape.

- 4. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy NH6 of Planning Policy Statement 2, Natural Heritage, in that the design of the dwelling does not respect the local architectural style of the area.

Signed .....

Date .....

Signed .....

Date .....



Ref: LA07/2018/1807/F

**Written submission for Planning Committee Meeting Wednesday 29<sup>th</sup> May @ 10.00am**

I refer to the above reference and as the applicant; I would like to put forward my concerns, on behalf of my husband and I, on our application process.

Further to submitting our original planning application for a replacement dwelling, we received an email from the Planning Officer (dated 01.02.19) stating that we should “*simplify the design of our scheme to reflect the position within the rural area and in particular the AONB.*” We were also advised to “*reduce varying roof pitches and projections and omit all dormers.*” We found this request quite confusing as the proposed dwelling only has 2 roof pitches and only 1 eaves level dormer to the front (2 to the rear). We were also genuinely surprised that the original house design was not considered as acceptable as we had carefully considered the design approach by taking design cues from existing and permitted dwellings in the area, all within the AONB, that were permitted and passed by this Planning Department (photos attached and references below). We had also engaged the services of a professional architect rather than opting for an ‘off the shelf design.’ Further, to ensure that the dwelling did not appear unduly prominent, we selected the lowest part of the site that is effectively a ‘hollow’ as well as utilising existing field boundaries. The house design itself follows traditional narrow spans and gable depths to reduce the visual bulk in accordance with recommended design standards. Also, given the location of the site off a minor road, in a natural dip in the landscape and without any long critical views we were satisfied that the development would be acceptable - particularly given the approved developments in the area.

We initially replied to the email on 08.02.19 clarifying that the dwelling only had 2 roof pitches (38 and 43 degrees). We also omitted 2 of the 3 dormers and included examples of dwellings all located in the AONB and from which had inspired our design approach. It was our expectation that the revisions would be considered and, if required, modified further by way of request or by way of planning condition. However, to our absolute shock and dismay we received an email from the planning officer informing us that our application would now go on the delegated list for refusal. We were then told to familiarise ourselves with the council’s current scheme of delegation via the planning portal.

Understandably this course of events left us in unknown territory and as such we elected to use the services of our local councillor to guide us on how best to proceed. Through the elected representative we requested clarification as to why our dwelling was being recommended for refusal. We also sought advice on how to regularise the situation so that our application would not be refused solely by reason of design as we felt this could easily be resolved. In response to our query, we received an email from the planning officer stating that the “*basis for the refusal relates solely to the design as it is our opinion that the form of the proposed dwelling is inappropriate for the sites location within the AONB*” and that the following issues were applicable:

- The number of projections and consequent varying roof pitches throughout the scheme are considered excessive (each elevation has at least 5 different roof pitches).
- The use of dormers is considered inappropriate in this rural setting.
- The front elevation lacks symmetry.
- The eastern elevation should be more aesthetically pleasing given that it will be most visible on approach from the east along Ballymaginthy Road.

The planning officer described our scheme as ‘excessively fussy’ and stated that efforts should be made to create a dwelling which is simple in form.

From this response we understood that the general form, scale and siting of the dwelling was acceptable but that the ‘fussy’ detailing would need to be simplified; we were happy to undertake same. In response, and in an effort to comply with the planning officer’s request as

well as demonstrate our absolute willingness to meet the Council's requirements, we immediately engaged the services of our architect to undertake the revisions as requested – the urgency of our request was facilitated at an understandably premium expense, but as expressed, this simply indicates our willingness to progress our planning application for the home we desperately need. We submitted the revised drawings to the planning officer **on the same day** that we received her email.

We highlighted the following within our reply:

- Removal of the roof plane dormers (*we retained the more traditional eaves level dormer to the front to balance the solid to void ratio and to benefit from south facing solar gain*).
- We are not aware of any reference to symmetry in the Building on Tradition Design guide that was referred to by the planning officer.
- Removal of the side projection i.e. the outshot has been removed from the eastern approach elevation.
- Removal of natural stone detailing.
- Removal front entrance porch.
- Removal of bay window.
- Revised and simplified window fenestration and chimney treatment.
- Revision and simplification of fascia, eaves & soffit detailing
- Removal of original roof overhang with eaves has been trimmed back to wallplate.

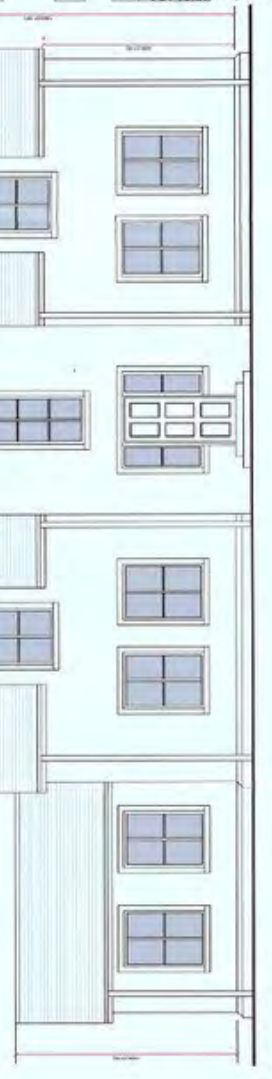
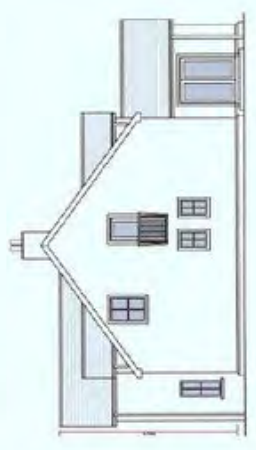
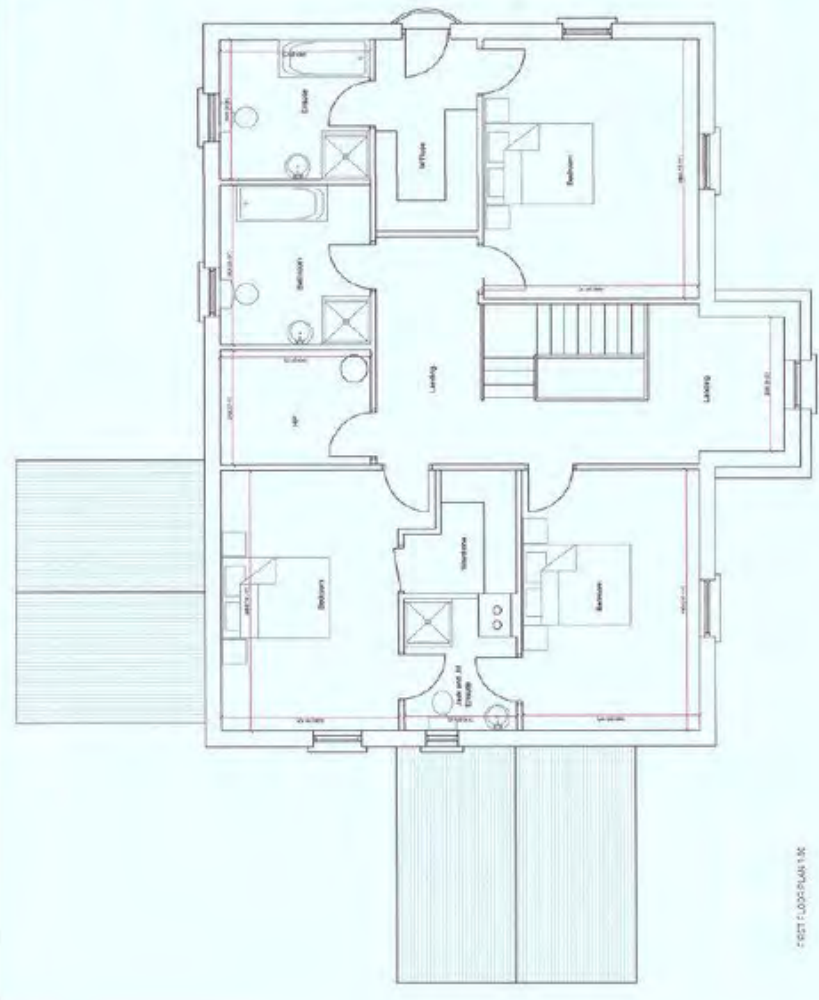
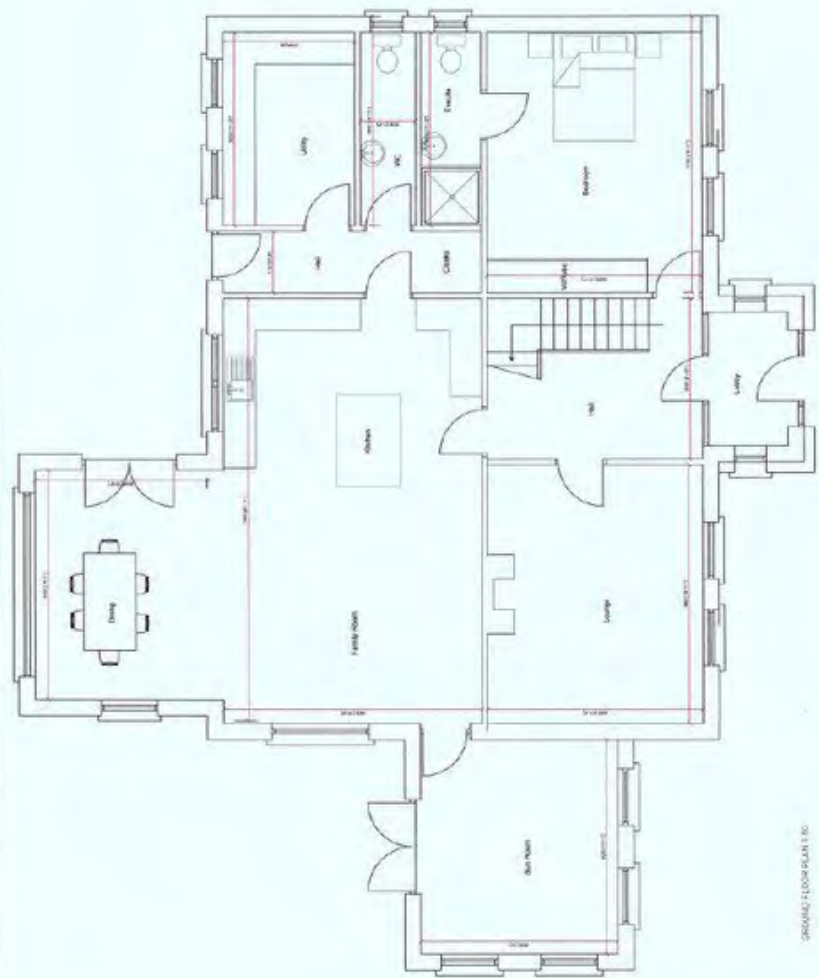
The below image illustrates the simplification of the dwelling proposed.



These amendments were sent directly to the planning officer via email and hand delivered to the Downpatrick office, both on 25.02.19.

However, despite our substantive and costly efforts, I was informed that it would be our original drawings submitted on 11.02.19 that would be discussed at the Planning Committee Meeting and not the revised proposals. We are at a complete loss as to why this is the case and feel that the Council has unfairly 'shut the door' on our efforts to address the concerns raised by the planning officer and all we ask for is fair and transparent consideration and value for money as we have paid our £851 fee in good faith. The planning process thus far has proved exceptionally stressful and costly; we are in dire need for a family home as we are residing in the original family home with Paul's elderly Mother since we got married in 2016 and simply wish to build our own home to raise our future family and accommodate the needs of Paul's Mother.

**References to other schemes mentioned above: LA07/2017/1293/RM, LA07/2017/1835/03, LA07/2017/1217, LA07/2015/0595/05, LA07/2017/1738/03**



PROPOSED MATERIALS FOR FINISHES:  
 WALLS - WHITE WITH A FINISHED BASEBOARD  
 WINDOWS AND DOORS  
 SPINDLES - UPVC  
 FRONT DOOR - HARDWOOD FINISHED  
 PATIO DOORS - UPVC  
 ROOF - DARK GRAY TILE  
 DRIVEWAYS - BLOCK PAVING

08.05.2018  
 JOHN DUFFY  
 ARCHITECTS

HILLEN  
 ARCHITECTS

ARCHITECTS  
 1. ARCHITECTURAL DESIGN  
 2. CONSTRUCTION ADMINISTRATION  
 3. PROJECT MANAGEMENT  
 4. INTERIOR DESIGN

100, BRADY ROAD, DUNDEE, DUNDEE, DD1 1YU  
 TEL: 01392 481111  
 FAX: 01392 481112  
 WWW: WWW.HILLENARCHITECTS.CO.UK

PROJECT NAME: REPLACEMENT TEMPLING BALLYMAG...

NO.	DATE	DESCRIPTION	BY	DATE
1	08/05/2018	ISSUED FOR PERMIT	JH	
2				
3				
4				

APPROVED FOR PERMIT: [Signature]

ARCHITECTURE - DESIGN - PLANNING

ARB  
 REGISTERED ARCHITECTS  
 RIAA

FINISHES SCHEDULE

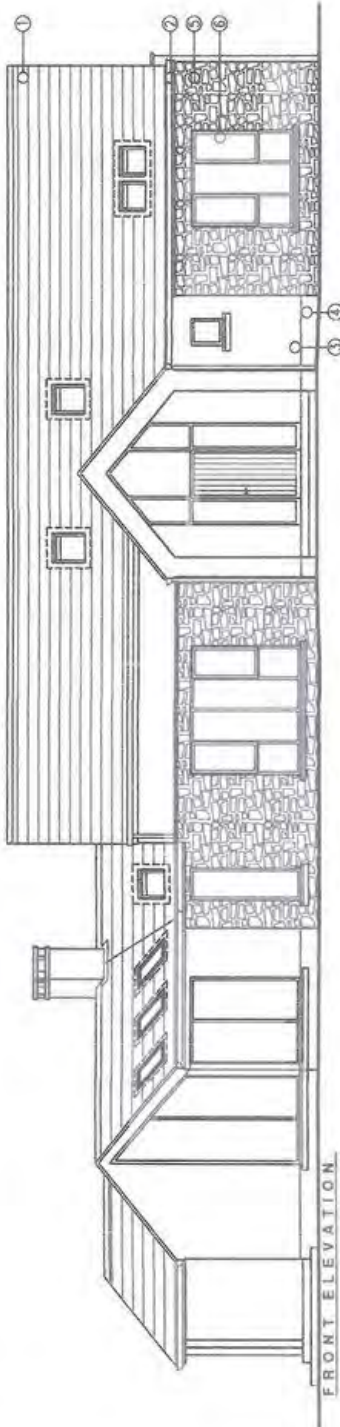
EXTERNAL FINISHES

- ROOFING: 1. BLUE-BLACK NATURAL SLATE / FLAT NON-PROFILED TILES  
 RAINWATER: 2. BLACK SEAMLESS ALUMINUM GUTTER & BLACK UPVC DOWNPIPES  
 WALLS: 3. SMOOTH PLASTER RENDER PAINTED WHITE  
 4. SMOOTH PLASTER RENDER  
 5. LOCALLY SOURCED NATURAL STONE  
 WINDOWS: 6. DARK GREY UPVC WINDOWS

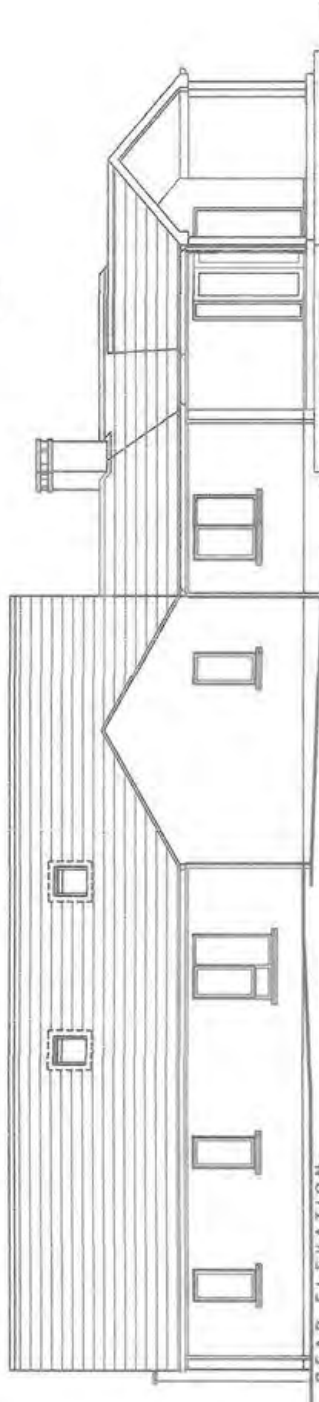


AMENDED DRAWING

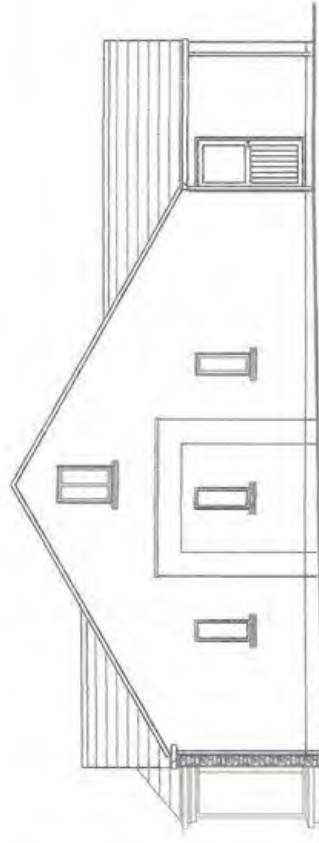
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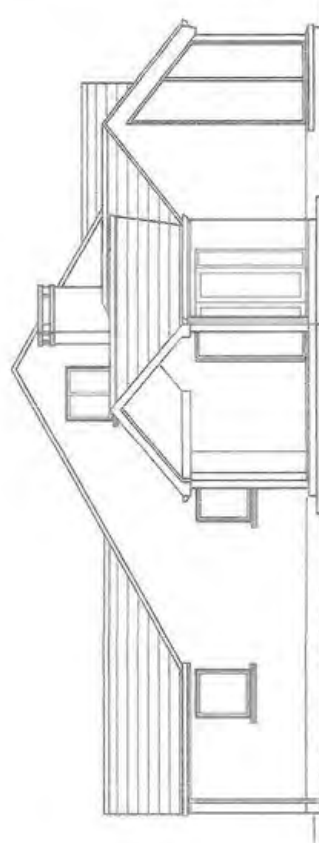
FRONT ELEVATION



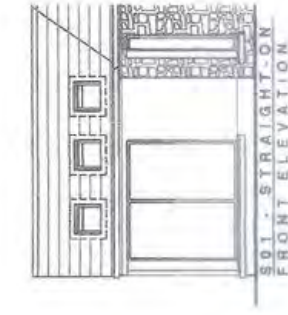
REAR ELEVATION



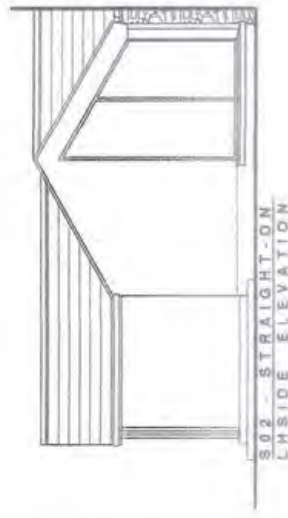
RHS ELEVATION



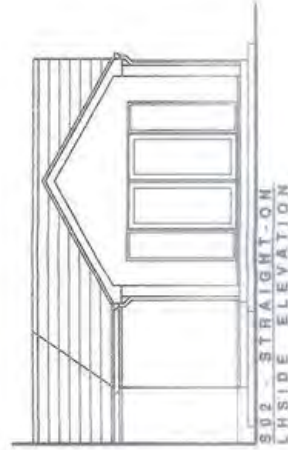
LHS ELEVATION



S01 - STRAIGHT-ON FRONT ELEVATION



S02 - STRAIGHT-ON LHSIDE ELEVATION



S02 - STRAIGHT-ON RHSIDE ELEVATION

A	PLANNING REVISIONS	21.02.2018
REV	DESCRIPTION	DATE
PROJECT DESCRIPTION		
DWELLING & GARAGE ON A FARM, APPROX 110M WEST OF NO.4 LARGY ROAD, KILCOONENEWRY, CO. DOWN		
PROPOSED ELEVATIONS		
JOB NO	13042	SCALE 1:100
DWG NO	P20	DATE JULY 17
CLIENT	MR & MRS S. JOHNSTON	REV A
DESIGNED BY	S. MCKEE	CREATED BY S. MCDOWELL

PLANNING

132

14, mFoghill Court  
 www.fmk.com  
 T. 028 7087 990  
 55 Criffells Way, Aughill, BT43

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PROPOSED DWELLING & GARAGE AT :  
TULLYREE RD, KILCOO.

FOR : MR RYAN MORGAN.

DATE : MAR. 2015.

SCALE : 1 / 100

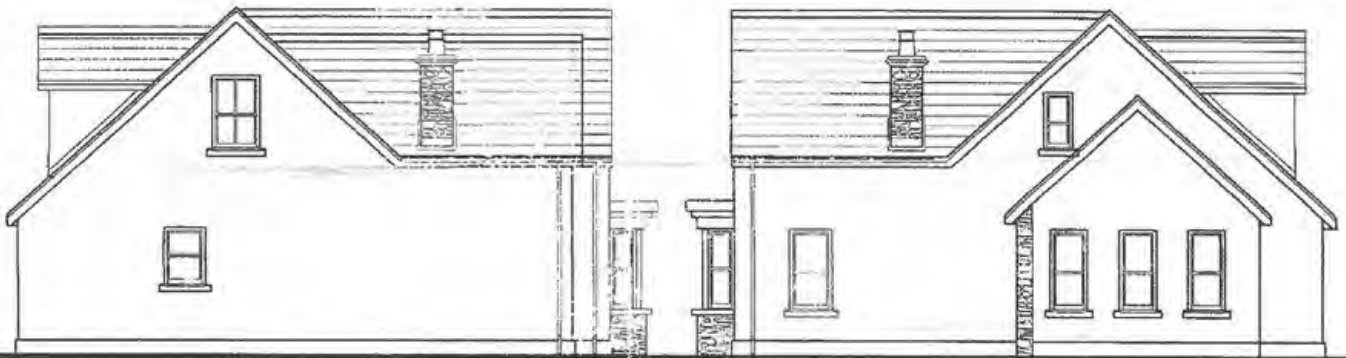
JOB NO. 2229/P04revA

AMENDED DRAWING

Consultants Centre: an IDA  
When you are in Dublin  
Newry, Kesh and Down  
District Council  
10 MAY 2018  
LA07/2017/1835/07



PROPOSED FRONT EVELATION...



