



April 29th, 2021

Notice Of Meeting

You are invited to attend the Planning Committee Meeting to be held on **Wednesday, 5th May 2021** at **10:00 am** in **Microsoft Teams**.

Committee Membership:

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

Agenda

- 1.0 Apologies and Chairperson's remarks.
- 2.0 Declarations of Interest.
- 3.0 Declarations of Interest in relation to Para. 25 of Planning Committee Operating Protocol - Members to be present for the entire item.

- Cllrs. Brown, Doran, Hanna, McAteer and Tinnelly cannot take part in the discussion/decision on item 6 - planning application P/2013/0189/F
- Cllrs, Doran and Trainor cannot take part in the discussion/decision on item 14 - planning application LA07/2020/0719/F

Minutes for Adoption

- 4.0 Minutes of Planning Committee Meeting held on Thursday 8 April 2021 (Copy attached).

 *Planning Committee Minutes 08-04-2021.pdf*

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For Discussion/Decision

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

 *Addendum list - 05-05-2021.pdf*

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

- 6.0 P/2013/0189/F 100m West of no 15 Drumsesk Road Rostrevor BT34 3EG Sports Complex to include 1 no full size pitch, club house, floodlighting and private entrance onto Warrenpoint Road, and all associated site works. Add information received. (Case Officer report and addendum attached).

REFUSAL

- A request for speaking rights has been received from Gavyn Smyth from Clyde Shanks Planning, in objection to the application. **(Submission attached).**

Development Management - Planning Applications for determination

7.0 LA07/2018/1075/F - Lands fronting onto Moygannon Road at Junction with Rostrevor Road Warrenpoint (Opposite 2-16 Moygannon Road; 1&2 Rowallon and 1&2 Rathgannon) Erection of 21 dwellings with associated site works. (Case Officer report attached).

APPROVAL

- Addendum list

8.0 LA07/2019/1695/F 10 The Mall and 90 Hill Street Newry BT34 1BX Proposed change of use from existing retail/storage to 40 bedroom hotel with restaurant, gymnasium and coffee shop. Demolition of existing single storey infill and creation of four storey infill extension. Reinstatement of existing window openings on rear elevation. (Case Officer report attached).

APPROVAL

- There are no speaking rights requests on this application but the Senior Planning Officer will give a presentation to Committee

9.0 LA07/2019/1702/LBC 10 The Mall and 90 Hill Street Newry BT34 1BX Proposed change of use from existing retail/storage to 40 bedroom hotel with restaurant/bar, gymnasium and coffee shop. Demolition of existing single storey infill and creation of four storey infill extension. Reinstatement of existing windows openings on rear elevation. (Case Officer report attached).

APPROVAL

- There are no speaking rights requests on this application but the Senior Planning

**10.0 LA07/2020/1394/O - 90m West of No16 Desert Road
Mayobridge Newry BT34 2JB - proposed 1 1/2 Storey dwelling
(Ridge Height of 7.5m) and garage. (Case Officer report
attached).**

REFUSAL

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

**11.0 LA07/2021/0029/F - Killeavy Castle Estate 12 Ballintemple
Road Killeavy Newry - new farm shop and vegetable garden.
(Case Officer report attached).**

REFUSAL

- This application is being removed from the agenda at the request of Planning Officers for further consideration.

**12.0 LA07/2021/0038/LBC - Killeavy Castle Estate 12 Ballintemple
Road Killeavy Newry BT35 8LQ - new farm shop. (Case Officer
report attached).**

REFUSAL

- This application is being removed from the agenda at the request of Planning Officers for further consideration.

**13.0 LA07/2020/0605/F- 61 Ballytrim Road Crossgar - replacement
dwelling and amended access. (Case Officer report attached).**


REFUSAL

- A request for speaking rights has been received from David Donaldson, agent, in

support of the application. **(Submission attached).**

 *LA07 2020 0605 Ballytrim Road.pdf*

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 *Item 13 - LA07-2020-0605-F.pdf*

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14.0 LA07/2020/0719/F - 171 Rathfriland Road Dromara - Off site replacement dwelling. (Case Officer report and addendum attached).

REFUSAL


- A request for speaking rights has been received from Damien Broderick – Planning Consultant; John Lavery– Layde Consulting and Jonathan Buckley – MLA. **(Submission attached).**

 *LA07 2020 0719 F 171 Rathfriland Road.pdf*

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 *LA07 2020 0719 F Addendum.pdf*

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 *Item 14 - LA07-2020-0719-F.pdf*

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15.0 LA07/2020/1519/RM - 151 Castlewellan Road Dromara - Replacement dwelling. (Case Officer report attached).

REFUSAL

- A request for speaking rights has been received from Declan Rooney, agent and James Marmion, applicant. **(Submission attached).**

 *LA07 2020 1519 RM.pdf*

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 *Item 15 - LA07-2020-1519-RM.pdf*

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16.0 LA07/2020/1792/F - 75m South of 15 Sheepland Road Ardglass - dwelling and garage on a farm. (Case Officer report attached).

REFUSAL

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

 *LA07-2020-1792-F 75M S of 15 Sheepland Road Ardglass.pdf*

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 *Item 16 - LA0720201792F.pdf*

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

REFUSAL

- Councillor Murphy has requested this application be removed from the schedule and re-presented at the June Committee Meeting as the agent is unable to attend due to personal circumstances.


 *LA07-2021-0027-F Replacement Dechomet Rd (002).pdf*

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18.0 LA07/2020/1063/F - 33 Rocks Road Ballyhornan Downpatrick - proposed extension and alterations to existing dwelling. (Case Officer report attached).

APPROVAL

- Addendum list

 *LA07 2020 1063 f 33 Rocks Road.pdf*

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19.0 LA07/2020/1370/F - 165m east of household recycling centre Bann Road Castlewellan - Park and Share Car Park, new vehicle and pedestrian entrance to Bann Road with height restrictor barrier and new pedestrian footpath. (Case Officer report attached).

APPROVAL

- Addendum list


 *LA07-2020-1370-F Bann Rd Park Share (002).pdf*

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20.0 LA07/2017/1779/F Lands Approx. 370m North East Of 32 Ballykilbeg Road Downpatrick Amendment to planning approval LA07/2015/0782/F. - change from Vestas 27 225kw wind turbine with rotor diameter of 27m to Vestas 52 250kw with rotor diameter of 52m. (Case Officer report attached).

APPROVAL

- Addendum list

 *LA07-2017-1779-F - Ballykilbeg Rd.pdf*

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21.0 LA07/2021/0208/F - Dunleath Park Market Street Downpatrick - Recreational Path. (Case Officer report attached).

APPROVAL

- Addendum list

📎 *LA07-2021-0208-F Dunleath Park Downpatrick_.pdf*

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For Discussion/Decision

22.0 Update report from Nora Largey / F O'Connor - Planning Policy - understanding and application.

For Noting

23.0 Historic Actions Tracking Sheet. (Attached).

📎 *Planning HISTORIC TRACKING SHEET - Updated April 2021.pdf*

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24.0 Planning Committee Performance Report.

25.0 Current appeals and decisions.

Local Development Plan Items - Exempt Information

26.0 LDP: Progress Report – Quarterly Update. (Report attached).

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

📎 *PC Report re LDP Progress - Quaterly Update (4th Q 2020-21).pdf*

Not included

27.0 LDP: Planning Policy Review – Natural Heritage. (Report attached).

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

📎 *PC Report re LDP PPR - Natural Heritage.pdf*

Not included

NEWRY, MOURNE & DOWN DISTRICT COUNCIL

Minutes of the Planning Committee Meeting of Newry, Mourne and Down District Council held on Thursday 8 April 2021 at 10.00am via Microsoft Teams

Chairperson: Councillor R Burgess (10.00am – 12.30pm)
Councillor M Larkin (1.15pm – 4.05pm)

In attendance: (Committee Members via Teams)

Councillor P Brown
Councillor G Hanna
Councillor V Harte
Councillor D McAteer
Councillor D Murphy
Councillor G O'Hare
Councillor G Stokes
Councillor J Trainor

(Officials)

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

P/032/2021: APOLOGIES AND CHAIRPERSON'S REMARKS

Apologies were received from Councillors Doran, and Tinnelly.

The Chairperson advised Members Mr McKay would not be available for the first stage of the meeting and Mr Mallon would have to leave the meeting at 11.30am until 12.00 noon.

The Chairperson advised Members he would have to leave the meeting at lunchtime and as the Vice Chairperson was not available he asked Members for a nominee to chair the meeting in his absence.

Agreed: On the proposal of Councillor Hanna seconded by Councillor Murphy it was agreed that Councillor Larkin chair the meeting in Councillor Burgess's absence.

P/033/2021: DECLARATIONS OF INTEREST

Councillor Burgess declared an interest in Item 19 – LA07/2020/1780/O.

P/034/2021: DECLARATIONS IN ACCORDANCE WITH PLANNING COMMITTEE PROTOCOL PARA. 25 – MEMBER TO BE PRESENT FOR ENTIRE ITEM

Item 6 - LA07/2020/0013/F – Cllrs. Brown and Doran could not take part in the discussion/decision on this application

Item 7 – LA07/2020/0167/F – Cllrs. Brown, Doran and Trainor could not take part in the discussion/decision on this application

Item 8 – LA07/2020/1000/O – Cllrs. Brown, Doran, Harte and McAteer could not take part in the discussion/decision on this application

Item 9 – LA07/2020/0079 – Cllrs. Brown, Doran and Harte could not take part in the discussion/decision on this application

Item 10 – LA07/2020/0669/F – Cllrs. Brown and Doran could not take part in the discussion/decision on this application

MINUTES FOR CONFIRMATION

P/035/2021: MINUTES OF PLANNING COMMITTEE MEETING HELD ON WEDNESDAY 10 MARCH 2021

Read: Minutes of Planning Committee Meeting held on Wednesday 10 March 2021. **(Copy circulated)**

AGREED: On the proposal of Councillor Stokes seconded by Councillor Larkin it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 10 March 2021 as a true and accurate record.

FOR DISCUSSION/DECISION

P/036/2021: ADDENDUM LIST

Read: Addendum List of Planning Applications with no representations received or requests for speaking rights – Thursday 8 April 2021. **(Copy circulated).**

Councillor Hanna advised he had been asked by agent / applicant to remove Item 12 LA07/2020/1394/O from the Addendum List for presentation at the next Planning Committee Meeting.

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

- **Item 12 - LA07/2020/1394/O** 90m West of No16 Desert Road Mayobridge Newry BT34 2JB. Proposed 1 1/2 Storey dwelling (Ridge Height of 7.5m) and garage **REFUSAL**

The Chairperson advised Item 16 – LA07/2020/0340/F had been added to the Addendum List, as the agent had withdrawn his request for speaking rights.

AGREED: On the proposal of Councillor Larkin seconded by Councillor Stokes it was agreed to approve the Officer recommendation in respect of the following applications listed on the addendum list for Thursday 8 April 2021:

- **Item 11 - LA07/2020/1888/F** 6 Pinewood Glen Crossmaglen Single storey extension to existing dwelling **APPROVAL**
- **Item 16 – LA07/2020/0340 -** Land 750m NE of 82 Audleystown Road, Strangford. Dwelling (Change of house type of that previously approved under R/1981/0030/F) **APPROVAL**

DEVELOPMENT MANAGEMENT - PLANNING APPLICATIONS FOR DETERMINATION

P/037/2021: PLANNING APPLICATIONS FOR DETERMINATION

The following applications were determined by the Committee.

(1) LA07/2020/0782/F

Location:

Shimna Integrated College 5A Lawnfield King Street Newcastle

Proposal:

Demolition of existing school facilities and construction of a new school building and ancillary accommodation with associated hard and soft play areas, parking, landscaping and site works.

Conclusion and Recommendation from Planning Official:

Approval

Power-point presentation:

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

**Speaking rights:
(via Teams)**

In support:

Gary Dodds and Sam McKee, Turley Associates and Jonathon Skelton, Doran Consulting were available to answer any queries from Members on the application.

AGREED: On the proposal of Councillor McAteer seconded by Councillor Larkin it was unanimously agreed to issue an approval in respect of Planning Application LA07/2020/0782/F as per the information and recommendation contained in the Case Officer Report presented to Committee.

Councillor Brown withdrew from the meeting.

(2) LA07/2020/0013/F

Location:

Approx 80m north of 64 Dromara Road Ballyward Castlewellan

Proposal:

Farm building and animal handling facility and hardstanding

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

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

**Speaking rights:
(via Teams)**

In support:

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

Gerry Tumelty, agent, was available to answer any queries from Members.

Issues raised:

- The agent advised the existing farm buildings were used for the rearing of pigs and were at maximum capacity.
- The proposed site was currently being used for silage / hay, but due to its isolated location, the number of animals using it was limited.
- The agent advised the animals were having to be transported at the very least on a monthly basis, which, he said, as per Animal Welfare Legislation was stressful for them.

Councillor Hanna proposed to issue an approval in respect of Planning Application LA07/2020/0013/F contrary to Officer recommendation saying the agent had demonstrated the current lack of attention to the welfare of the animals and the importance of adhering to

Animal Welfare Legislation, the proposed site was lower than the road and he considered with appropriate conditions attached, the facility would have low prominence in the countryside.

Councillor Larkin seconded the proposal.

The proposal was put to a vote by way of a roll call and voting was as follows:

FOR:	6
AGAINST:	3
ABSTENTIONS:	0

The proposal was declared carried.

AGREED: On the proposal of Councillor Hanna, seconded by Councillor Larkin, it was agreed to issue an approval in respect of Planning Application LA07/2020/0013/F contrary to Officer recommendation, on the basis that:

1. The animals would be handled in accordance with Animal Welfare Legislation.
2. The proposal would not be unduly prominent in the landscape due to the ground level of the proposed site being lower than the roadside.
3. Planning Officers be delegated authority to impose any relevant conditions.

Councillor Trainor withdrew from the meeting.

(3) LA07/2020/0167/F

Location:

The Manse 17 Downpatrick Road Crossgar

Proposal:

New Manse and detached domestic garage

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

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

**Speaking rights:
(via Teams)**

In support:

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

David Burgess, agent, was available to answer to any queries from Members.

Issues raised:

- The agent considered there were several examples of similar type developments in three different local areas, however Ms McAlarney disagreed saying, the character of the area along the Downpatrick Road in the vicinity of the proposed application was defined by individual large plots.
- Councillor Hanna referred to the conversion of No. 19 Downpatrick Road from a detached single dwelling to four apartments and asked Ms McAlarney did she not consider this changed the particular type of development in the area. Ms McAlarney replied, saying the house had been internally divided, however visually it remained the same externally, and therefore she considered the conversion did not offend the character of the area.
- Ms McAlarney said the current pattern of development was one building, one plot and the proposed development would result two buildings in two smaller plots.
- Ms McAlarney said there was a potential for the upstairs windows of the proposed dwelling to overlook No. 15 Rockfield Close as it would be located 11 metres from the boundary and No. 15 Rockfield Close was 3 metres from the boundary.
- Mr Burgess said the single extension that had recently been added to No. 15 Rockfield Close was 5 metres from the boundary and the two story element in each building was 21 metres apart which exceeded requirements as set out in 'Creating Places'. Additionally, the positioning of the proposed development would be staggered to ensure it would not face directly towards No. 15 Rockfield Close and the ground level at the proposed development was half a metre lower than that at No. 15 Rockfield Close.
- Mr Burgess said it was proposed to remove one tree stump, but to retain the existing bank of screening and augment where necessary. Additionally, the proposed garage would help to screen and maintain the privacy of No. 15 Rockfield Close.
- Mr Burgess advised it was proposed to erect a 1.8 metre high fence between the existing house at No. 17 and the proposed dwelling.

Councillor Hanna proposed to issue an approval in respect of Planning Application LA07/2020/0167/F contrary to Officer recommendation and he addressed the refusal reasons as follows:

- The proposal would not be out of character as there was a variety of house types in the area.
- No objections had been received from DfI Roads and there would not be a substantial increase in traffic movement.
- The separation distances were adequate and the proposal would not be located directly facing No. 15 Rockfield Close.
- The ground level of the proposed site was lower than that of No. 15 Rockfield Close.
- The existing screening would remain and privacy would be further enhanced by the proposed single storey garage.

Councillor Larkin seconded the proposal.

The proposal was put to a vote by way of a roll call and voting was as follows:

FOR: 6
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 an approval in respect of Planning Application LA07/2020/0167/F contrary to Officer recommendation on the basis that:
1. The proposal would not be out of character as there was already a variety of house types in the area.
 2. No objections had been received from DfI and there would not be a substantial increase in traffic movements
 3. The separation distance between the proposed dwelling and No. 15 Rockfield Close was adequate and the proposed siting would ensure it would not face directly towards No. 15 Rockfield Close
 4. The ground level of the proposed site was lower than that of No. 15 Rockfield Close
 5. The existing screening remained in place and privacy to be further enhanced by the proposed single storey garage.
 6. Planning Officers be delegated authority to impose any relevant conditions.

Councillors Harte and McAteer withdrew from the meeting.
Councillor Trainor re-joined the meeting.

(4) LA07/2020/1000/O

Location:

Lands between 5 and 9 Billy's Road Ballyholland, Newry.

Proposal:

Proposed infill dwelling (Amended Certificate of Ownership submitted)

Conclusion and Recommendation from Planning Official:

Approval

Power-point presentation:

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

**Speaking rights:
(via Teams)**

In support:

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

Anthony Grimes, agent, was available to answer to any queries from Members.

AGREED: On the proposal of Councillor Larkin seconded by Councillor Hanna

it was unanimously agreed to issue an approval in respect of Planning Application LA07/2020/1000/0 as per the information and recommendation contained in the Case Officer report presented to Committee.

(Break 11.00am – 11.15am)

Councillor McAteer re-joined the meeting.

(5) LA07/2020/0079/0

Location:

Lands approximately 50m north west of No.53 Ayallogue Road Newry

Proposal:

Dwelling and garage on gap site

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

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

**Speaking rights:
(via Teams)**

In support:

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

Michael Clarke, O'Callaghan Planning, was available to answer to any queries from Members.

Issues raised:

- **Mr Rooney advised the average road frontage along Ayallogue Road was 47metres.**
- **Mr Clarke said he considered the proposed dwelling had frontage to the road, however Mr Rooney disputed this saying the area of ground Mr Clarke referred to had the appearance of a field and not part of the private curtilage, so therefore would not be considered frontage.**
- **In response to a query from Councillor Hanna as to whether the lane and splay could be considered as frontage, Mr Rooney replied saying the lane was individual access to serve a house and the visibility splay was to allow access to the public road.**

Councillor McAteer proposed to accept the Officer recommendation to issue a refusal in respect of Planning Application LA07/2020/0079/0, Councillor Trainor seconded the proposal.

The proposal was put to a vote by way of a roll call and voting was as follows:

FOR:	6
AGAINST:	1
ABSTENTIONS:	1

The proposal was declared carried.

AGREED: On the proposal of Councillor McAteer seconded by Councillor Trainor it was agreed to issue a refusal in respect of Planning Application LA07/2020/0079/0 as per the information and recommendation contained in the Case Officer report presented to Committee.

Councillor Harte re-joined the meeting.

(7) LA07/2020/0669/F

Location:

90m SE 21 Ballynalack Road Ballynalack Camlough

Proposal:

2 dwellings and 2 garages

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

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

Speaking rights: (via Teams)

In support:

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

Colin O'Callaghan, agent, was available to answer to any queries from Members.

Issues raised:

- Planning considered the gap measuring of 113 metres between the two agricultural buildings was capable of accommodating three dwellings.
- Mr O'Callaghan said he considered any more than two dwellings on the application site would not respect the pattern of development.
- Mr O'Callaghan said gaps of a similar size as the current proposal had previously been approved by Newry, Mourne & Down District Council.
- Mr O'Callaghan said there were various types of ribbon development in the countryside and the PAC had acknowledged it was not necessary to use mathematical equations to determine eligibility as a gap site.
- Mr Rooney said whilst he accepted the adjacent building had access to the road, he considered there was a slight separation between the building and the road and this had been the determining factor in Planning reaching its decision.

- **Mr O'Callaghan said the existing shed and surrounding land was a planning unit and should be treated the same way as a house and garden, additionally he advised Members that at the SE point of the shed, a substantial part had collapsed, so it had originally been a bigger building.**

Councillor Murphy proposed to issue an approval in respect of Planning Application LA07/2020/0669/F contrary to Officer recommendation addressing the refusal reasons as follows:

- Having attended the site visit and hearing evidence from Mr O'Callaghan, he considered there had been precedence with similar applications.
- The application site had frontage and complied with policy.
- The proposed location of the dwellings would be in a lower position on the site minimising the impact on the AONB.

Councillor Stokes seconded the proposal saying he did not believe it would be out of character in the area and would not damage the AONB.

The proposal was put to a vote by way of a roll call and voting was as follows:

FOR:	7
AGAINST:	2
ABSTENTIONS:	0

The proposal was declared carried.

AGREED: **On the proposal of Councillor Murphy seconded by Councillor Stokes it was agreed to issue an approval in respect of Planning Application LA07/2020/0669/F contrary to Officer recommendation on the basis that precedence had already been set with approval having been granted for similar type applications in the area, the proposal had a frontage and complied with policy and the proposed dwellings would be located in a lower position on the site minimising the impact on the AONB.**

Planning Officials be granted authority to impose any relevant conditions.

Councillor Brown re-joined the meeting.

(8) LA07/2019/1375/F

Location:

Lands immediately south of 17 Leitrim Road Ballymaginaghy Castlewellan Co Down

Proposal:

Erection of 2 Dwellings

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

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

**Speaking rights:
(via Teams)**

In support:

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

Issues raised:

- **Mr O'Callaghan advised the access to the site had to remain in the middle to satisfy DfI Roads.**
- **Ms McAlarney said the agent had been advised that one dwelling with central access would be acceptable to Planning.**
- **Ms McAlarney said the level of cut and fill required to facilitate two dwellings was unacceptable whereas a single dwelling could respect the topography of the site.**

AGREED: On the proposal of Councillor Larkin seconded by Councillor McAteer it was unanimously agreed to defer Planning Application LA07/2019/1375/F for a site visit to take place so that Members could assess the topography of the site in more detail.

(9) LA07/2020/0299/F

Location:

Adjacent to 7 Annacloy Road North Dunnanelly Downpatrick

Proposal:

Single storey dwelling

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

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

**Speaking rights:
(via Teams)**

In support:

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

Issues raised:

- **Mr Kennedy said approximately 6 metres of foundations had been excavated and concreted within the previously approved development area.**
- **Mr Kennedy said the laneway to the proposed building would have to be reconstructed, as, an area of rock would have had to be removed which at the time was not feasible within the allotted timeframe.**

- **Ms McAlarney said Planning Department considered the approval was not implemented as the foundations were sited in a different location to that agreed at the time.**
- **Ms McAlarney said there were two issues for the Committee to consider 1. DfI Roads did not consider either the access or the visibility splays had been constructed as per approval conditions and 2. Planning Department did not consider the foundations were in the approved location.**
- **Ms Largey said all pre- commencement conditions should have been complied with and any development would have had to have been carried out in accordance with the approved plan, she urged Members to use caution in their determination and if they were inclined to overturn the Officer recommendation, she advised they opt for a deferral to allow the agent time to submit the late information to Officers so it could be properly considered.**

AGREED: On the proposal of Councillor Larkin seconded by Councillor McAteer it was unanimously agreed to defer Planning Application LA07/2020/0299/F to allow for a site visit to take place so Members could assess the site in more detail and for the agent to submit recent additional information for Planning Officials to consider fully.

(Lunch 12.30pm – 1.35pm)

Councillor Larkin assumed the Chair for the remainder of the meeting.

(10) LA07/2019/1312/F

Location:

Between 12 & 16 Lisinaw Road Crossgar

Proposal:

Two Infill Dwellings and Garages

Conclusion and Recommendation from Planning Official:

Approval

Power-point presentation:

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

Speaking rights: (via Teams)

In objection:

Mr Robert Allen, Mr Ian Gibson and Mr Mike Armer presented in opposition to the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

Issues raised:

- **Ms McAlarney advised that Rivers Agency had been consulted and concluded the proposed site was not within a flood plain, and soakaways would be subject to a separate consenting regime from NIEA.**

- **Mr Armer said it was his understanding that NIEA would be responsible for soakaways from septic tanks and he considered an expert should be employed and if this was not done there could be liability issues for Council.**
- **Ms Largey said Council would only be liable if it was due to maladministration and on the papers before her she could not see any evidence of this.**
- **Ms McAlarney said Planning had assessed the application and considered it to be suitable for two dwellings, the house type was appropriate to the area, there was adequate separation to counteract any overlooking issues and the applicant had given assurance the land to the rear of the site would be serviced for access.**
- **Mr Armer said he considered the proposed developments were oversized, were not in character with the surrounding area and they would overlook No. 12 and No. 16.**
- **Mr Armer said there was no formal arrangement in place for access via lands to the rear.**
- **Ms McAlarney said land ownership issues were not within the remit of the Council and any issues arising would be a legal matter.**
- **Ms McAlarney said Rivers Agency had advised there was a small part of the site within the Surface Water Flood Map, however they did not require a Drainage Assessment to be carried out and the onus was on the developer to ensure they could mitigate against surface water and drainage impact.**
- **Mr Armer said the road had been raised in 2007 to overcome flooding, however a photograph taken recently demonstrated flooding still occurring on the road.**
- **Mr Armer said flooding encroached into his garden at No. 12 and if it got any worse, it would consume his septic tank and sewage system.**
- **Mr McKay said he acknowledged the need for more detail to be included in Condition No. 9 of the Reasons for Refusal in relation to soakaways and storm sumps incorporating the relevant expertise that DfI Rivers deemed necessary.**

Councillor Hanna proposed to accept the Officer recommendation subject to Condition No. 9 being amended to include more detail in relation to soakaways and storm sumps. 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:	7
AGAINST:	1
ABSTENTIONS:	1

The proposal was declared carried.