F-ROPOSED SIDE EVELATION...

FINISHES :

- ROOF : BLACK SLATES
- WALLS : SMOOTH CEMENT RENDER B
- RANDOM RUBBLE STONE WHERE SHOWN
- WINDOWS : WHITE UP V.C WINDOWS
- DOORS : PAINTED HARDWOOD
- GUTTERS : BLACK P.V.C
- DOWNPIPES : BLACK P.V.C
- BANDS : RAISED PLASTER
- PLINTH : RAISED PLASTER



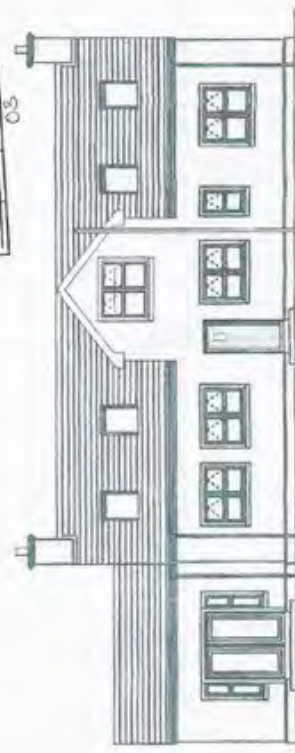
PROPOSED REAR EVELATION...

MARTIN BAILIE ARCHITECTURAL  
SERVICES LTD  
44 BAVAN ROAD, MAYOBRIDGE,  
NEWRY.  
TEL: 028 851910.  
EMAIL: info@martinbailie.co.uk

Comhairle Ceannair an tSiar  
 Mion-ádhúil an tSiar  
 Meánaonú, Ballymag  
 District Council  
 06 NOV 2017  
 LA07/18/017/3814  
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FRONT ELEVATION



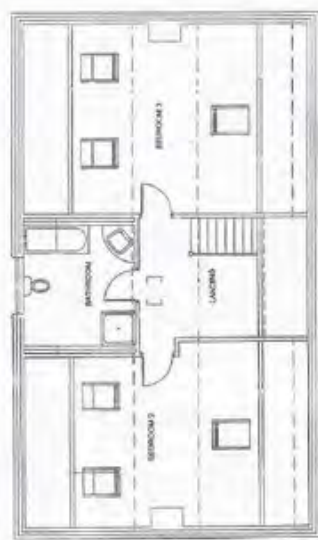
REAR ELEVATION



SIDE ELEVATION



GROUND FLOOR PLAN



FIRST FLOOR PLAN



SIDE ELEVATION

**SCHEDULE OF FINISHES**

**ROOF TILES:**  
 Clay/Asph/Flt (stone, slate or flat tile)

**EXTERNAL WALLS:** stone, with colored glaze  
 Clay/Asph/Flt (stone, slate or flat tile) where indicated

**WINDOWS:**  
 Slimg UPVC frames double glazed.

**DOORS:**  
 Slimg UPVC doors and windows

**FLOORS:**  
 Full stone p.c.s. tiles

**BATHWATER GOODS:**  
 Slimg UPVC pans and floorpipes

REV.	REVISION	DATE	PREPARED BY	CHECKED BY	DATE
<b>REVISION INFORMATION</b>					
<p>Project 1: PROPOSED ERECTION OF DWELLING &amp; GARAGE (CHANGE OF HOUSE TYPE FROM THAT APPROVED UNDER PLANNING REFERENCE Q/2006/0995/F) &amp; CREATION OF NEW ACCESS AT LAND NORTH &amp; ADJACENT TO 40 &amp; 42 DERRYNEL ROAD, BALLYWARD, CASTLEWELLAN BT31 9TZ</p>					
drawing: PROPOSED PLANS & ELEVATIONS			title: PLANNING		
client: KARL BELL			scale: 1/100		
			pages: 1/100		
			date: NOV 2017		
			drawing no.: J4		
			revision:		
<b>FLETCHER architects</b>					
 					
25 Main Street, Castlewellan, Co. Down, BT31 9TA Tel: 028 4377 8110, Mob: 07746481101, e: info@fletcherarchitects.co.uk Room 2, 21 Keshmerril Street, Kesh, Co. Antrim, BT84 3DT Tel: 028 26 28503, Mob: 07746481101, e: mobile@fletcherarchitects.co.uk					



PROPOSED EAST ELEVATION



PROPOSED NORTH ELEVATION

FINISHES SCHEDULE

- natural slate roof
- smooth soft white render
- soft white pvc windows
- black fascia, soffit and rainwater goods



PROPOSED WEST ELEVATION

SHARON JOHNSTON  
DESIGNS FOR LIVING 



Client: Mr & Mrs Paul Middleton  
Project: Proposed dwelling at  
Ballymaginaghy Road, Leitrim  
Date: July 18  
Scale: 1:100  
Drawing No: 18-109-dd02B  
Rev B Feb 19 revised for Planning service

Client: Mr & Mrs Paul Middleton  
Project: Proposed dwelling at  
Ballymaginaghy Road, Leitrim  
Date: July 18  
Scale: 1:100  
Drawing No: 18-109-dd02B  
Rev B Feb 19 revised for Planning service













Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2018/0072/F

**Date Received:** 12<sup>th</sup> December 2017

**Proposal:** Erection of 15 No. dwellings, garages, landscaping and all other associated site works

**Location:** Lands to the rear and South West of Nos 25-35 Forest Hills and to the rear of Nos 15-19 Forest Hills, Newry

**Site Characteristics & Area Characteristics:**

The site comprises a vacant and elevated parcel of land located some 70m North East of Warrenpoint Road adjacent to Forest Hills residential development. The site which is accessible from within Forest Hills development, is somewhat overgrown, with the topography decreasing significantly from the existing residential development to the north and then more gradually from north-east to south-west. Residential properties (primarily large detached two storey) back onto the site to the west and north-east. There is an area of mature trees in the south-western area of the site, in addition to a watercourse running along the south-eastern boundary. Site boundaries are comprised primarily of ranch style (close board) fencing with additional hedgerow / mature trees in parts.



The site is within the settlement development limit of Newry (NY01) and is zoned as housing land (NY28,) as defined on the Banbridge, Newry and Mourne Area Plan

2015. There are two sensitive designations adjacent to the sit namely; Local Landscape Policy Area (NY136) and Site of Local Nature Conservation Importance (NC03/137.) In addition, there is an area of ancient woodland located some 200m south / south-east of the site.

#### **Site History:**

P/2001/2059/F:	Erection of 17 No dwellings, permission granted (for 13 dwellings) 07/03/2005
P/1981/0363:	Proposed site for housing development, permission refused 23/06/1981
P/1976/0429:	Proposed site of residential development, permission refused <u>06/08/1976</u>

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

- The NI Regional Development Strategy 2035 (RDS)
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Banbridge, Newry & Mourne Area Plan 2015 (BNMAP)
- PPS2 – Natural Heritage
- PPS3 – Access, Movement & Parking
- DCAN15 – Vehicular Access Standards
- DOE Parking Standards
- PPS7 – Quality Residential Environments
- Addendum to PPS7 – Safeguarding the Character of Established Residential Areas
- PPS8 – Open Space, Sport and Outdoor Recreation
- DCAN8 – Housing in Existing Urban Areas
- DCAN11 – Access for People with Disabilities
- PPS12 – Housing in Settlements
- PPS13 Transportation and Land Use
- PPS15 – Planning and Flood Risk
- A Planning Strategy for Rural Northern Ireland (PolicyDES2)
- Creating Places: Achieving Quality in Residential Environments
- Living Places Urban Stewardship and Design Guide
- The Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995
- The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017

#### **Objections & Representations**

The application was advertised initially in three local papers (on 29/01/2018, 31/01/2018 and 01/02/2019) and subsequently re-advertised in the same (on 04/06/2018, 06/06/2018, 07/06/2018) following the submission of a revised proposal. The statutory advertising period expired on 21/06/2018.

28 neighbouring properties were notified initially on 25/01/2018 and subsequently re-notified on 12/06/2018, as required under Article 8 (1)(b) of the Planning (General Development Procedure) Order (Northern Ireland) 2015.

12 representations / objections have been received in respect of this proposal at the time of writing this report, including from the following addresses:

- 15 Forest Hills, Newry;
- 17 Forest Hills, Newry;
- 25 Forest Hills, Newry (x 3 representation letters;)
- 31 Forest Hills, Newry;
- 33 Forest Hills, Newry;
- 35 Forest Hills, Newry;
- 37 Forest Hills, Newry;
- 39 Forest Hills, Newry;
- 1 x anonymous;
- 1 x Residential Petition addressed to 17 Forest Hills and signed by occupiers from No's 15, 17, 19, 27, 25, 31, 33, 23, 35

The **material planning issues** raised in the received representations can be categorised under the following headings:

- **Road safety / Access** – including; intensification of traffic volumes leading to road and pedestrian safety issues including in relation to the existing and proposed access, the impact of the proposed access upon private access to 25 Forrest Hills, including parking issues within the existing turning head / this area becoming obsolete;
- **Landscaping** – including; proposed trees are not in keeping with the established character and are inappropriate in terms of scale and positioning / will cause overshadowing;
- **Residential Amenity** – including; resultant unacceptable levels of overlooking due to level differences and proposed siting, increase in noise and traffic levels upon residential amenity, lack of usable green space / play areas for children in particular;
- **Visual impact / Character** – including; smaller house types as proposed are not in keeping with the existing character, proposed density is too high (overdevelopment) - a single row of dwellings would be more appropriate;
- **Environmental impact** – loss of vegetation and wildlife, with insufficient replacement of existing vegetation;
- **Other** –Structural implications upon existing retaining structures, impact upon existing service supply to residents (such as sewage, water, electricity.)

**Several non-material planning issues** have been raised in the representations including; loss of views and the impact on surrounding property values however, such matters are not material to planning and cannot be afforded weight in this assessment.

The above list is a summary of the main issues raised and is not an exhaustive list. All material representations received are considered in full detail in the assessment below. In line with Section 31 of The Planning Act (NI) 2011 and the Council's operational Scheme of Delegation, as this application attracts six or more material

planning objections from different addresses, should the officer's recommendation be approval, then the application must fall to be determined by the Planning Committee.

### **Consultations:**

Having account for the nature of this proposal, the constraints of the site and area and context of representations received, extensive consultation has been undertaken with a number of statutory bodies during the processing of this application including:

- DfI Roads (15.04.2019) – No objections following amended drawings
- DAERA (04.06.2018) – No objections subject to conditions
- DfI Rivers Agency (09.02.2018) – No objections, informatives attached
- Shared Environmental Services (09.02.2018) – No objections, informatives attached
- NMDDC Environmental Health (30.01.2018) – No objections, informatives attached
- NI Water (30.01.2018) – No objections, conditions / informatives attached

### **Consideration and Assessment:**

As outlined above, this application seeks full planning permission for 15 dwellings. However, when initially submitted in December 2017 the proposal originally sought permission for a total of 17 units. This has however since been reduced to 15 dwellings, on which this assessment is now based.

Policy RG8 of the RDS aims to manage housing growth to achieve sustainable patterns of residential development. It aims to provide more high quality accessible housing within existing urban areas without causing unacceptable damage to the local character and environmental quality or residential amenity of these areas. The SPPS sets out core planning principles to be employed in the quest to achieve sustainable development. Of particular relevance to this application are the aims of supporting good design and positive place making while preserving and improving the built and natural environment.

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the Local Development Plan (LDP,) so far as material to the application, and to any other material considerations. BNMAP 2015 is the current operational LDP. Within the BNAMP, this site is zoned as being within the settlement development limits of Newry (NY01) and for housing use (NY28.) Given these specific zonings, the principle of housing on the site is acceptable in accordance with the LDP. There are no Key Site Requirements in relation to the specific housing zoning (NY28,) or specific policies in the Plan that are relevant to the determination of the application. It will therefore be assessed against regional operational and prevailing policy.

### **PPS12 – Housing in Settlements**

**Planning Control Principle 1 (PCP1) – Increased Housing Density without Town Cramming**

The proposal equates to a housing density of 11 dwelling units per hectare on land zoned for housing adjacent to site an Established Residential Area (ERA.) The proposed density, together with form, massing, scale and layout of this development are considered to respect that of adjacent housing or the predominantly low-density development surrounding. These matters are considered in further detail under PPS7 below.

#### Planning Control Principle 2 (PCP2) - Good design

The design, layout and landscaping of the scheme is considered to successfully respect the overall character, quality and sustainability of the area. These matters are considered in further detail under PPS7 below.

#### Planning Control Principle 3 (PCP3) - Sustainable forms of development.

The site is within existing urban limits and the proposal is considered to respect the character of the immediate residential area as a sustainable form of residential development. There is further consideration of these issues below under PPS7.

**HS4 – House Types and Size** Under Policy HS4, a mix of house types is required for larger schemes and where the site area exceeds 1 hectare. However, at 15 dwellings, this is considered a smaller scheme through which the need to provide greater variety in type and size will be considered on its individual merits. The proposed development comprises 15 no. 4 bedroom detached dwellings of three house type variants. Whilst this does not present a varied housing mix, in the context of the specific characteristics of the development, site and in the overall context of Forest Hills, this is deemed acceptable in order to protect the established residential character.

#### PPS7 – Policy QD1 Quality in New Residential Development

Under Policy QD1, planning permission will be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. There are 9 criteria (a to i) to be met:

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

The existing prevalent dwelling form includes two storey detached dwellings with red / brown brick finish and set within relative plot sizes. This proposal involves an application for 15 two-story detached dwellings, with three variations of house type. There are existing variations in dwelling form and scale within Forest Hills to either side of the site. The proposed dwellings are considered appropriate in terms of scale, proportions and massing within this context.

The topography of the site varies; with the site survey showing a maximum 8-9m difference in levels towards the southern area of the site. Cross sections and levels have been provided – along the eastern side of the proposal, ground levels are reduced, with level changes along the western side to be managed using raised decking to the rear of dwellings and new hedgerow buffer planting between the existing dwellings backing onto this site. The proposal does not include any infilling of additional material to the site – the existing and proposed levels would appear to indicate the replacement of existing earthing on the site. A negative condition will be attached to any planning approval in this regard.

Some concerns have been raised regarding the scale and location of trees regarding the character of the area and the potential to cause overshadowing. A detailed Landscape Management Plan has been provided, as prepared by Landscape



Architects LK Design Space and reflected through drawing 02REV1. The proposed landscaping is considered appropriate to the surrounding character of the existing residential development subject to conditions being met in respect of implementation and management thereof.

It is considered that the scheme submitted has a suitable layout, and the scale, proportions, massing and appearance of proposed dwellings, fencing, walls as well as the hard and soft landscaping will complement the existing character. Hard surfacing has also been reduced to the necessary standards to secure a safe and accessible road network and parking arrangement. The proposal therefore complies with criterion (a).

*b) features of 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 identified archaeological and built heritage features which would be affected by this development. The ancient woodland is significantly removed from this site (located some 200m south-east.) There are no identified Tree Preservation Orders on the site. However, the existing mature landscaping in the south-western area of the site has a significant environmental, and visual role and is proposed to be retained and protected. A negative planning condition will be required on any approval to ensure a temporary fence is erected along the extent of the crown spread of the tree line on the western boundary and stipulating that no works, infill, storage of materials or construction activity shall take place within the fenced area, in order to protect their integrity. Provided these conditions are complied with, the proposal is acceptable to criterion (b.)

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

Private open space – To promote choice for residents, a range of rear garden sizes has been provided, with the smallest 117m<sup>2</sup> and the largest some 400m<sup>2</sup>. Creating Places sets out the required space standards at around 70m<sup>2</sup> or greater. The proposed private amenity space exceeds the required standards and is in keeping with surrounding residential plots.

Public open space – PPS8 Policy OS2 sets out the provisions for public open space. The site exceeds the 1hectare threshold of OS2 for public open space provision, though in smaller residential schemes such as this one, the need to provide public open space will be considered on its individual merits. This proposal relates to a smaller scheme of 15 dwellings whereby all dwellings significantly exceed the level of private amenity space required. As such, the proposal is deemed to be acceptable to OS2 requirements.

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

Neighbourhood facilities are not required due to the scale of this proposal and its location within driving distance to Newry City Centre. It is also within walking distance to the services on the Old Warrenpoint Road.

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

The site is within close walking distance to Old Warrenpoint Road, an arterial route into and out of Newry City. Old Warrenpoint Road has existing footpaths connecting to retail units, schools within the area and into the City Centre. There is also a bi-directional bus service operating along this corridor, with bus stops within walking distance along Old Warrenpoint Road, including a bus stop close to the access of Forest Hills for Warrenpoint direction.

The proposal supports adequate, safe and convenient access to these public transport facilities. The proposed site layout also supports cycling, suitable for those whose mobility is impaired and respects rights of way. 2m width footpaths are proposed through the development, with traffic calming measures incorporated into the new road layout (close to sites 3,10,11) to provide a safe road network through the site.

The proposal is deemed to meet the requirements of criterion e)

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

Policy AMP7 of PPS3 deals with car parking arrangements for new development, however PPS7, DOE Parking Standards and Creating Places set out more specific residential parking requirements, which require 3 in curtilage spaces per dwelling. PPS7 and DCAN8 recognises that a lesser parking provision may be appropriate for example in an urban context with good access provision to alternative modes of transport. The level of in-curtilage car parking provided for the dwellings at a minimum of 2, including use of garage for parking, is acceptable as this is reflective of the level presently provided within the existing wider residential development. The revised layout of parking has addressed earlier concerns of DfI Roads in terms of positioning in relation to respective dwellings, which is also more appropriate to DCAN11 requirements in terms of accessibility.

Earlier third-party concerns regarding access and parking to No.25 Forest Hills have been addressed by the revised road layout and creation of new access point to serve the proposed development. An additional concern has been raised in respect of parking in the existing turning head adjacent to 25 Forest Hills which may as a result become obsolete. Existing private parking was apparent in this area at the time of site inspection. Without prejudice, the proposed development is not considered to exacerbate the existing scenario, which includes in curtilage parking provision and two additional turning heads within the proposed layout.

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

With the exception of site 6 which has a steeply pitched hip roof, the proposed dwellings incorporate a pitched roof form. Proposed finishes are consistent across the varied design and incorporate select facing brick and smooth self-coloured render, blue grey concrete roof tiles, painted solid timber doors, UPVC windows and rainwater goods. The proposed house types, their range and positioning, the material finishes, the design and the mixed use of both brick and rendered finish will provide a scheme that is considerate of the existing character and house styles whilst being diverse and attractive. The low-density development (11 dwellings per hectare) is comparable to that of the existing residential area and is not considered to represent

overdevelopment but is considered respectful of the area's surrounding quality and character. In this regard, the design of development is acceptable to DES2 and criterion g) requirements.

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

Third party objections have raised concerns regarding residential amenity including; unacceptable levels of overlooking due to level differences and the proposed siting. The protection of privacy is an important consideration particularly in this context where new development is proposed adjacent to existing properties.

Creating Places standards sets out that a separation distance of greater than 20m will generally be appropriate to minimise overlooking, with a minimum of around 10m between the rear of new houses and the common boundary. A raising of levels is proposed for sites 7-14 in addition to raised balconies to the rear. There are considerable enhanced separation distances (in excess of 30m) proposed between these dwellings and the existing properties to the west (No's 15, 17, 19 Forest Hills) to account for the change in levels / raised platform elements.

With the exception of site 1, all proposed dwellings exceed the minimum 10m separation distance to surrounding properties. Site 1 has a separation distance of 8m to the common boundary and an overall distance of 11m to the closest part of No.25 Forest Hills. The upper floor facing towards No.25 does not contain any window openings in order to protect residential privacy. On the basis of the drawings and surveys provided, the ridge level of Site 1 would appear to be +37.25 (8.35m in height,) which is 1.79m lower than the existing ridge level of No.25 Forest Hills, which is +39.04.

In this context, the design and layout of the proposed dwellings is not considered to result in an unacceptable level of overlooking, loss of light, dominance or overshadowing to any existing or proposed properties.

In addition, concerns have been raised regarding an increase in noise and traffic levels upon residential amenity. The proposed development would introduce a further 15 dwellings to the existing urban context if approved. Environmental Health has been consulted in this regard and advise that the proposal does not have the potential to cause adverse impact upon amenity by way of noise and general amenity. In this regard, given the scale and nature of development proposed within the existing context, it is not deemed to result in an unacceptable level of noise upon existing residents. As previously stated, the site is located within settlement development limits on land which is zoned for housing.

An issue has been raised regarding disturbance to existing services (sewage, water, electricity.) The proposal seeks to connect to mains water and foul sewage. In the event of planning approval, separate consents will be required from the respective authorities, a matter which will be included in any planning conditions attached.

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

The proposal involves regenerating an under-utilised and vacant parcel of land. Its layout has been designed to deter crime and promote personal safety, with houses fronting onto the road and car parking areas, providing informal surveillance.

PPS7 Addendum – Safeguarding the Character of Established Residential Areas  
Policy LC1 Protecting the Local Character, Environmental Quality and Residential  
Amenity

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

- (a) *The proposed density is not significantly higher than that found in the established residential area:* - As referenced, the proposed density (11 dwellings per hectare) is acceptable on this site and does not represent overdevelopment. It is similar to the existing established character.
- (b) *The pattern of development is in keeping with the overall character and environmental quality of the established residential area:* - the form, scale, massing and layout of the proposal is acceptable and respectful of the established residential character and setting.
- (c) *All dwelling units and apartments are built to a size not less than those set out in Annex A:* - the floor space of the proposed dwellings comply with the floor space requirements within this criterion.

PPS2 – Natural Heritage

The third-party comments are noted in this regard (potential loss of vegetation, habitat.) An EIA screening has also been carried out as the development is within Category 10 (B) of Schedule 2 of the Planning (Environmental Impact Assessment) Regulations (NI) 2017 which determined this planning application does not require to be accompanied by an Environmental Statement.