AGREED: **On the proposal of Councillor Hanna seconded by Councillor McAteer it was agreed to issue an approval in respect of Planning Application LA07/2019/1312/F subject to the inclusion of more detail in relation to soakaways and storm sumps being included in Condition No. 9.**

Planning Officers be delegated authority to impose any relevant conditions.

(11) LA07/2020/1292/O

Location:

Lands located between Nos 2 & 10 Glassdrumman Road Ballynahinch

Proposal:

Erection of 2 detached infill dwellings and garages

Conclusion and Recommendation from Planning Official:

Approval

Power-point presentation:

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

**Speaking rights:
(via Teams)**

In objection:

Mr Gordon Duff presented in opposition to the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

In support:

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

Issues raised:

- **Mr Duff said he considered the Committee could not make an informed decision without first having a site visit.**
- **Mr Duff was of the opinion the proposed development would result in large dwellings that would add to ribbon development and suburban build up.**
- **The frontage of the gap site measured 111 metres.**
- **The gap between the buildings measured between 140 – 150 metres.**
- **Planning Department considered the proposed development was in keeping with neighbouring plots in terms of size and scale.**

Councillor Hanna proposed to issue an approval in respect of Planning Application LA07/2020/1292/O as per the Officer recommendation, Councillor Murphy seconded the proposal.

The proposal was put to a vote by way of a roll call and voting was as follows:

FOR:	8
AGAINST:	0
ABSTENTIONS:	1

The proposal was declared carried.

AGREED: On the proposal of Councillor Hanna seconded by Councillor Murphy

it was agreed to issue an approval in respect of Planning Application LA07/2020/1292/O as per the information and the recommendation contained in the Case Officer Report presented to Committee.

Planning Officers be delegated authority to impose any relevant conditions.

(12) LA07/2020/1780/O

Location:

Approx 85m N of 28 Drumnacconnell Road Saintfield BT24 7NB

Proposal:

Replacement dwelling and retention of original for ancillary use

Conclusion and Recommendation from Planning Official:

Approval

Power-point presentation:

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

**Speaking rights:
(via Teams)**

In objection:

Mr Gordon Duff presented in opposition to the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

In support:

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

Issues raised:

- **Ms McAlarney said a search of historical replacement dwelling applications indicated the stone building had not previously been replaced.**
- **Ms McAlarney said the applicant proposed to retain the stone building for ancillary use and it would not be used as a dwelling again.**
- **Planning Department did not consider the old stone building to be vernacular.**
- **Mr McKay said Planning had reviewed the conditions regarding the future use of the stone building and the impact on the surrounding trees and advised Members a condition could be added to include the management and retention of the trees and ensure the building was secured with no loss to any of the trees.**

AGREED: On the proposal of Councillor Murphy seconded by Councillor Hanna it was unanimously agreed to issue an approval in respect of Planning Application LA07/202/1780/O as per the information and recommendation contained in the Case Officer Report presented to Committee, subject to the addition of a condition relating to the

management and retention of trees and assurance the building was secured with no loss to any of the trees.

Planning Officers be delegated authority to impose any relevant conditions.

EXEMPT INFORMATION: LOCAL DEVELOPMENT PLAN ITEMS FOR DISCUSSION

On the proposal of Councillor McAteer seconded by Councillor Stokes it was agreed to exclude the public and press from the meeting during discussion on the following items:

P/038/2021: LDP: PLANNING POLICY REVIEW - TELECOMMUNICATIONS

Read: Report dated 8 April 2021 from Mr A McKay, Chief Planning Officer regarding LDP: Planning Policy Review – Telecommunications (copy circulated)

P/039/2021: LDP: PLANNING POLICY REVIEW – OPEN SPACE, SPORT AND RECREATION

Read: Report dated 8 April 2021 from Mr A McKay, Chief Planning Officer regarding LDP: Planning Policy Review – Open Space, Sport and Recreation (copy circulated)

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

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

P/038/2021: LDP: PLANNING POLICY REVIEW - TELECOMMUNICATIONS

Agreed: On the proposal of Councillor Stokes seconded by Councillor Trainor it was agreed the Planning Committee note 'LDP – Planning Policy Review – Telecommunications' and:

- Agree the proposed draft planning policies for inclusion within the draft Plan Strategy, and
- Authorise the Development Plan Team to amend the proposed draft planning policies as necessary (i.e. subject of further consultation engagement, sustainability appraisal, and any change to overarching regional policy) and report back to Members any substantive changes to proposed policy wording or direction.

P/039/2021: LDP: PLANNING POLICY REVIEW – OPEN SPACE, SPORT AND RECREATION

Agreed: On the proposal of Councillor Murphy seconded by Councillor McAteer it was agreed the Planning Committee note 'LDP: Planning Policy Review – Open Space, Sport and Outdoor Recreation' and:

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

P/040/2021 REVIEW OF THE IMPLEMENTATION OF THE PLANNING ACT 2011 – CALL FOR EVIDENCE

Read: Report dated 8 April 2021 from Mr A McKay, Chief Planning Officer regarding the Review of the Implementation of The Planning Act 2011 – Call for Evidence (copy circulated)

Mr McKay advised Members this was just a call for evidence and any changes would be slow to implement.

Members raised several queries regarding the report, Mr Mallon advised these queries could be discussed in detail at the next Planning Workshop meeting scheduled for 14 April 2021.

Agreed: **On the proposal of Councillor Hanna seconded by Councillor McAteer the Committee agreed to the Response to the Call for Evidence.**

FOR NOTING

P/041/2021: HISTORIC ACTION SHEET

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

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

P/042/2021: PLANNING COMMITTEE PERFORMANCE REPORT MARCH 2021

Read: Planning Committee Performance Report for March 2021. **(Copy circulated)**

AGREED: **It was unanimously agreed to note the Planning Committee Report for March 2021.**

P/043/2021: PLANNING APPEALS AND DECISIONS

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

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

The meeting concluded at 4.05pm.

For confirmation at the Planning Committee Meeting to be held on Wednesday 5 May 2021.

Signed: _____ **Chairperson**

Signed: _____ **Chief Executive**

Item 5 – Addendum List**Addendum list - planning applications with no representations received or requests for speaking rights – Planning Committee Meeting on Wednesday 5 May 2021**

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

- Item 7 - LA07/2018/1075/F - Lands fronting onto Moygannon Road at Junction with Rostrevor Road Warrenpoint (Opposite 2-16 Moygannon Road; 1&2 Rowallon and 1&2 Rathgannon) Erection of 21 dwellings with associated site works **APPROVAL**
- Item 18 - LA07/2020/1063/F - 33 Rocks Road Ballyhornan Downpatrick - proposed extension and alterations to existing dwelling **APPROVAL**
- Item 19 - LA07/2020/1370/F - 165m east of household recycling centre Bann Road Castlewellan - Park and Share Car Park, new vehicle and pedestrian entrance to Bann Road with height restrictor barrier and new pedestrian footpath **APPROVAL**
- Item 20 - LA07/2017/1779/F Lands Approx. 370m North East Of 32 Ballykilbeg Road Downpatrick Amendment to planning approval LA07/2015/0782/F. - change from Vestas 27 225kw wind turbine with rotor diameter of 27m to Vestas 52 250kw with rotor diameter of 52m **APPROVAL**
- Item 21 - LA07/2021/0208/F - Dunleath Park Market Street Downpatrick - Recreational Path. **APPROVAL**

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Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

Newry, Mourne
and Down
District Council

Proposal: Proposed Sports Complex to include 1 no full size pitch, club house, floodlighting and private entrance onto Warrenpoint Road, and all associated site works. (Amended plans and information received)

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



Site Characteristics & Area Characteristics:

The site is located opposite (100 metres west of) 15 Drumsesk Road, Rostrevor. It comprises a portion of a large agricultural field which measures approx. 3.5 ha. The field is orientated from north to south. Its eastern boundary abuts Drumsesk Road and it measures approx. 290 metres along the Drumsesk Road frontage and 180 metres in depth.

The topography of the site falls from north west to south east, and the difference in ground levels from the north western to the south eastern corners is significant.

The site appears open and exposed when viewed from the southern approach on Drumsesk Road. This is partly due to gaps in the roadside vegetation, and also partly due to the size of the field and the lack of any vegetation within its boundaries.

The southern and western field boundaries are defined by post and wire fencing whilst the northern and eastern boundaries are defined by mature hedging and large shrubs / small trees. There is a D-rail fence along part of the north western boundary, along the curtilage to No 12 Drumsesk Road.

There is no built heritage, archaeological or other natural features within the site, and there was no evidence of protected species at the time of site inspection. There are a number of listed buildings in the general vicinity of the site, the closest being No. 75 Warrenpoint Road, Rostrevor, which is located approx. 120 metres south west of the south western corner of the site.

The site is currently accessed from an existing entrance at the south eastern corner. This entrance serves as an access to a group of farm buildings at the south western corner of the site, as well as 12 Drumsesk Road. Some of the farm buildings have been converted to a mechanic's garage.

Site History:

There is no relevant on-site planning history. There is no relevant planning history associated with this proposal; however, the GAA club has previously received planning permission for a separate facility of this nature, at a separate site outside the statutory development limit around Rostrevor. That site was located on Kilbroney Road, Rostrevor, and it was situated immediately adjacent to the development limit (P/2008/1164/F, immediately east of Kilbroney Valley- a private housing development – on Kilbroney Road, Rostrevor). Approval was granted in December 2009.

Planning Policies & Material Considerations:

The Banbridge, Newry and Mourne Area Plan 2015
 PPS 8 Open Space
 PPS 3 Access Movement and Parking
 PPS 2 Natural Heritage
 PPS 15 Flooding
 PPS 21 Sustainable Development in the Countryside
 PPS 6 Built Heritage and Archaeology.
 The SPSS

Consultations:

NIEA: No objections
 HED: Objection on grounds of impact to several Listed Buildings
 DfI Roads: No Objections subject to Planning making a planning decision on whether it represents an exception to the revised AMP 3 policy contained within PPS 21.
 Environmental Health: No objections

Rivers: No Objections.

SES: Proposal has potential to have adverse environmental effects on European Designated Sites. Satisfactory HRA cannot be undertaken.

Objections & Representations

There has been considerable public representation on this application. Firstly, there have been 1059 letters of support and 2 petitions of support. These range from neighbours to residents of the wider lower Mourne area of Rostervor and Warrenpoint. Cllr D McAteer and Cllr Patrick Brown, as well as numerous Sinn Féin and SDLP MLA's have also written in support. There have also been substantial objections (59 to date together with a petition of 16 signatures) to the proposal from residents within the immediate area. These include the Drumsesk Residents Association, and properties within the immediate area of the proposal and MLA Jim Wells. The concerns raised are summarised as follows:

Impact on setting of nearby listed building(s);

Unacceptable visual impact;

Noise (from patrons, whistles, vehicular traffic, intercom system etc);

Lack of new landscaping;

Road safety concerns - lack of footway link to the A2, lack of street lighting on Drumsesk Road, lack of passing bays, inadequate sight lines where Drumsesk Road intersects with the A2, inadequate width of Drumsesk Road, impact of flood lighting on road users of Drumsesk Road;

Surface water / drainage issues on Drumsesk Road;

Impact of proposed new access road on rural character and the setting of Arno's vale;

Query regarding disposal of water from the site;

Detrimental to the environmental quality of the area;

Light pollution / nuisance from floodlights;

Prominence (the club house);

Flooding concerns due to proximity to flood plain;

Impact on wildlife (red squirrels, otter, birds and bats).

These concerns are dealt with throughout the case officer report. The residents in a recent letter have also raised concerns in relation to the proposal being EIA Development. The previous planning authority screened this proposal when it was a much larger than now proposed for assessment of whether it was EIA development. It concluded that it wasn't and screened the proposal out. The Council's planning department have reviewed that screening opinion together with the reduction in the proposal and are of the opinion that it remains valid and that the proposal still does not represent EIA development. The Council adopt the previous EIA screening as its own in consideration of this application.

SES have also carried out a HRA assessment on behalf of the Planning Authority. The Planning Authority formally adopt that HRA as its own for the purposes of complying with Regulation 43 of The Conservation (Natural Habitats) Regulations (Northern Ireland) 1995 (as Amended 2015).

Consideration and Assessment:

Section 45 of The Planning (Northern Ireland) Act 2011, requires the council to have regard to the Local Development Plan as far as material to the application and to any other material

considerations. Section 6 (4) of the Planning Act (Northern Ireland) 2011 requires that the determination of proposals must be in accordance with the development plan unless material considerations indicate otherwise.

This site is located within the countryside and outside any zoned and designated site for land use. The site is located within the designated AONB as outlined with the area plan maps.

In September 2015, a new Strategic Planning Policy Statement was produced which applies to the whole of Northern Ireland. It must be taken into account in the preparation of Local Development Plans (LDP) and is material to all decisions on individual planning applications and appeals. However, a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. Para 1.12 of SPPS states that any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in favour of the provisions of the SPPS i.e. where there is a change in policy direction, clarification or conflict with the existing policies then the SPPS should be afforded greater weight. However, where the SPPS is silent or less prescriptive on a particular planning policy matter then retained policies this should not be judged to lessen the weight to be afforded to the retained policy. In this case as I do not deem the proposal to fall into an intensive sporting facility, but rather an application for Outdoor open space, the policies contained within PPS 8 are more prescriptive and therefore shall be given weight.

This application has been substantially amended throughout the lifetime of its processing. It has been advertised and re-advertised on 7 different occasions and neighbour notified at least 7 times also. Given the substantial changes to the scheme, the report will assess the final set of amendments only.

The site lies in the open countryside, and PPS 21 applies to all countryside development. CTY1 outlines the types of acceptable development, which includes open space, sport or outdoor recreation in accordance with PPS 8.

PPS 8 Policy OS 3 assesses applications for outdoor recreational uses. Policy OS 3 outlines that planning permission for outdoor recreational proposals will be granted where it has been demonstrated that the proposal will meet all the criteria listed from points (i) to (viii). The SPPS is arguably less descriptive and therefore OS 3 will be given significant weight in this determination. On assessment of the proposal against the criterion of OS 3, It has not been demonstrated that this proposal will not have an adverse impact on features of importance to nature conservation, archaeology or the built heritage. Historic Environment Division: Historic Buildings Unit have been consulted with the proposal and have raised several key concerns in relation to the proposal and its impact on the setting on several adjacent Listed Buildings, particularly Arnos Vale by reason of the overall scale of the development and the consequent impact on the wider landscape of this largely undeveloped rural area between Rostrevor and Warrenpoint. For example, a critical view from the Cloughmore Stone takes in several listed buildings including Arno's Vale, Rosetta, Drumsesk House and the Ross Monument. The proposal will radically change the character of this view. The proposed access road which run across lands directly in front of Arnos Vale, attendant traffic, noise and likely advertising and signposting; The height and density of the flood lighting – not only when the lights are on, but the impact of the standards; Fencing and netting arrangements would all have an unacceptable adverse impact on the setting of listed buildings listed above

and in particular on the setting of Arno's Vale. There is also a more concentrate view of the proposal from the Drumsesk Road, which in which the above detailed adverse impacts will be more obvious in a local critical viewpoint.

In relation to the natural heritage through the final submission the agent reverted to the use of a waste water treatment tank, with a run off pipe feeding into the existing watercourse to the front of the site. Given the constraints of the site, it cannot be demonstrated that the proposal would not have an adverse impact on the natural heritage features of nearby designations, in particular those of Carlingford Lough SPA, Marine proposed SPA and RAMSAR site, Carlingford Shore SAC and Carlingford Lough SPA (ROI). This is explained in detail below under consideration of Natural Heritage PPS 2 policies. An objection letter has been received recently highlighting that the change to waste water discharge will have a detrimental impact on protected species and the overall proposal will have an impact on several protected species, including bats, red squirrels, otters, birds including curlews. The Planning Department have previously consulted with NIEA about the potential impact this proposal will have on Bats and other protected species. NIEA have responded previously to advise that they do not have concerns in this regard. NIEA however have voiced concerns that the waste water treatment proposal has the potential to pollute but have not voiced an objection in this regard. Taking a precautionary approach to ensuring the habitats of protected species are not endangered, the Planning Department would agree that the means of waste water treatment and its location proposed, may result in a detrimental impact on this protected species. The Planning Department have consulted NIEA with the letter of objection. If a further response from NIEA materially changes the Planning Department's opinion put forward in this Report, we will notify Committee of a revised consideration.

Whilst this proposal would, if permitted, result in the loss of agricultural land, there will be no unacceptable adverse impact on nearby agricultural activities, and the loss of agricultural land will not be significant in the context of the amount of available agricultural land in the locality.

The proposal will have a significant adverse impact on the visual amenity of the area. Based on the information currently available, it appears that the proposal will feature prominently in the area. There are considerable views into and through the site. Existing vegetation and hard landscaping will have to be removed to allow for the creation of sight lines, and the flood lighting columns and associated infrastructure of ball stop nets, the access road and the car parking will feature prominently in this landscape, which is particularly sensitive given its AONB location. The proposed club house while having an appearance of being single storey is 8.3m in height from finish floor level, which will have a significant detrimental impact on the rural area by way of lack of integration.

The proposed potential impact on the amenities of nearby residents have been assessed. The only existing boundary treatment separating the site from No 12 Drumsesk Road is a D-rail fence at present. It is proposed to plant this boundary out to the west of the site. However, the rear boundary to the north remains undefined to the rest of the agricultural field. The impact on the amenity of No 75 Warrenpoint Road and No 2 Drumsesk Road have been assessed through the submission of lighting assessments and with consultation with Environmental Health. Given the submission and changes to the floodlighting proposed, the reports clearly take the worst-case scenario of an E1 area and shows that there will not be

an unacceptable detrimental impact. The volume of cars travelling into and out of the site has the potential to compromise the amenity of the existing properties listed above given the lack of existing landscaping proposed to mitigate them, that and the fact that it would take a substantial period of time to mature to give an appropriate level of protection required. It is noted that Environmental Health Department have no concerns relating to noise from the proposed development and its impacts on the neighbouring. While there will be noise generated from the proposal, it must be assessed against the existing background noise currently experienced by immediate residents, with the presences of the traffic noises along the A2, and the light engineering works located in shed adjacent to No 75 Warrenpoint Road. The noise resulting from the proposal before us will not be continuous but rather limited to mostly evening and weekends and this taken together with the existing background noise of the A2 and surrounding land uses will limit any potential noise having an adverse impact on neighbouring residential amenity. This is supported by Environmental Health's response that there will be no adverse impact on residential amenity by way of noise in their most recent response. The objectors in recent correspondence have highlighted that there would be up glow from the floodlights because of this proposal and point out that in the Institution of lighting professional guidance notes for the reduction in obtrusive light the standard for an E1 area should not exceed 0 Lux pre-curfew. In considering this objection I am mindful that within the Mourne's AONB there is substantial large urban areas which would all exceed this threshold. The policy of the AONB requires that the proposal respects or conserves features (including buildings and other man-made features) of importance to the character, appearance or heritage of the landscape. This proposal for lighting will result in an illumination of the sky or up glow within the AONB. However, there are large areas of the ANOB which already experiences this within urban areas and indeed around other sports grounds within the Mourne's AONB. In these areas the recommended 0 Lux pre-curfew is not achieved. The Planning Department having considered all material considerations in this matter, including the characteristics of the AONB, and the existing light pollution of neighbouring street lights along the Drumsesk cottages and the A2 together with the overspill from two nearby urban areas, do not consider that the flood lighting of the pitch for specific times would have a detrimental impact on the character of the AONB. The recent objection letter also states that in the submitted lighting report that property 6 exceeds the recommended Lux levels. The planning Department are aware of this, however as this property does not have a residential use class, no determining weight has been attached to it as it would not adversely affect living or working amenity.

There is no evidence to suggest that public safety could be prejudiced by this proposal and the nature, scale, extent and frequency of use proposed do not render the development incompatible with the surrounding character. A recent objection submitted has raised the concern that the proposed flood lighting would have a detrimental impact on road users due to the lighting having a blinding effect of road users. DfI Roads are the responsible authority for roads safety and they have been consulted on numerous occasions on the scheme in its entirety, including the flood lighting and they have responded stating that they have no roads safety concerns.

The club house will not be able to benefit from an appropriate degree of integration within the surrounding area, this together with the visual impact of the flood lighting standards and ball stop nets will have a detrimental impact on the character of the AONB. There will be a significant amount of earth movement required to accommodate this proposal. The overall

significant impact of the amount of earth moving required to accommodate this proposal will be likely to affect the character and appearance of the rural area and indeed that of the ANOB to its detriment.

No evidence has been suggested to indicate that a movement pattern that supports walking and cycling will be created to an acceptable standard, however the site does have existing and proposed pedestrian linkages with either nearby settlement of Warrenpoint and Rostrevor. These Pedestrian links are not to an acceptable standard in terms of the width required by existing standards, and access by means of transport other than the private car would not be convenient;

At this stage DfI Roads has indicated that the proposed access and internal access road is acceptable when considered against the requirements of AMP 1 and AMP 2. However, as it does not meet the criteria for suitable recreational development within the countryside and the proposal involves a new access road onto a protected route, then the proposal is contrary to criteria (d) of AMP 3 as amended at the end of PPS 21. The proposal is therefore contrary to OS 3.

The Planning Authority have considered whether OS 4 is a policy which this proposal should be assessed against and is of the opinion that this proposal is not an intensive sporting facility and therefore that OS 4 is not applicable.

Policy OS 5

On balance, despite the potential for noise disturbance, I do not consider the proposal to be a noise generating sports and outdoor recreational activity, having regard to the types of "noise generating" activities described in Policy OS 5. The uses described in Policy OS 5 are reflective of sports that rely on the use of motorised or other noise generating equipment, unlike football -which does not involve the use of any equipment like this.

Policy OS 7

There is potential for the development to have an unacceptable impact on the amenities of people living nearby, in particular in relation to the potential impact of the proposed flood lighting on the nearby residential amenity. The Planning Department have requested that this be fully address in a submitted lighting assessment detailing impact on the neighbouring properties. This has been received and consultation with Environmental Health has taken place. The submitted information has assessed the proposal in a worst-case scenario of E1. The submitted information demonstrates that the proposal meets the Guidance Notes for the Reduction of Obstrusive Light' for Pre and Post curfew for Environmental Zone E1 at the sensitive receptor locations, subject to a condition attached if permission is forthcoming restricting the hours of operation of the flood lights from 1800hrs to 2200hrs Monday to Sunday. The objectors in recent correspondence have highlighted that there would be up glow from the floodlights because of this proposal and point out that in the Institution of lighting professional guidance notes for the reduction in obtrusive light the standard for an E1 area should not exceed 0 Lux pre-curfew. In considering this objection I am mindful that within the Mourne's AONB there is substantial large urban areas which would all succeed this threshold. The policy of the AONB requires that the proposal respects or conserves features (including buildings and other man-made features) of importance to the character, appearance or heritage of the landscape. This proposal for lighting will result in an

illumination of the sky or up glow within the AONB. However, there are large areas of the AONB which already experiences this within urban areas and indeed around other sports grounds within the Mourne's AONB. In these areas the recommended 0 Lux pre-curfew is not achieved. The Planning Department having considered all material considerations in this matter, including the characteristics of the AONB, and the existing light pollution of neighbouring street lights along the Drumsesk cottages and the A2 together with the overspill from two nearby urban areas, do not consider that the flood lighting of the pitch for specific times would have a detrimental impact on the character of the AONB. The recent objection letter also states that in the submitted lighting report that property 6 exceeds the recommended Lux levels. The planning Department are aware of this, however as this property does not have a residential use class, no determining weight has been attached to it as it would not adversely affect living or working amenity. The proposal therefore meets policy OS 7.

PPS 21. Policy CTY 13

I am concerned that, based on the information submitted, the development would appear as a prominent feature in the locality. The site would be unable to provide a suitable degree of enclosure for a development of this nature and the proposal could therefore not integrate satisfactorily with the surrounding area.

The proposal would, if permitted, rely upon new landscaping to achieve a satisfactory degree of integration, and significant ancillary works of a large meandering access road, with a access from the A2 cut through a roadside bank, Significant earth works and grading of land to create a flat pitch area, and a Club House building approximately 8.3m from FFL, together with the associated ball stop fences, flood lighting and large carparking areas, would in this case not integrate with the site's surroundings.

The proposal involves a significant proportion of engineering to manufacture a flat surface to accommodate the playing pitch and a level car parking area. This is fundamentally contrary to CTY 13 and to aiding the integration of the development within the rural area and indeed that of the AONB.

The design of the building is inappropriate to this site and in this locality, due to its design height, massing and siting, as it is located close to a listed building and also due to the AONB status and the site's open nature.

The proposal would fail to blend with the existing landform, and the existing vegetation is incapable of providing an acceptable backdrop. On balance, the proposal has failed to comply with criteria of Policy CTY 13.

Policies CTY 14 & CTY 8.

I consider that the proposal would appear unduly conspicuous in the landscape. The resultant development pattern would appear suburban, to the detriment of the character of the area by reasons of suburban development and a build-up of development, and the proposal does not respect the traditional pattern of settlement that is exhibited in this area. Ribbon development would be created along the laneway with the existing two sheds, together with No. 12 Drumsesk Road being read together with the proposed club room building and would harm and erode the rural environment unnecessarily. On balance, the proposal has failed to meet the requirements of Policy CTY 14 and that of CTY 8.

Policy BH 11 is relevant as this development has the potential to impact on the setting of nearby listed buildings. Historic Environment Division Historic Buildings Unit has indicated that Compliance with Policy BH 11 has not been demonstrated as they have several key concerns in relation to the proposal and its impact on the setting on several adjacent Listed Buildings, particularly Arnos Vale by reason of the overall scale of the development and the consequent impact on the wider landscape of this largely undeveloped rural area between Rostrevor and Warrenpoint. For example, a critical view from the Cloughmore Stone takes in a number of listed buildings including Arno's Vale, Rosetta, Drumsesk House and the Ross Monument. The proposal will radically change the character of this view; The proposed access road which run across lands directly in front of Arnos Vale, attendant traffic, noise and likely advertising and signposting; The height and density of the flood lighting – not only when the lights are on, but the impact of the standards; Fencing and netting arrangements would all have an unacceptable adverse impact on the setting of listed buildings listed above and in particular on the setting of Arno's Vale when viewed from the public roadside along the Warrenpoint Road, the Drumsesk Road and the private laneway which will have significant public use as a result of this proposal. The proposal is therefore contrary to BH 11 of PPS 6.

PPS 2 Planning and Nature Conservation

At the date of inspection, I did not detect any signs of wildlife or protected species in the site. Third parties have referred to them however, and NIEA Natural Heritage Division has stated that they do not believe that there will be any impact on wildlife or protected species. As discussed above the development will have an adverse impact on the integrity of the rural area and indeed that of the designated ANOB. This site will have a detrimental impact on the character of the AONB specifically due to the substantial cut and banking required to construct this proposal and the development and associated operational infrastructure of the ball stop nets, flood lighting, car parking, and the proposed access road and club house. These will all be prominent within the local rural area and will be detrimental to the character of the AONB and therefore contrary to NH 6 of PPS 2.

The proposal also includes the provision of sewage treatment by waste water treatment tank. The run of pipe is located within an area of the site which is prone to flooding and is proposed to discharge into a watercourse directly. This raises considerable concern about the possibility of contamination of ground water from the plant and indeed that contamination making its way into nearby watercourses and the Lough situated nearby which has several European designations within it. In recent letters objectors have raised concerns in relation to protected species such as otters which are situated downstream from this proposal towards the lough. Shared Environmental Services, who carry out the Council HRA, have not been able to complete a satisfactory HRA on this proposal. They advise that it cannot be concluded beyond scientific doubt that there won't be adverse impact as a result of this scheme being developed to the Carlingford Lough SPA, Marine proposed SPA and RAMSAR site, Carlingford Shore SAC and Carlingford Lough SPA (ROI). Given that the protection of designations and species the Planning Department must adopt a precautionary approach to considering the implications that this proposal may have. This proposal is therefore contrary to Policies NH 1, NH 2 and NH 5 of PPS 2 in that the proposal may have an adverse impact on the integrity of European Conservation sites and species within the nearby watercourses and Carlingford Lough.

Given that Council cannot ensure that the integrity of these European sites can be protected by condition it is our considered opinion that the proposal cannot meet the requirements of Regulation 43 of The Conservation (Natural Habitats) Regulations (Northern Ireland) 1995 (as Amended 2015).

PPS 3 Access, Movement and Parking

Roads Service has replied to the consultation stated that while it has no objection to the design and layout of the access, that the principle of it must be assessed against AMP 3. The proposal utilises a new access onto the A2 and does not meet the policy requirements for "other development" i.e. outdoor recreational development. Therefore, the proposal is contrary to AMP 3.

As the proposal does not meet OS 3 and CTY 1 for development in the countryside the proposal cannot meet one of the exceptions listed in the amended AMP 3 policy. The proposal also does not propose using an existing access or access onto a side road onto a protected route. This proposal involves the creation of a new access onto the protected route and the proposal is contrary to AMP 3 of PPS 3 as amended.

PPS 15 Flood Risk FLD 1, FLD 3 & FLD 4

The southern boundary of the field is located within the Q100 flood plain and a significant portion of the southern and eastern boundaries are within a surface flooding zoning. At this section of the site there is a grassed area together with the access road into the development and part of the car parking proposed. This is obviously substituting suitable agricultural soil moisture storage for a hard-surfaced area which can increase the changes of flooding elsewhere. As the Red Line of the development site contains land which is within the Q100 flood plain the proposal must be assessed against FLD 1. The proposal is for a sport and recreational ground this proposal would meet the exception criteria (f) within FLD 1 provided that it is accompanied by a flood risk assessment which demonstrates that the proposal will not result in increased flooding in other areas. The Flood Risk Assessment and Drainage Assessment has been submitted in 2015 with the application and Rivers Agency has responded to a consultation on this. Rivers Agency as statutory consultees has advised that the content is acceptable subject to the applicant providing the applicant renews a previously approved schedule 6 agreement. This can be negatively conditioned to be submitted if approval were forthcoming. The Planning Department have re-consulted Rivers Agency in light of the amended scheme with revised waste water treatment facilities. Rivers Agency confirm that they are satisfied that the FRA remains valid and they are satisfied with the findings of the FRA and DA submitted. Rivers Agency have advised that the storage attenuation cells to be developed within the car park will leave the site having a greenfield run off rate. Therefore, the criteria for FLD 1 and FLD 3 are met.

There is proposed culverting to pipe an existing unnamed drain along the southern boundary to allow the access road to be constructed. This meets the policy requirements of FLD 4.

CTY 16 of PPS 21 assesses the disposal of sewage in development schemes in the Countryside. Given that the suggested disposal method here is a waste water treatment tank and the discharge pipe has been located in the area of the site which has been identified as known to flood and hold surface water and discharge directly into a watercourse known to flood, the Planning Authority does not envisage that this sewage disposal scheme is viable

and would therefore not be content to negatively condition it. The proposal is therefore contrary to CTY 16 also.

Recommendation:

Therefore, having considered the proposal against all the prevailing planning policies the Planning Department have concluded that the proposal is contrary to the following Planning Policies and refusal reasons detailed below.

Refusal Reason:

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that: the proposed development is a prominent feature in the landscape; it 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; ancillary works do not integrate with their surroundings; the proposal fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop and therefore would not visually integrate into the surrounding landscape.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that: the development would, if permitted, be unduly prominent in the landscape, the impact of ancillary works would damage rural character, and it would therefore result in a detrimental change to the rural character of the countryside.
4. The proposed development is contrary to Policy OS 3 of the Department's Planning Policy Statement 8 Open Space, Sport and Outdoor recreation, in that it has not been demonstrated that there will be no adverse impact on the natural and built heritage of this area, the proposal will have an adverse impact on the visual amenity of the area, the development will not integrate adequately with its surroundings and as the road network cannot safely handle the additional traffic that is likely to be attracted to the premises.
5. The proposal is contrary to Policy BH 11 of the Department's Planning Policy Statement 6 Planning, Archaeology and the Built Heritage in that it has not been demonstrated that the development will not have an adverse impact on the setting of a nearby listed building.
6. The proposed development is contrary to Policy AMP 3 of the Department's Planning Policy Statement 3 Access, Movement and Parking (as amended), and associated guidance, in that it would result in the creation of a new access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general road safety.

7. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along the private laneway off the Drumsesk Road.
8. The proposal is contrary to the Department's Planning Policy Statement 2, Planning and Nature Conservation policy NH 6 in that the site lies within the Mourne AONB a designated site of local and national importance and would, if permitted, adversely affect the setting and integrity of the area by reason of integration and visual amenity.
9. The proposal is contrary to the Department's Planning Policy Statement 2, Planning and Nature Conservation policy NH 1 and NH 5 in that the proposal if permitted, may adversely affect the features and integrity of the Carlingford Lough SPA, Marine proposed SPA and RAMSAR site, Carlingford Shore SAC and Carlingford Lough SPA (ROI) due to ground water pollution and contamination.
10. The proposal is contrary to Policy CTY16 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not submitted sufficient information on the means of sewerage to properly consider the impact of the development in terms of pollution.
11. The proposal is contrary to the Department's Planning Policy Statement 2, Planning and Nature Conservation policy NH 2 in that the proposal if permitted, may adversely affect the features and integrity of habitats of protected species.

Case Officer: J McParland

Date: 01/12/2020

Authorised Officer: Pat Rooney

Date: 01/12/2020



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: P/2013/0189/F.

Date Received: 15 March 2013.

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

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

Addendum to Case Officer Report

- 1.0.** This application was brought to the Planning Committee on Wednesday 16 December 2020 with an opinion to refuse for the reasons outlined in the Case Officer's Report.
- 2.0.** The Planning Department reported to the Planning Committee that the proposal is based on the provision of sewage treatment by means of a waste water treatment tank. This gave rise to concerns about the possibility of contamination of ground water, nearby watercourses and the Lough situated nearby, which has several European designations within it. In recent letters, objectors have raised concerns in relation to protected species such as otters which are situated downstream from this proposal towards the lough.

- 2.1.** The Planning Department also reported to the Planning Committee that Shared Environmental Services (SES) had not been able to complete a satisfactory HRA on this proposal. This was due to the level of details available and the fact that NIEA had not provided its final comments on the merits and acceptability of the proposed method of sewage disposal. In light of this and the precautionary approach the Planning Department reported that the proposal is contrary to Policies NH 1, NH 2 and NH 5 of PPS 2 in that the proposal may have an adverse impact on the integrity of European Conservation sites and species within the nearby watercourses and Carlingford Lough. It also considered, based on the level of details provided, that the proposal would be contrary to CTY 16 of PPS 16 which deals with the disposal of sewage in the countryside.
- 3.0.** The Planning Committee voted to hold a site meeting to view the site and, in the interim, to allow the agent to submit an engineering solution to address SES concerns.
- 4.0.** Following the Planning Committee Meeting, the applicant submitted further details on the alternative means of sewage treatment on 23 February 2021, which were uploaded onto the planning portal.
- 5.0.** NIEA Natural Environment Division confirmed no objections, on 15 March 2021, to the proposed Treatment Plant in terms of impact on designated sites and other natural heritage interests. In a subsequent response to the Planning Department it confirmed that its previous response, on 15 March 2021, related only to the issues raised in a previous letter of objection dated 23 November 2020 and did not include the views of Water Management Unit on the revised details received from the applicant and posted on the portal. A further formal consultation to Water Management Unit issued on 19 April 2021.
- 6.0.** The Planning Department received 2 further letters of objection from the one address on 5 March 2021. These were repeats of letters previously received and referred to the the Case Officer's Report. These had been fully considered as part of the Planning Department's assessment of this application.

- 7.0. The site visit, by members of the Planning Committee, took place on Friday 5 March 2021. The application is now returned to Committee following that site visit.
- 8.0. The Planning Department awaits a response to its formal consultation issued to Water Management Unit. This is anticipated shortly and ahead of the date of the next Planning Committee. The Planning Department will provide details of that response to the Committee, when received, together with the views of Shared Environmental Services, the statutory body which carries out a Habitats Regulation Assessment (HRA) on behalf of the Council to establish the likely impacts of a proposal on designated sites.
- 9.0. This addendum note should be read in conjunction with the Case Officer's Report previously provided to the Planning Committee.

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

PROJECT	Proposed Sports Complex
REFERENCE	P/2013/0189/F
DATE	28 th April 2021

Thank-you for the opportunity to make a representation to you concerning this application that has been in the planning system for its 9th year. Again, I do not wish to repeat the 11 reasons why this application should be refused, as these have been articulated within the case officer report and have been set out previously in my last presentation to the Planning Committee in December 2020.

However, it is noted that at the time of compiling this speaking note, Shared Environmental Services had yet to respond to the outstanding consultation to the planning department. We are left therefore having to complete a speaking note without having all the necessary and important statutory consultations returned, which we argue is prejudicial to us in our presentation to members.

Shared Environmental Services (SES) as a statutory consultee has previously stressed to the Council (as the competent authority and decision maker) that a satisfactory Habitats Regulation Assessment (HRA) could not be undertaken for the proposal. SES previously explained that it cannot be concluded beyond reasonable scientific doubt that the project will **not** have an adverse effect on the site integrity of Carlingford Lough Special Protection Area (SPA), Marine Proposed SPA and Ramsar site or on Carlingford Shore Special Area of Conservation (SAC) and Carlingford Lough SPA (RoI).

I would like to remind members that dealing with the correct steps in law is fundamentally important for securing a robust planning consent at this and any site. Given the presence of European designated sites, the Council members when considering the planning application is required to consider the relevant test in accordance with the provisions set out in the Habitats Regulations and Regulation 43.

As a reminder one key requirement of the Habitat Regulations is that the decision taker (in this case members) must be certain beyond reasonable scientific doubt as to the absence of effects. The burden of proof is on the **applicant** to demonstrate that the proposal will not have a significant effect. The Regulations require that the Competent Authority (in this case the planning department or members) can only grant a lawful consent for the proposal after having ascertained that there will not be an impact on site integrity. The European test case known as the Waddenzee Case confirmed that any decision must be made on the best scientific evidence available, and that where it could not be shown that there would not be an effect on the integrity of the site, a consent could not lawfully be granted even with planning conditions. Given the response to the application by SES so far and without their latest consultation it is incumbent on members to refuse the application

CLYDE SHANKS

MEETING NOTE

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for this reason alone (being contrary to PPS2 and specifically policies NH1, NH2 and NH5) otherwise any approval would be legally unsound and open to legal challenge. This of course is not to mention the other reasons for refusal.

As part of the revised scheme submitted to the Council on the 23rd February it is noted that there has been a reduction in the number of proposed parking spaces now proposed versus that originally. This amounts to a reduction of 14% in the total no. of spaces. It is also noted that the Council did not consult DFI Roads with regards to the reduction in the no. of spaces now proposed. Consequently, it is considered therefore that again the application is being brought before members without all the necessary statutory consultations in place and therefore any decision to approve the application by members would be open to legal challenge.

The proposal continues to be unacceptable in terms of the principle of development given the nature of the scheme as a sports facility and its location within a countryside setting. The scheme continues to offend policy AMP3 of PPS3 (as contained within PPS21) as the development would involve the creation of a new access out on to a protected route ie the A2, which is contrary to policy. The development does not utilise an existing access within a countryside location nor does it propose access to a minor road. If approved by members as being acceptable this would set a detrimental precedent going forward.

Members will note that HED has consistently raised objections to the development in terms of the detrimental impact caused to the setting of nearby listed buildings as noted within the case officer report. The overall scale of the development, the new access road which will run across lands directly in front of Arnos Vale, the attendant traffic, noise, advertising and floodlighting will all significantly impact on the heritage of this area. However, as a reminder that should members seek to approve the development the application will have to be deferred to DFI Planning for reasons of going against the advice of a statutory consultee.

The applicant has asserted that this is a community asset. However, there are currently over 2,800 residents in Rostrevor and under the GAA's Constitution, only those who are members of the GAA club (circa 400no.) will have access to this pitch. As previously set out, in terms of community benefit there is already a practice pitch at Kilbroney Park, a plethora of meeting rooms and other spaces available for the community within the village limits, including the old primary school, the new primary school, the centre within Kilbroney Park and the Kilbroney centre to mention but a few that are accessible to the whole community.

We therefore continue to respectfully request that the application is refused for the reasons set out within this speaking note and those contained within the case officer report.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2018/1075/F

Date Received: 11.07.2018

Proposal: Erection of 21 dwellings with associated site works

Location: Lands fronting onto Moygannon Road at Junction with Rostrevor Road

Warrenpoint (Opposite 2-16 Moygannon Road; 1&2 Rowallon and 1&2 Rathgannon)

The site is a linear strip of land between the Moygannon Road and the Moygannon River. It is bounded by temporary site fencing along the road to the west side and mature trees along the river to the east. Foundations and substructure for a number of the previously approved detached dwellings were installed some time ago and have become overgrown. The surrounding area is dominated by large detached 2 storey dwellings with a red brick finish. To the south of the site and along the Rostrevor Road lies Moygannon court

apartment development which is 3 storeys in height. There are outdoor recreational uses across the rivers to the east including a GAA Club and a horse riding club.

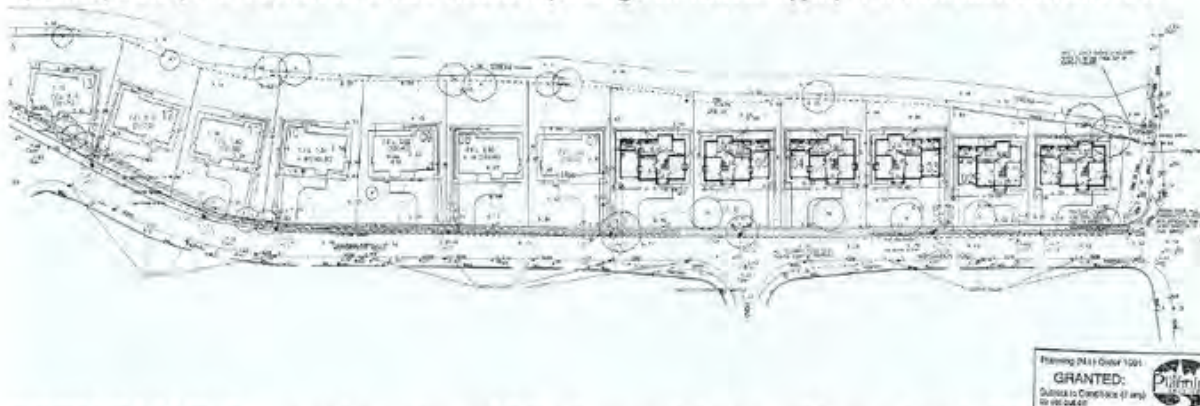
Site History:

P/1996/1253/O- Outline approval

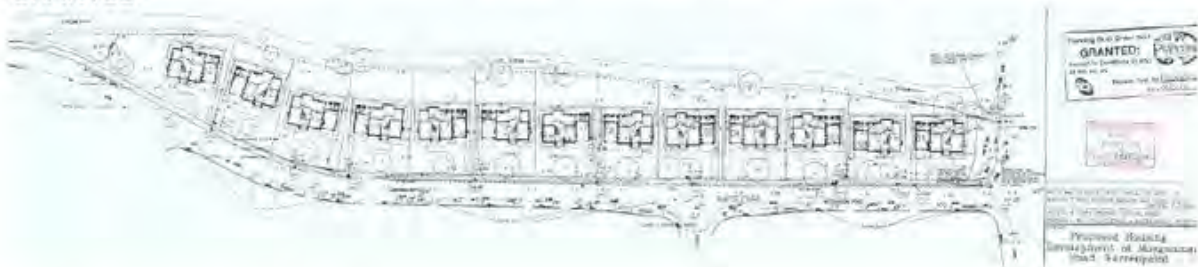
P/1999/1415/F-Erection of 13 no dwellings- PERMISSION GRANTED



P/2002/1164/F-Erection of 6 No. Houses (change of house type)- PERMISSION GRANTED



P/2002/2144/F- Proposed erection of 7 No houses (change of house type)- PERMISSION GRANTED



Neighbouring application

LA07/2020/0457/F- St Peters GAA practise pitch, site roads car park and 2 storey pavilion-pending.

Objections & Representations

No. of neighbours notified=32

No representations received= 62

Advertise expiry of amended proposal from 24units to 21units and amended layout=
09.10.2019

Summary of issues raised by all 62 letter of objection received.

- Roads safety/increase danger- parking and turning issues and increased traffic etc;
- Proposal not in keeping with character, scale, form, massing and appearance of the area;
- Overdevelopment of the site;
- Impact on the stream and flooding risks;
- Impact on wildlife and protected species;
- Impact of the amenity of the nearby residents- overlooking/overshadowing;
- Loss of views;
- Working hours of the developer;
- Devaluation of properties;
- Rise in insurance costs.

All of the above concerns will be addressed through my assessment of the case with exception to those that are not material planning considerations e.g. loss of views, devaluation of properties and a rise in insurance costs. A planning condition can be attached to the formal decision notice restricting the hours of operation during construction to protect the residential amenity of existing residents.

Consultations

Environmental Health- no objection as per submission

NIW

Public water supply within 20m of your proposal, Foul sewer within 20m of your proposal, Surface water sewer within 20m of your proposal, the Developer is required to consult with NIW to determine how the proposed development can be served. Application to NIW is required to obtain approval to connect. Available capacity at the receiving WWTW

Further correspondence from NIW dated 22/2/2021- discussed within the report.

Foyle and Carlingford & Irish Lights Commission

The Loughs Agency requests that all storm water from the development site should not be discharged to nearby watercourses unless first passed through pollution interception and flow attenuation measures. Storm water can carry pollutants into watercourses and high volume discharges can alter the prevailing hydrological regime, both of which can impact on fisheries interests.

NIEA WMU

Water Management unit has considered the Outline Construction Management Statement uploaded to the NIPP (planning porta) in relation to this proposal and are content subject to conditions.

NIEA NED

Natural Environment Division has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns subject to conditions.

Shared Environmental Services (SES)

Outcome: Following an appropriate assessment in accordance with the Regulations and having considered the nature, scale, timing, duration and location of the project, SES advises the project would not have an adverse effect on the integrity of any European site either alone or in combination with other plans or projects.

DfI Rivers Agency

See report below for consideration of DfI Rivers Agency responses and assessment under revised Planning Policy Statement 15.

Consideration and Assessment:

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is located just within the settlement limit of Warrenpoint, a committed housing zoning WB09 Moygannon Road, LLPA WB41 Rostrevor Road/Moygannon Road and an Area of Outstanding Natural Beauty as defined in the Banbridge, Newry and Mourne Area Plan 2015.

Having considered the policies contained within the provisions of the SPPS, the SPPS is less prescriptive than the retained policies, therefore the retained policies are afforded the determining weight.

As stated above the site is within a committed housing zoning. There were a number of permissions on the site which allowed for 13 detached dwellings (see above). The development of 13 detached dwellings on this site remains extant, thus a material consideration.

The proposal will be assessed in line with the policy provision contained within PPS 2, PPS 3, PPS 7, AD PPS 7, PPS 8, PPS 12 and revised PPS 15.

Planning Policy Statement 7: Quality Residential Environments**Policy QD 1**

The Policy states, amongst other things, that 'Planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. The design and layout of residential

development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area. In established residential areas proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas'. All proposals for residential development must be assessed under the criteria set out within the policy.

The most recently received layout plan and elevations are shown below.



This application seeks to gain planning approval for 21 dwellings in total; 5 x 2 storey detached units and 16 x 2 ½ storey semidetached dwellings (2nd floor accommodation provided within the roof). The proposed units are to be served by individual accesses onto the Moygannon Road.

All the dwellings with the exception of the semidetached dwelling (house type A) closest to the Rostrevor Road are orientated to face onto the Moygannon Road. The semidetached dwelling closest to the Rostrevor Road provides a dual frontage; one to the Rostrevor Road and one facing onto the Moygannon Road.

The semidetached dwellings (house types C+C and D+D) facing onto the Moygannon Road are to be of the same design with a small difference in the rear elevation. These semidetached dwellings are to have a maximum ridge height of 9.4 metres above finish floor level (ffl) compared to the dwellings previously approved which had ridge heights of 9 metres.

The semidetached dwellings (house types A +B) closest to the Rostrevor Road in providing the dual frontage will be of a different design but one which complements the other house types. These dwellings will also have a maximum ridge height of 9.4 metres above ffl compared to the dwelling previously approved which had a ridge height of 9.2 metres.

4 of the detached dwellings (house type F) are of a similar design to that previously approved which allowed for a maximum ridge height of 9.2 metres above ffl. However, it is noted that the proposed house type F is to have a slightly lower ridge height than that previously approved of 8.5 metres.

Previously approved House type now to be house type F



The detached dwelling (house type E) to the top of the site is to have a slightly lower ridge height of 7.8metres above ffl due to the rising ground level as you travel along the Moygannon Road from the Rostrevor Road. The previously approved house type on this plot allowed a dwelling with a ridge height of 9metres above ffl.