A Habitats Regulation Assessment has been carried on this proposal. The potential impact of this proposal on Special Protection Areas (SPA,) Special Areas of Conservation (SAC) and Ramsar Sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (amended) and it concludes that the proposal would not be likely to have a significant effect on the features of any European site (subject to conditions being met in respect of the adjacent watercourse)

Ecological assessments have been provided to DAERA's Natural Environment Division (NED) for consideration (including biodiversity checklist and subsequent tree survey and report and badger activity survey.) Drawing 02REV1 has addressed earlier concerns regarding the woodland area to be retained. Subject to a condition being met in this regard, NED has no objections with the proposal in terms of PPS2 requirements.

PPS3 – Access, Movement and Parking

A new access is proposed from within Forest Hills, which would result in the intensification of the existing access for Forest Hills adjoining Old Warrenpoint Road, as considered under Policy AMP2. As briefly discussed above, the original access was

proposed to be taken from the existing turning head adjacent to 25 Forest Hills, which serves a single private dwelling. This initial access proposal raised concerns regarding safety and an alternate access has since been proposed some 10m west of the existing turning head which has overcome these earlier concerns. Proposed Road Layout Drawing 13REV1 has been formally approved by DfI Roads. Standard conditions will be required to ensure the requirements of PPS3 / DCAN15 are met.

#### **PPS15 – Planning and Flood Risk**

The layout drawing on plate 5.1 of the Drainage Assessment indicates a working strip of 5m which is compliant with FLD2 – a condition will be required to ensure this is met. The surface water discharge from the site is to be attenuated and the discharge to the undesignated watercourse at the southern boundary limited to a Greenfield run-off. Evidence has been provided that the drainage design complies with Sewers for Adaption NI. Discharge Schedule 6 consent has now been issued by DfI Rivers local area office on the 20/11/2017. Evidence has been provided that the sewer design is to NI Sewer Adaption Standards. Should a storm exceedance event occur greater than that designed for a flow path has been indicated to assure that no houses would flood. The Drainage Assessment is acceptable to FLD3 requirements subject to conditions being met.

NIW advise there is existing foul sewer and Waste Water Treatment Facilities (Newry WwTW) available to serve this proposal. The necessary consents will be required from the relevant authority in this regard and will be included as conditions below.

#### **Recommendation:**

Approval

#### **Summary recommendation:**

Whilst it is acknowledged there is local opposition for this application, having regard to the development plan and all other material considerations, the proposal is considered a sustainable development that will not cause demonstrable harm to interests of acknowledged importance. The proposal should therefore be approved subject to the conditions attached below being met.

#### **Conditions:**

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

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

2. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. The Council hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawings No 13REV1, 14REV1 and 15REV1 bearing the date stamp 29 January 2019. Full list of Private street conditions shall also be included with any respective decision notice.

Reason: To ensure there is a safe and convenient road system within the development and to comply with the provisions of the Private Streets (Northern Ireland) Order 1980.

3. No development should take place on-site until the method of sewage disposal has been agreed in writing with Northern Ireland Water (NIW) or a Consent to discharge has been granted under the terms of the Water (NI) Order 1999.

Reason: To ensure a practical solution to sewage disposal is possible at this site.

4. Each dwelling hereby approved shall be provided with such sanitary pipework, foul drainage and rain-water drainage as may be necessary for the hygienic and adequate disposal of foul water and rain-water separately from that building. The drainage system shall also be designed to minimise the risk of wrongly connecting the sewage system to the rain-water drainage system, once the buildings are occupied.

Reason: In order to decrease the risk of the incorrect diversion of sewage to drains carrying rain/surface water to a waterway

5. No construction to be made, trees planted or other obstruction made within 3m (or 1.5 times the depth whichever is greater) of sewers, OR 4m (or 1.5 times the depth whichever is greater) of watermains <350mm diameter or 8m of watermains of 350mm diameter or greater. A diversion may be necessary. Consultation with NIW is required at an early design stage.

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

6. No development works shall take place until a temporary fence has been erected along the extent of the crown spread of the tree line on the western boundary as shown on Drawing 02REV1 date stamp received 25 May 2018. No works, infill, storage of materials or construction activity shall take place within the fenced area without the consent of the Planning Authority. The fence shall be maintained and not be removed until all works are completed.

Reason: To minimise the impact of the proposal on the nature conservation value of the mature trees and hedgerow on site.

7. A 5m maintenance strip is to be kept between the open watercourse and all development as required by Rivers Agency, depicted by drawing 20REV2 dated 29 January 2018. This wayleave is to be protected from impediments, including tree planting, hedges, permanent fences and sheds, land raising or future unapproved development.

Reason: To ensure that the development does not result in any significant effect on the features of any European site.

8. All hard and soft landscape works shall be carried out in accordance with the approved Drawing 02REV1 date stamped 25 May 2019 and the appropriate British Standard or other recognised Codes of Practise. The works shall be carried out during the first available planting season prior to the occupation of any part of the development.

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

9. The open space and amenity areas indicated on the stamped approved Drawing 02REV1 date stamped 25 May 2019 shall be managed and maintained in accordance with the Landscape Management Plan, Proposed Residential Development at Lands at Forest Hills, Newry date stamp received on 25 May 2018. Any changes or alterations to the approved landscape management arrangements shall be submitted to and agreed in writing by the Council.

Reason: To ensure successful establishment and ongoing management and maintenance (in perpetuity) of the open space and amenity areas in the interests of visual and residential amenity.

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

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

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date:**

Tom Moore

[REDACTED]

[REDACTED]

[REDACTED]

Points to raise at the meeting.

Ref: LA07/2018/0072/F

After inspecting the application I have a number of concerns. My points are very similar to the planning application which was rejected in 2002. (Sent in at the original application stage). The Divisional Planning Manager, P J McBride (your ref: 1752-02-02-01SE), at that time made a number of important recommendations some of which have been overlooked but are still valid today.

1)

- *"Too many dwellings on this restricted site;*

*you are advised to revise your scheme to reduce the number of dwellings proposed (the site is unlikely to accommodate more than a single row of dwellings);"*

The householders have always agreed that a single row of dwellings would help maintain integration with the local landscape. Yet, this is a proposal of 15 dwellings, not many less, than was turned down originally by the planning service.

2)

- *"Significant level differences between houses proposed within the site and between such houses and existing adjacent dwellings that will lead to unacceptable overlooking;"*

The rising slope on which the houses are to be built places the new dwellings looking straight into nos.15 - 19, compromising any privacy they once had. Our tree cover is deciduous to blend in with the forested area so for a great part of the year the new houses will look directly into bedroom windows.

3)

- *"Insufficient replacement trees to replace woodland removed."*

*"This site was a wooded area excluded from the adjacent housing because it was critical in helping development on the zoned land integrate into the local landscape."*

*"The undeveloped parts of the site will require to be replanted."*

Forest Hills was so named because the forest was an integral part of the location. It was removed without consultation even though the householders complained at the time. The developers used the forest as a major selling point and were at pains to point out that the trees would not be removed. The houses were sold in a setting of a secluded rural area.

This proposal does not show sufficient replacement of trees. It is noticeable that the preserved trees on the plan surround and shield the dwelling of the last site owner who removed the



trees, showing what should have been left as a barrier for other householders. Forest Hills residents have constantly asked for reforestation but to no avail.

In a previous letter to the Planning Office (your ref; T/9/Newry) your office stated that;

*'The Planning Service intends to seek to have appropriate new planting included in any new proposal for the development of the site.'*

Forest Hills residents feel that this proposal does little to answer their concerns regarding planting. To be taken seriously, the path which crosses the backs of nos. 15-19 should be widened into a suitable area for trees rather than being just a track. Extra planting would create a natural barrier to help prevent some of the overlooking and would also encourage the wildlife that we have almost lost, to return. Birds like the pied flycatcher, redstart and the black cap have almost disappeared from the area as have red squirrels and bats, which were once a common sight.

The rebirth of the forest, albeit smaller in size, would regenerate the rural setting and allow the development to blend more effectively into the landscape and the community. In years to come this would be an important feature of the area and a benefit for everyone who lives in these surroundings.

I'd firstly like to begin by acknowledging DFI roads for taking the points raised in my initial objection letter into consideration regarding the access road to my home (25 Forest Hills) and also to the developers for implementing changes to this original submission. I'd also like to say that although I am here today to object further to this planning application, I am not opposed to houses being built on this land in general. I am only opposed to plans that do not fully respect the amenity of the surrounding neighbourhood and those that will result in new or exacerbated safety hazards to residents, road users and pedestrians.

Section 5.14 from PPS3 states "The proximity of the proposed access to junctions, other existing accesses and the total number of accesses onto a given stretch of road are relevant matters in the assessment of traffic hazards." I still do not think enough consideration has been given to the safety hazards presented to pedestrians and other road users that this new road layout will present. It does not go far enough to improve the problems my wife and I already face with vehicles parking in the access road to our driveway.

As already explained in objection letters our driveway is on a steep incline. When a vehicle is parked on this narrow access road adjacent to our driveway, we must reverse from the steep incline of our driveway out onto another steep road which is an access road to 58 homes and therefore as defined in DECAN 15, a major access road. This is already a dangerous manoeuvre and has been a concern to us for a long time. Cars regularly travel along the major access road at speed due to the incline as there are no speed restraints. Keeping the access road to our home in its current state so close to the new proposed access road within this application (10 meters) will only exacerbate the danger caused. Developing this new access road provides the possibility for improving the access road to my home, this course of action is supported by statement 'Policy AMP 1 Creating an Accessible Environment' in PPS3 which states: The Department will also seek to ensure that access to existing buildings and their surroundings is improved as opportunities arise through alterations, extensions and changes of use. I would ask the committee to fully consider the safety implications of not seizing this opportunity to improve an unsafe part of this residential area before a decision is made.

The proposed new road layout also shows further development of the access road to my home as seen in **image 1** which I do not understand as it does not improve the road in any way, but only enhances an already unsafe hazard. Document '02 rev 01 A1 Landscape Proposal' shows a pedestrian crossing point and a ramp on the access road to my home which is not currently in place. This will only add to the danger involved for myself and others attempting to access my driveway by car or pedestrians using this crossing as it starts part way across my driveway. I had asked in my second objection letter for the developer to provide further clarification of their intentions here as this crossing or ramp can't be seen in other drawings. This has not been clarified in the planning report issued on 15/05/19 or in any other document and again it will further exacerbate the dangerous scenario we have and will continue to have accessing our home if the development is completed as per 02 rev 01 A1 Landscape Proposal. I stated in my second objection letter I would be happy to talk to the developer about the access to my own home and how it could be modified to make it safer so that their new proposed access road could go ahead where they have planned safely, however, they have yet to get in contact. I tried to contact them on several occasions but the relevant person was unavailable.

The Planning report issued on 15/05/19 makes reference to having considered the safety hazard of parking in the existing access road to my property which leads to the problems previously mentioned and it states "the proposed development is not considered to exacerbate the existing scenario", this attitude does not seize the opportunity to better protect current residents in the future and is not conducive to Policy Statement AMP1 in PPS3 that I read out previously which concerns me greatly. I dispute this comment, as I do indeed think the creation of this new road layout will make this scenario worse. Currently there is an existing parking bay, as shown in **image 2**, which is regularly used by residents and visitors to neighbours exactly where the new road will be taken into the proposed new development. When this no longer exists, where are these people likely to park? They will park in the access road to my home which will further exacerbate the safety concerns around accessing my driveway that I have mentioned in detail.

The application also proposes to erect trees at the entrance to this new development and along the new road layout as shown in **image 3**. I raised a concern in my second objection letter that the proposed trees at the entrance to the development from the proposed new access road were not in keeping with the surrounding character or visual amenity of the existing neighbourhood as they will grow to an extremely out of character height. As can be seen in **image 3** the developers propose to plant trees labelled TcG (Tilia Cordata 'Greenspire') and ApC (Acer Plantanoids 'Crimson Sentry'). TcG can grow to a mature height of up to 20 meters with a span of up to 10 meters. ApC can grow to a mature height of up to 15 meters with a span of 5 meters. The height of these trees will be colossal in years to come at double the height of existing buildings and will block light from my property due to their excessive height and subsequent shadow. The Planning report issued on 15/05/19 makes reference to the proposed landscape proposal prepared by Landscape Architects LK Design Space which are reflected through drawing 02REV1 and goes on to say "The proposed landscaping is considered appropriate to the surrounding character of the existing residential development".

This couldn't be further from the truth as shown in **image 4**. This shows the existing trees that line the street along the existing road to which the entrance to this proposed development will emerge from. They are a maximum height of 5 meters, most are less than this. This road has existed for almost 20 years; therefore, this is an example of mature trees in the residential area of Forest Hills. The proposed trees don't in any way reflect the surrounding character of the neighbourhood.

I can understand why the Landscape Architects have chosen to incorporate such large trees into the site somewhere, as in 2002 it was a requirement that the previously removed woodland area on this site was to be replanted as part of any future planning approval. The site on which the proposed development sits does still have some trees which remain from the old woodland area that are of similar heights to those proposed that can be seen in the red circle in **image 5** along the south and south eastern border, however this is not part of the current residential neighbourhood.

Mr PJ McBride (Divisional Planning Manager of the Planning service), stated in a letter on 8<sup>th</sup> March 2002 regarding the previous planning application on this site, ref: 1752-02-02-01SE: "This site was a wooded area excluded from adjacent housing zoning in the Newry Area Plan (1984-1999) because it was critical in helping development on the zoned land integrate into the local landscape. The trees on the site have since been removed." Mr McBride then goes on to say there were too many houses in this previous application (17 initially), the current level of trees on the site was not enough and the wooded area would need to be replanted. In 2005 the Council eventually approved Planning on this site (ref: P/01/2059/F) which was referenced by the developer when initially submitting this new proposal. That decision granted approval for 13 dwellings only. This proposal was vastly different in terms of layout compared to what was originally proposed in 2001 and what is proposed today. However, it is interesting to note that the original plans submitted for assessment in 2001 are extremely similar to those presented in 2018 and those ultimately proposed today as can be seen comparing **images 6 & 7**, yet this original version was deemed to be unworthy of planning approval.

In 2005 the plans that eventually gained approval met the requirements of Mr McBride's letter having only a single row of dwellings across the majority of the site, as seen in **images 8 & 9**. He thought the site was unfit for more than this and along the south west boundary of the site the plan shows extensive replanting of the woodland to match into the remaining woodland which spans to the south east. This consisted of the replanting of 30 new trees (highlighted in green) to match those existing along the southern boundary to rebuild the woodland and protect the privacy of houses 17 – 21. As the approved access road ran behind houses 25-35, it separated them and the proposed new dwellings, allowing the maximal attainable privacy to be retained for these dwellings also.

The current proposal shows the planting of these large woodland trees at the entrance to the site connecting to Forest Hills. This is not in keeping with the visual amenity of the surrounding neighbourhood, and shows only 9 new trees (70% less than in the previously approved plans in 2005) along the western and south west boundary which was once a restricted woodland area. The Planning report issued on 15/05/19 does not seem to have taken Mr McBride's comments into account in reaching its decision, even though it was referenced many times by different residents in their objections. The site remains unchanged since 2002 and the woodland has yet to be replanted so I can't understand why the comments of a colleague in the Planning Service and that of their past planning decisions would be ignored.

The current landscape proposal does not reflect the history of the site nor does it respect previous conditions set on the site in past applications. Some of the 9 trees LK Design Space have designated along the western and south western boundary, shown in **image 10**, will grow to mature heights of only 3-5 meters which makes no sense as these will not blend into the existing woodland area. It would make much more sense to have smaller trees, 3-5 meters at mature height, at the entrance to the new development from Forest Hills as this would better tie into the existing neighbourhood. These larger trees could still be planted on the site to rebuild the woodland area that was removed if they are necessary to be planted. The landscape proposal shows these larger TcG trees continue along the proposed new road on one side with smaller Golden Hornet trees on the other. I think it would be more sensible and in keeping with the existing development and neighbourhood to plant trees, which are smaller in nature (3-5 meters), along the entire stretch of the new proposed road against the back drop of a rejuvenated woodland.

As I said at the start, I do not object to housing on this site in general. This site has been zoned for housing; I can presume because it had planning permission granted in 2005 that never came about. The road layout, landscape proposal and house size which was granted in 2005 was fit for the site and resolved a lot of the issues that had been raised. If similar plans were presented today, I would not be here to object. What we have presented today however is very different to what was approved in 2005. It does not respect the conditions imposed in 2002 and is very similar to the initial plans submitted in 2001 which have already been described by Mr McBride in his letter as 'unacceptable'.

Thank you for your time and I hope you will take the points I have raised seriously and into your consideration.



**Image 1: Snapshot taken from document '02 rev 01 A1 Landscape Proposal'**



***Image 2: Snapshot highlighting existing parking at proposed entrance to new development***



Image 3: Snapshot from document 02 rev 01 A1 Landscape Proposal showing proposed tree positions



**Image 4: Showing existing trees along the main access road on Forest Hills. Red box showing proposed new entrance of main access**



Image 5: Showing the proposed development plans in 2019 ref: LA07/2018/0072/F





**Image 6: Showing original concept which was not accepted for planning application ref: P/01/2059/F**



Image 7: Showing the proposed development plans in 2019 ref: LA07/2018/0072/F



PROPOSED PLANTING TO REPLICATE AND REINSTATE THE FORMER LANDSCAPED BELT OF TREES AND SHRUBBERY. DENSITY AND SPECIES TYPE SHALL MATCH THE FORMER PLANTING AND MATCH THE EXISTING TREES AND SHRUBBERY ADJACENT ON THE SAME LANDSCAPED BELT. THIS STATEMENT TO BE READ IN CONJUNCTION WITH ORIGINAL LANDSCAPE PROPOSAL LODGED WITH ORIGINAL PLANNING APPLICATION WHICH SHOWS SPECY TYPES AND DENSITIES.

THE PLANNING SERVICE RECEIVED 22 OCT 2003  
 FILE NO. CRAIGAVON

G	PLANNING SERVICE RECEIVED	DATE	22 OCT 2003
F	FILE NO.	CRAIGAVON	
G	PLANNING SERVICE RECEIVED	DATE	22 OCT 2003
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Y	PLANNING SERVICE RECEIVED	DATE	22 OCT 2003
Z	PLANNING SERVICE RECEIVED	DATE	22 OCT 2003

**SITE EXPRESS**

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HOUSING DEVELOPMENT A  
 LANDS EAST OF 15-23 FOREST HILL  
 OLD WARRENPOINT ROAD, NEWRY  
 PROJECT  
 1752/L01

Image 8: Showing the Landscape proposal plans in 2003 ref: ref: P/01/2059/F

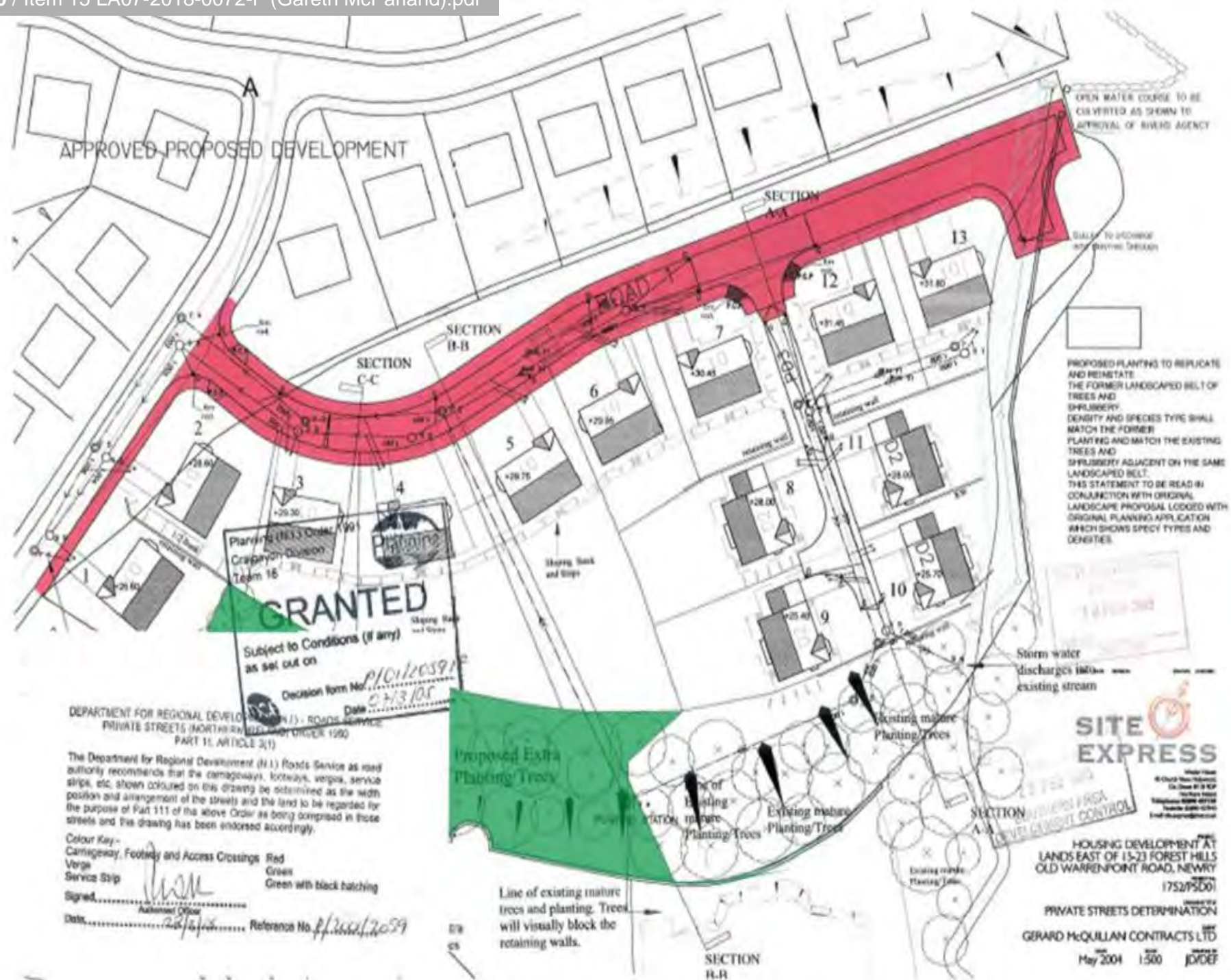


Image 9: Showing the granted development plans in 2005 ref: ref: P/01/2059/F



Image 10: Snapshot from document 02 rev 01 A1 Landscape Proposal showing proposed tree positions



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2018/1556/F

**Date Received:** 09 October 2018

**Proposal:** Extension and renovation of existing dwelling and new domestic garage

**Location:** 8 Tamary Hill, Rathfriland, BT34 5DS

**Site Characteristics & Area Characteristics:**

The site is located on an elevated site accessed by a laneway off Tamary Hill, Rathfriland. The area is rural and characterised by single dwellings. The site contains a detached single storey dwelling, outbuilding and garage.