House type A+B





The existing dwellings within the immediate context are a mix of types and sizes. No. 22 Rostrevor Road, south east of the site is a detached chalet type bungalow with a detached garage to the rear. Moygannon Court to the south of the site provides a number of apartment blocks all of which are 3 storeys in height. The dwellings opposite the site facing onto the Moygannon road are predominantly 2 storey in height.

Having considered the existing developments surrounding the site and sections provided below. The proposed dwellings are of a similar size, scale and massing to those within the immediate context of the site and to those previously approved.





The design of the 2 storey detached dwellings (house type F) as stated above is similar to that previously approved and are of a design similar to the existing dwellings located opposite the site facing onto the Moygannon Road. The design of the 2 ½ storey dwellings (house types C+ C & D +D) will introduce a new house type design into the area. These units with additional accommodation within the roof and single storey balconies to the front will provide a coherent contrast between the 2 storey dwellings and those within the surrounding area. The 2-storey detached dwelling house type E and the semidetached units house types A +B also provide coherent contrasting designs which complement the overall design concept of the development. All the roofs are to be pitched with external chimneys positioned mid slope and to either gable with the exception of house type E where the chimney is external and positioned on the ridge.

The elevations show the walls to be faced in Cleveland rustic brick, UPVC windows and doors and a plain black tile to the roof. The form, materials and detailing of the proposed dwellings draws upon the best of local traditions and will respect and protect the character exhibited within the surrounding area.

The site layout indicates the applicants intention to utilise the ground level and finish floor levels of the dwellings previously approved. The dwellings are to have varying finish floor levels ranging from 5.50-8.10m across the site as seen in the elevational section below.



The layout shows the dwellings sited to face onto the Moygannon road with the plots providing small front and rear garden areas.

In terms of site area, the proposed plots are narrow and long in contrast to the plots within the surrounding area. Overall the ratio of built form to gardens and spaces within the plots is similar and in keeping with that exhibited in the surrounding area. The proposed layout of the dwellings ensures the ratio of built form to gardens and spaces around them provides for a sustainable quality residential layout.

The site layout provides for 2 in-curtilage car parking spaces for each dwelling. The car parking arrangements will allow for parking to the side of the dwellings and within the integral garages. This arrangement will reduce the dominant massing of hardstanding to the front of the properties. The applicant also proposes an area of grasscrete to the front of the semidetached dwellings to the turning areas again reducing the massing of hardstanding when viewed from the public road.

The site layout plan and elevations indicate the applicants intentions to erect a 900mm high brick wall topped with a 100mm coping to the front of the dwellings abutting the public roadpath. The front garden areas are to be separated by a 900mm timber fence and the rear boundaries separating the dwellings and that along the river boundary to be defined by a 1.8m high vertically sheeted timber fence.

There is no requirement for an area of public open space to be provided for 21 units by policy OS 2 of PPS 8. In relation to private open space, the quantum for each unit appears sufficient. The private amenity is located to the rear of all the units. The amenity spaces between the units will be separated by 1.8m high vertically sheeted timber fence. The site facing onto the Rostrevor road will have a screen wall with fence detail above erected along the Rostrevor Road side elevation to ensure an area of private amenity is afforded to this site. The site layout plan refers to the existing natural screening along the eastern boundary to be retained. The majority of the existing screening is outside the ownership or control of the applicant. However, there are a number of trees along the left-hand boundary of the river course within the application site which will be conditioned to be retained.

The garden depths range from 7.8- 14metres. Although 7.8metres is below that recommended by Creating Places these depths are similar to some of those plots within the surrounding area. The separation distances of the dwellings from each other and from the existing dwellings in the vicinity is sufficient to prevent any conflict. There is over a 22 metre separation distance between the semidetached dwellings proposed closest to the Rostrevor Road and no. 22 Rostrevor Road. There is 1-bedroom window on the 3rd floor facing the front and side of no.22 and 1 bedroom window on the 2nd and 3rd floor facing the side and rear of no.22. Having considered the separation distances and the existing mature screening along the banks of the river and the extant planning history this development is not considered to cause a detrimental loss of privacy or cast an unreasonable level of shadow on this property beyond that previously approved.

There were several objections raised regarding the loss of privacy to those existing residents along the Moygannon Road. Having considered the separation distances, the existing position of the private amenity spaces associated with those dwellings and the presence of the existing Moygannon Road, this development poses no detrimental impact on the privacy associated with these dwellings.

Having considered the layout of the development and separation distances to the surrounding properties the proposal is not considered to cast unacceptable levels of shadow to the surrounding properties.

There shall be no conflict between the dwellings within the proposed development given the developments linear layout and the position of the windows with consideration having been given to the room to which the windows will serve.

The layout of the proposal will allow for passive security.

The proposed development is considered to conform with all the criterion of Policy QD 1 of PPS7.

Addendum to Planning Policy Statement 7: Safeguarding the Character of Established Residential Areas

Policy LC1

The first criteria of the policy relates to housing density, the residential density of the 0.9 hectare site for 21 dwellings is 23 units per hectare, in contrast to that of Rowallon and Rathgannon housing development, both having densities of 13/14 units per hectare. Having calculated the density of the existing dwellings facing onto the Moygannon Road the density equates to 17units per hectare. The proposed density of the site is slightly higher than that found in the established residential area. However, having considered the policy context within PPS 12 the proposed density is not significantly higher than that found in the established residential area where it would be considered contrary to the policy provision of PPS 12.

Planning Control Principle 1 of PPS 12 states when considering an increase in housing density within an established residential area, great care should be taken to ensure that the local character, environmental quality and amenity are significantly eroded and that the proposed density, together with the form, scale, massing and layout of the new development will respect that of the adjacent housing and safeguard the privacy of the existing residents.

The proposed development will slightly increase the housing density without cramming. The housing density as discussed above will still ensure that the local character, environmental quality and amenity of the area is not eroded. The proposed density although slightly higher, the proposed form, scale, massing and layout of the new development will still respect and compliment that of adjacent housing and safeguard the privacy of existing residents as considered above.

In relation to criterion (b) the existing developments along the Rostrevor Road and Moygannon Road tend to face onto the public road. As stated above the units are orientated in a way to have the frontages facing onto the Rostrevor Road and Moygannon Road in keeping with that exhibited within the surrounding area.

Criterion (c) requires that all dwelling units are built to a size not less than those set out in Annex A. The proposed development is to provide; five 4bed/8persons 2 storey units and sixteen 4bed/8persons 2 ½ storey units. The proposed dwellings provide floor areas ranging from 160-255sqm, which is over the minimum space standards outline in Annex A of this policy.

Planning Policy Statement 12

Planning Control Principle 1

The proposed development will facilitate an increased housing density within the town without cramming. The housing density as discussed above will ensure that the local character, environmental quality and amenity of the area is not eroded. The proposed density, together with the form, scale, massing and layout of the new development will respect that of adjacent housing and safeguard the privacy of existing residents.

Planning Control Principle 2

The proposed housing development demonstrates a high quality of design, layout and landscaping appropriate to its position within an established residential area.

Planning Policy Statement 2 Planning and Natural Heritage

There are a number of sensitive designations within 7.5kms of the site, these include; Carlingford Lough SPA/RAMSAR and Carlingford Lough ASSI. These sites are of international and national importance and are protected by Conservation Regulations 1995 and the Environment Order 2002.

There are several potential environmental effects associated with both the construction and operational phases of the proposal. The degradation and disturbance of SPA/ASSI features and the respective supporting habitats, due to the release of polluting discharges during the construction and operational phases of the proposal.

The site is approx. 14m North of the boundary of Carlingford Lough ASSI and is also hydrologically connected to both Carlingford Lough ASSI and Carlingford Lough SPA/Ramsar site via the Moygannon River, which runs directly along the Eastern Boundary.

Prevailing regional policy for these sites is set out in the SPPS and PPS 2 NH 1 and NH 3.

Development proposals are restricted where they are likely to impact upon the integrity of European or Ramsar sites as these are afforded the highest form of statutory protection.

Policy NH 1 of PPS states that planning permission will only be granted for a development proposal that, either individually or in combination with existing and/or proposed plans or projects, is not likely to have a significant effect on a European Site or a listed or proposed Ramsar Site.

Given the potential impacts of the proposal on the designated European sites referred to above, the Planning Authority is required by Law to carry out an appropriate assessment of the implications for the site in view of the sites conservation objectives. Only after having ascertained that it will not adversely affect the integrity of the site, can the Planning Authority agree to the development and impose appropriate mitigation measures in the form of planning conditions.

Shared Environmental Services (SES) on behalf of Newry, Mourne and Down District Council which is the competent authority responsible for authorising the project and any assessment of it required by the Regulations has adopted a cautious approach in light of the April 2018 ruling of the European Court of Justice Case C323/17 (People over Wind &

Sweetman) and completed a Habitats Regulation Assessment (HRA) both Stage One and Stage Two Assessment. The HRA included an appropriate assessment of the site and features of the designated sites; Carlingford Lough SPA/Ramsar (including Marine SPA).

SES, having considered the nature, scale, duration and location of the project conclude that, subject to planning conditions in any planning approval, the proposal will not have an adverse effect on site integrity of any European site either alone or in combination with other plans or projects.

The Planning Authority of Newry, Mourne and Down District Council in its role as the competent Authority under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), and in accordance with its duty under Regulation 43, has adopted the HRA report, and conclusions therein, prepared by Shared Environmental Service, dated 16/04/2021. This found that the project would not be likely to have an adverse effect on the integrity of any European site. The Planning Department will impose appropriate mitigation measures in the form of planning conditions, in line with the requirements of Policy NH 1 of PPS 2.

As referred to above the site has a hydrological link to Carlingford Lough ASSI. Policy NH 3 of PPS 2 states that a development proposal within an ASSI will only be allowed where it is not likely to have an adverse effect on the integrity, including the value or the site to the habitat network, or special interest.

The application has been accompanied by a Biodiversity Checklist (date received 19 March 2019), NI Biodiversity Checklist Addendum (dated November 2019), Preliminary Ecological Appraisal and an Outline Construction Method Statement which have been considered by NIEA Natural Environment Division (NED).

NED is content that the site is unlikely to conform to the Northern Ireland Priority Habitat, Open Mosaic Habitat on Previously Developed lands. Therefore, NED is content that the development is unlikely to impact priority habitats. NED has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns subject to conditions being adhered to.

Flood Risk, Drainage Aspect and Surface Water

The site is a long narrow strip of land. The western boundary abuts the Moygannon Road while the eastern boundary abuts the Moygannon River (designated watercourse under the Drainage (NI) Order 1973, which flows from north to south in to the Carlingford Lough, south of the site.

DfI Rivers Agency has confirmed that part of the site lies within the Q100 floodplain and therefore the Planning Authority must deem the proposal an exception before a Flood Risk Assessment (FRA) and Drainage Assessment (DA) will be appraised by DfI Rivers Agency. The Planning Authority considered the proposal is an exception under FLD 1 as there is a previous commitment on the site which has commenced. Thus, there is a valid fall-back position.

The FRA and DA has been prepared, submitted and assessed.
(It is noted that the FRA and DA were based upon a now superseded site layout).

An updated 1-100 year fluvial flood extent map has been produced by DfI Rivers for the specific area of the proposed development site. For clarification, the updated area of flooding is read as the area shown in light blue on the map below (section 4.0 of the technical note from DfI Rivers Agency mapping and modelling unit).



The Planning Authority as stated above in consultation with DfI Rivers Agency advised that they had deemed this application as an exception stating: 'There are previous permissions on this site for 13 detached dwellings, which have been enacted and remain extant, thus a material consideration. On this basis the Planning Department consider the proposal is an exception under FLD1 as there is a previous commitment and fall-back position.'

DfI Rivers Agency in response to this consultation after reviewing the FRA and DA stated that parts of the site (including some of the existing foundations) are still located within the 1 in 100 year fluvial flood plain of the Moygannon River and that this was contrary to FLD 1.

In consideration of this the Planning Authority advised the agent that no intensification would be accepted within the sites within the 1 in 100 year fluvial flood plain and the layout of those particular sites must revert to that previously approved in terms of numbers and levels.

The agent provided the Planning Authority with a plan (see below) showing the extent of the updated 1 in 100 year fluvial flood plain overlaid on the current layout. The agent amended the proposed layout introducing four detached dwellings on plots 3-6 to ensure that there was no intensification of development within the 1 in 100 year fluvial flood plain. As seen in the drawing below the 1 in 100 fluvial flood plain also encroaches into the rear

garden area of a few plots towards the upper end of the application site. The agent has stated that the flood plain only encroaches into the rear garden and that the footprints are not affected. The Planning Authority has accepted this layout and are content that there is no intensification of development within the 1 in 100 flood plain.



In a further consultation with DfI Rivers Agency the Planning Authority referred to previously approved layouts and had asked DfI Rivers 'if the attached approved layouts where completed would they be outside the Q100 including climate change'

DfI Rivers response to this query is as follows:

After reviewing the applicant's proposals, the site is located within the 1 in 100 year fluvial flood plain of the Moygannon River.

The planning authority should be aware that the Department for Infrastructure updated its Technical Flood Risk Guidance in relation to Allowances for Climate Change in Northern Ireland on 25th February 2019.

The Guidance and associated documentation can be accessed or downloaded via the Department for Infrastructure's web page as follows:- <https://www.infrastructure-ni.gov.uk/publications/technical-flood-risk-guidance-relation-allowances-climate-change-northern-ireland>

For your information, based on the climate change maps this site lies within the 1 in 100 year cc fluvial (Q100cc) flood plain.

Having spoken to DfI Rivers Agency previously on their responses regarding the Q100cc. They have advised that they are in possession of more up to date Fluvial Flood Plain (Climate Change) maps. As a consequence of this additional data, they provide guidance and advice to Planning Authorities and applicants on potential future flooding risks. This information is to allow applicants the opportunity to future proof their buildings, to mitigate against this increased risk. However, DfI Rivers Agency has made it clear that the Policy FLD 1 only applies to the present day 1 in 100 year fluvial flood plain.

DfI Rivers in a later consultation response referred to a revised site layout drawing P02G and the raising of the finish floor levels and ground levels. It must be highlighted that these amended finish floor levels are those previously approved. Since this revision the applicant has also reverted to the previously approved ground levels. Therefore, there should be no land raising or infilling within the Q100 beyond that previously approved.

Having considered the valid fall-back position on site against the proposed layout which includes the same ground levels and the same finish floor levels as approved and no intensification of development with the Q100 the Planning Authority could not sustain a refusal reason under Policy FLD 1.

The flood and drainage risk assessment and analysis undertaken indicates that development of the site is not expected to result in an adverse impact to the hydrological regime of the area and is not expected to adversely impact on adjacent lands or properties or to increase flood risk elsewhere.

The proposed development involves the construction of hardstanding, roofed and paved areas within an existing undeveloped / partially developed site area. The proposed development therefore has the potential to increase surface water run off rates and volumes from the site and potentially increase flood risk to existing lands and properties in the area.

An addendum to the drainage assessment was provided in Jan 2021 following the amended site layout (reduction from 24 to 21 dwellings). The agent has also provided a copy of the Article 17 agreement with NI Water and Doherty Developments.

The addendum provides details and information in relation to a constructed and adopted NI Water storm sewer located at Rathgannon, Moygannon. This storm sewer was constructed and adopted by NI Water in October 2006 with the intention of serving the development as previously approved at this particular site. No other stormwater runoff from any other development currently discharges to this storm sewer.

The agent has provided correspondence from NI Water which indicates that the maximum design stormwater discharge from this adopted sewer is 150 l/s. In consideration of the existing adopted storm sewer that has been constructed to serve the previously approved development, the applicant proposes to utilise this existing storm sewer to serve the proposed development.

The 1 in 100 year + climate change un-attenuated stormwater runoff from the proposed development is 124.2 l/s, which is less than the maximum design stormwater discharge from the adopted storm sewer.

Therefore, the existing and adopted stormwater sewer can be utilised to serve the proposed amended development.

NI Water confirmed on 22/2/2021 that although the Article 17 Agreement together with the subsequent adoption of the foul and storm sewers at Rathgannon, Moygannon Road Warrenpoint was for 13 dwellings (already connected), both the adopted foul and storm sewers can serve the additional dwellings being applied for under this application.

NI Water have confirmed that the adopted foul and storm sewers can accommodate 30 dwellings in total. The proposed development will connect 21 dwellings in total, which is 8 dwellings above the 13 dwellings already connected.

DfI Rivers Agency have reviewed the above addendum to the DA submitted together with the soak-pits removed and a valid Article 17 from NI Water and comment as follows:

The applicant has provided adequate drainage drawings and calculations that demonstrate sufficient storage volume in the existing storm water pipework and manholes for a 1 in 100 year return period.

Therefore, the applicant has sufficiently met the requirements of FLD3 of PPS15 and DfI Rivers while not being responsible for the preparation of the Drainage Assessment accepts its logic and has no reason to disagree with its conclusions.

In accordance with Revised PPS 15, Policy FLD 2, a working strip of appropriate width should be retained to enable riparian landowners to fulfil their statutory obligations/responsibilities. Within the FRA and DA it is stated that no development shall be undertaken within 5 m of the right overbank of the Moygannon River. This area is outside the ownership and control of the applicant. No working strip has been retained to the side of the river within the development. However, again given the valid fall-back position on the site which did not allow for a working strip the Planning Authority could not sustain a refusal reason on this basis.

DfI Rivers is against the applicant's proposal for new fencing, as parts of it are located within the fluvial floodplain of the Moygannon River. During a flood event this fence will catch debris causing blockages which will lead to flooding elsewhere.

The applicant has proposed a demountable fence along this rear boundary with the Moygannon River which the Planning Authority believe is a betterment to that previously approved. This will ensure any blockages that may occur in the event of a flood can be easily removed and that access to the river can be achieved from the left-hand side of riverbank.

It is noted FLD 4 and FLD 5 are not applicable to this site.

RECOMMENDATION: Full Approval.

DRAFT CONDITIONS

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.

2. The development hereby permitted shall take place in strict accordance with the following approved plans: P01, P02K, P03C, P04D, P09A, P12A, P14A & P15.

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

3. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

The Department hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as

indicated on Drawing No. P14A bearing the date stamp 20 November 2020

Reason: To ensure there is a safe and convenient road system within the Development and to comply with the provisions of the Private Streets (Northern Ireland) Order 1980.

4. The visibility splays of 2.0 metres by 45 metres at each access of the proposed units with the public road, shall be provided in accordance with Drawing No P14A bearing the date stamp 20 November 2020, prior to the commencement of each unit.

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

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

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

6. The existing natural screenings along the eastern boundary of the application site shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

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

7. Where construction works will occur within 10 metres of the watercourse along the Eastern edge of the red line boundary, prior to commencement of such construction, silt fences shall be erected between these construction works and the watercourse along the Eastern red line boundary. The silt fences shall be adequate to prevent egress of sediment laden water from the site into the watercourse, throughout the construction phases, and shall be removed upon completion of all construction activities.

8. **Reason:** to protect water quality within the adjacent watercourse and thus protect the site features of designated sites downstream.

9. A suitable buffer of at least 10 metres shall be maintained between the location of all refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc. and the water course present along the Eastern edge of the red line boundary.

Reason: to protect water quality within the adjacent watercourse and thus protect the site features of designated sites downstream.

10. There shall be no direct discharge of untreated surface water run-off during the construction and operational phases, into the adjacent watercourse.

Reason: to protect water quality within the adjacent watercourse and protect the site features of designated sites downstream.

11. A final Construction Method Statement (CMS), agreed with the appointed contractor, shall be submitted to and agreed in writing by Newry, Mourne and Down District Council in consultation with NIEA Water Management Unit and Natural Environment Division at least eight weeks prior to any construction works commencing. The CMS shall identify all potential risks to the adjacent watercourse and shall incorporate all of the mitigation and pollution prevention measures as detailed in Outline Construction Method Statement (Risks to Surface Water), O'Sullivan MacFarlane, dated 13 March 2019 and all additional submitted information. The approved CMS shall be adhered to and implemented throughout the construction period in accordance with the approved details, unless otherwise agreed in writing by the council.

Reason: to protect water quality within the adjacent watercourse and thus protect the site features of designated sites downstream.

12. No development shall take place on-site until the method of sewage disposal and a consent to discharge as agreed in writing with NIW under the terms of the Water (NI) Order 1999, has been submitted to and agreed in writing by the Newry, Mourne and Down District Council in consultation with NI Water.

Reason: To ensure a practical solution to foul and storm water disposal from this development is possible at this site.

13. Each building 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.

14. All works and ancillary operations during construction, which are audible at the site boundary, shall be carried out only between the following hours:
08 00 Hours and 18 00 Hours on Mondays to Fridays and 08 00 and 13 00 Hours on Saturdays and; at no time on Sundays and Bank Holidays. Deliveries to and removal

of plant, equipment, machinery and waste from the site, during construction, must only take place within the permitted hours detailed above.

Reason: In the interests of the residential amenities of surrounding occupiers during the construction of the development.

Case Officer: Joanne McVeigh

21/04/2021

Authorised Officer: Pat Rooney

21/04/2021



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

Application Reference: LA07/2019/1695/F

Date Received: Oct 2019

Proposal: Proposed change of use from existing retail/storage to 40 bedroom hotel with restaurant, gymnasium and coffee shop. Demolition of existing single storey infill and creation of four storey infill extension. Reinstatement of existing window openings on rear elevation.

Location: 10 The Mall and 90 Hill Street, Newry, BT34 1BX



Site Characteristics & Area Characteristics:

Characteristics of site: The lands outlined in red comprise an 'L' shape plot which extends from The Mall through to Hill St. On site is a 3 storey retail unit known as 'Toners of Newry' which fronts onto Hill Street. The opposite end of the building fronting onto The Mall is a 4 storey building with retail to the ground floor. The remaining portions of the building are defined as being in use as storage.

See photos below.

The building fronting The Mall is finished in red brick, while the building fronting Hill Street is finished in render. These buildings are listed the status of which are as follows- 90 Hill Street (Grade B2) and 9-10 The Mall (Grade B1). There is currently no off-street parking associated with this application.

The site is centrally located in Newry and fronts onto the Canal. The road and traffic system along both The Mall and Hill St is one-way.

Characteristics of area: The entire site is located within the settlement development limits of Newry as designated within the Banbridge / Newry and Mourne Area Plan 2015. The entire site is also within Newry City Centre, Primary Retail Core and a Designated Conservation Area and Area of Archaeological Potential. The frontage to Hill Street is also within the Primary Retail Frontage. The site is in close proximity to two Listed Buildings which front onto Hill Street. According to The Flood Maps (NI) indicates that the entire development lies within the 1 in 100 year fluvial flood plain.



No. 90 fronting onto Hill Street



No. 10 fronting onto The Mall



Site History:

LA07/2019/1702/LBC - Proposed change of use from existing retail/storage to 40 bedroom hotel with restaurant/bar, gymnasium and coffee shop. Demolition of existing single storey infill and creation of four storey infill extension. Reinstatement of existing windows openings on rear elevation. 10 The Mall and 90 Hill Street, Newry, BT34 1BX. Under consideration.

P/2002/1848/LB - Change of use from warehouse to a public house (Listed Building Consent). 9 & 10 The Mall, Newry, Co Down. Application Withdrawn.

P/2002/1847/F - Change of use from warehouse to a public house (Listed Building Consent). 9 & 10 The Mall, Newry, Co Down. Application Withdrawn.

P/1994/0203 - New shop front and facade refurbishment (LBC) 90 Hill Street, Newry, BT34 1BX. Permission granted.

P/1979/0863 - Proposed New Shop Front. 90 Hill Street, Newry, BT34 1BX. Permission granted.

Planning Policies & Material Considerations:

Banbridge / Newry and Mourne Area Plan 2015

SPPS – Strategic Planning Policy Statement for Northern Ireland

PPS 2 – Natural Heritage

PPS 3 – Access, Movement and Parking

PPS 6 – Planning, Archaeology and the Built Heritage

PPS 15 – (Revised) Planning and Flood Risk

PPS 16 - Tourism

Planning Strategy for Rural Northern Ireland – Policy DES 2

DCAN15 – Vehicular Access Standards

Parking Standards

Newry Conservation Area Guide

Consultations:

Having account the nature of the proposal, and constraints of the site and area consultation was undertaken with a number of statutory bodies including NIW, DFI Roads, Rivers Agency, Environmental Health, Tourism NI, NIEA, SES and HED. The responses are summarised below.

These are considered further below.

Objections & Representations:

In line with statutory requirements, procedure and practice, neighbour notification (NN) and advertising was carried as part of the processing of this application.

An initial round of NN was undertaken in Dec 2019, while a further round of NN was undertaken in Dec 2020 following receipt of amended plans.

The application was also advertised in the local press in Dec 2019.

No representations have been received to date either in opposition or support of the proposal (20-04-21).

Consideration and Assessment:**Proposal:**

As outlined above this proposal is for a change of use, with extension, from existing retail/storage to 40 bedroom hotel with restaurant, gymnasium and coffee shop.

The main issues to be considered are the principle of the development under tourism policy, effects on the setting of listed buildings and historic parks nearby, impacts on protected sites and habitats, design and integration, impacts on amenity and road safety, and area plan designations.