**Site History:**

No relevant planning history.

**Planning Policies & Material Considerations:**

The Banbridge Newry and Mourne Area Plan 2015

The Strategic Planning Policy Statement (SPSS) for Northern Ireland

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

Planning Policy Statement (PPS) 7 – (Addendum): Residential Extensions and Alterations

**Consultations:**

No consultations required.

**Objections & Representations**

The application was advertised in local papers on 31 October 2018.

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

**Consideration and Assessment:**

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is located outside any settlement limits as set out in BNMAP. There are no specific policies in the plan relevant to the

determination of the application, so it will be considered under the operational policies of the SPPS, PPS 21 and PPS 7 (Addendum).

The proposal is to redevelop the existing single storey dwelling. The proposed plans show the addition of an extra floor, increasing the ridge height to 6.4 metres (from 5 metres). The proposed plans show the demolition of the existing rear returns and attached garage to the west of the existing dwelling. A new extension is proposed to the rear and side with a dormer to the rear and roof lights and porch to the front elevation. A new detached garage is also proposed.

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

PPS 21 allows for an extension to a dwelling in the countryside where it is in accordance with the addendum to PPS 7.

#### Planning Policy Statement (PPS) 7 (Addendum) - Residential Extensions and Alterations

I consider that the proposal does not meet criterion (a) set out in Policy Ext 1 of the addendum to PPS 7 in that the scale, massing, design and external materials of the proposal are not sympathetic with the built form and appearance of the existing property and will detract from the appearance and character of the surrounding area.

The proposed extension and garage more than doubles the floor space of the existing dwelling, whilst the raising of the roof, porch and introduction of additional materials cumulatively result in the proposed dwelling bearing very little resemblance to the original dwelling house on the site. It therefore cannot be said that the scale massing and design of the proposed extension is sympathetic to the built form and appearance of the existing property.

In relation to the impact that the proposed extension would have on the character of the surrounding area, it is considered that the proposed dwelling would have a greater impact than the original dwelling given the increase in ridge height, increase in scale and massing and additional garage building. Taking this and the elevated nature of the site into consideration it is considered that the proposal would detract from the appearance and character of the surrounding area.

Policy Ext 1 also states that the guidance set out in Annex A will be taken into account when assessing proposals. I consider that the proposal is contrary to guidance set out at A6 of Annex A in that the proposed extension is not smaller than the existing house.

I consider that the other criteria of PPS 7 (addendum) are met in that:

b) the proposal would not unduly affect the privacy or amenity of neighbouring residents.

(c) the proposal will not cause the unacceptable loss of, or damage to, trees or other landscape features which contribute significantly to local environmental quality; and

(d) sufficient space remains within the curtilage of the property for recreational and domestic purposes including the parking and manoeuvring of vehicles.

**Recommendation:**

Refusal

**Refusal reasons:**

1. The proposal is contrary to the SPSS, PPS21 and Policy Ext 1 of PPS 7 (Addendum) - Residential Extensions and Alterations in that the scale, massing, design and external materials of the proposal is unsympathetic with the built form and appearance of the existing property and will detract from the appearance and character of the surrounding area.

**Case officer:**

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**Authorised officer:**

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Your Ref: LA07/2018/1556/F

Our Ref: 18/41



17-19 The Square, Killeel, Co Down BT34 4AA t: 028 41763361  
m: 07803 177197 / 07801 952802 e-mail info@mourne.org

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

20<sup>th</sup> May 2019

Dear Sir/Madam,

Further to the above-referenced application and the Local Planning Authority's (LPA's) recommendation of refusal on one ground, I am writing on behalf of the agent and in full support of Mr. Scott's proposal, rebutting the LPA's sole recommended reason for refusal.

The existing dwelling is located within a rural area, along a narrow road which experiences an absolutely miniscule volume of traffic on a weekly basis; the subject dwelling is situated a significant distance from the aforementioned road (180 metres/0.11 of a mile; see images below). Given the significant separation distance between the quiet, rural road and the subject dwelling, and the presence of mature vegetation between said road and dwelling, any view of the application site is extremely limited to state the least.

*The image displayed to the right is of the existing dwelling, when viewed from the public road*



*The image displayed to the left shows how the proposal would appear. Please note that the proposal would, in no way whatsoever, detract from the appearance and character of the surrounding area as erroneously asserted in the LPA's sole recommended reason for refusal, but would rather integrate successfully into its*

*surroundings and the carefully designed scheme sympathetically respects the built form and appearance of the existing dwelling.*

With regards to the features of the existing dwelling, said dwelling is single-storey in emphasis with low ceilings throughout, and an extremely minimal provision of rooms which are most certainly not fit for modern purpose, convenience or basic residential needs (including the current provision of only one bedroom). Please note that the existing dwelling has a side-return positioned immediately adjacent to its eastern elevation and there are two returns in situ along the dwelling's rear elevation.

The sensitively designed proposed extension is subordinate in scale to and wholly respects the footprint of the existing dwelling; in this regard, the footprint of the existing dwelling and its attached domestic store measures 122m<sup>2</sup>, while the footprint of the proposal measures 178m<sup>2</sup>; the frontage of the existing dwelling measures 17.6m, while the frontage of the proposal measures 17.8m; the depth of the existing dwelling measures 8.8m, while the depth of the proposal measures 9.9m. The aforementioned increases are therefore entirely minimal. With regards to the proposed garage, please note that this minimally scaled single garage could be constructed under the Permitted Development rights enjoyed by the existing dwelling.

With regards to the height of the proposed extension, it was considerately chosen to minimally raise the ridge height of the existing dwelling in order to provide liveable roofspace accommodation rather than creating a larger ground floor footprint which would have consequently led to a greater visual impact; in this regard, please note that the proposal has been sympathetically formulated and merely proposes Velux windows in the roof of the only elevation visible from the road, which is located a significant distance away, as previously detailed. In addition, the only introduction of new materials is the provision of a natural stone porch, with complementary natural stone on the side return, which is most certainly not contrary to Policy EXT 1 as erroneously asserted by the allocated Case Officer in their report.

Therefore, given that the increase in the footprint of the existing dwelling is only increasing marginally and that the ridge height has been raised minimally in order to provide the number of rooms required for the applicant's family to meet their basic residential needs, the scale, massing and design of the proposed extension is therefore entirely sympathetic with the existing dwelling and successfully meets the criteria of Policy EXT 1. Please note that the applicant has conscientiously chosen to extend their property, and thereby retain the built fabric of the established dwelling, rather than proposing to demolish and replace said property—the option of choosing to extend means that the applicant is incurring a 20% VAT fee, but they admirably want to retain the character and built fabric of the subject dwelling.

In conclusion, for the reasons detailed above, Mr. Scott's application successfully meets all of the criteria of Policy EXT 1, and we therefore kindly request that the LPA and the Planning Committee of Newry, Mourne and Down District Council look favourably upon this policy-compliant proposal and issue a decision notice of approval.

Yours faithfully,

John Law (BSc) Hons. Dip. TP



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2018/1783/F

**Date Received:** 8 November 2018

**Proposal:** Conversion of existing outhouse to a dwelling

**Location:** The application site is located 10m north of 397 Glasdrumman Road, Annalong.

**Site Characteristics & Area Characteristics:**

The application site is located 10m north of 397 Glasdrumman Road, Annalong. It is within the Mournes Area of Outstanding Natural Beauty. The dwelling is set approx. 9 metres beneath the level of the adjacent road, which is a protected route. It is approx. 60 metres back from the road, set in a farm yard which contains an existing dwelling and shed. The existing building is a single storey stone building painted white in colour, the building has two sections with the section to the east have a slightly lower ridge height. The building has a pitched roof with grey roof slates and part of the roof in in disrepair. The building has three door openings to the front elevation and wooden framed window openings to the rear.

**Site History:**

P/2013/0678/F Conversion of existing outhouse to a dwelling. Permission granted

P/2011/0295/F Erection of replacement dwelling. Permission granted.

P/I986/0582 - Extension and re-roofing of dwelling. Permission granted.

**Planning Policies & Material Considerations:**

This planning application is assessed against the following relevant documents:

- Banbridge Newry & Mourne Area Plan 2015
- Strategic Planning Policy Statement (SPPS) for Northern Ireland
- PPS 3 -Access Movement and Parking
- PPS 21 - Sustainable Development in the Countryside

- Building on Tradition Design Guide for the Countryside

**Consultations:**

DFI Roads – no objection

NIW – Generic response received

**Objections & Representations**

Two neighbour notifications were issued on 27 November 2018. The application was advertised in the local press on 5 December 2018. No representations were received.

**Consideration and Assessment:**

Section 45 of the Planning Act (NI) 2011 requires the Council to have regard to the Local Development Plan (LDP), so far as material to the application and to any other material considerations. The relevant LDP is Banbridge, Newry and Mourne Area Plan 2015 as the Council has not yet adopted a LDP. The site is located outside the development limits of a designated settlement. There are no specific policies in the Plan relevant to the determination of the application which directs the decision maker to the operational policies of the SPPS and the retained PPS21.

The SPPS provides more detail on proposals for conversion in that the wording has been revised to clarify the intent of PPS 21 Policy CTY 4 in respect of the architectural merit of a building to be converted/re-used. The SPPS states that provision should be made for the sympathetic conversion and re-use, with adaptation if necessary, of a *locally important building*. There is obviously conflict between the SPPS and the retained policy. Thus, in accordance with the transitional arrangements, the SPPS must be accorded greater weight in the determination of this application. Following a site inspection I consider that the buildings to be converted are old outbuildings which are in a dilapidated state of repair they are not clearly visible from the main road or local area and I do not consider them to be locally important of special character or interest in the context of the policy. The principle of development fails the SPPS test and I see no grounds within PPS 21 CTY 1 to allow the development.

**Recommendation:** Refusal

**Refusal Reasons:**

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

2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:
- The buildings to be converted are not considered to be suitable locally important buildings of special character or interest.

**Case Officer Signature:**

**Date:** 09/01/2019

**Authorised Officer Signature:**

**Date:**



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2018/1832/F

**Date Received:** 23 November 2018

**Proposal:** Single storey rear extension to provide disabled persons bedroom and shower room.

**Location:** The application site is located at 2 Lassara Heights, Warrenpoint.

**Site Characteristics & Area Characteristics:**

The application site is located within the settlement limits of Warrenpoint as designated within the Banbridge Newry and Mourne Area Plan 2015. The site is located within a residential area at 2 Lassara Heights which is characterised by a terraced single storey and two storey dwellings. The dwelling to be extended is a two-storey terrace dwelling within a row of 8 dwellings. The dwelling to be extended has an external finish of render painted cream, white Upvc windows and doors. There are formal gardens to the front and rear of the property enclosed by a 1m wall at the front and 2m timber fence at the rear. The rear garden consists of a decking area immediately adjacent to the common boundary at the NE with No.1 Lassara Heights. A single storey garden shed is also located at bottom of the rear garden on the E and SE boundary. Adjacent to the dwelling is No.1 Lassara Heights a single storey bungalow with a single storey rear porch and garden shed adjoining the common boundary with the application site at the rear. To the opposite side is No. 3 Lassara Heights 2 storey dwelling with a single storey rear porch on the common boundary.

**Site History:** No recent relevant history

**Planning Policies & Material Considerations:**

This planning application has been assessed under the following:

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

- Planning Policy Statement (Addendum) Residential Extensions and Alterations Policy EXT 1.

**Consultations:** None required

### **Objections & Representations**

Five neighbour notifications were issued on 5 December 2018 and the application was advertised in the local press on 12 December 2018. One non committal representation was received.

### **Consideration and Assessment:**

The primary consideration in this assessment is whether the proposal is appropriate in this location and if any demonstrable harm would result from its approval. The application includes works to a dwelling to improve the health / comfort of an ill person. This is recognised in the assessment of this application.

### **Banbridge, Newry and Mourne Area Plan 2015**

Section 45 of the Planning Act (NI) 2011 requires the Council to have regard to the Local Development Plan (LDP), so far as material to the application and to any other material considerations. The relevant LDP is the Banbridge, Newry and Mourne Area Plan 2015. The site is located in the settlement limit of Warrenpoint and designated within the Mournes AONB. There are no specific policies in the Plan relating to the proposed use therefore this application will be assessed against regional planning policy.

### **Strategic Planning Policy Statement (SPPS)**

As there is no significant change to the policy requirements for the proposed alteration and extension of a dwelling following publication of the SPPS, the retained planning policy is PPS7 addendum Residential Extensions and Alterations. This policy will be given substantial weight in determining the principle of the proposal in accordance with para 1.12 of the SPPS.

### **PPS 7 (Addendum) Policy EXT 1: Residential Extensions and Alterations**

#### **Scale and Massing**

The proposal involves the construction of a single storey rear extension to provide a bedroom and shower room for the comfort of an ill person. The extension is located tight along the common boundary with No.1 Lassara Heights. It measures 3.9m long, 3.9m at the widest to allow for the bedroom and 2.9m to allow for the shower room. The height of the extension is 2.2 to FFL with a flat roof. The extension is subordinate in height and size to the existing dwelling. However I consider the proposal dominates the host property as it takes up the majority of the amenity space.

#### **Impact on Character of Surrounding Area**

The extension is in the rear of the property, although it would be visible from the Bridal Loanan on approach from the south to Lassara Heights. I consider the extension dominates the host property and its wider surroundings as it will be clearly visible from the Bridal Loanan.

### **Loss of Privacy**

I consider that loss of privacy would not be an issue to the neighbouring properties as there are no windows facing No.1 Lassara Heights and there is an adequate distance (1.4 m) from extension to the common boundary with No.3 Lassara Heights to avoid adverse impacts on privacy.

### **Dominance**

I consider that large blank wall along the common boundary would impact on the adjoining property No.1 Lassara Heights as it would adversely impinge on the immediate outlook of this single storey property.

### **Overshadowing / Loss of Light**

When assessing loss of light / overshadowing to neighbouring properties the angle test is a useful tool to gauge potential adverse impacts. It is noted in the policy that the angle test is not a rigid standard which must be met in every case. When assessing the extension using this tool the proposal falls considerably short of the 60 degree test. I consider that the main rooms of the neighbouring property No.1 Lassara Heights would adversely affected. I consider the loss of light would be to an unreasonable degree and does not warrant relaxation of the policy to meet the special circumstances of this case.

### **Design**

The design and external finishes of the proposal are to match the existing property, and will complement the host property and the existing properties within this residential development.

### **Impacts on amenity space within the curtilage of the property**

Upon construction of the proposed extension the dwelling will have approx. 20 sqm amenity space to the rear of the property. Paragraph 5.19 of Creating Places states that garden areas less than 40 sqm will be unacceptable. The rear amenity space is reduced to the point where it is out of scale and fails to meet the needs of the occupants for usable private amenity space. The amenity space to the front of the property remains unchanged as a result of the proposal. Parking is not affected as a result of the proposal.

### **Loss or Damage to Trees/Landscape**

There is no loss or damage to trees or landscape features as a result of the proposed development.



I have considered the personal circumstances case put forward and the material planning considerations as outlined above. I consider this proposal is unacceptable and refusal is recommended.

**Recommendation: Refusal**

**Refusal Reasons:**

The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and the Addendum to Planning Policy Statement 7: Residential Extensions and Alterations Policy EXT 1 in that the rear extension, if permitted, would unduly affect the amenity of neighbouring residents by reason of loss of light, dominance and the proposal would result in an unacceptable loss of amenity space.

<b>Case Officer Signature:</b>
<b>Date:</b>
<b>Authorised Officer Signature:</b>
<b>Date:</b>



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2018/1933/F

**Date Received:** 06.12.18

**Proposal:** Proposed new village play park

**Location:** Jim Steen Playing field located 100 meters West of 44 Dungormley Estate, Newtownhamilton, BT35 0HY

**Site Characteristics & Area Characteristics:**

Site is located to the S of an existing playing field and NW of Dungormley estate.

**Site History:**

P/2013/0157/F - Provision of multi use games area, childrens play park and adult fitness equipment within the existing Council owned open recreational space. (Application site) (Granted)

P/1983/1015 - Playing fields and boundary fence (Application site) (Granted)

**Planning Policies & Material Considerations:**

**Banbridge/ Newry and Mourne Area Plan 2015:** Inside the development limits of Newtownhamilton and major area of existing open space. The proposal lies within the development limits for Newtownhamilton as depicted in the Area Plan. The site forms part of the zoning as a major area of existing open space. The proposal is consistent with the policy requirements of the Banbridge Newry and Mourne Area Plan 2015.

**SPPS, PPS3, PPS8 and PPS15**

The principle of development was established under previous planning application P/2013/0157/F which included reference to a play park. This has also been reinforced by the site zoning within the Area Plan.

The proposed play park takes in an area of approximately 1800 sq m (0.18ha) which includes the play area, pedestrian link to the existing car park, ball stop and fencing to located to the south side of an existing playing field. The proposal will bring a public community facility to the village which will further sustainable development and improve wellbeing. The proposal is consistent with the Strategic Planning Policy Statement for Northern Ireland.

Planning Policy Statement 8 defines open space which includes 'play areas'. Policy OS1 seeks to protect open space and the proposal for the play facility will not compromise this policy criteria. Annex B of PPS 8 notes that children's playing space should be 0.8ha, the proposed park is approximately 0.18ha. In this case, when considered within the existing context and taking account surrounding provision for open space. On balance, the area of the playing facility is considered acceptable, particularly as it represents an improvement to the area and will bring a new playing facility for children.

The site is located to the east of an existing watercourse and a number of objections have been raised with regard to flooding. Given its proximity to the watercourse Rivers Agency were consulted as statutory consultee however following consideration of objections and the flood information provided the consultee has no further objection.

The car parking requirement for the existing site is approximately is 6 spaces, the existing car park at the site can accommodate up to 19 spaces and thus parking is adequately provided at this location although it is anticipated that most users would walk to the site from surrounding developments.

### **Consultations:**

Rivers Agency (08.04.19) - No objection  
Defence Estates (09.04.19) - No objection  
Roads (18.12.18) - No objection

### **Objections & Representations**

Advertised January 2019

66 neighbours were notified December 2018 (8 objections received and 53 letters of support)

#### **8 Objections received, and issues raised:**

- Park is isolated and a haven for antisocial behaviour
- Close to river and floods
- Dark and poorly illuminated
- Increase in traffic and safety
- Limited access
- Lack of carparking

### Consideration of Issues

- The proposed park is located to the south of an existing area of open space/ playing field. Existing dwellings at Dungormley overlook the access and open space area, the recent clearance of vegetation to the SE has improved this and allows for informal surveillance of the area which should go some way to promoting personal safety and deter antisocial behaviour. In the event of antisocial behaviour being experienced the relevant law enforcement agencies should be engaged.
- Rivers Agency have considered the flood risk and have raised no objection. Although the park is within close range of an existing river there is existing boundary fencing between the park and the river to avoid access.
- As the proposal is for a play park the facility is only likely to be used during daylight hours and is therefore not reliant on street lighting.
- Transport NI have raised no concerns with regard to the access, traffic or safety.
- Car parking provision is adequate and has been fully considered within the planning report.

### 53 Letters of Support and issues raised:

1. Easy accessible
2. Safe and away from the road

### Consideration and Assessment:

Objections and letters of support along with consultee replies have been given full consideration. The principle of development has been established through the grant of planning permission under planning reference P/2013/0157/F which is a material consideration. Overall proposals meet the requirements of planning policy for the reasons set out above. In light of this, it is recommended to approve the application

**Recommendation:** Approval

### Conditions:

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

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

Case Officer

Authorised Officer



West looking east - existing playing fields



Existing playing fields



Existing access to playing fields



Road entrance to site from Dungormley Estate



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference: LA07/2019/0211/F**

**Date Received: 04<sup>th</sup> February 2019**

**Proposal: Eastern ball stops and car park extension**

**Location: Crossgar Playing Fields, Kilmore Road, Crossgar.**

#### **Site Characteristics & Area Characteristics:**

The site in question is a flat site consisting of playing fields, parking provision and a pavilion and the site is located off lands to the west of Kilmore Road, Crossgar. The site is accessed via an existing lane that also serves the local school and private housing. The site has a post and wire fence along the lane and mature trees. Part of the overall site is bounded with a planted hedge.

The site is not located within the settlement development limits as defined in the Ards and Down Area Plan 2015 and there are no specific site constraints identified on the lands in question. A river runs to the east of the site and there are associated flood zones but they do not extend to the extent of the site.

#### **Site History:**

R/1986/0523/ - Rear of 45 Kilmore Road, Crossgar – playing fields – granted – 24-10-1986

R/1975/0728 – Lissara, Crossgar – Sports playing fields – granted – 02-08-1976.

R/1995/1051/F – Kilmore Playing Fields, Kilmore Road, Crossgar – Changing Pavillion – granted – 22-03-1996.

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

The application is considered against Ards and Down Area Plan 2015 and in addition to this is also considered against PPS 3 Access, Movement and Parking, PPS 8 Open Space, Sport and Outdoor Recreation, PPS 15 Planning and Flood Risk, PPS 21 Sustainable Development in the Countryside and SPPS.

**Consultations:**

NIEA was consulted in relation to the proposal and specifically in relation to the potential for impacts on birds due to the height and design of the ball stop and NIEA responded with no objections.

Rivers Agency was also consulted in relation to the proposal and has responded with no objections.

**Objections & Representations**

The application was advertised in the local press on 27<sup>th</sup> February 2019 which expired on 13<sup>th</sup> March 2019. Neighbour notification issued on 19<sup>th</sup> February 2019 which expired on 5<sup>th</sup> March 2019 to date there have been no objections received in relation to the proposal.

**Consideration and Assessment:**

The proposal is for an extension to the existing car park, the extended car park is on the lands adjacent to the existing lane and is 95m in length offering an additional 35 parking spaces. A 6m ball stop is proposed to the two pitches and spans 20m with 1.1m fencing either side. The fence is to be finished in a polyester powder coated metal in a moss green colour.

A number of policies are given consideration including PPS 8 OS 3 Outdoor Recreation in the Countryside.