Policy RG4 of the Regional Development Strategy 2035 aims to promote a sustainable approach to the provision of tourism infrastructure. All new or extended infrastructure required to support and enhance the tourist industry needs to be appropriately located and sited with proper regard to tourism benefit and the safeguarding of the natural and built environment on which tourism depends. Development of tourism infrastructure needs to be appropriate to the location to ensure that the natural assets are protected and enhanced. RG11 of the RDS seeks to conserve and protect our built heritage and our natural environment, and specifically, to maintain the integrity of built heritage assets including historic landscapes. The agent has now had five opportunities to submit the information necessary to demonstrate that there will be no impact on the setting and integrity of the planned landscapes and listed buildings adjacent to the site, but has failed to do so.

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is currently within the remit of the Banbridge / Newry & Mourne Area Plan 2015 as the new council has not yet adopted a local development plan. The Plan reflects the approach of the RDS in seeking to provide a choice of tourist accommodation whilst balancing this against the need to protect the natural and built environment.

Principle/Tourism

This site is located within the boundary of Newry Town Centre, whereby the designations are set out above.

This proposal will see this site and existing listed buildings retained, refurbished, converted and extended to provide a new hotel, with restaurant, gym and coffee shop.

The proposals include a restaurant at ground floor adjacent to the lobby/reception area all of which will front and open on to The Mall, with a coffee shop at ground floor fronting and opening on to Hill St. The bedroom accommodation is based at 1st, 2nd and 3rd floor levels, with a gym on the 4th floor. The majority of rooms comprise double beds whereby each room also has its own en-suite.

The development will be internally linked from The Mall through to Hill St.

The design is considered further below.

This is a change of use of existing mid terrace listed buildings within the city centre of Newry whereby the existing building footprint occupies the entire ground floor area.

It is noted the existing use of these subject buildings are retail and storage, with the extent of the primary retail core and frontage noted.

(Retail at ground floor level on Hill St. Small retail unit and storage warehousing at ground floor level on The Mall).

It is acknowledged the proposal do not strictly adhere to the thrust of the primary retail core and frontage policies of the Area Plan, however the mix of uses including those in the immediate vicinity are noted. It is also considered this overall scheme will contribute to the vitality and viability of the City Centre.

As such, on balance, it is considered the principle of these proposals at this location are acceptable.

Policy TSM1 of PPS16: Tourism, states that PP will be granted for a proposal for tourism development (including accommodation) within a settlement, provided it is of a nature appropriate to the settlement, respects the site context in terms of scale, size and design, and has regard to the specified provisions of a development plan.

Policy TSM7 sets out further design and general criteria which all tourism development proposals must meet.

It is considered the tourism use proposed including restaurant and coffee shop does not offend the requirements of PPS16.

Tourism NI were consulted as part of the process who made a number of comments. In summary Tourism NI is keen to see the provision of high quality, well designed and managed tourist accommodation, especially 4* accommodation, and facilities throughout Northern Ireland where these meet or exceed visitor expectations.

Having account the existing usage and designations, no objections are offered to the principle of the use proposed.

Design

The change of use proposed will see the existing built form and fabric of the building retained, whereby the height, scale, mass, appearance, design and finishes will largely remain as per existing. Minor changes are proposed to a number of door and window openings however the majority are being retained as per existing with those proposed being sensitively altered.

An existing single storey internal return is to be demolished with a new 4 storey extension created. This return is not visible from any public viewpoint and makes no contribution to the area due to its location and size. The proposed extension will tie in with the size and scale of the remainder of the building.

Listed Building/Conservation Area

As stated above the existing buildings on site are Listed. Consultation has been carried out with HED with respect to compliance with PPS6, and following receipt of amended plans and further detail/clarification, HED offer no objections in principle to the change of use, extension/alterations and demolition elements proposed, whereby it is considered the proposals do not offend policies BH7, BH8, BH10 and BH11.

The site is also within the boundary of Newry Conservation Area whereby it is considered the change of use and associated details do not offend the requirements of Policy BH12 and BH14 of PPS6.

In essence, this application will ensure the retention, upkeep and survival including character and architectural merit of the building. Discussions and a compromise was reached regarding the removal of a small single storey return, which will be replaced with a new return which respects the character and setting through its size, finishes and detailing.

This proposal will preserve the character and appearance of the area, with the scale remaining unaltered, and associated detailing and finishes. Details have been provided for all changes proposed.

As stated, this is a change of use of an existing building, whereby it is considered the proposals do not offend the requirements of PPS6. See also LA07/2019/1702/LBC.

Access, Movement and Parking

The proposed plans do not incorporate parking provision. PPS3 Policy AMP7 sets out that development proposals are required to provide adequate provision for car parking and appropriate servicing arrangements. The precise amount of car parking will be determined according to the specific characteristics of the development and its location having regard to the Department's published standards.

As this is a change of use proposal of a listed building whereby the ground floor footprint is already fully developed there is no potential for parking within the site.

During assessment of the case the Planning Dept was mindful of the existing use on site and the associated parking requirement, and also the town centre location, nearby car parking facilities and provision, proximity to public transport network, and the Listed nature of these subject buildings. However, the Planning Dept was also aware of the wider parking capacity issues within Newry city.

A parking survey had been provided in support of the application, which acknowledged some 100 parking spaces would be required to service this scheme in line with the Parking Standards guidance document.

The Planning Dept noted the comments from TNI, however, in factoring in the above, determined a flexible approach would be applied regard parking requirements, and as a compromise and resolution to this matter, a condition would be applied (in the event permission is granted), that a level of parking would be provided elsewhere (off-site) to serve this development.

Archaeology

The proposed site is within the historic post-medieval core of Newry, defined as an Area of Archaeological Potential in the Banbridge, Newry and Mourne Area Plan 2015. This represents the area in which we would expect to uncover archaeological remains of the historic settlement. The area of the application site would have been developed from the 18th century onwards in association with the opening of Newry Canal in 1741.

HED (Historic Monuments) has considered the impacts of the proposal. HED (Historic Monuments) is content that the proposal satisfies PPS 6 policy requirements, subject to conditions for the agreement and implementation of a developer-funded programme of archaeological works. This is to identify and record any archaeological remains in advance of new construction, or to provide for their preservation *in situ*, as per Policy BH 4 of PPS 6.

Flood Risk/NI Water

SES advised that having considered the nature, scale, timing, duration and location of the project it is concluded that it is eliminated from further assessment because it could not have any conceivable effect on the selection features, conservation objectives or status of any European site.

NI Waters response advised that although it has been determined if NIW infrastructure is within 20m of your proposal, consultation with NIW is required at an early design stage by means of a Predevelopment Enquiry to obtain details of the availability of existing water and sewerage infrastructure and how their proposal may be serviced if not already applied for.

Rivers Agency first response advised that the Strategic Flood maps indicate that the entire development lies within the 1 in 100 year fluvial flood plain. DfI Rivers would consider that this proposal is contrary to PPS 15, Planning and Flood Risk, FLD 1, and would object to any such development taking place.

Rivers Agency advised development will only be suitable to that part of the site which is found to be outside the determined flood plain. Any development intended within the Q100 flood plains will require the Planning Authority to deem the application to be an exception (through meeting one of the exceptions listed under the exceptions heading of PPS 15 FLD1), before DfI Rivers will appraise the Flood Risk Assessment

The Council deemed this application as an exception to FLD1 as it is considered to be of overriding regional or sub-regional economic importance.

Accordingly Rivers were requested to appraise the FRA and Drainage Assessment, and subsequent more detailed Addendum.

Rivers Agency in its final response advised they were content with the proposals and recommendations outlined in the Addendum, subject to a condition, to ensure that the further investigation works are completed in full, to better inform the final building design and construction.

In respect of Policy FLD3 Rivers noted the Pre Development Enquiry (PDE) response from NIW, who have also refused discharge consent to the NIW network, Accordingly, Rivers are not in a position to review the Drainage Assessment, until storm water discharge consent has been approved, and the rate of discharge agreed.

Rivers raised no issued in respect of policies FLD2, 4 and 5.

The agent provided further correspondence from NIW who have advised it has not proved possible to find a dedicated storm outlet to serve the proposed development within a reasonable distance from the development.

At this time NI Water do not propose to proceed with the provision of a storm sewer to serve the development. The application for a requisition of a storm sewer will be retained and if in future further development in the area allows NIW to consider a dedicated storm sewer for this location your request will be included in any such scheme.

The storm from the proposed re-development may be discharged to the existing combined sewer subject to certain conditions.

NIW also requested confirmation that the proposed total combined discharge from the site does not exceed the existing combined discharge.

While no confirmation has been provided by the agent, the comments from both NIW and Rivers have been noted by the Planning Dept, who have determined the matter will be dealt with by way of a pre-commencement condition.

Noise/Nuisance

Having account the nature of the scheme and mix of elements, consultation was undertaken with Environmental Health. Following the submission of further information/clarification, Environmental Health offer no objections to the proposal subject to condition.

Summary

Taking into account the above, the principle of this change of use is considered acceptable subject to a number of conditions, whereby there are no grounds to sustain a refusal.

Accordingly, Approval is recommended.

Recommendation: Approval

Draft Conditions:

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.
Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.
2. The development hereby permitted shall take place in strict accordance with the following approved plans.
3. No development shall commence until satisfactory arrangements are put in place, and agreed in writing with the Planning Authority, for the provision of a level of car parking commensurate to serve the development of this size hereby approved within the Newry City Centre Boundary as identified on Map No 3/02a and Map No 3/02b of the Banbridge, Newry and Mourne Area Plan 2015 and retained for such purposes thereafter.
Reason: To ensure an appropriate level of car parking provision and in the interest of road safety.
4. No development shall commence on site until a final Flood Risk Assessment and Drainage Assessment have been submitted to and approved in writing by the Planning Dept.
5. A three filter stage extraction ventilation system shall be installed to include –
 - Filtration
 - Electrostatic Precipitation
 - Chemical Neutralisation
6. The flue outlet shall terminate in the most effective position to avoid adverse impact on neighbouring residences, and in any case shall be at least 1m above the highest eaves.
7. No odour abatement equipment is to be installed for the area proposed 'Hill Street Coffee Dock' and 'Hotel Coffee Dock' as per email from agent dated 20th November 2020 RE: Environmental Health Response.
8. All external plant shall be installed as per drawing no: SK02, Project No: 3873, prior to the development coming into use, which shall not cause nuisance to nearby sensitive receptors.
9. No site works of any nature or development shall take place until a programme of archaeological work (POW) has been prepared by a qualified

archaeologist, submitted by the applicant and approved in writing by Newry, Mourne and Down District Council in consultation with Historic Environment Division, Department for Communities. The POW shall provide for:

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

10. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 9 above.

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

11. A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under the conditions above.

These measures shall be implemented and a final archaeological report shall be submitted to Newry, Mourne and Down District Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with Newry, Mourne and Down District Council.

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

12. Prior to commencement of development details shall be submitted and approved in writing by the Council in conjunction with HED of a Fire Safety Strategy and Method Statement for the duration of the works. The works shall be carried out in accordance with the details approved.

13. No work shall commence on site until demolition method statements, detailing how the demolitions will be carried out to, and around, the listed buildings without adversely affecting its structural stability and without damaging the historic fabric proposed for retention, has been submitted to and agreed in writing with the Council in conjunction with Historic Environment Division, and all work shall conform to the agreed method statement.

14. All new external and internal works and finishes and works of making good to the retained fabric, shall match the existing original work adjacent in respect of methods, detailed execution and finished appearance unless otherwise approved in writing by the Council, in conjunction with HED. Detailed finishes schedules and samples are required for approval on any changes proposed.

15. No new plumbing, pipes, soil-stacks, flues, vents or ductwork shall be fixed on the external faces of the building other than those shown on the drawings hereby approved.

16. No new grilles, security alarms, lighting, security or other cameras or other fixtures

shall be mounted on the external faces of the building other than those shown on the drawings hereby approved.

17. No cleaning of masonry, other than low pressure (20-100 psi) surface cleaning using a nebulous water spray shall take place unless agreed in writing with HED through and application to council. Before any other cleaning begins, a method statement showing how the cleaning will conform to BS 8221-1:2012 (Code of practice for cleaning and surface repair of buildings. Cleaning of natural stone, brick, terracotta and concrete) shall be submitted. At the commencement of the cleaning, a test panel shall be undertaken in an inconspicuous position and the method recorded in writing to the approval by the Council in conjunction with HED.
18. A prototype of each different individual window type and each external door shall be provided on site for HED inspection and approval in writing from the Council in conjunction with HED, prior to removal of the relevant existing windows /doors and prior to wholesale fabrication.
19. Slim profile double glazing units shall be:
 - a. 12mm maximum overall thickness;
 - b. Fitted with black or white warm edge spacer bar (not aluminium); and
 - c. Fixed in place with putty, if necessary using butyl or polymer-based to prevent breakdown of seal to double glazed unit.
20. Final coat of paint for all external joinery, including windows, doors, etc. shall be applied on site (i.e. not factory finished).
21. Windows and doors shall not be fitted with visible through-frame trickle vents.
22. Prior to commencement of the relevant works, samples shall be submitted and approved in writing by the Council in conjunction with HED in respect of all materials and finishes proposed for the listed building, to include;
 - a) Secondary glazing – to suit each different window type;
 - b) Render, lime based plaster with no cement-based additives is expected, finished with lime-wash or mineral based paint, i.e. breathable;
23. All new internal partitioning and infill shall be of a lightweight construction and fully reversible.
24. No development shall take place on-site until the method of sewage disposal and storm sewer disposal has been agreed in writing by the Panning Authority in conjunction with Northern Ireland Water (NIW) or a Consent to discharge has been granted under the terms of the Water (NI) Order 1999.

Case Officer Signature: M Keane

Date: 21-04-21

Appointed Officer Signature: A McKay

Date: 21-04-2021



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2019/1702/LBC

Date Received: Oct 2019

Proposal: Proposed change of use from existing retail/storage to 40 bedroom hotel with restaurant, gymnasium and coffee shop. Demolition of existing single storey infill and creation of four storey infill extension. Reinstatement of existing window openings on rear elevation.

Location: 10 The Mall and 90 Hill Street, Newry, BT34 1BX



Site Characteristics & Area Characteristics:

Characteristics of site: The lands outlined in red comprise an 'L' shape plot. On site is a 3 storey retail unit known as 'Toners of Newry' which fronts onto Hill Street. The opposite end of the building fronting onto The Mall is a 4 storey building with retail to the ground floor. The remaining portions of the building are defined as being in use as storage. See photos below.

The building fronting The Mall is finished in red brick, while the building fronting Hill Street is finished in render. These buildings are listed the status of which are as

follows- 90 Hill Street (Grade B2) and 9-10 The Mall (Grade B1). There is currently no off-street parking associated with this application.

The site is centrally located in Newry and fronts onto the Canal

Characteristics of area: The proposed site is located within the settlement development limits of Newry as designated within the Banbridge / Newry and Mourne Area Plan 2015. The site is within Newry City Centre, Primary Retail Core and a Designated Conservation Area and Area of Archaeological Potential. The site is in close proximity to two Listed Buildings which front onto Hill Street. According to The Flood Maps (NI) indicates that the entire development lies within the 1 in 100 year fluvial flood plain.



No. 90 fronting onto Hill Street



No. 10 fronting onto The Mall



No. 10 fronting onto The Mall

Site History:

LA07/2019/1695/F - Proposed change of use from existing retail/storage to 40 bedroom hotel with restaurant, gymnasium and coffee shop. Demolition of existing single storey infill and creation of four storey infill extension. Reinstatement of existing window openings on rear elevation. 10 The Mall and 90 Hill Street, Newry, BT34 1BX. Under consideration.

P/2002/1848/LB - Change of use from warehouse to a public house (Listed Building Consent). 9 & 10 The Mall, Newry, Co Down. Application Withdrawn.

P/2002/1847/F - Change of use from warehouse to a public house (Listed Building Consent). 9 & 10 The Mall, Newry, Co Down. Application Withdrawn.

P/1994/0203 - New shop front and facade refurbishment (LBC) 90 Hill Street, Newry, BT34 1BX. Permission granted.

P/1979/0863 - Proposed New Shop Front. 90 Hill Street, Newry, BT34 1BX. Permission granted.

Planning Policies & Material Considerations:

Banbridge / Newry and Mourne Area Plan 2015

SPPS – Strategic Planning Policy Statement for Northern Ireland

PPS 6 – Planning, Archaeology and the Built Heritage

Consultations:

HED were consulted as part of this application, who offer No objection subject to recommended planning conditions and informatives.

(Additional consultation was undertaken with other agencies as part of the associated Full application)

Objections & Representations:

In line with statutory requirements, procedure and practice, no neighbour notification (NN) was undertaken, however advertising was carried as part of the processing of this application.

The application was advertised in the local press in Dec 2019.

No objections or representations have been received to date either in opposition or support of the proposal (20-04-21).

(Neighbour notification was undertaken as part of the associated Full application).

Consideration and Assessment:

Proposal:

As outlined above this proposal is for a change of use, with extension, from existing retail/storage to 40 bedroom hotel with restaurant, gymnasium and coffee shop.

The main issues to be considered are the principle of the development under tourism policy, effects on the setting of listed buildings and historic parks nearby, impacts on protected sites and habitats, design and integration, impacts on amenity and road safety, and Area Plan designations.

HED have advised the subject buildings at both No. 10 The Mall and 90 Hill Street are Listed.

HB16/28/029 - 9-10 The Mall, (Grade B1)

HB16/28/057 - 90 Hill Street, (Grade B2)

These are listed buildings of special architectural or historic interest as set out in Section 80 and protected under the Planning Act (NI) 2011.

This application includes a change of use, with demolition and new build, and falls to be considered against the following.

SPPS 6.13 (Change of Use, Extension or Alteration of a Listed Building) & 6.15 Demolition of Listed Building of the Strategic Planning Policy Statement for Northern Ireland (SPPS): Planning for Sustainable Development, and Policies Policy BH7 (Change of Use of a Listed Building), BH8 (Extension or Alteration of a Listed Building) & Policy BH10 (Demolition of a Listed Building) of the Department's Planning Policy Statement 6: Planning, Archaeology and the Built Heritage.

From the outset HED advised they were content with the principle of the development proposed as part of this application, however advised it must be appropriate.

Following discussion and exchanges of correspondence and the submission of amended plans and further clarification and details, HED in its most final response offer no objections to the change of use, extension/alterations and demolition elements proposed, whereby it is considered the proposals do not offend policies BH7, BH8, BH10 and BH11.

In essence, this application for a change of use will ensure the upkeep and survival including character and architectural merit of the building. Discussions and a compromise was reached regarding the removal of a small single storey return, which will be replaced with a new return which respects the character and setting through its size and finishes. The detailed design and finishes have also been agreed and will be conditioned.

This proposal will preserve the character and appearance of the area, with the scale remaining unaltered, and associated detailing and finishes respected.

Accordingly, Consent is recommended subject to condition.

Recommendation: Consent Approved

Conditions:

1. The works hereby permitted shall be begun not later than the expiration of 5 years beginning with the date on which this consent is granted.
Reason: As required by Section 94 of the Planning Act (Northern Ireland) 2011
2. Prior to commencement of development details shall be submitted and approved in writing by the Council in conjunction with HED of a Fire Safety Strategy and Method Statement for the duration of the works. The works shall be carried out in accordance with the details approved.
3. No work shall commence on site until demolition method statements, detailing how the demolitions will be carried out to, and around, the listed buildings without adversely affecting its structural stability and without damaging the historic fabric proposed for retention, has been submitted to and agreed in writing with the Council in conjunction with Historic Environment Division, and all work shall conform to the agreed method statement.
4. All new external and internal works and finishes and works of making good to the retained fabric, shall match the existing original work adjacent in respect of methods, detailed execution and finished appearance unless otherwise approved in writing by the Council, in conjunction with HED. Detailed finishes schedules and samples are required for approval on any changes proposed.
5. No new plumbing, pipes, soil-stacks, flues, vents or ductwork shall be fixed on the external faces of the building other than those shown on the drawings hereby approved.
6. No new grilles, security alarms, lighting, security or other cameras or other fixtures shall be mounted on the external faces of the building other than those shown on the drawings hereby approved.
7. No cleaning of masonry, other than low pressure (20-100 psi) surface cleaning using a nebulous water spray shall take place unless agreed in writing with HED through and application to council. Before any other cleaning begins, a method statement showing how the cleaning will conform to BS 8221-1:2012 (Code of practice for cleaning and surface repair of buildings. Cleaning of natural stone, brick, terracotta and concrete) shall be submitted. At the commencement of the cleaning, a test panel shall be undertaken in an inconspicuous position and the method recorded in writing to the approval by the Council in conjunction with HED.
8. A prototype of each different individual window type and each external door shall be provided on site prior to removal of the relevant existing windows /doors and prior to wholesale fabrication, for the approval of the council in conjunction with HED.
9. Slim profile double glazing units shall be:
 - a. 12mm maximum overall thickness;
 - b. Fitted with black or white warm edge spacer bar (not aluminium); and
 - c. Fixed in place with putty, if necessary using butyl or polymer-based to prevent breakdown of seal to double glazed unit.

10. Final coat of paint for all external joinery, including windows, doors, etc. shall be applied on site (i.e. not factory finished).
11. Windows and doors shall not be fitted with visible through-frame trickle vents.
12. Prior to commencement of the relevant works, samples shall be submitted and approved in writing by the Council in conjunction with HED in respect of all materials and finishes proposed for the listed building, to include;
 - a) Secondary glazing – to suit each different window type;
 - b) Render, lime based plaster with no cement-based additives is expected, finished with lime-wash or mineral based paint, i.e. breathable;
13. All new internal partitioning and infill shall be of a lightweight construction and fully reversible.

Case Officer Signature: M Keane

Date: 21-04-21

Appointed Officer Signature: A McKay

Date: 21-04-2021



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

Application Reference: LA07/2020/1394/O

Date Received: 01/10/2020

Proposal: Proposed 1 1/2 Storey dwelling (Ridge Height of 7.5m) and garage.

Location: 90m West of No16 Desert Road, Mayobridge, Newry, BT34 2JB

Site Characteristics & Area Characteristics:

The application site relates to an elevated parcel of land forming part of a larger agricultural field located along Desert Road. The site can be accessed via a laneway to the south west. Part of the rear site boundaries are formed by low level stone with the eastern and southern boundaries undefined. The application site is located outside any defined settlement limits.



Application Site

Planning

& Material Considerations:

The following policy documents provide the primary planning context for the determination of this application:

- Strategic Planning Policy Statement (SPPS)
- Banbridge/ Newry and Mourne Area Plan (2015)
- Planning Policy Statement 3- Access, Movement and Parking
- Planning Policy Statement 21- Sustainable Development in the Countryside

Policies

Site History:

There is no relevant planning history on the application site.

To the west of the site:

- **P/2004/2366/O**- Site for dwelling and garage on lands 100m SW of 16 Desert Road, Rathfriland. Permission granted 17th August 2006 subject to a ridge height condition of 5.5m above FFL.
- **P/2009/1056/RM**- Erection of dwelling and garage 100m SW of 16 Desert Road, Rathfriland. Permission granted 16th October 2009.

Consultations:

- **NI Water**- Generic response provided
- **DAERA**- Confirmed farm business ID has been in existence for more than six years, that the Business id identified on P1C submitted claimed payments through the Basic Payment Scheme of Agri Environment Scheme in each of the last six years and that the application site is land for which payments are currently being claimed by the farm business.

- **DFI Roads-** No objections in principle, conditions provided.

Objections & Representations:

No neighbours required notification and the application was advertised within one local newspaper with the statutory expiry 27/10/2020. No objections or submissions have been received.

Assessment:

The site lies outside any settlement limits defined by the Banbridge/ Newry and Mourne Area Plan (2015).

Strategic Planning Policy Statement for Northern Ireland

Paragraph 1.12 of the SPPS states that where the SPPS introduces a change of policy direction and/ or provides a policy clarification that would be in conflict with the retained policy the SPPS should accord greater weight in the assessment of individual planning applications. However, the SPPS does not introduce a change of policy direction nor provide a policy clarification in respect of proposals for residential development in the countryside. Consequently, the relevant policy context is provided by the retained Planning Policy Statement 21- Sustainable Development in the Countryside. Policy CTY1 of PPS 21 sets out a range of types of development which in principal are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.

PPS21- Sustainable Development in the Countryside

Policy CTY1 of PPS 21 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.

This application seeks outline planning permission for a new dwelling house and detached garage on a farm and as such Policy CTY 10 is applicable.

The Agent was contacted on 13th November 2020 advising of concerns/ further information required to progress the application:

- *Include all lands within the control of the applicant in blue, are the farm buildings at 16 within the control of the applicant?*
- *Provide land registry maps with folio details for lands to the west of the application site which has approvals under P/2004/2366/O & P/2009/1056/RM to demonstrate no development opportunities have been disposed of.*
- *In terms of criterion c of Policy CTY10, we are of the opinion that given the separation distance and distance in levels on the ground, that the proposed dwelling would not be visually linked or sited to cluster with an established group of buildings on the farm.*
- *The site is an elevated open site and we would also have concerns it would be contrary to Policies CTY8 and CTY13 and 14 of PPS21.*

The Agent provided the following response on 20th November 2020:

- *I have amended the site location map to show all adjacent land within the farm holding outlined in blue and will forward copies shortly.*
- *The applicants solicitor is providing confirmation that the extant site is still within the farm holding which I will forward shortly.*
- *I have again visited site and from the public road there is a visual link between the rear sheds and the proposed site. The proposed dwelling could have ground levels reduced to that of the front portion of the site to enhance this link. As stated in the application our reason for choosing this site is that it is a rock outcrop with little agricultural use but this rock could be lowered to accommodate any new dwelling. Also the proposed site is directly adjacent to the lane to the farm and there would be minimal visual impact from the access.*
- *The site levels can be reduced if deemed necessary. There are trees at a lower level to the rear of the site and an existing approval on lands to the west which would add to the sense of enclosure. Although the applicant would prefer a ridge height suitable for decent attic accommodation they would consider a ridge height restriction allowing some form of first floor accommodation in conjunction with reduced site levels if the site was deemed acceptable. If this is an option I can provide a site section and details of ridge height for inclusion with the approval documents.*

Land registry maps with folio details were provided on 5th February 2021. The application will be assessed based on information submitted to date.

Policy CTY 10 states:

"Planning permission will be granted for a dwelling house on a farm where all of the following criteria can be met:

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

In such circumstances the proposed site must also meet the requirements of CTY 13 (a-f), CTY 14 and CTY16".

Assessing this planning application against the criteria of CTY 10:

- a) DAERA have confirmed that the farm business ID has been in existence for more than six years, that the Business id identified on P1C submitted claimed payments through the Basic Payment Scheme of Agri Environment Scheme in each of the last six years and that the application site is land for which payments are currently being claimed by the farm business.

- b) Land registry details were requested to demonstrate that the development opportunities P/2004/2366/O and P/2009/1056/RM had not been disposed of. Folio maps and title deeds have been provided to demonstrate compliance with criterion b.
- c) The Agent contends that from the public road there is a visual link between the rear sheds and the proposed site.

While it is noted the applicant (Mr Christopher Simpson) lives in Warringstown, the farm business is registered to Mr Graham Simpson of 16 Deserts Road.

The farm dwelling at No 16 and associated buildings are accessed via a laneway to the south east of the application site and are sited at a lower level than the application site. Given the topography, separation distance and separate access proposed, it is considered the proposal would not be visually linked or sited to cluster with an established group of buildings on the farm and consider the proposal to fail to meet criterion c.

Policy states that Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either demonstrable health and safety reasons or verifiable plans to expand the farm business at the existing building group. The supporting statement states that the site was chosen as it is next to the working farm yard but not immediately beside the busy yard with all the inherent Health and Safety concerns. However, no further information has been submitted to advance this argument.

Policy CTY 13 requires new buildings in the countryside to be visually integrated into the surrounding landscape. A new building will be unacceptable where it will be a prominent feature in the landscape, where it lacks long established natural boundaries or is unable to provide a suitable degree of enclosure or where it relies primarily on the use of new landscaping for integration. The application site lacks a southern or eastern site boundary as it forms part of a larger field. The roadside boundary is formed by part stone wall and part wire and post fencing which offers no integration for the site particularly given its elevated nature. The proposed dwelling of 7.5m ridge height would appear as prominent in the landscape on approach from the east, the site lacks established boundaries to provide enclosure and would rely on new landscaping for integration. As highlighted above, the proposal is not visually linked or sited to cluster with an established group of buildings on a farm. The proposal is contrary to criterion a, b, c and g of Policy CTY13.

Policy CTY 14 states that permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of the area. A new building will be unacceptable where it creates or adds to a ribbon of development. As previously stated, the approval of a dwelling and garage on the application site would create a ribbon of development and appear as prominent in the landscape which is contrary to criterion a and d of Policy CTY14.

PPS3- Access, Movement and Parking

DFI Roads have been consulted on this application and are content subject to conditions. The proposal is considered to comply with Policy AMP2 as the access will not prejudice road safety or significantly inconvenience the flow of traffic.

Recommendation: Refusal

Reasons for Refusal:

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm and access to the dwelling is not obtained from an existing lane.
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:
 - the proposal would appear as a prominent feature in the landscape
 - the proposed site lacks long established natural boundaries
 - the proposed building relies primarily on the use of new landscaping for integration
 - the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm

and therefore, would not visually integrate into the surrounding landscape.
4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would if permitted, appear as a prominent feature in the landscape and create a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.
5. This refusal notice relates to the following plan: 2508-L Rev A.

Case Officer Signature: E. Hart

Date: 23/02/2021

Appointed Officer Signature: M Keane

Date: 02-03-21

Description of the application – PROPOSED 1 ½ STOREY DWELLING (RIDGE HEIGHT OF 7.5M) AND GARAGE 90M WEST OF 16 DESERT ROAD, MAYOBRIDGE, NEWRY, BT342JB

– REFUSAL FOR THE FOLLOWING REASONS.

1. The proposal is contrary to CTY1 of PPS21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY10 of PPS21 and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm and access to the building is not obtained from an existing lane.
3. The proposal is contrary to Policy CTY13 of PPS21 in that;
 - the proposal would appear as a prominent feature in the landscape.
 - the proposed site lacks long established natural boundaries.
 - the proposed building relies primarily on the use of new landscaping for integration.

The proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore, would not visually integrate into the surrounding landscape.

4. The proposal is contrary to Policy CTY14 of PPS21 in that the buildings would if permitted, appear as a prominent feature in the landscape and create a ribbon of development and would therefore result in a detrimental change in the rural character of the countryside.
5. The refusal notice refers to the following plan 2508L RevA.

I wish to comment on each of the Refusal Reasons as follows;

1. Reason 1. DAERA have confirmed that the Farm Business is active and so fulfils the criteria required for a dwelling on a farm hence this type of development cannot be located within a settlement and is essential in this rural location. This reason for refusal cannot be sustained if the siting issue is resolved.

2. Reason 2. The Case Officer has not considered the information provided regarding the access to the proposal. The access is via an existing lane to the farmyard. Also, as can be seen from the site plan the development does cluster with the existing group of farm buildings and likewise from the Case Officers actual photograph on the report you can see the visual link. Nowhere in the policy does it determine the nature or extent of the link but only states that there should be one. The interpretation of CTY10 is therefore in my incorrect in this instance.

3. Reason 3. The interpretation of CTY13 in this instance has been taken literally and should be assessed with consideration of para 5.58 of CTY13 which reads "Landscapes vary, and this needs to be taken into account. The determination of whether a new building integrates into the landscape is not a test of invisibility: rather it requires an assessment of the extent to which the development of the proposed site, including the necessary site works, will blend in unobtrusively with its immediate and wider surroundings."

In the Case Officers report there is no detailed reference to the surrounding area and how it is developed. There are trees to the rear of the proposal. Rising ground and an existing stone wall to the side and a stone wall along the road frontage with an existing lane used for access so in effect only one boundary is not established. This is indeed acceptable to the majority of sites in the countryside.

4. Reason 4. This reason regarding prominence can be overcome if the proposal is deemed acceptable with regard to CTY13. Also, clarification must be given as to why the issue of ribbon development has been raised when CTY8 has not been listed as a reason for refusal.

5. Reason 5. This is not a reason for refusal as such as it refers to the drawing attached to the application.

In summary,

We would ask that the Committee reconsider the opinion of Planning as in our opinion the application has been assessed using the policy literally with no regard to the location and the development pattern in the area. There is only one photograph in the report (and this actually proves there is a link between the site and the farm buildings).

We would argue that the policies have been interpreted negatively by Planning and to bring the application before local Council members here today will allow the issues to be debated more positively and in so allow a local farmer to develop a site which he is entitled to have for the benefit of his son and his young family.

Should through the course of the discussions a site visit be deemed necessary then we would welcome this to give all concerned the opportunity to view development along the Desert Road, the adjacent Benagh Road and Cro Hill Road. This would enable them to get a feel for what has been historically acceptable by Planning in this area and in turn allow this site to be approved.



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**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2021/0029/F

Date Received: 22.12.2020

Proposal: New farm shop and vegetable garden

Location: Killeavy Castle Estate, 12 Ballintemple Road, Killeavy, Newry, BT35 8LQ

Site Characteristics & Area Characteristics:

The site as outlined in red takes in a portion of a larger agricultural field situated on lower ground to the front of Killeavy Castle and adjacent to the Hotel complex. The site is located on the foothills of Slieve Gullion within the Ring of Gullion AONB, outside the development limit for Meigh.

Site History:

LA07/2021/0038/LBC

New farm shop

Decision Pending

P/2014/0216/F

Restoration, repair and minor alterations to grade A castle, erection of detached marquee to rear of castle, alterations and extension to listed farm buildings to create 40-bed hotel, restoration of walled garden, erection of detached plant room and store and associated site works

Permission Granted: 20.03.2015

Consultations:

Transport NI – No objections subject to no intensification.

NI Water – Water can be taken from existing supply and sewage to be disposed at existing treatment plant.

Environmental Health – No objections

DAERA – Armagh – Cat 1 business established in 2016 with subsidies claimed over 4 years

Historic Environment Division- Despite further information submitted, HED maintain the proposal contrary to SPPS / PPS 6 in that the siting will have an adverse impact on the setting of a Listed Building. Alternative siting suggested. Historic Monuments has removed Killeavy Castle from their register.

Objections & Representations

2 Neighbours notified on 22.02.2021 and the application was re-advertised on 02.03.2021. No objections or representations received.

Planning Policies & Material Considerations:

Banbridge Newry and Mourne Area Plan 2015.
 Strategic Planning Policy Statement for Northern Ireland
 Planning Policy Statement 21
 Planning Policy Statement 2
 Planning Policy Statement 3 / DCAN 15.
 Planning Policy Statement 6
 Planning Policy Statement 16

Consideration and Assessment:

The proposal seeks planning permission for a vegetable garden and farm shop. The agent has described the proposal as 'This is primarily a tourist facility, directly associated with the existing Tourist amenity – Killeavy Castle Estate. Funding for the project is through Tourism NI. Visitors and guests to the Killeavy Castle Estate and users and visitors to the existing tourist facilities of the Estate including Killeavy Castle, Hotel, Mill Building, Cafe, Walled Garden will experience the meat curing and storage of meats that are the used within the hotel. Equally tourists can walk the vegetable gardens and then see the finished prepared vegetables in the farm shed.'

Banbridge, Newry and Mourne Area Plan 2015

The site is located in the countryside/AONB as depicted in the Banbridge Newry and Mourne Area Plan 2015. However, as there are no specific policy requirements unique to these designations, the application will be considered against prevailing policy.

Planning Policy Statement 21

Policy CTY 1 of PPS 21 confirms proposals for tourism development will be considered against the TOU policies of the Planning Strategy for Rural Northern Ireland. However, as the TOU policies have been superseded by Planning Policy Statement 16, the proposal will be considered against PPS 16.

Planning Policy Statement 16 – Tourism / Strategic Planning Policy Statement

The SPPS is less prescriptive than the retained policies in terms of an extension to a tourist facility and therefore determining weight will be assigned to the retained policies in compliance with paragraph 1.12 of the SPPS.

Policy TSM 2 is applicable for tourist amenities in the Countryside and the proposal is considered against the 'Extension of an Existing Tourist Amenity' section. The proposal is to be run in conjunction with the existing tourism facility, namely Killeavy Castle Hotel as noted above in the Agent's submission.

The nature of the proposal for a farm shop and vegetable garden is appropriate for the location. Paragraph 6.279 of the SPPS provides for the provision for a farm shop in the countryside whilst a vegetable garden is an acceptable land use within the rural area.

The relevant policies outlined above direct that the conversion of existing buildings should be considered before the erection of new buildings in order to minimise new built development within the countryside. It is accepted that all existing buildings surrounding the site are occupied and conversion is not feasible in this instance.

Policy directs that new buildings should be sited and designed to integrate with its context. The proposed building which would accommodate the farm shop is of a modest scale. It is of an appropriate design and would be finished in acceptable external materials. However, the proposed building would be sited in a somewhat isolated position in front of Killeavy Castle, which is a Grade A Listed Building. Whilst the proposed building would sit at a much lower

ground level, it would be in the direct line of sight of this important heritage asset when viewed from Ballintemple Road.

It is acknowledged that the modern hotel and associated development is readily visible alongside the Castle when viewed from Ballintemple Road. However, the siting of the proposed building would interrupt the remaining unrestricted view of the Castle from the public road. It is considered that the effect would unacceptably harm the setting of this heritage asset.

Consequently, the proposal is contrary to Policy TSM 2 of PPS 16 in that the siting of the proposed building would not integrate with the overall development and would adversely impact the rural character and landscape quality.

Policy TSM 7 is applicable to all tourism applications. As explained, there are no concerns in terms of the design criteria a-f. However, under 'General Criteria' the proposal fails parts (g) and (i) in that the proposal would detract from the landscape quality and character of the surrounding area and adversely affect features of the built heritage (Killeavy Castle) for the reasons listed in detail above. Consequently, the proposal is contrary to part (g) and (i) of policy TSM 7 of PPS 16.

Planning Policy Statement 3

DFI Roads raises no objection with regard to Planning Policy Statement 3 on the basis there would be no intensification of use in the context of the existing hotel. I do not consider the proposal to represent intensification of use.

Planning Policy Statement 2

Policy NH 6 is applicable for new development in AONB's. Whilst the siting and scale of the proposed building would not harm the AONB in general terms, it would not respect / conserve features of importance namely Killeavy Castle. Consequently, the proposal is contrary to Part b) of policy NH 6 of PPS 2 in that the proposal does not respect or conserve features of importance to the character, appearance and heritage of the landscape.

Planning Policy Statement 6

Due to the close proximity of the proposed site to Killeavy Castle the proposal falls to be considered under policy BH11; Development affecting the setting of a Listed Building.

Following consultation with Historic Environment Division, the Department has confirmed that it considers the proposal to have an adverse impact when assessed under Paragraph 6.12 of Strategic Policy Planning Statement for Northern Ireland and Policy BH 11 Development affecting the Setting of a Listed Building) of the Department's Planning Policy Statement 6: Planning, Archaeology and the Built Heritage.

HED qualify their comments by noting 'additional sections and elevations are welcomed however they demonstrate that, however modest and diminutive the Farm Shop may be, the proposal interrupts the vista towards the listed building from the Ballintemple Road, which is currently characterised by open pasture with low level hedging and trees in between fields culminating in the impressive Castle'.

I concur with the objections received from HED and consequently the proposal is contrary to policy BH 11 of PPS 6 for the above reasons.

Policy BH 8 of PPS 6, which concerns the extension or alteration of a Listed Building is also relevant as this also relates to curtilage. With the amendment to the wall which forms part of the curtilage in order to develop the land for a farm shop, the settling of the Listed Building is compromised from the critical views, particularly from the Ballintemple Road. To this end, the

proposal is contrary to part (a) of policy BH 8 of PPS 6. Parts (b) and (c) are, on balance, broadly in keeping with the policy.

To note, Officers have suggested an alternative siting for the proposed building which would be more sympathetic to the setting of the castle and is welcomed by HED. Unfortunately, the applicant is unwilling to pursue this option.

Recommendation:

Refusal

Reasons

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and policy TSM 2 of Planning Policy Statement 16 in that the siting of the building would harm the rural character and landscape quality of the local area.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and policy TSM 7 of Planning Policy Statement 16 part (g) in that the siting of the building would detract from the landscape quality and character of the surrounding area and part (i) in that the proposal would adversely affect features of the built heritage.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and policy NH6 of Planning Policy Statement 2 in that the siting of the building would not respect or conserve features of importance to the character, appearance or heritage of the landscape.
4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and policies BH 8 (a) and BH 11 (a) of Planning Policy Statement 6 in that the siting of the building would not respect the setting of the listed building.

Case Officer: Ashley Donaldson 21.04.2021

Authorised Officer: Anthony McKay 21.04.2021



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application

Reference: LA07/2021/0038/LBC

Date Received: 22.12.2020

Proposal: New farm shop

Location: Killeavy Castle Estate, 12 Ballintemple Road, Killeavy, Newry

Site Characteristics & Area Characteristics:

The site as outlined in red takes in a portion of a larger agricultural field situated on lower ground to the front of Killeavy Castle and adjacent to the Hotel complex. The site is located on the foothills of Slieve Gullion within the Ring of Gullion AONB, outside the development limit for Meigh.

Site History:

LA07/2021/0029/F

New farm shop and vegetable garden

Decision Pending

P/2014/0216/F

Restoration, repair and minor alterations to grade A castle, erection of detached marquee to rear of castle, alterations and extension to listed farm buildings to create 40-bed hotel, restoration of walled garden, erection of detached plant room and store and associated site works

Permission Granted: 20.03.2015

Planning Policies & Material Considerations:

Banbridge Newry and Mourne Area Plan 2015

Strategic Planning Policy Statement for Northern Ireland

Planning Policy Statement 6: Planning Archaeology and the Built Heritage.

Consultations:

Historic Environment Division – consider the proposal contrary to the SPPS and policy BH 11 of PPS 6.

Objections & Representations

2 neighbours notified on 22.02.2021 and the application was re-advertised on 09.03.2021– no representations/objections received.

Consideration and Assessment:

The application impacts upon the Castle (Grade A), which is of special architectural and historic interest and is protected by Section 80 of the Planning Act (NI) 2011. Listed Building consent is required due to the alterations to the wall which is within the curtilage of the listed building.

Historic Environment Division has been consulted with regards to PPS 6 and the SPPS. The Department has objected to the proposal, advising that 'the proposal has an adverse impact on the listed buildings, when assessed under Paragraph 6.12 of Strategic Policy Planning Statement for Northern Ireland and Policy BH 11 (Development affecting the Setting of a Listed Building) of the Department's Planning Policy Statement 6: Planning, Archaeology and the Built Heritage'.

The explanatory note from HED states that 'although modest in comparison to the new-build hotel, the new enclosure and the shop will impact on a key vista towards the castle from Ballintemple Road with the potential to further erode the character of its setting'. I concur with this position which has been outlined in detail within the Full application and conclude that the siting of the proposal in front of the Castle would have a compromising impact on the setting of the Listed Building.

Policy BH 8 of PPS 6 concerns the extension or alteration of a Listed Building and this is relevant because it includes the curtilage. With the amendment to the wall which forms part of the curtilage in order to develop the land for a farm shop, the settling of the Listed Building would be compromised from the critical views, particularly from the Ballintemple Road. To this end, the proposal is contrary to part (a) of policy BH 8 of PPS 6. Parts (b) and (c) are, on balance, broadly in keeping with the policy.

Recommendation:

Refusal

Reason:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and policies BH 8 (a) BH 11 (a) of Planning Policy Statement 6 in that the siting of the proposed building would not respect the setting of the Grade A Listed Killeavy Castle.

Case Officer: Ashley Donaldson 21.04.2021

Authorised Officer: Anthony McKay 21.04.2021



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2020/0605/F

Date Received: 14.05.2020

Proposal: Replacement dwelling and amended Access

Location: 61 Ballytrim Road Crossgar

Site Characteristics & Area Characteristics:



The application site is occupied by a detached bungalow and outbuildings. The site is accessed by a laneway leading from the Ballytrim Road. There is a defined garden area to the front of the dwelling and an open grassed area to the rear.

The dwelling is positioned to the front with its front elevation orientated to the Ballytrim Road. Immediately west is an outbuilding with another building to the rear of the dwelling but separated by an area of hardstand. A third outbuilding is further north of, within the rear portions of the site. The red line of the site also includes a cut out of the agricultural field to the west. The site is surrounded by open countryside. To the rear of the site is a residential property, No. 14 Ballywillan Road East. Land levels within the rear portion of the site gradually rise.

The site is outside any settlement limits as defined by the Ards and Down Area Plan 2015.

Site History:

There is no planning history relevant to the application site.

Planning Policies & Material Considerations

- Strategic Planning Policy Statement for Northern Ireland (SPPS).
- Ards and Down Development Plan 2015.
- Planning Policy Statement 21 – Sustainable Development in the Countryside.
- Planning Policy Statement 3 – Access, Movement and Parking.
- Planning Policy Statement 2 – Natural Heritage.
- Planning Policy Statement 6 – Planning, Archaeology and the Built Heritage.
- Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside.

Consultations:

There were four consultations issued for this proposal. See details below.

- Northern Ireland Water (NI Water) – Generic response. (27/05/2020).
- The Department for Infrastructure Roads (DFI Roads) – No objections subject to conditions. (05/06/2020).
- The Historic Environment Division (HED) – HED (Historic Monuments) has assessed the application and on the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements. (06/07/2020).
- Northern Ireland Environment Agency (NIEA) – On receipt of additional Natural Environment Division (NED) has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, is content with the proposal, with recommendations and informatives. (01/02/2021).

Objections & Representations

There were two neighbour notifications issued for this application. The application was advertised in the local press on 27th May February 2020. There were no representations received.

Consideration and Assessment:

This application seeks planning permission for a replacement dwelling.

Strategic Planning Policy Statement for Northern Ireland

Paragraph 1.12 of the SPPS states that where the SPPS introduces a change of policy direction and / or provides a policy clarification that would be in conflict with the retained policy the SPPS should be accorded greater weight in the assessment of individual planning applications. However, the SPPS does not introduce a change of policy direction nor provide a policy clarification in respect of proposals for residential development in the countryside. Consequently, the relevant policy context is provided by the retained Planning Policy Statement 21, Sustainable Development in the Countryside. Policy CTY1 of PPS21 sets out a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.

Planning Policy Statement 21 – Sustainable Development in the Countryside

Policy CTY1 of PPS21 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development. PPS21 states that planning permission will be granted for a replacement dwelling in accordance with Policy CTY3.

Principle of Development

Policy CTY3 states that for planning permission to be granted the building to be replaced must exhibit the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. Having inspected the site the Planning Department is satisfied that the building exhibits the essential characteristics of a dwelling with window and door openings, small porch and chimney on the ridge.

The principle of development is considered acceptable with the building to be replaced seen as a replacement opportunity. Proposals for a replacement dwelling are also required to meet five additional criteria set out in CTY3.

The first additional criterion of Policy CTY 3 requires that the proposed replacement dwelling should be sited within the established curtilage of the existing building, unless either (a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or (b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits. The proposal will see the replacement dwelling positioned on the footprint of the existing dwelling. The outbuildings to the side and rear of the dwelling will be demolished to accommodate the extent of new dwelling. An extension of the defined curtilage is required to accommodate the sizeable replacement proposed.

The second additional criterion of Policy CTY 3 requires that the overall size of the new dwelling should allow it to integrate into the surrounding landscape and not have a visual impact significantly greater than the existing building. The application site is occupied by four built structures. To the front is a single storey dwelling, that is linear in form. To the west of the dwelling is a two-storey outbuilding. Immediately north of the dwelling and separated from the dwelling's rear elevation by an area of hardstand is the shell of a two-storey stone outbuilding with its roof missing and no first-floor structure. Within the rear portion of the application site, positioned along the site's rear eastern boundary, is a further outbuilding which is single storey and linear in form, it has corrugated metal on external walls and roof. Due to rising land levels within the application site, this outbuilding is set on slightly elevated land. The dwelling to be replaced is setback approx. 194m back from the road frontage. As noted above, the new dwelling will be constructed upon the existing dwellings footprint and requires the demolition of the surrounding outbuildings to accommodate the sizeable new replacement. Further, an extension to the existing curtilage is proposed which will incorporate part of an agricultural field into the defined curtilage.

From viewpoints on Ballytrim Road, the existing buildings are visible in the landscape. Due to the dwellings small scale nature, its setback from the road

frontage, the positioning of the outbuildings to the rear and the presence of intervening vegetation, the buildings visual impact is considered minimal.

The proposed replacement dwelling would comprise of three distinct parts building components, the main dwelling to the front, a building to the rear accommodating a triple garage and a smaller connecting building between. The new dwelling would have a footprint of approx. 500sqm, providing accommodation over three levels. The front section of the building would measure 19m wide, would be 9.9m in height with a single storey side extension. The building components to the rear have a reduced ridge height from that of the main dwelling. Due to the change in levels, the building to the rear will present as a two-storey building along its southern elevation and single storey along its northern elevation, successfully blending with the landform.

From the Ballytrim Road, the separation distance and intervening vegetation would somewhat ameliorate the impact of the development on visual amenity. Nonetheless, the scale of the proposed dwelling would render the development prominent in the landscape and its visual impact would be significantly greater than that of the existing buildings. As such, the Planning Department consider the proposal fails to comply with Policy CTY 3 in this respect.

The third additional criterion of Policy CTY 3 requires that the design of the replacement dwelling should be of a high quality and appropriate to its rural setting and have regard to local distinctiveness.

The proposed design provides substantial living accommodation. The use of dormer windows within the roof along the front and side elevations is contrary to guidance in Building on Tradition: A sustainable Design Guide for the NI Countryside, which recommends avoiding dormers within the roof. A hipped roof covering will be provided to the main dwelling to the front, with pitched roof coverings for the buildings to the rear. External finishes include natural slate, painted render, random field stone, timber windows and doors and aluminium rainwater goods. Built form to the rear will not be highly visible from public views. Apart from the roof dormers, the dwelling's front elevation is considered acceptable and reflective of traditional built form. While built form is contained within the existing curtilage, on account of the buildings scale, an extension to the existing curtilage is required cutting into the agricultural field to the west and thus impacting on the rural character.