The Authority will permit the development of proposals for outdoor recreational use in the countryside where all the criteria can be met. The ball net is considered an ancillary structure and it is considered to be appropriately designed and is also of a scale appropriate to the local area and is sympathetic to the surrounding environment.

The works meet with the criterion set out in OS3 and will not have any negative impacts on the local environment, local residents, the existing road network or impact negatively on the surrounding landscape visually. The playing fields are located off the road and there are limited public view points of the playing fields. There will not be any demonstrable harm as a result of the proposed works to the playing fields to provide the ball stop or additional parking. There is not an excessive change in levels across the site due to the works. The existing levels of the site are utilised.

The parking provision will not have any negative impacts and is located within the existing site on lands already associated with the playing fields. The existing access will remain in place unaltered.

Consultations were issued however no objections have been received in relation to the proposal.

The application is considered acceptable in terms of policy provision and is in keeping with the provisions of the SPPS.

**Recommendation:**

Approval



**Conditions:**

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

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

**Case officer:**

**Authorised by:**

**Date:**

**TRACKING ACTION SHEET ARISING FROM PLANNING COMMITTEE MEETINGS**

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
<b>PLANNING MEETING – 09 MAY 2018</b>					
LA07/2017/1326/F	Peter Morgan – dwelling and garage on a farm – 30m south of 28 Bog Road, Kilcoo	<b>Agreed at August 2018 meeting to defer planning application for further discussion between agent/applicant and Senior Planning Officers on new information submitted</b>	Annette McAlarney	<b>Application considered at August 2018 meeting – agreed to defer application for further discussion between agent/applicant and Senior Planning Officers on new information submitted. Contact to be made with agent. Further meeting on site, siting agreed awaiting amended drawings from agent. Amended Drawings received on 16 April 2019. Currently being processed.</b>	N
LA07/2017/1721/F	Millvale Services Ltd – proposed parking for	<b>Defer Planning Application LA07/2017/1721/F to allow for a</b>	Pat Rooney	<b>21 day letter issued to agent requesting</b>	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
	neighbouring Millvale Service Station – Millvale Road, Bessbrook	<b>Health and Safety Report / Road Traffic Report to be conducted as soon as possible and report back to Committee for further consideration of the application.</b>		the said information. Expiry date for info is 9.7.18.  Application deferred at meeting on 29 August 2018 until issues raised by SPO have been considered and Planning Officers are to liaise with the agent/applicant at the earliest possible opportunity	
<b>PLANNING MEETING – 6 JUNE 2018</b>					
LA07/2018/0398/0	Shea McAnulty - proposed infill gap site for a new dwelling and detached garage - lands between No. 5 and 5a Cons Lane, Newry	<b>Application removed from the schedule for further consideration by Planners</b>	Andrew Davidson	<b>Application deferred at Pl. Meeting on 29-08-2018 to allow for further discussions between applicant/agent and planning officers re: potential for other in-fill or agricultural opportunities. Awaiting information</b>	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
				from the agent in terms of sites owned by the applicant so that the Planning Department can assess the potential for any planning approvals on these sites.	
		<b>PLANNING MEETING – 1 AUGUST 2018</b>			
LA07/2017/1261/0	Thomas Mageean – proposed dwelling and garage – site abutting 20 Junction Road, Saintfield	<b>Defer application to enable the Council’s Legal Advisor to consider issues raised regarding ownership of the application site (Mr Thomas Mageean); the farm business in the name of Mr Bernard Mageean, who takes land in conacre from his brother and this farm business being altered by adding the applicant as an additional member of the business and in so doing have the applicants buildings at No. 20 Junction Road included within the farm business criterion © of CTY10</b>	Annette McAlarney	<b>Await legal advice.</b>	N
		<b>PLANNING MEETING – 29 AUGUST 2018</b>			

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
LA07/2017/0821/0	Mr C Kane - Proposed off site replacement dwelling and garage - 123 Magherahamlet Road, Moneywabane, Ballynahinch.	<b>Defer application for further discussion between agent/applicant and planning officers re: new information submitted and issues raised at the Planning Committee Meeting</b>	Annette McAlarney	<b>Issues raised at Planning Committee referred to the outcome of an application which has yet to be submitted to planning. In line with Committee wishes we have to await the submission of this application and its conclusion before returning to consider the current deferred application. Contact made with agent re progress on potential new application which has yet to be submitted. Meeting to be convened.</b> <b>Agent advised on 19 March 2019 that the application for the 2no broiler houses</b>	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
				was to be submitted within the next 3 weeks. No application has been received at time of update 29/04/2019.	
		<b>PLANNING MEETING – 24 OCTOBER 2018</b>			
LA07/2018/0894/F	Dundrum Cross Community Playgroup - retrospective application for Dundrum Cross Community Play Group Facility (temporary permission) (amended description) - Dundrum Methodist Church 7-9 Manse Road, Dundrum.	<b>Removed from the addendum list at the request of Councillor Murnin to allow objectors to make representations</b>	Annette McAlarney	<b>Requires further consideration on foot of additional information submitted prior to Oct 2018 Committee</b>  Application will be decided under delegated authority as enforcement on site. Likely temporary approval for 2 years.	N
		<b>PLANNING MEETING – 16 JANUARY 2019</b>			
LA07/2017/1603/0	Housing development comprising of 6 no. semi-detached dwellings to complete the Old Railway	<b>Defer to allow time for more information to be submitted in terms of the potential for any zoned</b>	A McAlarney	<b>Supporting information has been received from Agent. Return to</b>	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
	Close development - lands to the west of 34 and 61 Old Railway Close, Leitrim.	<b>land within the settlement to be developed.</b>  <b>Application to be taken back to Committee</b>		<b>May 2019 Committee</b>	
LA07/2018/1193/0	Off-site replacement dwelling with detached garage - approx. 215m SW of 15 Ardglass Road, Backaderry, Castlewellan.	<b>Defer for a site visit to look at the site in more detail including the original access</b>	A McAlarney	<b>Return to May 2019 Committee</b>	N
		<b>PLANNING MEETING - 13 FEBRUARY 2019</b>			
LA07/2015/0149/F	Change of use of building to provide storage and distribution of fuel with alterations and new bulk fuel tank in yard – site between 54 and 58 Edenappa Road, Jonesborough	<b>Withdrawn by the Planning Department to allow further consultation to be completed</b>	A Davidson		N
LA07/2018/0820/F	Erection of a semi-detached pair of dwellings and associated car parking – lands to the rear of Nos 1 and 2 Sally Gardens and 31-35 Mourne Rise Newcastle	<b>Defer to allow the applicant to meet with Rivers Agency to discuss flooding and culvert issues</b>	A McAlarney	<b>Applicant has met with Rivers Agency. Planning office has requested updated position from applicant. No response. Proceed to return to May 2019 Committee</b>	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
		<b>PLANNING MEETING – 13 MARCH 2019</b>			
LA07/2018/0758/0	New dwelling and detached garage – lands approx. 50m south of 56 Crawfordstown Road, Drumaness	<b>Defer application to the April Planning Meeting (10-04-2019) to try and ensure a quorum is present</b>	A McAlarney	<b>Defer to the Planning Meeting on 10-04-2019 – defer as there was no quorum present to be considered afresh. Proceed to return to May 2019 Committee</b>	N
LA07/2017/1458/F	Proposed woodland burial site to include new entrance to Ballyculter Road: vehicle parking and turning, extensive native species planting; new dry-stone walling and pedestrian pathway network – 150m west of 40 Ballyculter Road, Ballyalton, Downpatrick	<b>Defer to consider new information submitted by applicant</b>	A McAlarney	<b>Deferred and Planning office consulting on late info submitted.</b>	N
LA07/2018/0650/F	Proposed dwelling to the rear of 45 Greenpark Road, Rostrevor	<b>Defer for a site visit</b>	A McKay	<b>Date for site visit – 01-04-2019 – take back to the next available Planning Meeting. Proceed to return to May 2019 Committee</b>	N



Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
LA07/2018/0753/F	Proposed new "Sure Start" nursery building, with additional 3 No. parking spaces provided by extension of existing car park – lands immediately to the north of Bessbrook Community Centre within "The Pond Field" park at No. 8 Mill Road Bessbrook	<b>Defer to allow further discussion regarding access and parking to take place with Planning Officials; Dfi Road and the applicant</b>	P Rooney		N
<b>PLANNING MEETING – 10 APRIL 2019</b>					
LA07/2016/1606/F	Proposed development of 8 x 2 storey dwellings and associated site works and alterations to an existing access off main street for 2 dwellings – Cumran Park, Clough, Downpatrick	<b>Removed from the addendum list to be presented at the next available Planning Committee Meeting</b>	A McAlarney	<b>May 2019 Committee</b>	N
LA07/2017/0078/F	Erection of 3 light industrial units on lands 20m east of 223a Newcastle Road, Seaforde	<b>Defer as there was no quorum present to be considered afresh when the new Planning Committee had been assembled after the May 2019 local elections</b>	A McAlarney	<b>May 2019 Committee</b>	N

## Newry, Mourne & Down District Council – April 2019

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### 1. Live Applications

MONTH 2019/20	NEW APPLICATIONS	LIVE APPLICATIONS	LIVE APPLICATIONS OVER 12 MONTHS
April	177	1,173	269

### 2. Live Applications by length of time in system

Month 2019/20	Under 6 months	Between 6 and 12 months	Between 12 and 18 months	Between 18 and 24 months	Over 24 months	Total
April	701	203	89	60	120	<b>1,173</b>

### 3. Live applications per Case Officer

Month 2019/20	Average number of Applications per Case Officer
April	78

### 4. Decisions issued per month

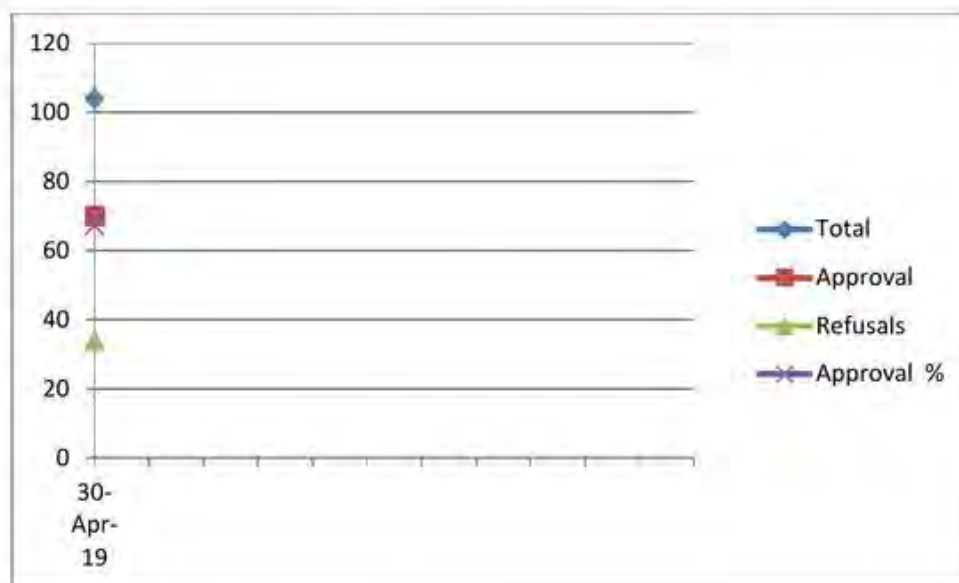
Month 2019/20	Number of Decisions Issued	Number of Decisions Issued under delegated authority
April	104	95

### 5. Decisions Issued YTD

Month 2019/20	Number of Decisions Issued	Breakdown of Decisions	
April	104	Approvals (70)	67%
		Refusals (34)	33%

## Newry, Mourne &amp; Down District Council – April 2019

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**6. Enforcement Live cases**

Month 2019/20	<=1yr	1-2 yrs	2-3 yrs	3-4 yrs	4-5 yrs	5+yrs	Total
April	329	230	183	79	63	179	1,063

**7. Planning Committee**

Month	Number of Applications presented to Committee	Number of Applications Determined by Committee	Number of Applications Withdrawn/Deferred for future meeting
10 April 2019	17	11	6
<b>Totals</b>	<b>17</b>	<b>11</b>	<b>6</b>

**8. Appeals**

## Planning Appeal Commission Decisions issued during April 2019

Area	Number of current appeals	Number of decisions issued	Number of decisions Allowed	Number of decisions Dismissed	Withdrawn
Newry & Mourne	23	5	0	5	0
Down	15	0	0	0	0
<b>TOTAL</b>	<b>38</b>	<b>5</b>	<b>0</b>	<b>5</b>	<b>0</b>

## Newry, Mourne &amp; Down District Council – April 2019

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Statutory targets monthly update – April 2018 to March 2019 (unvalidated management information)  
Newry, Mourne and Down

	Major applications (target of 30 weeks)				Local applications (target of 15 weeks)				Cases concluded (target of 39 weeks)			
	Number received	Number decided/withdrawn <sup>1</sup>	Average processing time <sup>2</sup>	% of cases processed within 30 weeks	Number received	Number decided/withdrawn <sup>1</sup>	Average processing time <sup>2</sup>	% of cases processed within 15 weeks	Number opened	Number brought to conclusion <sup>3</sup>	"70%" conclusion time <sup>3</sup>	% of cases concluded within 39 weeks
April	0	2	110.4	0.0%	100	109	14.0	52.3%	48	6	170.2	66.7%
May	0	2	67.3	0.0%	115	118	16.9	43.2%	49	14	48.3	64.3%
June	1	1	20.2	100.0%	133	132	15.1	50.0%	49	25	49.2	60.0%
July	0	-	0.0	0.0%	107	81	15.2	49.4%	38	6	61.9	66.7%
August	0	-	0.0	0.0%	110	136	15.6	47.8%	38	5	34.6	80.0%
September	1	-	0.0	0.0%	117	82	14.9	50.0%	34	5	129.7	20.0%
October	2	-	0.0	0.0%	145	138	16.3	44.9%	50	30	45.5	70.0%
November	0	-	0.0	0.0%	143	123	16.4	44.7%	35	14	58.4	50.0%
December	0	-	0.0	0.0%	115	32	19.9	37.5%	19	34	52.8	52.9%
January	1	-	0.0	0.0%	138	151	22.8	26.5%	37	18	85.5	44.4%
February	0	1	76.6	0.0%	134	99	21.8	25.3%	27	8	116.3	25.0%
March	1	1	215.4	0.0%	118	115	22.4	28.7%	26	40	134.6	37.5%
<b>Year to date</b>	<b>6</b>	<b>7</b>	<b>76.6</b>	<b>14.3%</b>	<b>1,475</b>	<b>1,316</b>	<b>18.0</b>	<b>41.6%</b>	<b>450</b>	<b>205</b>	<b>54.6</b>	<b>52.7%</b>

Source: NI Planning Portal

**Notes:**

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

2. The time taken to process a decision/withdrawal is calculated from the date on which an application is deemed valid to the date on which the decision is issued, or the application is withdrawn. The median is used for the average processing time as any extreme values have the potential to inflate the mean, leading to a result that may not be considered as "typical".

3. The time taken to conclude an enforcement case is calculated from the date on which the complaint is received to the earliest date of the following: a notice is issued; proceedings commence; a planning application is received; or a case is closed. The value at 70% is determined by sorting data from its lowest to highest values and then taking the data point at the 70th percentile of the sequence.

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

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DATE OF MEETING	PLANNING OFFICER'S NAME/S	PUBLIC REPRESENTATIVE'S NAME
05/04/2019	A McAlarney	Cllr Curran

## Current Appeals

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**AUTHORITY**      **Newry, Mourne and Down**

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

**APPEAL TYPE**                      DC- Refusal of Planning Permission

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

**Date of Hearing**

**Date Statement of Case Due for Hearing**

**Date Statement of Case Due - Written Representation**

**Date of Site Visit**

<b>ITEM NO</b>	<b>2</b>	<b>PAC Ref:</b>	<b>2017/A0213</b>
<b>Planning Ref:</b>	LA07/2016/0952/	<b>DEA</b>	<b>Newry</b>
<b>APPELLANT LOCATION</b>	D & M Downey 113-117 Dublin Road Newry		
<b>PROPOSAL</b>	RT35 80P Sub-division of part of existing bulky goods retail warehouse (No 115) to provide 3 No. ground floor class A1 retail units with new shopfronts (the 3 No. units to operate without compliance with the bulky goods condition on approval P/1993/0605); and western extension of site area		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	<b>18/01/2018</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

## Current Appeals

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<b>ITEM NO</b>	<b>3</b>	<b>PAC Ref:</b>	2018/A0027
<b>Planning Ref:</b>	LA07/2016/1407/	<b>DEA</b>	The Mournes
<b>APPELLANT</b>	Richard Newell		
<b>LOCATION</b>	75A Glassdrumman Road Annalong		
<b>PROPOSAL</b>	<sup>Co Down</sup> Proposed extension of curtilage of existing dwelling house and retention of existing Domestic Boat House and Yard		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	30/05/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>4</b>	<b>PAC Ref:</b>	2018/A0046
<b>Planning Ref:</b>	LA07/2017/0969/	<b>DEA</b>	Crotlieve
<b>APPELLANT</b>	Mr Peter Clerkin		
<b>LOCATION</b>	160m South Of 106 Leitrim Road Hilltown		
<b>PROPOSAL</b>	Proposed retention and extension of farm shed (amended address)		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	11/07/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

200

<b>ITEM NO</b>	<b>5</b>	<b>PAC Ref:</b>	<b>2018/A0079</b>
<b>Planning Ref:</b>	LA07/2018/0747/	<b>DEA</b>	Crotlieve
<b>APPELLANT</b>	Joan Henderson		
<b>LOCATION</b>	200m South East 21 Levallyreagh Road Rostrevor		
<b>PROPOSAL</b>	<sup>Newrv</sup> Proposed replacement dwelling		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	05/09/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>6</b>	<b>PAC Ref:</b>	<b>2018/A0123</b>
<b>Planning Ref:</b>	LA07/2018/0554/	<b>DEA</b>	Crotlieve
<b>APPELLANT</b>	Mr Craig Baxter		
<b>LOCATION</b>	No. 5 Ringbane Road Ringbane		
<b>PROPOSAL</b>	<sup>Newrv</sup> Change of use from private swimming pool to commercial swimming pool, retention of extension to same and extension to site curtilage		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	25/10/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

201

<b>ITEM NO</b>	<b>7</b>		
<b>Planning Ref:</b>	P/2015/0200/F	<b>PAC Ref:</b>	2018/A0130
<b>APPELLANT</b>	Mr Nail Black	<b>DEA</b>	Newry
<b>LOCATION</b>	Approx 150m South East Of No 28 Ferryhill Road, Killean		
<b>PROPOSAL</b>	Newry Erection of a farm dwelling and garage.		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps with Site Visit</b>	<b>Date Appeal Lodged</b>	30/10/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>8</b>		
<b>Planning Ref:</b>	LA07/2018/0331/	<b>PAC Ref:</b>	2018/A0131
<b>APPELLANT</b>	David Gordon	<b>DEA</b>	The Mournes
<b>LOCATION</b>	34 Dougans Road Kilkeel		
<b>PROPOSAL</b>	RT34 4HN Retention of dwelling and integrated garage, in substitution of Planning Ref: P/2009/1284/F		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	30/10/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

202

<b>ITEM NO</b>	<b>9</b>		
<b>Planning Ref:</b>	LA07/2017/1316/	<b>PAC Ref:</b>	2018/A0132
<b>APPELLANT</b>	O'Hagan Construction Ltd	<b>DEA</b>	Newry
<b>LOCATION</b>	Site Adjacent And North Of 8 Heslips Court Adjacent And West Of 9 Heslips Court And Opposite And 25 M East Of 16 Chancellors Hall		
<b>PROPOSAL</b>	Retention of retaining wall and raised land and erection of dwelling (Amended Proposal)		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	30/10/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>10</b>		
<b>Planning Ref:</b>	LA07/2017/1151/	<b>PAC Ref:</b>	2018/A0134
<b>APPELLANT</b>	Clark McCourt	<b>DEA</b>	Slieve Gullion
<b>LOCATION</b>	Lands 70 Metres North-East Of 32 Cullentragh Road Jerretspass		
<b>PROPOSAL</b>	Erection of farm building and associated site works to include vehicular access, access lane and hard-standing area		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	31/10/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

203

<b>ITEM NO</b>	<b>11</b>		
<b>Planning Ref:</b>	LA07/2018/1074/	<b>PAC Ref:</b>	2018/A0142
<b>APPELLANT</b>	EDB Construction Ltd	<b>DEA</b>	Newry
<b>LOCATION</b>	Lands Opposite No 1 Ashgrove Avenue Newry		
<b>PROPOSAL</b>	Housing Development comprising of 2 No. 4 bedroom Houses and 26 No. 2 Bedroom Apartments (amended proposal)		
<b>APPEAL TYPE</b>	DC - Non Determination of a Planning Application		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	04/12/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>12</b>		
<b>Planning Ref:</b>	LA07/2018/0457/	<b>PAC Ref:</b>	2018/A0143
<b>APPELLANT</b>	D Downey	<b>DEA</b>	Newry
<b>LOCATION</b>	Lands To West And South Of Existing Retail Units At Nos 113-117 Dublin Road Newry		
<b>PROPOSAL</b>	Retention of change of use of Agricultural land adjacent to establish retail units to facilitate safe parking of customer and staff vehicles and servicing of retail units, with associated landscaping works.		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	15/11/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

204

<b>ITEM NO</b>	<b>13</b>		
<b>Planning Ref:</b>	LA07/2018/1261/	<b>PAC Ref:</b>	2018/A0151
<b>APPELLANT</b>	Ebony Hughes	<b>DEA</b>	Newry
<b>LOCATION</b>	Premises At Corner Of Upper Edward Street Railway Avenue Newry		
<b>PROPOSAL</b>	Retention of mechanics garage, office store and boundary fencing		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	26/11/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>14</b>		
<b>Planning Ref:</b>	LA07/2018/0903/	<b>PAC Ref:</b>	2018/A0168
<b>APPELLANT</b>	Mr Glyn Mitchell	<b>DEA</b>	The Mournes
<b>LOCATION</b>	19 The Square Kilkeel		
<b>PROPOSAL</b>	Change of use from a travel agency to professional services office and new external finishes		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	21/12/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