Given the nature of this application to replace a dwelling, it is considered all necessary services are available or can be provided without significant adverse impact on the environment or character of the locality.

The Department for Infrastructure Road has been consulted on this proposal and is satisfied with the access onto the Ballytrim Road subject to conditions being met. The access to the public road is not considered to prejudice road safety or significantly inconvenience the flow of traffic.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and is of an appropriate design. It has already been concluded above that from the Ballytrim Road the proposed development would appear prominent in the landscape owing to its scale. The ancillary works creating an extended curtilage would not

integrate into their surrounding and the design of the building would be inappropriate for the site and its locality.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. As outlined above, considering in views from Ballytrim Road, the building would appear prominent in the landscape and the ancillary works to extend the curtilage into the adjoining agricultural field to the west and north west would damage rural character.

PPS2 Natural Heritage

It was considered necessary to consult with NIEA on this application given the number of buildings adjacent to mature trees and hedgerow and surrounded by agricultural fields and fragmented areas of woodland. Upon initial consultation with NIEA, Natural Environment Division (NED) had requested additional information. On assessment of the Ecology Survey and Impact Assessment, Natural Environment Division (NED) concluded that on the basis of the information provided, is content with the proposal, with recommendations and informatives.

Access and Parking

DFI Roads raised no objections to the proposal subject to conditions being met. It is considered that access and parking provisions are acceptable.

Development relying on non-mains sewerage.

Policy CTY 16 – The application would appear to comply with this policy, a condition should be included to ensure a copy of a consent to discharge be submitted prior to commencement of the development.

Recommendation:

Refusal

Case Officer:	Laura O'Hare
Date:	08.04.2021
Appointed Officer :	A.McAlarney
Date:	09 April 2021

Refusal Reasons:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the overall size of the new dwelling would not allow it to integrate into the surrounding landscape and would have a visual impact significantly greater than the existing dwelling. The design of the proposed replacement is not appropriate to its rural setting and does not have regard to local distinctiveness.

2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would (a) be a prominent feature in the landscape, (d) the ancillary works do not integrate with their surroundings and (e) the design of the building is inappropriate for the site and its locality.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted (a) be unduly prominent in the landscape and (d) the impact of ancillary works would damage rural character.

Informative

1. This decision relates to the proposal as indicated by drawing no's. 19-37-01, 19-37-03, 19-37-05, 19-37-06, 19-37-07, 19-37-08, 19-37-09 and 19-37-10.

Introduction

LA07/2020/0605/F - REPLACEMENT DWELLING AT BALLYTRIM ROAD

This application has been recommended for refusal because the Officers consider that the development would have significantly greater visual impact than the existing; it would not integrate; and it would be prominent.

We disagree with the assessment, and we have produced a series of photomontages to demonstrate why the proposal will be compliant with policy.

Policy Considerations

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We would also ask the Committee to note:

1. Policy CTY3 does not prohibit houses which are larger than the ones they replace. The test is not greater visual impact, but **SIGNIFICANTLY** greater visual impact.
2. This site is nearly 200 metres back from the public road, so all views are over this distance.
3. Substantial new landscaping will be provided. When this matures, especially along the roadside, the new house will barely be visible.
4. The development will replace not just an existing bungalow, but a series of old outbuildings as well.
5. The site nestles within the context of the drumlin landscape. It is not skyline, nor is it prominent.

Site Context – viewpoint 1



OS reference:	349650 E 353200 N	Horizontal field of view:	60° (cylindrical projection)	Camera:	Canon EOS 6D
Eye level:	27m AOB	Paper size:	420 x 297 mm (A3)	Lens:	50mm (Canon EF 50mm f/1.8)
Direction of view:	31°	Correct printed image size:	390 x 94 mm	Camera height:	1.5m AGL
Distance to site:	236m			Date and time:	02/04/2021 13:08

Existing and Proposed – viewpoint 1



Existing



Proposed

Site Context – viewpoint 2



OS reference:	348836 E 352622 N	Horizontal field of view:	60° (cylindrical projection)	Camera:	Canon EOS 6D
Eye level:	26.84m AOB	Paper size:	420 x 297 mm (A3)	Lens:	50mm (Canon EF 50mm f/1.8)
Direction of view:	338°	Correct printed image size:	390 x 94 mm	Camera height:	1.5m AGL
Distance to site:	189m			Date and time:	02/04/2021 13:13

Existing and Proposed – viewpoint 2

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Existing



Proposed

Conclusions

The proposal is for a high quality, elegant building which will be sited at the base of drumlins with a mature backdrop.

Whilst it will be larger than the dwelling it replaces, it will not have significantly greater visual impact. It will nestle comfortably into the landscape.

There will be no harm whatsoever to local landscape or rural character. On the contrary, this will revitalise an existing property which is rundown and unattractive.

We would ask the Committee to grant permission.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

Newry, Mourne
and Down
District Council

Application Reference: LA07/2020/0719/F

Date Received: 10.06.2020

Proposal: Offsite Replacement Dwelling.

Location: 171 Rathfriland Road, Dromara.

Site Characteristics & Area Characteristics:



The application site is comprised of a detached two storey dwelling and outbuildings and the front section of a larger agricultural field. The site has a frontage with the Rathfriland Road and access to the site is provide by a cross over from this road in front of dwelling, No. 171 Rathfriland Road. An agricultural gate provides access from the Rathfriland Road into the adjoining field. Levels within the agricultural field gradually rise as you move across it from north west to south east. The immediate area surrounding the dwelling is generally flat. There is a gradual rise in land levels as you drive up towards the dwelling from the road with a further rise at the rear of the dwelling resulting in a split level of the land.

To the south west of the site is a detached dwelling (No. 175) and to the South, east and north west of the site is open agricultural land. Finnis Orange Hall is further north east of the site with St Michaels Primary School further beyond that.

The application site is included in a rural area, it is outside development limits as defined by the Banbridge, Newry and Mourne Area Plan 2015 and is included in an Area of Outstanding Natural Beauty.

Site History:

- Q/1981/0455, 171 RATHFRILAND ROAD, DROMARA, DROMORE, PROPOSED EXTENSION AND IMPROVEMENTS TO DWELLING, PERMISSION GRANTED.

Planning Policies & Material Considerations:

- Strategic Planning Policy Statement for Northern Ireland (SPPS).
- Banbridge, Newry and Mourne Area Plan 2015.
- Planning Policy Statement 21 – Sustainable Development in the Countryside.
- Planning Policy Statement 3 – Access, Movement and Parking.
- Planning Policy Statement 2 – Natural Heritage.
- Building on Tradition Design Guide.

Consultations:

There were two consultations issued for this proposal, see details below.

- Department for Infrastructure Roads (DFI Roads) – No objection on the basis the dwelling to be replaced could be occupied at present or following minor modification. (29/07/2020).
- Northern Ireland Water – Generic Response (20/07/2020).

Objections & Representations

There were two neighbour notifications issued for this application. The proposal was advertised in the local press on 15th June 2020. There were no representations received.

Consideration and Assessment:

Strategic Planning Policy Statement for Northern Ireland

Paragraph 1.12 of the SPPS states that where the SPPS introduces a change of policy direction and / or provides a policy clarification that would be in conflict with the retained policy the SPPS should be accorded greater weight in the assessment of individual planning applications.

Paragraph 6.73 of the SPPS is no more prescriptive than the text of PPS21 in relation to replacement dwellings. Thus the retained policies of PPS21 take precedence in decision making in accordance with the transitional arrangements outlined in the SPPS. Policy CTY3 of PPS21 indicates that proposals for a replacement dwelling will only be permitted subject to certain criteria but the fundamental requirement is that the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. The policy goes on to state that for the purposes of this policy all references to 'dwellings' will include buildings previously used as dwellings.

PPS 21 CTY3 Principle of Development

Policy CTY3 states that for planning permission to be granted the building to be replaced must exhibit the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact.

All Replacement Cases

In addition to the above, proposals for a replacement dwelling will only be permitted where all the following criteria are met:

- the proposed replacement dwelling should be sited within the established curtilage of the existing building, unless either (a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or (b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits;*
- the overall size of the new dwelling should allow it to integrate into the surrounding landscape and would not have a visual impact significantly greater than the existing building;*
- the design of the replacement dwelling should be of a high quality appropriate to its rural setting and have regard to local distinctiveness;*
- all necessary services are available or can be provided without significant adverse impact on the environment or character of the locality; and*
- access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic.*

For the purposes of this policy 'curtilage' will mean the immediate, usually defined and enclosed area surrounding an existing or former dwelling house.

The building is currently lived in, there is no doubt that the building is a dwelling and meets the essential characteristics of such.

This proposal seeks the replacement of the dwelling outside the defined curtilage in the adjoining field. CTY 3 outlines that the proposed replacement dwelling should be sited within the established curtilage of the existing dwelling, unless either

- (a) the curtilage is so restricted that it could not reasonable 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.

A Supporting Planning Statement for this proposal was submitted highlighting amenity and landscape benefits. The agent outlined that due to the topographical change in land adjoining the application site to the east and the formed hedge row along its shared boundary together with the position of Finnis Orange Hall to the north east, the overall extent of the views of the site along this stretch of road would be minimised. The position of the application site in relation to the Finnis Orange Hall will result in it screening views of the site but only for a small stretch along the Rathfriland Road. On inspection of the site, it was found that the existing site at 171 Rathfriland Road to be of a sufficient size to support an on-site replacement dwelling.

The curtilage is not thought to be so restrictive that it could not reasonable accommodate a modest sized replacement dwelling. The site of the existing dwelling is also afforded the benefit of screening by the established shared boundary along the proposed sites north eastern boundary, but it also benefits from the presence of existing mature vegetation along its frontage with the Rathfriland Road which extends around the western side garden, providing a greater sense of enclosure to the existing curtilage when viewed from the south west. It has been indicated on the drawings that the mature vegetation along the existing dwellings road side boundary is to be retained, the mature vegetation that extends around the garden area is not. The removal of this mature vegetation along the existing dwellings south western boundary, together with the removal of the dwelling and outbuildings would leave a new dwelling in adjacent field open to greater views on approach to the site from the south west. Three new boundaries are to be formed to enable integration of a dwelling within the application site into the surrounding area and provide a suitable level of enclosure. The proposed planting along these boundaries will inevitably take a considerable length of time to mature and in the interim would not mitigate the impact of new development. While the FFL level of the new dwelling is comparable with the existing dwelling, a significant cut of up to 3 metres is required from the field to accommodate it. For these reasons an off-site replacement in the adjoining field is not considered to offer demonstrable landscape benefits.

The Supporting Planning Statement also outlines amenity benefits from offsetting the replacement dwelling would be a reduction in noise level from traffic on the adjoining Rathfriland Road. Without seeking specialist surveys detailing the level of exposure to traffic noise a dwelling within the existing curtilage compares to a dwelling within the adjoining field this is unable to be determined and therefore this amenity benefit is not demonstrable in this case.

To conclude, the proposed alternative site for the off-site replacement is a cut out of the middle section of a larger field with the proposed new dwelling sited 36m east of the existing dwelling. The proposed site will have a frontage onto the Rathfriland Road measuring 40 metres wide including the existing access used to serve the dwelling to be replaced. Levels within the site gradually rise as you move back from the road frontage and given its proposed 44 metres setback from the road, the new dwelling will occupy an elevated site above the level of the Rathfriland Road. The road side frontage is defined by a timber post and wire fence and an agricultural gate, with minimal low-level vegetation leaving it quite open to public views when passing the site. The north western boundary is the only other boundary formed partially by a block wall. A new boundary is to be formed within the application site setback approx. 24 metres from the road frontage resulting in part of the agricultural field remaining between the proposed dwelling and the Rathfriland Road. New boundaries are to be formed to the rear and along the sites south western boundary by post and wire fencing with a native a species hedgerow planted behind. A dwelling proposed for this site cannot be adequately integrated as it would sit higher than the roadside boundary and given that the site will be cut from a larger

agricultural field substantial landscaping and boundary treatment will be required for it to be adequately integrated into the surrounding landscape.

On assessment of the elevations and floor plans, there are no concerns regarding the design of the replacement dwelling being of a high quality appropriate to its rural setting. However, a dwelling on this offsite location would result in a significantly greater visual impact than the existing.

There is nothing to suggest all necessary services cannot be provided without significant adverse impact on the environment or character of the locality.

The existing vehicular access serving the dwelling at 171 Rathfriland Road is to be retained and used to serve the new dwelling. A new driveway will be formed off the access leading into the application site.

CTY 13

CTY 13 requires new buildings to be visually integrated into the surrounding landscape and be of an appropriate design. The position of the proposed replacement dwelling will occupy the central portion of a much larger roadside agricultural field with only two full boundaries formed. As noted above, landscaping proposed to form the new boundaries will take a length of time to mature and in the interim would not mitigate the impact of new development. Further, the dwelling proposed for this site cannot be adequately integrated as it would sit higher than the roadside boundary and will require substantial landscaping in order to be adequately integrated.

Policy CTY 14

New dwellings in the countryside must not cause a detrimental change to, or further erode the rural character of an area. As noted above, the proposed dwelling will not be more prominent in the landscape than the existing dwelling due to buildings design. As this dwelling is proposed to replace the dwelling on site it would not result in a suburban style build-up, nor will it create or add to ribbon development. On this basis, the proposal is considered to be acceptable.

Impact on Amenity

The new dwelling within the application site is set considerable distance from other residential dwellings. For this reason, there are no adverse impacts envisaged on surrounding residential amenities.

Access and Parking

DFI Roads has been consulted on this proposal. They are satisfied that as there will be no intensification in the use of the existing access no improvements are required. Parking and turning of vehicles within the application site is considered satisfactory.

Development relying on non-mains sewerage.

Policy CTY 16 – The P1 form has detailed that the proposal will be using a septic tank for sewage disposal. A condition shall be included to ensure a copy of a consent to discharge be submitted prior to commencement of the development.

Other considerations

As part of this proposal, outbuildings are to be demolished within the application site. Upon inspection of these buildings the roof has partially collapsed leaving approx. half of the roof remaining intact and a large opening where the roof has collapsed. A biodiversity checklist was not considered necessary due to the open and exposed nature of these buildings following the collapse of the roof. There was no indication during the site inspection that bats were or had been present.

The agent has advised that the applicants would be temporarily homeless should an off-site replacement not be granted which would allow for the retention of the dwelling at 171 Rathfriland Road. This is not considered to be sufficient reason to outweigh the proposals obvious offence of CTY3 and CTY13. The planning office would in the circumstances allow for temporary accommodation on site under CTY9 during the build of the replacement onsite.

Conclusion

The principle of a replacement dwelling is accepted in this instance and policy CTY 3 does permit the off siting of a replacement dwelling where there are demonstrable landscape, heritage, access or amenity benefits resulting, but in this case the existing curtilage is not considered to be so restrictive to accommodate a modest sized dwelling and there are not considered to be demonstrable amenity or landscape benefits resulting from an offsite replacement proposal.

Recommendation:

Refusal

<p>Case Officer: Laura O'Hare</p> <p>Date: 19.10.2020</p>
<p>Appointed Officer Annette McAlarney</p> <p>Date: 19 October 2020</p>

Refusal Reasons:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that, the proposed replacement dwelling is not sited within the established curtilage of the existing dwelling and it has not been shown that the alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits.

2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that: the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape. The proposed dwelling would therefore result in a greater visual impact significantly greater than the existing building.



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**Newry, Mourne
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District Council

Application Reference: LA07/2020/0719/F

Date Received: 10.06.2020

Proposal: Off site Replacement Dwelling

Location: 171 Rathfriland Road, Dromara

Addendum to Case Officers Report

Planning application LA07/2020/0719/F was recommended for refusal on the 16/11/2020 with the following refusal reason:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that, the proposed replacement dwelling is not sited within the established curtilage of the existing dwelling and it has not been shown that the alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that: the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape. The proposed dwelling would therefore result in a greater visual impact significantly greater than the existing building.

This application featured at the Council's Planning Committee in December 2020. It was agreed that the application be referred back to the Planning Department to allow for more evidence to be presented to support the case for this application.

A Noise Assessment was submitted by the to the Planning Department for consideration on the 4th March 2021 and a consultation was issued to the Newry, Mourne and Down Environmental Health Department (EH) for their advice and guidance as to whether there was currently an issue with noise at the current

property at 171 Rathfriland Road, EH confirmed that *"in the last 6 years Environmental Health of Newry Mourne and Down District Council has not received noise complaints from or about this property"*.

The Planning Department received additional information from the agent on the 9th March 2021 in regard to this application. This included a letter from the previous owners of 171 Rathfriland Road confirming that the location of the proposed dwelling was part of the original farm yard area associated with the dwelling and was finished in hard standing of stone/gravel to accommodate the storage of black bales for silage. Further, it was outlined in this letter that the existing house was noisy at times because of road traffic. An amended Site Plan was submitted demonstrating the retention of mature vegetation along the existing dwellings south western boundary.

Having regard to the further information submitted from the agent by way of noise report and following consultation with EHO the Planning Department maintains its position in that it cannot be sustained that there is a current noise issue at the current property and that the offsite locating of this dwelling will result in amenity benefits.

Further whilst it is acknowledged that part of new dwellings curtilage was previously an area used for the storage of bales (demonstrated by aerials of the site in 2012), this is not currently the arrangement on site. As previously noted in the case officers report, the site of the existing dwelling is afforded the benefit of screening by the established shared boundary along the proposed sites north eastern boundary, but it also benefits from the presence of existing mature vegetation along its frontage with the Rathfriland Road which extends around the western side garden, providing a greater sense of enclosure to the existing curtilage when viewed from the south west. The amended Site Plan demonstrates the retention of existing mature vegetation along the existing dwellings southwestern boundary, however three new boundaries are to be formed to enable integration of a new dwelling within the application site into the surrounding area and to provide a suitable level of enclosure. The proposed planting along these boundaries will inevitably take a considerable length of time to mature and in the interim would not mitigate the impact of new development.

The Planning Department considers that the additional information submitted does not overcome the reasons for refusal as previously offered by the Planning Department.

Case Officer:	Laura O'Hare
Date:	21.04.2021
Appointed Officer :	Annette McAlarney
Date:	21 April 2021

Reference: LA07/2020/0179/F: Off-site replacement dwelling at 171 Rathfriland Road, Dromara

Introduction

Chair and members, thank you for your consideration of this application. You may recall that the application was previously presented to Committee on 16th December 2020, with a recommendation by officers to refuse permission, on the basis that the proposed site, which is 35m away from the existing dwelling, constitutes an off-site replacement that they consider is contrary to policy CTY 3.

The policy text clearly states that the proposed replacement dwelling should be sited within the established curtilage of the existing building, unless it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits.

At the last committee, we were afforded the opportunity to present to you the many landscaping and amenity benefits that are associated with the alternative site and subject proposal; and in so doing, argued that the proposal should not be considered as being contrary to planning policy CTY 3.

A criticism by the planning officers was that the noise amenity issues of the existing site and the benefits afforded by the alternative location were not demonstrated through the submission of a technical report. It was then resolved by the Committee, voting 9 against and 2 in favour of the Planning recommendation to refuse, that the applicant be afforded the opportunity to commission a Noise Report for further consideration and assessment of the proposals.

This was submitted along with an updated site plan clarifying that the established vegetation along the southern boundary is to be retained. And whilst we are naturally disappointed that the additional submission has not prompted a change of opinion from planning officers, we firmly believe that the Noise report demonstrates there exists road traffic noise amenity issues associated with the existing dwelling curtilage, and that these are resolved by the alternative siting away from the public road.

For the benefit of members, we set out the associated details of the report and Environmental Health response.

Noise Assessment

Layde Consulting were instructed to undertake a Noise Assessment considering impact on residential amenity. The current dwelling location was assessed, along with the proposed location. The noise report establishes that the main source of noise disturbance is by road traffic noise, with levels exceeding the acceptable range for outside residential amenity areas, at the existing dwelling location.

It was established, that in order to address this noise nuisance to arrive at an acceptable level of amenity, redevelopment of the subject site would be contingent on providing a 2.2m tall acoustic barrier to the roadside edge and flanking each side boundary of the plot in order to break the line of sight from the road traffic noise source. The extent of necessary barriers and their locations are illustrated in red at **TSA 1**.

In contrast, it was established that the proposed location does not require any such mitigation, as noise levels remain below the upper thresholds set by the appropriate British Standard (BS8233:2014).



TSA 1 – Existing dwelling recommended acoustic measures

Environmental Health were consulted with the Noise Report and provided the following response.

Comments

Environmental Health notes the submission of a noise report dated February 2021 in support of this planning application. This noise report indicates that position two is more favourable for locating a domestic dwelling with reference to road transport noise. There are no Environmental Health objections in principle to either the use of position one (with mitigation as per noise report) or position two. It is acknowledged there would be less noise impact at position two based on the conclusions of the noise report.

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

Date 30 March 2021

Consideration

The findings of the Layde Consulting report, which have been subsequently verified by the Council's EHO Department, demonstrates beyond doubt that there is an existing noise amenity issue at the established curtilage of the dwelling. To resolve this issue and to achieve an acceptable level of noise at the existing dwelling site so that future residents can peacefully enjoy their garden areas, it is necessary to erect a solid acoustic barrier at 2.2m in height around 3 sides of the curtilage.

Whilst a technical solution exists, the one necessary in this case is hardly in keeping with the character and amenity of a rural location. In fact, given the intrusive nature of such structures, we would be surprised if Planning would even consider it suitable in an urban context, let alone this rural location.

It therefore remains our considered position that the alternative site which does not necessitate such structures, represents the most suitable location of the two options for siting of a replacement dwelling. The boundaries of the proposed location shall comprise the retention/augmentation of existing vegetation, and new planting including proposed heavy standard/extra heavy standard trees. Planning consider that the new planting will take time to establish; however, this does not negate the positive landscaping benefits that result from the limited views associated with the alternative site and the soft landscaping appearance that will inevitably be enjoyed by all.

Accordingly, we respectfully ask members having due regard to the landscaping and amenity benefits of the subject site, as fully demonstrated by the technical noise report and verified by EHO, to view the proposal as being compliant with CTY 3 and grant planning permission.



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**Newry, Mourne
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District Council

Application Reference: LA07/2020/1519/RM

Date Received: 22.10.2020

Proposal: Replacement dwelling

Location: 151 Castlewellan Road, Dromara

Site Characteristics & Area Characteristics:



The application site is occupied by a two storey, detached dwelling and comprises of the dwelling's immediate curtilage and part of a larger agricultural field. The site has a roadside frontage onto the Castlewellan Road. Part of this frontage has been cleared providing access to the dwelling while the remainder is defined by a low block wall and timber post and wire fence. The north western boundary of the site adjoins a lane and is defined by agricultural gates and timber post and wire fencing. There is no defined rear (south western) boundary given the site has been cut from an agricultural field. The site adjoins an undefined water course to the south east and a detached two storey dwelling (No. 153) is beyond this.

Mature trees are evident to the rear and side (south east) of the dwelling within the application site. Levels within the site rise as you move from north east to south west.

The area surrounding the site is rural in character and development mainly comprises of single dwellings with associated outbuildings. The site lies within an Area of Outstanding Natural Beauty (AONB) and is not within any settlement development limits as defined in the Ards and Down Area Plan 2015.

Site History:

- Q/2007/0461/F, 151 Castlwellan Road, Dromara, Replacement dwelling and garage, PERMISSION GRANTED
- LA07/2019/1821/O, 151 Castlwellan Road, Replacement Dwelling, Permission Granted

Planning Policies & Material Considerations:

- Strategic Planning Policy Statement for Northern Ireland (SPPS).
- Ards and Down Area Plan 2015.
- Planning Policy Statement 21– Sustainable Development in the Countryside.
- Planning Policy Statement 2- Natural Heritage.
- Planning Policy Statement 3 – Access, Movement and Parking / DCAN 15.
- Building on Tradition.

Consultations:

There was one consultation issued for this proposal. See details below.

- The Department for Infrastructure Roads (DFI Roads), following receipt of amended drawings, DFI Roads advised of no objections subject to compliance with conditions. (01/01/2021).

Objections & Representations

There were two neighbour notifications issued for this application. The proposal was advertised in the local press on 18/11/2020. There were no representations received.

Consideration and Assessment:

The principle of development was established under the previous Outline approval LA07/2019/1821/O. As the application for Reserved Matters has been received within the requisite 3 years and is in compliance with all the conditions imposed, the Council is satisfied that the principle of development is established on the application site. Given the principle of a replacement dwelling is established, the primary assessment is whether the proposed development complies with the outline conditions and whether the details of the dwelling proposed are acceptable in this site-specific context in addition to road safety considerations. Consideration must however be given to all other aspects of the proposal including the design and layout of the proposal. The respective outline approval (LA07/2019/1821/O) has conditions

attached in relation to; demolition, siting, curtilage, under-build, levels, maintained working strip, access, landscaping and drainage, which are considered below:

Siting

The proposed dwelling is sited towards the front of the site and in general accordance with other built development. The proposed curtilage is within the yellow shading as indicated by the outline approval.