205

<b>ITEM NO</b>	<b>15</b>	<b>PAC Ref:</b>	2018/A0171
<b>Planning Ref:</b>	LA07/2018/0709/	<b>DEA</b>	Downpatrick
<b>APPELLANT</b>	Mr Michael Mariner		
<b>LOCATION</b>	111 Loughinisland Road Annacloy		
<b>PROPOSAL</b>	Downpatrick Demolition of portion of existing vehicle repair building and construction of new extension(Retrospective)		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	03/01/2019
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>16</b>	<b>PAC Ref:</b>	2018/A0172
<b>Planning Ref:</b>	LA07/2018/0921/	<b>DEA</b>	The Mournes
<b>APPELLANT</b>	Leah Chambers		
<b>LOCATION</b>	14a Stewarts Road Annalong		
<b>PROPOSAL</b>	RT34 41 IF Replacement dwelling		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	07/01/2019
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

206

<b>ITEM NO</b>	<b>17</b>	<b>PAC Ref:</b>	<b>2018/A0178</b>
<b>Planning Ref:</b>	LA07/2017/1624/	<b>DEA</b>	<b>The Mournes</b>
<b>APPELLANT</b>	Thomas Stevenson		
<b>LOCATION</b>	Site 50m NW Of 18 Turloughs Hill Annalong		
<b>PROPOSAL</b>	BT34 4XD And 80m NW Of The Dwelling Which Is To Be Replaced Replacement Dwelling		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	<b>10/01/2019</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>18</b>	<b>PAC Ref:</b>	<b>2018/A0191</b>
<b>Planning Ref:</b>	LA07/2018/0862/	<b>DEA</b>	<b>Slieve Croob</b>
<b>APPELLANT</b>	Mr And Mrs McIlwrath		
<b>LOCATION</b>	North And Adjacent To 41 Old Park Road Tievendarragh Drumaness		
<b>PROPOSAL</b>	Erection of a dwelling		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	<b>22/01/2019</b>
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

207

<b>ITEM NO</b>	<b>19</b>		
<b>Planning Ref:</b>	LA07/2018/0403/	<b>PAC Ref:</b>	2018/A0198
<b>APPELLANT</b>	Joseph Walls	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	Existing Farm Buildings Located 140m South East Of 26 Sandbank Road		
<b>PROPOSAL</b>	Hilltown 2 No. farm buildings (Retrospective)		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps with Site Visit</b>	<b>Date Appeal Lodged</b>	28/01/2019
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>20</b>		
<b>Planning Ref:</b>	LA07/2018/0410/	<b>PAC Ref:</b>	2018/A0201
<b>APPELLANT</b>	Mr And Mrs Stevenson	<b>DEA</b>	Rowallane
<b>LOCATION</b>	80m South East Of 2 School Road Saintfield		
<b>PROPOSAL</b>	RT24 7.IH Proposed dwelling and garage (Change of design from that previously approved under R/2015/0060/F)		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	04/02/2019
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

208

<b>ITEM NO</b>	<b>21</b>	<b>PAC Ref:</b>	2018/A0209
<b>Planning Ref:</b>	LA07/2018/1393/	<b>DEA</b>	Slieve Croob
<b>APPELLANT</b>	John Rush		
<b>LOCATION</b>	Lands Adjacent To And 29m East Of 15 Altnadua Road Castlewellan		
<b>PROPOSAL</b>	Construction of 1no dwelling house on a gap infill site		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	04/02/2019
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>22</b>	<b>PAC Ref:</b>	2018/A0222
<b>Planning Ref:</b>	LA07/2018/1207/	<b>DEA</b>	Downpatrick
<b>APPELLANT</b>	Mr And Mrs Byrne		
<b>LOCATION</b>	Lands Adjoining Farm Buildings At Downpatrick RT30 7DZ	28 Ballyclander Road	
<b>PROPOSAL</b>	Farm dwelling and garage/farm outbuilding		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	25/02/2019
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

209

<b>ITEM NO</b>	<b>23</b>		
<b>Planning Ref:</b>	LA07/2017/1252/	<b>PAC Ref:</b>	2018/A0223
<b>APPELLANT</b>	Ms Naiomh Morgan	<b>DEA</b>	Newry
<b>LOCATION</b>	Adjacent To And Immediately West Of 13 Crieve Road Newry BT34 2JT		
<b>PROPOSAL</b>	Dwelling house (amended address)		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps with Site Visit</b>	<b>Date Appeal Lodged</b>	25/02/2019
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>24</b>		
<b>Planning Ref:</b>	LA07/2018/0270/	<b>PAC Ref:</b>	2018/A0231
<b>APPELLANT</b>	Conquer Fitness	<b>DEA</b>	The Mournes
<b>LOCATION</b>	Unit 7 Ballyardle Business Park Dunnaval Road Kilkeel		
<b>PROPOSAL</b>			
<b>APPEAL TYPE</b>	DC - Conditions of Approval		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	05/03/2019
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

210

<b>ITEM NO</b>	<b>25</b>		
<b>Planning Ref:</b>	LA07/2018/1215/	<b>PAC Ref:</b>	2018/A0233
<b>APPELLANT</b>	Jacqueline Ross	<b>DEA</b>	Rowallane
<b>LOCATION</b>	Adjacent And Immediately East Of 16a Killybawn Road Saintfield		
<b>PROPOSAL</b>	Part demolition of existing shed to accommodate site for proposed new dwelling.		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	07/03/2019
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>26</b>		
<b>Planning Ref:</b>	LA07/2018/0963/	<b>PAC Ref:</b>	2018/A0238
<b>APPELLANT</b>	Miss L Patterson	<b>DEA</b>	Slieve Croob
<b>LOCATION</b>	Lands Adjacent To And West Of 83 Dunmore Road Ballynahinch		
<b>PROPOSAL</b>	Erection of Proposed Dwelling and Garage and Associated Site Works as per CTY 2A		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	19/03/2019
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

211

<b>ITEM NO</b>	<b>27</b>		
<b>Planning Ref:</b>	LA07/2018/0532/	<b>PAC Ref:</b>	2018/A0239
<b>APPELLANT</b>	Ryan Rogan	<b>DEA</b>	Slieve Croob
<b>LOCATION</b>	Between 11 And 13 Seavaghan Road Ballynahinch		
<b>PROPOSAL</b>	Proposed dwelling and garage		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	19/03/2019
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>28</b>		
<b>Planning Ref:</b>	LA07/2017/1485/	<b>PAC Ref:</b>	2018/A0243
<b>APPELLANT</b>	Mr J McCabe	<b>DEA</b>	Downpatrick
<b>LOCATION</b>	Site Approx. 250m South East Of No 60 Killyleagh Road Downpatrick		
<b>PROPOSAL</b>	On Down Conversion & extension of barn previously approved under R/ 2014/0654/F with additional extension to form new domestic dwelling		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	20/03/2019
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

212

<b>ITEM NO</b>	<b>29</b>	<b>PAC Ref:</b>	2018/E0054
<b>Planning Ref:</b>	LA07/2018/1558/	<b>DEA</b>	The Mournes
<b>APPELLANT LOCATION</b>	Glyn Mitchell 19 The Square Kilkeel		
<b>PROPOSAL</b>	RT34 4AA Removing existing timber cladding and painting the ground floor façade of the building with a timber effect finish		
<b>APPEAL TYPE</b>	DC - Non Determination of a Planning Application		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	20/12/2018
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>30</b>	<b>PAC Ref:</b>	2018/E0060
<b>Planning Ref:</b>	LA07/2018/1844/	<b>DEA</b>	The Mournes
<b>APPELLANT LOCATION</b>	Forest Park Developments Immediately North West Of 4 Sawmill Road Castlewellan		
<b>PROPOSAL</b>	Retention of builders storage yard		
<b>APPEAL TYPE</b>	DC- Refusal of CLUD		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	04/02/2019
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

213

<b>ITEM NO</b>	<b>31</b>	<b>PAC Ref:</b>	2019/A0007
<b>Planning Ref:</b>	LA07/2018/1756/	<b>DEA</b>	Slieve Croob
<b>APPELLANT</b>	Mr & Mrs Wilson		
<b>LOCATION</b>	150m SE Of 59A Drumsnade Road Ballynahinch		
<b>PROPOSAL</b>	Proposed off site replacement dwelling with retention of existing for ancillary use of dwelling at no.59		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	12/04/2019
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>32</b>	<b>PAC Ref:</b>	2019/A0008
<b>Planning Ref:</b>	LA07/2018/0340/	<b>DEA</b>	Downpatrick
<b>APPELLANT</b>	Mr Rea		
<b>LOCATION</b>	100m SE Of 71 Killyleagh Road Downpatrick BT30 9RN		
<b>PROPOSAL</b>	Farm dwelling with associated hard and soft landscaping and alterations to existing vehicular access onto public road		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	12/04/2019
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

**ITEM NO** 33  
**Planning Ref:** P/2014/0107/F **PAC Ref:** 2019/A0009  
**APPELLANT** Paul McAlinden **DEA** Crotlieve  
**LOCATION** 53 Rostrevor Road Hilltown Newry BT34 5TZ

**PROPOSAL** Erection of dwelling (change of house type on site where works have commenced)

**APPEAL TYPE** DC- Refusal of Planning Permission

**Appeal Procedure** **Date Appeal Lodged**  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

**ITEM NO** 34  
**Planning Ref:** LA07/2018/1417/ **PAC Ref:** 2019/A0011  
**APPELLANT** Ellen Brennan **DEA** Slieve Croob  
**LOCATION** Between 84 Cumber Road And 80 Drumnaconagher Road  
 Crossgar Downpatrick

**PROPOSAL** Proposed 2 No Dwellings on an infill site under Policy CTY8 of PPS21

**APPEAL TYPE** DC- Refusal of Planning Permission

**Appeal Procedure** **Date Appeal Lodged** 17/04/2019  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

## Current Appeals

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<b>ITEM NO</b>	<b>35</b>	<b>PAC Ref:</b>	2019/A0016
<b>Planning Ref:</b>	LA07/2018/0185/	<b>DEA</b>	Slieve Croob
<b>APPELLANT</b>	Michael Doran		
<b>LOCATION</b>	Opposite 37 Carricknab Road Downpatrick		
<b>PROPOSAL</b>	Proposed new dwelling on a farm		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	30/04/2019
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>36</b>	<b>PAC Ref:</b>	2019/E0001
<b>Planning Ref:</b>	LA07/2019/0210/	<b>DEA</b>	Crotlieve
<b>APPELLANT</b>	Chris Kennedy		
<b>LOCATION</b>	9a Moneymore Road Newry		
<b>PROPOSAL</b>	Private Dwelling and Garage		

<b>APPEAL TYPE</b>	DC- Refusal of CLUD		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	02/04/2019
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

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<b>ITEM NO</b>	<b>37</b>	<b>PAC Ref:</b>	2019/E0002
<b>Planning Ref:</b>	LA07/2018/1792/	<b>DEA</b>	Crotlieve
<b>APPELLANT LOCATION</b>	Mr William McDonnell Aughnagon Road Opposite To 60 Derryleckagh Road Mavohridae		
<b>PROPOSAL</b>			
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	16/04/2019
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>38</b>	<b>PAC Ref:</b>	2019/E0004
<b>Planning Ref:</b>	LA07/2018/1381/	<b>DEA</b>	Rowallane
<b>APPELLANT LOCATION</b>	Copart Uk LTD 39 Junction Road Saintfield Co Down		
<b>PROPOSAL</b>	Vehicle storage, dismantling and sales operation		
<b>APPEAL TYPE</b>	DC- Refusal of CLUD		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	17/04/2019
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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# Appeal Decision

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<b>Appeal Reference:</b>	2018/A0134.
<b>Appeal by:</b>	Mr Clark McCourt.
<b>Appeal against:</b>	The refusal of full planning permission.
<b>Proposed Development:</b>	Erection of farm building and associated site works to include vehicular access, access lane and hardstanding area.
<b>Location:</b>	Land 70m NE of 32 Cullentragh Road, Jerrettspass.
<b>Planning Authority:</b>	Newry Mourne & Down District Council.
<b>Application Reference:</b>	LA07/2017/1151/F
<b>Procedure:</b>	Hearing on 14 February 2019.
<b>Decision by:</b>	Commissioner Mark Watson, dated 17 April 2019.

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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. At the hearing the Appellant's representative confirmed that the unauthorised structure presently on the appeal site and marked on drawing 02 as being retained, did not form part of the appeal proposal. He indicated that it should be disregarded from the drawing and my consideration shall not include it.
3. The Appellant's representative raised issue with the Council's processing and consideration of the application against prevailing regional policy and its weighing of the evidence. He considered the Council's decision to refuse permission as both irrational and Wednesbury unreasonable, whilst also referring to case law in *Tesco v Dundee City Council (2012)* and *Seddon Properties Ltd v Secretary of State for the Environment (1978)*. These issues relating to the processing and consideration of the application are matters between the Appellant and Council. In any event jurisdiction has since passed to the Commission, with both parties having had opportunity to make their cases in respect of appeal development.
4. At the hearing discussion took place relating to an alternative access point onto Drumbanagher Wall Road, which it was suggested could result in less visual impact than the access arrangements shown on the submitted plans. The submitted plans show the appeal building taking its access onto the Cullentragh Road. Both parties considered that no third party prejudice would arise from consideration of such an amendment to the appeal development. The application subject of this appeal seeks full planning permission and was advertised as such in the local press. The alteration of the point of access from Cullentragh Road onto the Drumbanagher Wall Road instead would represent a substantial amendment to the appeal development. Irrespective that the Appellant owns the land required for the alternative access, the

lack of third party objection at both application and appeal stage and notwithstanding any comparative environmental advantages the alternative access position might have, third parties would be unaware of this potential amendment and would be prejudiced if it was to be considered. Such an amendment is inadmissible and I will confine my assessment to the arrangements as shown in the submitted drawings.

## Reasons

5. The main issues in this appeal are whether or not the proposed development would:
  - be acceptable in principle;
  - create ribbon development;
  - appear visually prominent; and
  - harm rural character.
6. The Banbridge Newry and Mourne Area Plan 2015 (BNMAP) operates as the statutory local development plan (LDP) for the proposal. In it, the site lies in the countryside and is not affected by any LDP designations. BNMAP is not material to the appeal development.
7. In respect of the appeal development there is no conflict or change in policy direction between the provisions of the Strategic Planning Policy Statement for Northern Ireland '*Planning for Sustainable Development*' and those of Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS21). PPS21 remains the applicable policy context to consider the proposed development under.
8. Policy CTY1 of PPS21 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development, including agricultural development in accordance with Policy CTY12 of PPS21. Policy CTY12 states that planning permission will be granted for development on an active and established agricultural holding where it is demonstrated that it meets several criteria. It follows that if the development satisfies Policy CTY12 it will also satisfy Policy CTY1 of PPS21.
9. The appeal site comprises a broadly rectangular agricultural field situated immediately west of the junction between the Drumbanagher Wall Road and Cullentragh Road. The site slopes gently upwards to the north and is bounded on the north-western and south-western sides by mature hedge. The north-eastern boundary is partly comprised of mature hedge, with the remainder comprised of a post and wire fence. The Cullentragh Road frontage is partly defined by post and wire fencing with the remainder mature hedgerow. A field gate and fencing is located mid-frontage along that boundary. There is a small flat roofed metal shed structure in the north-eastern part of the site. A one-and-a-half storey dwelling, No. 32 Cullentragh Road, lies in the adjacent plot to the west. Further to the south-west on the opposite side of Cullentragh Road lies No. 29 Cullentragh Road, a dwelling with several large associated farm buildings. Some distance north-west of the appeal site lies No. 30 Drumbanagher Wall Road. The site lies in a rural area generally characterised by one-off dwellings and some farm groupings either set along the roadside or set back on laneways.
10. The proposed building is a rectangular, pitched roof shed measuring approximately 12.3m long by approximately 8.3m wide with a height of approximately 5.6m to the

tip of the parapet wall along the gable edges which sits slightly above the ridge line. The lower half of the longitudinal walls and entirety of the gables are to be finished in smooth render. The upper part of the longitudinal walls and the roof are to be finished in green coloured Kingspan sheeting. A pair of sliding doors would be located mid frontage, with a pedestrian sized door located on the gable of the building. It would be set within the north-western portion of the appeal site with a concrete yard area and driveway to the roadside.

11. Paragraph 5.56 of PPS21 states that for the purposes of CTY12 the determining criteria for an active and established business will be that set out in CTY10, i.e. that the farm business is currently active and has been established for at least 6 years. Under Policy CTY10 applicants will also be expected to provide the farm's business ID number and other evidence to prove active farming over the required period. The Department of Agriculture, Environment & Rural Affairs (DAERA) consultation response confirmed that the Appellant's farm business (ID number 653300) had been established for 6 years or more and stated that it was a Category 3 business. The Appellant also has a flock number (782928). A letter to the Appellant from DAERA stated that the business is listed as having been formed on 23 February 2010, stating that there is no farm map due to DAERA only keeping records of land for which SFP is claimed. I note from the Council's evidence that a farm map for the Appellant's father's business formed part of the Appellant's submission in a separate application for a dwelling on the appeal site, which the Council considered concurrently with the appeal development. The appeal site which is owned by the Appellant and the lands leased by him as identified on that map correspond to the information provided in this appeal.
12. The Council objected in principle under Policy CTY12 and considered that insufficient evidence had been provided to demonstrate that the Appellant's business was active and established for the requisite period of time. It also pointed to the fact the Appellant does not claim Single Farm Payment (SFP) as his business is Category 3, which is not eligible for that particular payment. There is no reference within Policy CTY10 to the requirement for the farm business to claim SFP, but that evidence be supplied to demonstrate that the business be active and established for the required period. Thus I do not accept that the lack of SFP claimed is demonstrative of the Appellant not meeting the requirement for active and established farming for the purposes of the policy.
13. The Appellant stated that the appeal building would provide dry storage for equipment, as well as shelter for livestock when being treated. This shelter also would allow the safe breeding of lambs. A letter of support from a veterinary practitioner was provided to this effect. The Appellant also has aspirations to potentially farm cattle in due course as the business grows. The Appellant provided various evidence pertaining to herd records and flock movements, with updated information provided at the hearing. The submitted records show that in November 2014 the Appellant owned 10 sheep, but that in November 2017 he purchased 350. 58 sheep have recently been sold on, with records provided to that effect. The Appellant stated that he keeps his sheep on the appeal site and leased land at Tunnell Road, Drumbanagher Wall Road and on leased land at his father's farm on Tandragee Road. I did observe a number of sheep on land next to his father's farm on the day of my site visit. The records indicate that for a large portion of the required period the Appellant has kept sheep as part of this farming business. The fact that this has not taken place throughout the entire 6 year period and that the

appeal site has at times been used to graze ponies belonging to the Appellant's cousin are not in themselves fatal as the Appellant's farming activities must be considered as a whole.

14. Two sworn affidavits dated January 2018 were submitted, one from the Appellant himself and another from the owner of a contracting business. The Appellant's affidavit stated that he has been involved in agricultural activity on the land he owns and leased between 2009 and 2017. It stated that he undertook hedge cutting, mowing, bailing of silage, slurry spreading, sowing of fertiliser and crop haulage from the lands throughout that period. Whilst the Appellant's own affidavit is self-serving it cannot simply be discounted on that basis. The contractor's affidavit stated that his business was engaged by the Appellant to undertake mowing, silage bailing, slurry spreading, sowing of fertiliser and crop haulage from the Appellant's lands between 2012 and 2017. It also stated that the Appellant leased farming equipment from the company between 2012 and 2017.
15. A letter from HMRC to the Appellant stated that the Appellant's unique taxpayer reference was set up in 2009, as the Appellant had informed HMRC he had started farming on 20 November 2009. Financial profit and loss account summaries were provided, dating from the year ending March 2012 through to the year ending March 2017. These specifically mention farming income, though are not locationally specific. Invoices for contracting work were provided dating from June 2012 through to June 2017. Whilst the address given for the account is the Appellant's home address and do not specifically reference the holding, invoices from many businesses state the address of the account holder, rather than the location of the place those services or materials might be employed at. I do however note that the invoices correspond with the affidavit provided by that contractor in terms of the activities undertaken for the Appellant's business and the time period. Receipts for the purchase of ewe nuts and occasional purchases of equipment and tools were provided, dating from between September 2015 and May 2017. They did not include an address and are of limited assistance. The statement that the Appellant stores food for his sheep at his home is plausible given he has no buildings on the holding to store such items.
16. Much of the submitted evidence does not specify an address relating to the holding itself, but rather the Appellant's dwelling, including the red diesel deliveries. However, the totality of the evidence, including the affidavits, when taken together and notwithstanding fluctuations in the number of animals the Appellant has kept over the years, is indicative of agricultural activity having taken place on the Appellant's holding from around at least 2012 through to the present. The Council referred to the Appellant as being a hobby farmer, but the policy does not distinguish between full time or part-time farming. Taken as a whole the submitted evidence is sufficiently persuasive that there has been a part-time, small scale farm business operating at the appeal site, but one that nevertheless has been active and established for the requisite period of time. This element of the Council's first reason for refusal and the Council's second reason for refusal are therefore not sustained.
17. The Council based its first reason for refusal on criterion (a) of Policy CTY12; that the development is necessary for the efficient use of the agricultural holding. However, the Appellant did not dispute that notwithstanding the unauthorised structure on the appeal site, which he did not seek to claim was a building for consideration under the appeal, there were no other buildings on his holding. This

was evident from my inspection of the other lands the Appellant leases. The third additional requirement of CTY12 states that the proposal is sited beside existing farm buildings, which the Appellant accepted he could not meet. There was no dispute that the appeal development would not be sited beside an existing building on the farm given it would be the first building on the holding. Therefore this additional requirement of CTY12 is not met and the exceptional test of CTY12 is engaged.

18. Policy CTY12 states that exceptionally, consideration may be given to an alternative site away from existing farm buildings, provided there are no other sites available at another group of buildings on the holding and where it is essential for the efficient functioning of the business, or there are demonstrable health and safety reasons. There are no other sites available at another group of buildings given the appeal site field is the solely owned piece of land and again I noted no available buildings at or in the vicinity of the rented land the Appellant could avail of, or site a new building beside. No specific health and safety reasons were advanced under that branch of the exceptional test as to justify the specific location of the appeal development, but the matter of animal welfare was raised, which I will consider elsewhere in this decision.
19. The Appellant has clearly been involved in part-time agricultural activity for some time. However, I am not persuaded that the appeal building is essential for the efficient functioning of the business given that the Appellant has been engaged in his farming activities for that period of time, even if he has been unable to breed lambs during that period. Whilst the building would provide a safe shelter for lambing, that intent relates to an aspiration for future growth of the business and this along with the purposes of dry storage and shelter to treat animals are not demonstrative of the building being essential for the efficient functioning of the business. The letter of support from a veterinary practitioner would not persuade me otherwise. Whilst the Appellant's representative considered that the land could not be efficiently farmed without the appeal building, it is only the case that without the building the land could not be farmed in the manner the Appellant wishes in order to grow the business. For the reasons given above the appeal building is not essential for the efficient functioning of the business. I find that exceptional test within Policy CTY12 is not met. I will address the environmental aspects of Policy CTY12 raised by the Council elsewhere in this decision.
20. The Appellant cited several applications for farm sheds that were granted permission, considering that the Council failed to properly consider these 'precedent' cases when reaching its decision to refuse planning permission. I do not have all the pertinent information as to the consideration given to the need for the respective buildings in those applications, or the specific circumstances of those farm businesses. Whilst those applications may all have involved greenfield sites and holdings that had no other buildings on them, the need for the buildings was accepted by the relevant planning authorities. In respect of appeal decision 2015/A0157 Leeke Road, Portrush the then planning authority accepted the need for a building on the holding, with its objections to the development based solely on environmental grounds, unlike the appeal case presently under consideration where the principle of development is still in dispute between the parties. In any event each application must still be considered on its own merits and the quoted decisions would not justify the appeal development.

21. Policy CTY8 of PPS21 states that planning permission will be refused for a building which creates or adds to a ribbon of development. Travelling east along Cullentragh Road there would be a transient and sequential awareness of the garage belonging to No. 33 Cullentragh Road, that dwelling itself and then the appeal building. That sequential awareness would be exacerbated by the proposed access and laneway arrangement and the buildings would read as a ribbon of development. Travelling along Drumbanagher Wall Road however, I am not persuaded that the appeal building would present as ribbon development given the lack of visual linkages with the existing built development along that road. Whilst a long distance view was raised on Tunnell Road, I am not persuaded that it is critical given the distance involved and the peripheral nature of the view in relation to the direction of travel along that part of the road network. However, as the appeal development would create ribbon development on Cullentragh Road, it is contrary to Policy CTY8 of PPS21. The Council's third reason for refusal is sustained to the extent specified.
22. Policy CTY13 of PPS21 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. The design of the appeal building itself is not untypical of an agricultural shed. Whilst I note the Appellant's rationale for the siting of the building in the northern-most part of the site, including it being the closest location to his own dwelling, the site would lack adequate enclosure to satisfactorily integrate the development from the view travelling along Drumbanagher Wall Road, despite the backdrop from the rising land and forest to the north and the ability to retain the existing boundary vegetation. Despite the existing boundary vegetation being long established, the field itself reads as an open and exposed landform given its topography and position within the wider landscape setting. Even though the access would not require the removal of existing vegetation for visibility splays, the appeal development would still be reliant primarily on the use of new landscaping for integration. From the critical view on Cullentragh Road travelling eastwards to the site the backdrop afforded by the forest area on the opposite side of Drumbanagher Wall Road would not assist to any meaningful degree given the openness of the site from this view. The Appellant submitted a long distance photograph taken from the Tunnell Road, but again as per my consideration in the paragraph above, I do not find the views of the appeal building critical from this long distance and peripheral view.
23. The proposed access arrangement entails a curving, sweeping driveway with a width of approximately 4.2m. I agree that its horizontal alignment is more akin to a suburban style dwelling driveway than a means of access to agricultural development, even if it allows for creation of two smaller paddocks within the site. Whilst the Appellant stated that a straight driveway could be substituted or conditioned in place of the driveway as proposed, this would not overcome the broader concerns pertaining to the overall visual impact of the building which, irrespective of its relatively modest size and scale, would present as visually prominent within the landscape given the exposed, sloping landform it would sit within and the lack of enclosure afforded to it by the existing boundary vegetation and topography. Whilst I note the large agricultural sheds situated on the opposite side of Cullentragh Road some distance to the south-west of the appeal site, which are large and visually prominent, they are longstanding and would not justify the appeal development. I find that Policy CTY13 of PPS21 is not met read as a whole and that criterion (c) of Policy CTY12 is also not met. The Council's fourth reason for refusal is sustained to the extent specified.

24. Policy CTY14 of PPS21 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to or further erode the rural character of an area. Although I am not persuaded that the development would necessarily be at odds per se with the traditional pattern of settlement exhibited in the area and I note the farm complex at No. 29 Cullentragh Road, nevertheless the appeal development would result in suburban style build-up arising from the visual impact of its means of access and the creation of ribbon development. This as well as my assessment of visual prominence leads me to conclude that the appeal development would not meet Policy CTY14 of PPS21 read as a whole. The Council's fifth reason for refusal is sustained to the extent specified.
25. As I have found that the appeal development does not meet Policy CTY12 of PPS21, it also fails to meet Policy CTY1 of PPS21. There are no overriding reasons why the development is essential and the lack of third party objections or objections from statutory consultees would not justify the appeal development. Whilst reference was made to the July 2013 Ministerial Statement relating to the ongoing review of PPS21, the identified need for flexibility within that Statement does not in itself amount to a change in policy, or lead me to a different conclusion in respect of the merits of the appeal development. Whilst the Appellant grew up in this area, is heavily involved in the local community and wishes to continue to farm in it and grow his business, these aspirations would not outweigh the various sustained policy and environmental objections to the appeal development. The Council's first reason for refusal is sustained to the extent specified.
26. Whilst the second reason for refusal has not been sustained, the Council's remaining reasons for refusal have been sustained to the extent specified and are determining. The appeal must fail.

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

<b>DRAWING NUMBER</b>	<b>TITLE</b>	<b>SCALE</b>	<b>DATE</b>
01	Site Location Map	1:2500	27/07/17
02	Site Layout Plan	1:500	27/07/17
03	Floor Plan & Elevations 01 & 02	1:100	27/07/17
04	Elevations 03, 04, Section A-A & 3D View 01	1:100	27/07/17

**COMMISSIONER MARK WATSON**





**List of Appearances**

Planning Authority:- Mrs P Manley (Newry Mourne & Down District Council)  
Mr G Murtagh (Newry Mourne & Down District Council)

Appellant:- Mr R Woods (Genesis Planning)  
Mr C McCourt (Appellant)

**List of Documents**

Planning Authority:- 'A' Statement of Case & Appendix (NM& D DC)

Appellant:- 'B' Statement of Case & Appendices (Genesis Planning)  
'C' Long distance photograph of site (submitted at hearing)  
'D' Copies of updated animal lists and movement records (submitted at hearing)



# Appeal Decision

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<b>Appeal Reference:</b>	2018/A0132
<b>Appeal by:</b>	O'Hagan Construction Ltd
<b>Appeal against:</b>	The refusal of full planning permission
<b>Proposed Development:</b>	Retention of retaining wall and raised land and erection of dwelling
<b>Location:</b>	Site adjacent and north of 8 Heslips Court adjacent and west of 9 Heslips Court and opposite and 25 metres east of 16 Chancellors Hall, Newry, BT35 8WJ
<b>Planning Authority:</b>	Newry, Mourne and Down District Council
<b>Application Reference:</b>	LA07/2017/1316/F
<b>Procedure:</b>	Written representations and Commissioner's site visit on 25 April 2019
<b>Decision by:</b>	Commissioner Rosemary Daly, dated 29 April 2019

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## Decision

1. The appeal is dismissed.

## Reasons

2. The main issues in this appeal relate to :
  - a. the layout, scale, proportions, massing and appearance of the development and associated structures on the settlement pattern and character of the surrounding area; and
  - b. the effect of the development on the amenity of adjoining residents.
3. The proposed development relates to the erection of one dwelling; the retention of a retaining wall; and retention of raised land in an established residential area in Newry. The relevant extant plan for the area is the Banbridge Newry and Mourne Area Plan 2015. (BNMAP). The appeal site is located within the settlement limit of Newry, straddling two housing zonings (NY24 Chancellors Road and NY26 Heslips Lane West). Both are committed housing zonings in the plan. The plan does not stipulate key site requirements for committed sites because future development will be subject to conditions attached to the planning permission. It continues to state that in the event that such permissions lapse, existing conditions may be altered or new conditions attached to any subsequent approval to take account of prevailing regional policy and plan proposals. The plan makes no specific policy provision for the assessment of individual residential units within the city limits.

4. The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) is material to all decisions on individual planning applications and appeals. The SPPS retains policies within existing planning policy documents until such times as a Plan Strategy for the whole of the Council area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS. In respect of the appeal development no conflict arises between the SPPS and the operational regional policy set out by Planning Policy Statement 7 Quality Residential Developments (PPS7) and the addendum to Planning Policy Statement 7 Safeguarding the Character of Established Residential Areas (aPPS7).
5. PPS7 and the aPPS7 provide policy on the protection of local character, environmental quality and residential amenity within established residential areas, villages and smaller settlements. Policy QD1 of PPS7 states planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. In respect of proposals in established residential areas the policy states they should not result in unacceptable damage to the local character, environmental quality or residential amenity of these areas.
6. The policy also states that all proposals for residential development will be expected to conform to nine specified criteria (a - i). In addition to these nine criteria Policy LC1 of the aPPS7 sets out three further criteria (a - c) that should also be met. The Council's concerns relate to the failure of the development to meet the requirements of criteria (a) and (h) of Policy QD1 and criterion (b) of Policy LC1. No other objections were raised in respect of the remaining criteria.
7. Criterion (a) of Policy QD1 requires that development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped areas. Criterion (b) of Policy LC1 requires that the pattern of development is in keeping with the overall character and environmental quality of the established residential area.
8. In the surrounding area the established residential character is defined by a mix of house types, designs, scales and layouts. Chancellors Hall comprises a mix of apartments, town houses and semi detached properties with small garden and parking areas to the front and rear of the properties. Whereas the established residential environment at Heslips Court is more uniformly defined by mainly semi-detached dwellings on individual plots with individual private garden and parking areas to the front and gardens to the rear. The residential development at Chancellors Hall is positioned on higher ground than Heslips Court. The distinction between the ground levels of the two areas of housing is defined by a constructed Acheson and Glover block retaining wall topped with wooden and metal fence structures.
9. In the established residential context the appeal site is an area of vacant land beside and level to the housing development at Chancellors Hall. The site is flanked by two (separate) semi detached, two storey, three bedroom dwellings at 8

- and 9 Heslips Court. These properties are located on lower ground than the appeal site. The Acheson and Glover block retaining wall continues to runs along the boundary of the appeal site and the development at Heslips Court. A black metal fence, some 2 metres high, also runs along the top of the retaining wall.
10. The appeal development relates to the retention of the boundary retaining walls, some 2.1 metres high. The appellant stated that if the retaining was reduced by 10 cm it would be permitted development. Irrespective of this view the wall as built is not permitted development. The fixture of the fence to the top of the retaining wall also adds to the height of the enclosure around the site. Nonetheless it is not within the remit of this appeal to adjudicate whether or not the retaining wall is permitted development. Many factors have to be considered in determining whether the wall is permitted development. Such matters should be properly determined by means of a certificate of lawfulness. In this instance the wall as built is development and requires planning permission. It is this which I must consider in this appeal.
  11. The ground level of the appeal site appears to run in line with the first floor level of the neighbouring properties at 8 and 9 Heslips Court. The appeal development relates to the retention of the increase in the ground levels and the continuation of the retaining wall along the share boundary between the appeal site and the side boundaries of 8 and 9 Heslips Court. A wooden fence, approximately 2 metres high, defines and backs onto the appeal site's northern boundary. The appearance of the retaining wall and boundary fences are not uncharacteristic in the surrounding area. I do not find the appearance of this element of the appeal development to be unacceptable in this context.
  12. Planning permission (P/2014/0099/F) was granted on 24 October 2014 for 2 detached dwellings and 28 semi detached dwellings at Heslips Court. The permission includes the land relating to the appeal site. The land formed part of the amenity space and landscaping for the overall layout of this approved development as well as the rear amenity and garden areas for both 8 and 9 Heslips Court. I note that condition 15 of that permission requires the retention of existing planting and proposed planting to be carried out in accordance with the approved drawing (03/02 dated 20 Oct 2014), and that this planting shall be permanently retained. The appeal proposal effectively removes this portion of land from the approved development at Heslips Court.
  13. The proposal is for a detached storey and half dwelling, some 7 metres in height and positioned some 4 metres from the side boundary with 8 Heslips Court and 5 metres from the boundary with 9 Heslips Court. The introduction and appearance of a detached property, of itself, is appropriate in the surrounding area given the variety and mix of house types in the area. Nonetheless the provision of this detached dwelling will be at the loss of the landscape amenity planting and additional amenity space for the properties at 8 and 9 Heslips Court. Accordingly a new dwelling on this proportion of land conflicts with the existing layout of development in the area and fails to respect the pattern of development established at Heslips Court. Furthermore in this area the proposed dwelling on the appeal site would be the only property at the level of the road and fronting onto road way into the residential development at Chancellors Hall. The proposal would appear incoherent within the surrounding pattern of residential development. This is all further compounded by the inability to deliver the proposed and approved

landscaping associated with the Heslips Court development which is necessary to screen the rear elevations of the properties backing onto the access road into Chancellors Hall.

14. The introduction of a new dwelling may improve the existing appearance of the site within its surrounding residential area. However I have not been persuaded that this of itself amounts to a 'planning gain'. If the approved landscaping and rear back gardens had been provided in accordance with the approved layout (P/2014/0099/F) for the development at Heslips Court this would add significantly to the 'greening' of the area and would raise the quality of the residential development in this area. I note the appellant has stated that there is no realistic prospect of this land ever being transferred to become part of the gardens at Heslips Court. The issue relating to landownership does not justify setting aside planning policy which seeks to ensure that proposals will not give rise to unacceptable damage to the local character and environmental quality of the area.
15. The appeal proposal is an attempt to shoe-horn development into an inadequate space which has been over engineered through the infilling of land, changing the site levels and the provision of additional retaining features. The third parties lack of objection and willingness to purchase the properties, as built, at 8 and 9 Heslips Court does not provide justification for setting aside the requirements of policy in order to prevent unacceptable damage to the local character of the area. The loss of the landscape and garden space to provide another dwelling on the appeal site represents a case of garden grabbing giving rise to town cramming which is an inappropriate layout and form of development. The appeal development fails to respect the surrounding context and pattern of development. It gives rise to an inappropriate form of development by reason of the proposed layout; the loss of landscaping areas and over use of retaining and boundary structures. On this basis the appeal development fails to meet the requirements of criteria (a) of Policy QD1 of PPS7 and Criteria (b) of Policy LC1 of the aPPS7. The Council's objections are sustained in this regard.
16. Criterion (h) of Policy QD1 requires that design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance. The Council's raised concern in respect of the retention of the retaining wall and its effect onto the rear gardens of the properties at 8 and 9 Heslips Court. The Council considered it creates an unattractive residential environment, due to its scale, massing and appearance giving rise to a dominant wall.
17. As noted above and in accordance with planning permission (P/2014/0099/F) the appeal site comprised the amenity space and rear gardens at 8 and 9 Heslips Court. The development as built has resulted in the loss of this area giving rise to a significant reduction in the size and quality of the rear amenity space for these properties. Notwithstanding that amenity space provision may still meet with the minimum requirements of around 40 sq metres for private amenity space even the smallest back gardens and patios should be well designed and should not be dominated by the oppressive use of vertical structures including walls and fences. The creation of a retaining wall along the two of the shared boundaries, at both 8 and 9 Heslips Court, topped with a 2 metre high metal fence gives rise to an enclosed area dominated with vertical hard landscaping and boundary features.

Whilst the retaining wall feature is common to all of the other properties which abut the development at Chancellors Hall, these properties only have the presence of the retaining feature along one boundary.

18. The appearance, scale and design of the boundary treatment and increase in ground levels gives rise to hemmed in private amenity space which has been significantly reduced in size from what was approved. Whilst on site I noted that I could look directly from the rear part of the appeal site down and into the private space relating to 8 Heslips Court. Views into the property at 9 Heslips Court were restricted by the introduction of an outbuilding in the garden area. Due to the increase in ground levels the proposed dwelling would be directly in line with the first floor of both dwellings at 8 and 9 Heslips Court. The proposed dwelling would have a limited separation distance of 5 metres from the rear of the proposed dwelling to the boundary of 9 Heslips Court with a drop in ground levels of around 2 metres. The rear back garden areas are already overshadowed given the existing surrounding residential development and variation in ground levels. Any additional screening, which would be necessary, to minimise over looking from the proposed dwelling would further add to the overshadowing and dominance effects of the boundary treatment. Furthermore the introduction of the dwelling and the proposed 1.8 metre fence on the appeal site would further compound the effects of dominance and overshadowing of the built development in this area particularly on the both the corner sites at 8 and 9 Heslips Court. The appeal development, including the infilling of ground and retaining wall, would give rise to the creation of an unacceptable adverse effect on these existing properties in terms of overshadowing and dominance. The Council's objections in respect of Criterion (h) are well founded.
19. All in all, the appeal proposal would result in the unacceptable damage to the local character, environmental quality and residential amenity of the surrounding area. The appellant has referred to the fall back position in respect of leaving the site in its current state. However I have not been persuaded that this is the only fallback position in respect of the appeal site, as planning permission exists and includes conditions relating to the implementation and retention of landscape proposals in this area. Accordingly the appeal proposal fails to meet the requirements of Policy QD1 of PPS7 and Policy LC1 of the aPPS7. The Council's reasons for refusal are sustained.

This decision relates to:

- Drawing 01 Site Location Map, Scale 1:1250 dated Newry, Mourne and Down District Council 24 Aug 2017
- Drawing 02 Rev 01 Site Layout, Scale 1:1500, Fence and Retaining Wall 1:50 dated Newry, Mourne and Down District Council 24 Aug 2017
- Drawing 03 Proposed dwelling floor plan, Scale 1:100 dated Newry, Mourne and Down District Council 24 Aug 2017
- Drawing 04 Proposed dwelling elevations, Scale 1:100 dated Newry, Mourne and Down District Council 24 Aug 2017

**COMMISSIONER ROSEMARY DALY**



# Appeal Decision

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**Appeal Reference:** 2018/A0178  
**Appeal by:** Thomas Stevenson  
**Appeal against:** Refusal of Outline Planning Permission  
**Proposed Development:** Replacement Dwelling.  
**Location:** 50m NW of 18 Turloughs Hill Annalong.  
**Planning Authority:** Newry Mourne and Down District Council  
**Application Reference:** LA07/2017/1624/O  
**Procedure:** Written Representations  
**Decision by:** Commissioner Helen Fitzsimons on 15<sup>th</sup> April 2019

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## Decision

1. The appeal is dismissed.

## Reasons

2. The main issues in this appeal are whether the proposed development is acceptable in principle in the countryside and whether it would harm visual amenities of the countryside and its Area of Outstanding Natural Beauty location.
3. The appeal site is located outside any settlement limit and lies in the countryside as designated by Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) the local development plan which operates for the area. BNMAP offers no specific policy or guidance pertinent to the proposed development. The Strategic Planning Policy Statement for Northern Ireland (SPPS) retains a number of Planning Policy Statements (PPSs) one of which is PPS 21 'Sustainable Development in the Countryside'. The appeal site lies in the Mournes Area of Outstanding Beauty (AONB).
4. Policy CTY 1 of PPS 21 states that 'there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.' It continues 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 a replacement dwelling in accordance with Policy CTY 3 of PPS 21. Policy CTY 3 states that planning permission will be granted for a dwelling house on a farm where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. Bullet point one of the policy requires that the proposed replacement dwelling should be sited within the established curtilage of the existing building, unless (a) the curtilage is so restricted that it could not reasonably accommodate a modest

- sized dwelling. Bullet point two requires that the overall size of the new dwelling should allow it to integrate into the surrounding landscape and would not have a visual impact greater than the existing building.
5. There was no dispute between the parties that the existing building meets the physical requirements to qualify for a replacement dwelling as set out in Policy CTY 3. As the Council consider that the curtilage of the existing dwelling is too restrictive to reasonably accommodate a modest sized dwelling I do not need to consider the appellant's health and safety arguments to justify this off-site replacement dwelling. The Council's objections to the proposed development are therefore grounded in bullet point two of Policy CTY 3.
  6. The appeal site comprises a field fronting Turloughs Hill. Land within the field rises towards a crest and then falls to the west. Boundaries are defined by stone walls. The appellant has suggested a siting in the western portion of the host field and this is what I will consider. The modest dwelling to be replaced is barely discernible in the landscape. The Council referred me to viewpoints on Stewarts Road and Grove Road from which to assess the visual impact of the proposed development on the surrounding countryside. A dwelling sited as proposed and designed with a low ridge height would be barely perceptible from Grove Road and I set that viewpoint aside.
  7. Policy NH 6 'Areas of Outstanding Natural Beauty' of Planning Policy Statement 2 'Natural Heritage' (PPS 2) says planning permission for new development within an AONB will only be granted where it is of an appropriate design, size and scale for the locality and where all of three stated criteria are met. One of these is a) the siting and scale of the proposal is sympathetic to the special character of the AONB in general and of the particular locality and it is this criterion that the Council has based its objection upon.
  8. This part of the Mourne AONB is typified by houses of varying sizes, heights and designs. Nos 45 and 47 Stewarts Road are substantial two storey dwellings on large plots. From the appeal site a number of other houses are highly visible in the landscape. A modest dwelling on the appeal would not be unsympathetic to the character of this part of the AONB and Policy NH 6 of PPS 21 would not be offended. The Council has not sustained its second reason for refusal.
  9. Policy CTY 13 of PPS 21 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. A new building will be unacceptable in seven stated circumstances. The Council raised objections in its third reason for refusal under (b) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape.
  10. The western portion of the appeal site is on lower ground which falls away from the crest. Landform within the appeal site would afford a backdrop against which a dwelling sited in this location would be viewed and it would not be a prominent feature in the landscape. Dry stone walls typify boundary treatment of both fields and curtilages in this area and the proposed boundary treatments would be in keeping with this. I am satisfied that an access laneway laid out



- parallel to the north western boundary of the appeal site would not be seen as a suburban feature in the landscape. The proposal would integrate and Policy CTY 13 of PPS 1 would be met. The Council has not sustained its third reason for refusal.
11. Policy CTY 8 'Ribbon Development' of PPS 21 states that planning permission will be refused for a building which creates or adds to a ribbon of development. Paragraph 5.33 of the policy says that a ribbon does not necessarily have to be served by individual accesses nor have a continuous or uniform building line. Buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development. The siting of the proposed dwelling in the western portion of the host field would be seen in conjunction with the two dwellings at Nos 45 and 47 Stewarts Road. It would not be seen to elongate the cluster of buildings at Nos 18 and 28 Turloughs Hill and it would not create a ribbon of development. It would not fail Policy CTY 8 of PPS 21 and the Council has not sustained its fifth reason for refusal
  12. Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. A new building will be unacceptable five stated circumstances. The Council's fourth reason for refusal relied upon (b) it results in a suburban style build up of development when viewed with existing and approved building and (d) it creates or adds to a ribbon of development (see Policy CTY 8) which I have dealt with in paragraph 11 above.
  13. On approach from both directions along Stewarts Road there is a strong awareness of a significant loss of rural quality in the area due to the large number of buildings which contribute to an overall impression of build up. From the Council's viewpoint a dwelling on the appeal site would be seen with the existing buildings at Nos 45 and 47 and Nos 38 and 38A which already have a built up appearance. The addition of a dwelling sited as proposed would further add to this built up appearance. In addition due its siting behind Nos 45 and 47 the proposed dwelling would extend development further into the open countryside. All of this would be detrimental to rural quality. Criterion b) of Policy CTY 14 of PPS 21 would not be met. Because of this even a modest sized dwelling with a ridge height restriction would have visual impact greater than the existing dwelling on the landscape and this unacceptably harm the visual amenities of the countryside and the proposed development would also fail Policy CTY 3 of PPS 21. It would not be acceptable in principle in the countryside and Policy CTY 1 of PPS 21 would also be offended.
  14. Policy CTY 6 'Personal and Domestic Circumstances' of PPS 21 says planning permission will be granted for a dwelling in the countryside for the long term needs of the applicant, where there are compelling, and site specific reasons for this related to the applicant's personal or domestic circumstances and provided that two stated criteria are met. The Council's objections are based on criterion (a) the applicant can provide satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused. The appellant requires assistance from his son with his dairy farming business due to a disability. I note that Council have identified an alternative site for a dwelling which it considers to

be acceptable at field seven as shown on the appellant's farm maps. The appellant gave me no reason why his son could not reside at this location, some seven minutes away by car, and assist in the running of the farm. Given that the Council has identified a nearby alternative site for the replacement dwelling the appellants personal circumstances are not sufficiently compelling to set aside the visual harm that would be caused by the proposed development. The proposal fails Policy CTY 6 of PPS 21.

15. The appellant referred to other planning permission granted in the area. Those decisions were taken under a different jurisdiction with different planning policy and for those reasons are distinguishable from this appeal.
16. As none of the appellant's other arguments are persuasive in this appeal and I have found that the proposal fails the requirements of Policies CTY 1, CTY 3, CTY 6 and CTY 14 of PPS 21 the Council has also sustained its first, fourth reason and sixth reasons for refusal and the appeal must fail.

This decision is based on the 1:2500 scale site location plan.

**COMMISSIONER HELEN FITZSIMONS**

2018/A0178

**List of Documents**

Planning Authority: -

Appellant: -

C1 Written Statement and appendices

A1 Written Statement and appendices

Planning Authority:-

Appellant:-

C2 Comments

A2 Comments



# Appeal Decision

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<b>Appeal Reference:</b>	2018/A0131
<b>Appeal by:</b>	Mr D Gordon
<b>Appeal against:</b>	The refusal of full planning permission
<b>Proposed Development:</b>	Retention of dwelling & integrated garage, in substitution of planning ref. P/2009/1284/F
<b>Location:</b>	34 Dougans Road, Kilkeel
<b>Planning Authority:</b>	Newry & Mourne District Council
<b>Application Reference:</b>	LA07/2018/0331/F
<b>Procedure:</b>	Written Representations with Commissioner's site visit on 2 <sup>nd</sup> April 2019
<b>Decision by:</b>	Commissioner Julie de-Courcey, dated 3 <sup>rd</sup> April 2019

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## Decision

1. The appeal is dismissed.

## Reasons

2. The main issues arising from this appeal are whether:
  - The development is acceptable in principle in the countryside;
  - It can be satisfactorily integrated into the surrounding landscape; and
  - It is sympathetic to the special character of the Mourne Area of Outstanding Natural Beauty (AONB).
3. Planning permission was granted in October 2011 ((P/2009/1284/F) for the erection of a farm dwelling and garage on a more extensive plot that includes the appeal site. The appellant said that development was commenced on foot of that permission, approximately 6 years ago, to construct the garage in what he described as being in a slightly different location and to a slightly different design.
4. Sections 169 and 170 of the Planning Act (Northern Ireland) 2011 [the Act] respectively make provision for applications for a Certificate of lawfulness of existing use or development (CLEUD) and a Certificate of lawfulness of proposed use or development (CLOPUD). If the appellant wants to establish that the work carried out on foot of the 2011 permission is lawful, he could apply for a CLEUD. If he wants to ascertain whether the approved development could be carried out and/or completed on the basis of that earlier permission, he could apply for a CLOPUD. There is no evidence that either has been sought or obtained. On this basis, there is no persuasive evidence of any extant planning permission for a dwelling and garage on a larger site that included the appeal site.

5. The Banbridge, Newry & Mourne Area Plan 2015 (BNMAP) operates as the local development plan for the area where the appeal site is located. For information purposes only, BNMAP identifies the site as being located within the Mourne AONB. It is located outside any settlement development limit in BNMAP and is within the countryside. Save for the aspiration to secure a high quality of design, layout and landscaping, matters that it considers as important of the suitability of the site in deciding whether to grant planning permission, there is no specific policy that is material to consideration of this appeal.
6. The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area. The SPSS retains certain existing planning policy statements including Planning Policy Statement 2: "*Natural Heritage*" (PPS 2); and Planning Policy Statement 21: "*Sustainable Development in the Countryside*" (PPS21). In respect of the appeal development there is no conflict or change in policy direction between the provisions of the SPPS and those of PPS 21. The latter remains the applicable policy context to consider the principle of development against.
7. Policy CTY 1 of PPS 21 identifies types of development which are in principle acceptable in the countryside. The second paragraph of the policy states that other types of development will be permitted only where there are overriding reasons why that development is essential and could not be located in a settlement. Paragraph 5.0 of PPS 21 says that the provisions of its policies will prevail unless here are other overriding policy or material considerations that outweigh them and justify a contrary decision.
8. When the appellant made his application for planning permission he completed Form P1. Question 20 thereof asks if the application relates to a proposal for a dwelling on a farm and he ticked "No". This is at odds with his statement in his written evidence submitted to the Commission that the development subject of this appeal seeks the retention of a "farm (*my emphasis*) dwelling and garage...." As the previous consent (P/2009/1284/F) was approved as a dwelling on a farm, in order to assess the application subject of this appeal on that basis, the Council contacted the applicant contacted on 25 May 2018; and afforded him the opportunity to submit a P1C form (planning application for a dwelling on a farm) and accompanying farm maps prior to 18 June 2018. This information was not provided to the Council.
9. With his statement of case the appellant submitted Department of Agriculture, Environment and Rural Affairs 2018 Scheme Maps showing 3.18ha of land, in three parcels, registered to Business ID 633375 in the name of Mr David and Mrs Jean Gordon of 57 Mill Road, Kilkeel. The lands include the appeal site. The maps and accompanying cover sheet were printed on 27 February 2018. He also set out his evidence on why he considers there to be support for the principle of this development on the basis of Policy CTY 10 of PPS 21.
10. Section 59 (1) of the Act states that a party to the proceedings is not to raise any matter which was not before the council at the time the decision appealed against was made unless that party can demonstrate to the satisfaction of the Commission: (a) that the matter could not have been raised before that time; and (b) that its not being raised before that time was a consequence of exceptional

circumstances. In its statement of case the Council referred to Section 59 of the Act and voiced its strong objection to the Commission considering any further information submitted during the appeal process. The appellant did not engage with this statutory provision in his statement of case or address the Council's submission on this point.

11. Whilst the permission granted in 2011 related to a farm dwelling and the Council afforded the appellant the opportunity to make his case on that basis in respect of the development under consideration, the matter of a perceived justification for the development on foot of Policy CTY 10 of PPS 21 was not in front of it at the time it made the decision subject of this appeal. Section 59 (2) of the Act states that nothing in subsection (1) thereof affects any requirement or entitlement to have regard to: (a) the provisions of the local development plan; and (b) any other material consideration. Mindful the decision in *Belfast City Council v the Planning Appeals Commission [2018] NIQB 17*, the evidence relating to the development being acceptable in principle on the basis of Policy CTY 10 of PPS 21 is a "new matter" that does not have the status of a material planning or land use consideration. As it has not been satisfactorily demonstrated that the matters contained within the appellant's statement of case could not have been raised before that time or that there were exceptional circumstances, this evidence should not form part of the appeal considerations.
12. It was the appellant's prerogative not to act on the opportunity that the Council afforded him to submit further information in respect of the principle of development. Without that information, it had sufficient evidence to determine the planning application subject of this appeal and that is what it proceeded to do. On this basis, its fourth reason for refusal is not sustained.
13. Policy CTY 13 of PPS 21 says that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It lists 7 instances where a new building will be unacceptable. The Council considered criteria (b), (c) and (e) to apply in this instance. The building subject of this appeal has two garages at ground floor level with a "front door" giving access to an entrance hall, utility room and shower room that are associated with the dwelling's main living area and 3 bedrooms on the first floor. The Council said that the dwelling is very urban in form and inappropriate and incongruous for its locality. However, as criterion (e) of Policy CTY 10 is concerned with the design of the building, that the dwelling is in the form what the Council describes as an apartment, does not weigh against it.
14. That the appeal site has been cut out of a much larger field is not evident from the public views due to topography and intervening stone walls. Therefore, whilst the site lacks long established natural boundaries and relies primarily on the use of new landscaping for enclosure, this does not weigh against the development. Without prejudice as to whether that 2011 permission is extant, those buildings were considered acceptable in the context of PPS 21 and the reliance on new planting to define their curtilage relative to the host field was deemed satisfactory. The footprints of the approved and subject dwellings partially overlap. That their design differs does not persuasively distinguish them in this respect.
15. The Council did not identify the extent of critical views from which it considered the development's lack of integration, in terms of design, to be apparent. From the

approach from the north-east on Dougans Road, views of the subject building are prevented by the combination of buildings, the roadside stone wall, vegetation and topography. It comes into view at the junction of its access lane with the public road. From the opposite approach it is seen from approximately 200m away as the crow flies. The building is approximately 52m to the south-east of No. 32 Dougans Road and 25m south-west of No. 28 Dougans Road. The former is a large two-storey dwelling that is approximately 25m deep and 14m wide. Foundations have been laid for an associated detached building some 7.5m from the house with a footprint of approximately 8m x 15m. The Council said that this is apparently the stable that could be completed on foot of the 2011 permission (P/2009/1864/F). The Council referred to this dwelling having an integral garage to the rear but this is not evident from public view. The subject building mirrors No. 32 Dougans Road in terms of finishes, including quoins. From the longest available view from the west, it is seen in the context of both neighbouring dwellings albeit that it is relatively comparable in scale and size to No. 28 Dougans Road.

16. Account has been taken that: the subject building is outwith the curtilage of No. 32; foundations have been laid for a sizeable detached building within its curtilage; and the separation distance between it and the building subject of this appeal. However, given the size, scale and massing of No. 32, albeit that the subject building has a footprint of 12.5 x 8.5m and is 7.7m high, from public view its design and finishes suggest that it is functionally associated with it much larger neighbour. No.35 Dougans Road has two associated, detached buildings within its curtilage. Both seemingly have accommodation at first floor level. All three are seen together in a static view from Dougans Road. Whilst there is no suggestion that either is occupied as dwelling independent on No. 35, they are relatively sizeable detached buildings, with first floor accommodation, that are visually associated with it.
17. In this particular context, whilst the subject dwelling has the appearance of detached, double garage with accommodation above, I am not persuaded that it is contrary to Policy CTY 13 of PPS 21 for the reasons relied on by the Council. Accordingly, its second reason for refusal is not sustained.
18. Policy NH 6 of PPS 2 says that planning permission for new development within an AONB will only be granted where it is of an appropriate design, size and scale for the locality and all three listed criteria are met. The Council's evidence relates to the first bullet point of criterion (c), which requires that the development respect local architectural styles and patterns. However, the wording of its associated reason for refusal said that the development is unsympathetic to the special character of the AONB, which is the bailiwick of criterion (a). It provided no evidence on what it considers to be the special character of the AONB in general and of the particular locality. In this evidential void, I am not persuaded as to how the development offends criterion (a).
19. The appellant's map 2 shows the variety of form, scale, design and appearance of dwellings in the vicinity of the appeal site. The photographic insert relating to the development subject of this appeal shows the dwelling's rear elevation, which is not seen from a public vantage point. There are no apparent prevailing local architectural styles and patterns. The Council has not identified any as the appropriate baseline for assessing the development's impact on the AONB.

20. For both these reasons, coupled with my conclusions on the building's design in this particular locational and evidential context, the Council has not sustained its third reason for refusal.
21. The appellant referred to the development as part of a cluster. However, this apparently related to his analysis of its argued compliance with Policy CTY 13; not that he is pursuing a case on foot of Policy CTY 2a of PPS 21, which relates to new dwellings in existing clusters. The appellant referred to a change in his personal circumstances following the alleged commencement of development on foot of the 2011 planning permission. However, there is no explicit suggestion that he is seeking to rely on Policy CTY 6 of PPS 21, which relates a dwelling based on special personal or domestic circumstances. The development does not qualify for approval under Policy CTY 10 and it was not explicitly argued that it falls into any other category of development that is acceptable in principle under Policy CTY 1. No overriding reasons were presented as to why it is essential and could not be located in a settlement. The development is not acceptable in principle in the countryside and the Council's first reason for refusal is sustained.
22. Whilst three of the Council's four reasons for refusal are not sustained, as there is no policy support for the principle of this development in the countryside, determining weight attaches to the first reason for refusal and the appeal is dismissed.

This decision is based on the following drawings:

- Site Location Map;
- Drawing No. 01 – Floor Plans & Elevations; and
- Drawing No. 02 – Site Plan

**COMMISSIONER JULIE DE-COURCEY**



**List of Documents**

Planning Authority:	"LPA 1" "LPA 2"	Statement of Case with 2 appendices Rebuttal
Appellant:	"APP 1"  "APP 2"	Statement of Case from O'Toole & Starkey Planning Consultants with 8 appendices Rebuttal from O'Toole & Starkey Planning Consultants



# Appeal Decision

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**Appeal Reference:** 2018/A0172  
**Appeal by:** Leah Chambers  
**Appeal against:** Refusal of full Planning Permission  
**Proposed Development:** Replacement Dwelling.  
**Location:** 14a Stewarts Road Annalong  
**Planning Authority:** Newry Mourne and Down District Council  
**Application Reference:** LA07/2018/0921/F  
**Procedure:** Written Representations  
**Decision by:** Commissioner Helen Fitzsimons on 29<sup>th</sup> April 2019

## Decision

1. The appeal is dismissed.

## Reasons

2. The main issues in this appeal are whether the proposed development is acceptable in principle in the countryside, and whether it would have adverse impact on the on the visual amenities of the countryside and its Area of Outstanding Natural Beauty (AONB) location.
3. The appeal site is located outside any settlement limit and lies in the countryside as designated by Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) the local development plan which operates for the area. The BNMAP offers no specific policy or guidance pertinent to the proposed development. The Strategic Planning Policy Statement for Northern Ireland (SPPS) retains a number of Planning Policy Statements (PPSs) one of which is PPS 21 'Sustainable Development in the Countryside'. The appeal site lies in the Mourne Area of Outstanding Beauty (AONB).
4. Policy CTY 1 of PPS 21 states that 'there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.' It continues 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 a replacement dwelling in accordance with Policy CTY 3 of the PPS.
5. Policy CTY 3 of PPS 21 says that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. It adds that buildings designed and used for agricultural

- purposes, such as sheds or stores and buildings of a temporary construction will not however be eligible for replacement under this policy. There was no dispute that the structure to be replaced is currently used as a dwelling. The Council's objections are grounded in the policy requirement that the dwelling to be replaced should not be of temporary construction.
6. The subject building is a modest single storey prefabricated dwelling located behind No 14 Stewarts Road. Due to its siting views of it are limited to just across the frontage of No 14 Stewarts Road and for a short distance when travelling from the north west. The appellant told me that it was framed together on site with in situ block work, render, electricity, plumbing, heating and drainage. Internally it provides a kitchen, living room bathroom, utility room and two bedrooms. It is accessed from the driveway of No 14 Stewarts Road. Although it sits within the grounds of No 14 Stewarts Road it has its own small curtilage with a front garden area separated from No 14 Stewarts Road by fencing.
  7. The word 'buildings' in Policy CTY 3 indicates to me that the paragraph is meant to apply to operational development as well as portable structures such as caravans, portacabins or mobile homes. I accept that in this case operational development was required to erect the building. It was created by connecting prefabricated sections. A platform on which to anchor it was constructed. However this platform does not appear as an integral part of the building. The thinly rendered external walls, roof covering and general appearance of the structure are similar to those of temporary buildings. It was purchased some 17-18 years ago and I assume that it was constructed on site around the same time. At my site visit I noted some deterioration on the lower part of the front elevation that I would not expect to see on a permanent building of a similar age. Taking all of these factors into account I consider that the building is temporary in nature and it is not eligible for replacement under Policy CTY3. The Council's objections to the proposal on that requirement of Policy CTY 3 of PPS 21 are sustained.
  8. Policy CTY 3 of PPS 21 also says that a replacement dwelling will only be permitted where all of five stated criteria are met. The Council raised objections to the proposal under the first criteria that the proposed replacement dwelling should be sited within the 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 and criterion two that the overall size of the new dwelling should allow it to integrate into the surrounding landscape and would not have a visual impact greater than the existing building.
  9. The site of the proposed new dwelling is within the curtilage of No 14 Stewarts and has full frontage to the road. I was given no arguments that the existing curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling. The first criterion of this part of Policy CTY 3 of PPS 21 is not met.
  10. Although the size of the new building would allow it to integrate into the surrounding landscape, given its roadside location, there would be more extensive views of it when travelling along Stewarts Road in both directions and it would

have a greater visual impact on the landscape than the building to be replaced. The creation of an independent driveway to the new dwelling which would increase safety for children playing behind No 14 Stewarts Road is not an access benefit that is persuasive in this appeal. I have no evidence of loss of amenity to the residents of No 14 Stewarts Road as a result of the current living arrangements between them and the occupier of No 14a. Arguments that it would screen the existing stables to the west are not persuasive as there is nothing in policy to allow such a 'trade off'. In any event the Council's evidence suggests that the stables are under enforcement action and in the absence of a Certificate of Lawfulness I cannot take them into account. It has not been demonstrated that the proposed site for the new dwelling would result in landscape, heritage, access or amenity benefits. The second criterion of Policy CTY 3 would not be met. As the proposed development fails three stated elements of Policy CTY 3 of PPS 21 it is not acceptable in principle in the countryside and the Council has sustained its first reason for refusal.

11. Policy CTY 8 'Ribbon Development' of PPS 21 states that planning permission will be refused for a building which creates or adds to a ribbon of development. Paragraph 5.33 of the policy says that a ribbon does not necessarily have to be served by individual accesses nor have a continuous or uniform building line. Buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development. A dwelling on the appeal site would be seen with No 14 Stewarts Road and the dwelling immediately to the south east. Notwithstanding that there would be a gap between them the buildings would be viewed as a ribbon of development. This would be detrimental to the amenities of the countryside and contrary to policy. The Council has sustained its second reason for refusal based on Policy CTY 8 of PPS 21.
12. Policy CTY 13 'Integration and design of buildings in the Countryside' states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. A new building will be unacceptable in seven stated circumstances. The Council raised objections its third reason for refusal under (a) it is a prominent feature in the landscape (b) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and (c) it relies primarily on the use of new landscaping for integration. I do not consider that the modest new dwelling would be a prominent feature in the landscape. Dry stone walls typify boundary treatment of both fields and curtilages in this area and the proposed boundary treatments would be in keeping with this. A condition requiring a new dry stone wall to define the curtilage of the new building would allow it to integrate in a similar fashion to other dwellings in the area. Criteria ( a) (b) and ( c) of Policy CTY 13 of PPS 21 would be met . The Council has not sustained its third reason for refusal based on Policy CTY 13 of PPS 21.
13. Policy CTY 14 of PPS 21 'Rural Character' also says that a new building will be unacceptable where amongst other circumstances (a) it is unduly prominent in the landscape and (d) it creates or adds to a ribbon of development (see Policy CTY 8) .I have already concluded under Policy CTY 13 that the proposed development would not be an unduly prominent feature in the landscape it would not offend this

requirement of Policy CTY 14. However, as I have also concluded that the proposed new dwelling would create a ribbon of development criterion (d) of Policy CTY 14 would be offended, and the Council has sustained its fourth reason for refusal based on Policy CTY 14 for that reason.

14. Policy NH 6 'Areas of Outstanding Natural Beauty' of Planning Policy Statement 2 'Natural Heritage' (PPS 2) says planning permission for new development within an AONB will only be granted where it is of an appropriate design, size and scale for the locality and where all of three stated criteria are met. One of these is a) the siting and scale of the proposal is sympathetic to the special character of the AONB in general and of the particular locality and it is this criterion that the Council has based its objection upon. This part of the Mourne AONB is typified by houses of varying sizes, heights and designs. From the appeal site a number of other houses are highly visible in the landscape. A modest dwelling on the appeal would not be unsympathetic to the character of this part of the AONB and Policy NH 6 of PPS 21 would not be offended. The Council has not sustained its second reason for refusal.
15. The appellant referred me to other dwellings in the area which she considers comparable to and justification for her proposal. Those decisions were taken under a different jurisdiction with different planning policy in place and for those reasons are distinguishable from this appeal.

This decision is based on the 1:2500 scale site location plan and the following drawings numbered by the Council Drawing No 02; Drawing No 03; Drawing No 04; and Drawing No 05 (Rev 1)

**COMMISSIONER HELEN FITZSIMONS**

2018/A0172

**List of Documents**

Planning Authority: -

C1 Written Statement  
C2 Comments

Appellant: -

A1 Written Statement and appendices  
A2 Comments