Design and Integration

The proposal is for a two-storey dwelling with a two-storey front porch and a single storey rear return. With the exception of the two-storey porch, the front elevation of the property is traditional in its design and appearance with a good solid to void ratio and external finishes in keeping with the rural character. *Building on Tradition – A Sustainable Design Guide for the Northern Ireland Countryside* outlines that two-storey porches and chimney breasts protruding from the gable wall are not elements prevalent of rural form and should be avoided in countryside locations. The design of the building is considered inappropriate for the site and its locality and is therefore considered contrary to CTY13.

The proposed dwellings ridge is 10m in height from GFL. Policy CTY 3 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 significantly greater than the existing building"*. The dwelling to be replaced is a modest two storey dwelling. It is considered that the proposal is of a substantial size that will have a visual impact significantly greater than the existing building. The application site forms an elevated road side plot with minimal vegetation meaning there is no natural screening of the site for integration. Critical Views of the application site would be from both the Castlewellan Road and the Drumboy Road. On approach to the site along the Castlewellan Road the proposal would become increasingly more pronounced and prominent in the landscape given its overall scale. The lack of screening and enclosure would emphasise the scale and mass of the proposal and its visual impact would be significantly greater than the existing building.

It should be noted, that correspondence with the agent dated 23rd November 2020 outlined concerns with the proposal in that it failed to comply with Policy CTY 3 and that the proposed design was not considered acceptable in the rural context. The correspondence outlined the following.

- A dwelling measuring 10 metres in height will not be supported on this site. The ridge height of the dwelling should be reduced to a maximum height of 8 metres from ground floor level.
- The two-storey front porch should be reduced to single storey.
- The chimney breast should not project from the gable wall, it should be internalised.

The agent / applicant was given three weeks to respond to this. Examples of other dwellings with two storey porches were submitted to the Planning Department for consideration. Upon checking these examples none were in the immediate context of the application site and therefore not considered relevant. Further, the two dwellings identified with two storey porches were approved under planning policy preceding the current Planning Policy Statement 21 – Sustainable Development in the

Countryside and the Building on Tradition Design Guide. The applicant advised the case officer that he wished to proceed with the scheme without making any amendments.

Layout

The proposed dwelling will be positioned towards the front of the site with amenity space surrounding the dwelling. The proposed layout includes a driveway and parking to the front and side of the dwelling. The proposed layout is considered acceptable.

Access

DFI Roads requested amendments to the proposal, including an accurate 1:500 scale plan showing access laid out in accordance with Diagram 1 of RS1 form issued under LA07/2019/1821/O, with adequate turning and parking to be shown within site. Further, the Septic tank was to be moved further from public road with soakaways draining away from public road. Amended drawings were received on the 16th December 2020. DFI Roads were content with the amendments made and offered no objections to the proposal subject to conditions being met.

Landscaping

The layout submitted includes details of landscaping, the drawing indicates the retention of existing trees with new vegetation proposed along the sites boundaries and new trees within the sites south western corner. The layout indicates a post and wire fence with planting inside along new boundaries of the site.

It is considered that a sufficient working strip to facilitate maintenance to the undesignated watercourse along the sites south eastern boundary is available.

Recommendation:

Refusal

Case Officer:	Laura O'Hare
Date:	10.03.2021
Appointed Officer :	Annette McAlarney
Date:	10 March 2021

Refusal Reasons:

1. The proposal is contrary to Paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the overall size of the proposed replacement dwelling would have a visual impact significantly greater than the existing building;
2. The proposal is contrary to Paragraph 6.70 of the Strategic Planning Policy Statement for Northern Ireland (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.

Informative

1. This decision relates to the proposal as indicated by drawing no's. 22301SW, Sheet 1, Sheet 2 and Sheet 04 REV A



Reference	LA07/2020/1519/RM
Location	151 Castlewellan Road, Dromara
Proposal	Replacement Dwelling

Response to Refusal Reasons

This application has been recommended for refusal as it is considered that the overall size of the replacement dwelling will have a visual impact significantly greater than the existing building; and that the proposed dwelling is inappropriate for the site and its locality, therefore will not visually integrate into the surrounding landscape.

We contend these arguments for a number of reasons;

The proposed site benefits from existing mature trees to the south eastern boundary, the dwellings at no.147 and 153 are both located along prominent roadside positions and the site rises considerably in a western direction.

The department are taking a strict approach in their application of CTY 3 to ensure that the proposal does not have a significantly (*my emphasis*) greater impact than what already exists on the site. The dwelling has been on the site for 200 years, therefore constructing a new dwelling to modern day living standards will require alterations. The wording of this policy also allows for a degree of greater visual impact; however, in this case, the level of impact has been significantly reduced given the surrounding characteristics. Nos. 147 and 153 Castlewellan Road are sited close to the road. They constitute very prominent buildings when viewed along the short stretch of road.

When travelling along the Castlewellan Road from north to south, the proposal integrates into the landscape due to the rising backdrop and mature trees. The dwelling at no.147, given its roadside position ensures that the proposal is screened from this critical view. No.153 is a two-storey dwelling situated on an elevated portion of ground. When travelling from south to north the proposal is entirely screened by both no.153 and the mature trees which are to be retained. As a result, the only view of the site is when you are directly upon the site. When travelling along Drumboy Road, the views are intermittent through two-meter-high hedging along the roadside, therefore the proposal will not have a visual impact along this road. The views of the proposed replacement dwelling are therefore considered to be negligible and will result in the dwelling not having a significantly greater impact than the existing building.

The case officer has determined that the design of the building is inappropriate for the locality of the site, specifically referring to the 2-storey front projection and external chimney breast. There are two other examples of two-storey front porches within close vicinity to the site, and although the case officer states that these were approved under a previous planning policy, they still form the



character and appearance of the area. For these reasons the two-storey front porch element would not offend the character of the area.

Moreover, appeal decision **2013/A0223 (Para.12)** the Council determined that the front projection was not typically rural, however the commissioner observed that these elements were apparent on other dwellings in the wider rural locality where a mix of designs and finishes, some of which would not be considered as traditionally rural, were prevalent. The commissioner further determined that due to the topography and natural screening around the site, views of the dwelling would be discernible from short sections on the Glassdrummon Road and Keady Road. The commissioner was satisfied that the landform and vegetation would provide a sufficient backdrop for the proposal when viewed from critical viewpoints therefore the objection under CTY13 was not sustained.

The applicant has advised that they are willing to internalise the chimney breast.

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



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**Newry, Mourne
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District Council

Application Reference: LA07/2020/1792/F

Date Received: 03.12.2020

Proposal: The application is a full application for a dwelling and garage on a farm.

Location: 75m South of 15 Sheepland Road, Ardglass.



Site Characteristics & Area Characteristics:

The site in question is part of a larger flat agricultural field which sits adjacent to existing dwellings and out buildings. The field is a flat field in close proximity to the coastline and as a result of the location there is limited planted boundaries to the site. There is a mature planted boundary to the roadside boundary of the field the site is carved out from. The site is accessed via an existing lane entrance that is proposed to branch off to access the proposed site.

The site is located off the Sheepland Road outside Ardglass and is not within any settlement development limits as defined in the Ards and Down Area Plan 2015. The site is also located

within the Strangford and Lecale Area of Outstanding Natural Beauty. The site is in relatively close proximity to Ardglass (Ardtole) waste water treatment works.

Site History:

R/2009/0594/F – 40m South of 15 Sheepland Road, Ardglass, Downpatrick, dwelling and garage on a farm for applicant's son, granted, 26.11.2009.

Planning Policies & Material Considerations:

The site is located within the rural area, as identified in the Ards and Down Area Plan 2015.

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

- The Ards and Down Area Plan 2015
- Regional Development Strategy (RDS)
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 3: Access Movement and Parking
- Planning Policy Statement 21: Sustainable Development in the Countryside
 - Policy CTY 1 Development in the Countryside
 - Policy CTY 10 Dwellings on Farms
 - Policy CTY 13 Integration and Design of Buildings in the Countryside
 - Policy CTY 14 Rural Character

Consultations:

DFI Roads was consulted on the application and have responded with no objections.

NI Water was also consulted and has responded with no objectives.

DAERA was consulted in relation to the application and has responded stating that the farm business has been active and established for at least a period of 6 years and the farm business is a category 1 farm business which has made claims in the last 6 years.

Informal consultation was carried out with SES due to the proximity of the site to the coast and the potential of a link to Killough Bay RAMSAR and SPA however SES are content with the application and require no further consultation.

Objections & Representations

In line with statutory requirements the application was advertised in the local press on 23.12.2020 which expired on 06.01.2021. 2 neighbour notifications issued on 06.01.2021 which expired on 20.01.2021 to date no representations have been received in relation to the application.

Consideration and Assessment

Policy CTY 1 of PPS 21 sets out a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. A number of instances when planning permission will be granted for a single dwelling are outlined. One such instance is a dwelling on a farm in accordance with Policy CTY 10 of PPS 21.

Policy CTY 10 Dwellings on Farms states that planning permission will be granted for a dwelling house on a farm where all of the criteria set out can be met.

A) The farm business is currently active and has been established for at least 6 years.

The best way to determine if the farm business is active and has been established for the last 6 years is through consultation with DAERA. They were consulted and responded stating that the farm business has been in existence for at least the last 6 years which demonstrates that the business is established. DAERA also responded stating that the farm business had made claims either through the basic payment scheme or agri environment scheme in **each** of the last 6 years therefore demonstrating that the business has been active for the last 6 years.

Given the DAERA response and also taking into consideration the condition of the land it is considered that this aspect of policy has been met.

B) No dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008.

The farm is an extremely small holding noted as being 7.84ha on the farm map dated 23.01.2020. A history search has been carried out on the lands associated with the farm business and there is no other relevant site history than that contained above. The only other permission relevant is R/2009/0594/F which was approved on 26.11.2009 and on the day of the site inspection it was identified that the occupant was in fact the son and family of the applicant as indicated on the P1C form. The transferring of a site to another family member is considered as being sold off, the policy does however stipulate that only dwellings or opportunities sold off within the last 10 years from the date of the application would be applicable. Given that the previous approval was full permission granted on 26.11.2009 and records show was transferred on 4th February 2010 it would not be considered to have been 'sold off' within the last 10 years and therefore the business would be eligible for another dwelling under this policy.

C) The new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane.

The site is located adjacent to the previously approved dwelling approved under R/2009/0594/F, registered as 13 Sheepland Road. Land registry checks were carried out into the ownership of the dwelling. The land registry checks confirmed that the dwelling is not part of the lands comprised in the farm holding. The owners of the dwelling are not formal members of the farm business either.

Therefore this site does not cluster with buildings on the farm and this section of policy has not been met.



View of the site from the Sheepland Road

The application is also considered against CTY 13, Integration and Design of Buildings in the Countryside which states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. Permission will be unacceptable where:

a) It is a prominent feature in the landscape.

The dwelling proposed is sited adjacent to no 13 Sheepland Road.

The dwelling itself is located on flat lands and is set back from the road and in line with existing buildings (This aspect will be covered later in the report under CTY 14). There is little screening to the site. Given the proposed design and height of the dwelling it is not considered that the dwelling and garage would be 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; or

(c) It relies primarily on the use of new landscaping for integration.

The site is located in close proximity to the coastline and therefore planting and screening becomes somewhat more difficult. That said this site is located adjacent to existing development that has poor boundaries and the only other boundary capable of being utilised for integration is the rear boundary, all other boundaries will be required to be defined in order

to allow the works to integrate successfully. The site is cut out of a larger agricultural field and will require definition of the majority of boundaries to achieve integration.



(d) ancillary works do not integrate with their surroundings.

The site is to be accessed via an existing lane that branches off to serve the proposed dwelling. The dwelling will use an existing point of access onto the existing road. It is not considered that there will be any detrimental impacts as a result of ancillary works to serve the proposed dwelling, a garage is proposed but it is proposed to be set back from the main dwelling and will not have any detrimental impacts. It is considered that ancillary works will integrate into the surroundings.

(e) the design of the building is inappropriate for the site and its locality.

The design of the building is almost identical to the existing dwelling adjacent, the proposed building is considered to be of a scale and design that is suitable for the site and also for the locality. The design is in keeping with the surrounding architectural styles and respects the designs found in the area and in rural areas in general. The dwelling is suitable for the site which is relatively flat and is in close proximity to the coast. The dwelling proposed can be accommodated on the site and will not detract from the character or appearance of the area. the proposal can be absorbed into the local landscape adequately.

(f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop.

The landform of the site is relatively flat and while there is limited planting in the vicinity due to the nature of the land it is considered there is suitable screening from the main public view points due to the good boundary hedging and the site is suitably set back from the road. The existing landform of the site can accommodate the dwelling given the scale and size of the dwelling. The dwelling is proposed to sit in close proximity to the coastline and it is not

considered there will be any detrimental impacts as a result of the proposal on the coastline or the overall character and appearance of the area. The lack of planting and natural screenings has been addressed previously within this report under parts B and C.

(g) 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.

As discussed previously the site is not sited with an established group of buildings on the farm and will lead to a linear form of development, Ribbon development, along this stretch of the Sheepland Road. This element of policy is not met.

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 the area.

The proposal meets with all aspects of policy CTY 14 except for parts B and D.

Part B of CTY 14 states that a building will be unacceptable where it results in a suburban style build-up of development when viewed with existing and approved buildings. When considered against the existing development it is considered that the dwelling and garage and its cumulative impact would result in a suburban style build-up of development and would be detrimental to the rural character of this scenic and open landscape.

Part D of CTY 14 states that a building would be unacceptable where it creates or adds to a ribbon of development. It is considered that this dwelling would result in the creation of ribbon development along this section of the Sheepland Road as there would be no 15 Sheepland Road, no 13 Sheepland Road and this proposed dwelling would be the 3rd unit and the creation of the ribbon of development.

On this basis the proposal does not meet with the requirements of CTY 14 and given that the dwelling has not clustered with buildings on the farm and there are other more suitable sites present this aspect of policy cannot be set aside.

Recommendation:

Refusal

Reasons for refusal:

1. The proposal is contrary to SPPS and Policies CTY1, CTY10 and CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm and the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and relies primarily on the use of new landscaping for integration.
2. The proposal is contrary to SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted result in a suburban style build-up of development when viewed with existing buildings and would create or a ribbon of development along Sheepland Road resulting in a detrimental change to the rural character of the countryside.

Case Officer:	Fionnuala Murray
Appointed Officer:	Annette McAlarney
Date:	09 April 2021

Application Reference: LA07/2020/1792/F

Proposal: Dwelling and garage on a farm

Location: 75m South of 15 Sheepland Road Ardglass

The above application has been scheduled for refusal for the following reasons;

1. The proposal is contrary to SPPS and Policies CTY1, CTY10 and CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm and the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and relies primarily on the use of new landscaping for integration.
2. The proposal is contrary to SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted result in a suburban style build-up of development when viewed with existing buildings and would create or a ribbon of development along Sheepland Road resulting in a detrimental change to the rural character of the countryside.

We would respond to each reason as follows -

We feel that the application complies fully with PPS21 – Policy CTY10 in that

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

Planning consider that the application does not meet policy as the proposal does not visually link with the existing farm building because the first approval is now in the name of the applicant's son. We disagree with this line of thought entirely as it sits directly beside the first house approved on the farm, which sits next to the original farm building and outbuildings. The house is in the ownership of the applicant's son who lives in the house with his family, and helps around the farm on a daily basis. The only reason it was transferred into the son's name was to fulfil the requirements of a mortgage offer. Therefore, we consider that the proposed dwelling does cluster with existing farm buildings. Given the constraint the no land is owned to the North of the farm buildings and no alternative viable sites are available that cluster closer than the current proposal, we feel that part 3 in the policy above should be seriously considered as an exception in this instance.

The current way policy is interpreted for a second house on the farm does not lent itself to every single active farm. In this instance, the applicants existing farm dwelling, farm buildings and first house on the farm are positioned on the northern boundary of the land owned. Therefore, there is no option for a house to the North. A house to the West of the farm holding is not an option as it would site between the road and the main farm dwelling and would not comply with planning policy. Land to the East is not considered an option either, as it would restrict the future expansion of the farmyard, and more importantly, would require access directly through the existing farm yard. Whilst the applicant would not have an issue with this, an approval to the

rear of the yard would be completely un-mortgageable as no lender would consider a mortgage in this location even for a family member, so an approval in this location would be worthless.

All options for siting have been explored and the current proposal represents the most feasible of these.

The applicant has proved that his farm remains active and that the first house on the farm was approved over 10 years ago, so he should therefore be entitled to his second house on the farm for a family member.

The reason for the recommendation to refuse rests entirely on the positioning of the proposed dwelling. Planning do not consider that it clusters with the existing farm buildings because the first house on the farm has been transferred into the applicants sons name and is not considered by planning to form part of the farm holding. The applicant however disagrees entirely with this as it remains within the immediate family and remains in his view part of the farm cluster.

The reason for this transfer was to obtain a mortgage to be able to build the house, without which the build would not have happened. No mortgage provider will lend on land unless it is in the mortgage applicant's title. Therefore, without transferring into his son's name, it would be unfair to ask the farm owner to take out a mortgage to build the first house. The applicant still considers that his approval for the first house on the farm forms part of his farm holding as his son and his family live in it and actively help around the farm. The applicant is now at an age where he is not physically fit to farm the land on his own and relies heavily on his son to help out.

Greater flexibility is required by Planning in this instance. This issue of clustering with the first house on the farm is one that is going to come up again and again. It is the beginning of a wave of second houses on the farm as the first 10-year period has now lapsed, so a more flexible and fair method of assessment is required. We would understand completely why this would be the case if the first house was sold off / transferred to someone unrelated to the farm owner, and who had absolutely no ties to the farm holding. The fact that the applicant's son has lived in the first house for 10 years and has been actively helping around the farm his entire life, more so in latter years, surely demonstrates that this building should be considered as part of the original farm holding. In due course, the farm will pass to the applicant's son, who will then own the entire farm holding. We feel that this should be a material consideration in assessing the clustering aspect of the application.





Comhairle Ceantair
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Newry, Mourne
and Down
District Council

Application Reference: LA07/2021/0027/O

Date Received: 7th January 2021

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

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

Site Characteristics & Area Characteristics:



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

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



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

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

Site History:

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

Planning Policies & Material Considerations:

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

The application was advertised in the local press on 20.01.2021

Consultations:

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

Neighbour Notifications

No 67 Dechomet Road was notified of the proposal on 08.02.2021

Objections & Representations

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

Consideration and Assessment:

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

Drawings

The drawing considered as part of this assessment was as follows

WW6920 P 01

Recommendation: Refusal

Refusal Reasons:

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

Case Officer: Claire Cooney

Date: 01.04.2021

Authorised Officer: Annette McAlarney

Date: 0 April 2021



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

Application Reference: LA07/2020/1063/F

Date Received: 12.08.2020

Proposal: Proposed extension and alterations to existing dwelling

Location: 33 Rocks Road, Ballyhornan, Downpatrick

Site Characteristics & Area Characteristics:



Application site

The application site comprises of a detached single storey dwelling within a large plot. Along the dwelling's southern elevation are a set of foundations. The site forms a road side plot along the eastern side of the Rock Road. The dwelling has been unoccupied for a length of time resulting in it becoming delapidated and over growth evident within the dwelling's curtilage. The application site is set within Ballyhornan Bay and as such is surrounded to the east, north and south by sand and shingle. The site is elevated from the bay. To the west and separated by Rocks Road are two detached dwellings.

The site is positioned outside development limits as defined by the Ards and Down Area Plan. The site is included in the Strangford and Lecale Area of Outstanding Natural Beauty and is adjacent to Strangford Lough Marine Nature Reserve.

Site History:

There is no recent relevant planning history for this application site.

Planning Policies & Material Considerations:

- Strategic Planning Policy Statement for Northern Ireland (SPPS).
- Ards and Down Area Plan 2015.
- Planning Policy Statement 7 (addendum) – Residential Extensions and Alterations.
- Planning Policy Statement 2 – Natural Heritage.
- Planning Policy Statement 15 (Revision) Planning and Flood Risk.

Consultations:

There were three consultations carried out for this proposal. See below.

- Shared Environmental Services (SES) – Having considered the nature, scale, and location of the project it is concluded that, provided the following mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on site integrity of any European site. (11/02/2021).
- Northern Ireland Environment Agency (NIEA) – Marine and Fisheries Division has considered the impacts of the proposal on the marine environment and on the basis of the information provided considers that the proposal is contrary to climate change policy (14/09/2020).
- The Department for Infrastructure Rivers (Rivers NI) – The Flood Hazard Map (NI) indicates that part of the site lies within the 1 in 200 year coastal flood plain. It is the remit of the planning authority to grant such an exception. If the Planning Authority deems this application to be an exception, then the applicant is required to submit a Flood Risk Assessment appropriate to the scale of development to allow proper consideration of the flood risk. (21/09/2020).

Objections & Representations

There were two neighbour notifications issued for this application. The proposal was advertised in the local press on 26th August 2020. There were no representations received.

Consideration and Assessment:

This application proposes alterations and extensions to the dwelling at 33 Rocks Road. While the dwelling is unoccupied and clearly has been for some time, it is still considered appropriate to assess this proposal against the policy requirements of PPS7 (addendum) – Residential Extensions and Alterations.

As noted above, the dwelling is in a state of dilapidation with part of its roof missing and its surrounding curtilage has become overgrown. Foundations are set along the dwellings southern elevation. Works proposed will replace the roof of the dwelling with a pitched roof covering measuring 5.1 metres in height from GFL, representing a maximum increase of 1 metre above the height of the existing roof that remains. The existing foundations will be built up with an increase in the footprints length and width length, approx. 2 metres to the southeast and 0.9 metres to the south west. This part of the building will form a kitchen, utility and bathroom. A pitched roof covering will be provided measuring 5.6 metres in height from GFL. Given the level changes within the site, the building will be split level. A canopy will feature along the dwellings southern elevation. Window openings will be altered, and new door openings provided along the north eastern and southern elevations. External finishes

proposed include painted render, locally sourced natural stone, PVC windows and doors, a trocal singly ply membrane with zinc standing seam fascia and cedar soffit.

The alterations and extensions would change the appearance of the dwelling somewhat, but are considered appropriate to facilitate the renovation and upgrading of a small rural dwelling to meet modern amenity standards. External changes in regard to the existing finishes of the dwelling are proposed, it is considered that the overall design and external materials of the proposal are sympathetic and would not detract from the appearance of the character of the surrounding area. It is considered that the proposed extension and external changes are a betterment of what is currently on site.

The dwelling is sited on a fairly generous plot. Neighbouring dwelling's to the west, No's 31 and 29 are setback approx. 14 metres and 20 metres respectively from the dwelling within the application site and separated by Rocks Road. It is considered that the separation distance is sufficient to ensure that the proposed extension will not result in any unacceptable impact on the amenity or enjoyment of any adjoining property.

The proposed works would not cause the unacceptable loss of, or damage to trees or landscape features which contribute significantly to local environmental quality.

As previously noted, the subject dwelling is sited on a fairly large plot. Foundations are already in place to the south of the building. A small increase to the footprint of these foundations is proposed. There is considered sufficient room within the curtilage of the property for recreational and domestic purposes including the parking and manoeuvring of vehicles as demonstrated by Drawing No. 06.

Planning Policy Statement 2 – Natural Heritage

Given the sites close proximity to the national, European and international designated sites it was considered necessary to consult with SES on this proposal.

SES considered in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service on behalf of Newry, Mourne and Down District Council which is the competent authority responsible for authorising the project and any assessment of it required by the Regulations. SES in their consultation response advised that *"having considered the nature, scale, and location of the project it is concluded that, provided the following mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on site integrity of any European site"*.

NIEA were also consulted on this application and outlined that the application site is in close proximity to national, European and international designated sites and is in close proximity to the high water mark with a minor road separating the red line boundary from the marine environment. In their consultation response NIEA advised that Marine and Fisheries Division had considered the impacts of the proposal on the marine environment and on the basis of the information provided considers that the proposal is contrary to climate change policy.

NIEA advised that in accordance with the UK Marine Policy Statement 2.6.5.3 and 4, in considering the impact of an activity or development on seascape, the Planning Department should take into account existing character and quality, how highly it is valued and its capacity to accommodate change specific to any development. Further, NIEA had also advised that the area of coastline adjacent to the proposed site has been identified as vulnerable to coastal erosion. This and associated impacts of climate change such as increased storm events could have a negative impact on the proposal resulting in loss of land, flooding and damage to property now and in the future. This in turn could lead to a requirement to protect the proposed property in the form of coastal sea defences. NIEA are concerned that future measures to protect the property could have a significant impact on local coastal processes and associated protected habitats and species.

In accordance with Draft Marine Plan, NIEA has requested that the Planning Department consider the potential impact of proposals on coastal processes and conversely, how coastal processes may impact upon proposals over their lifetime, through the decision-making processes. NIEA, in accordance with the Marine Policy Statement has stated that inappropriate types of development are not permitted in those areas most vulnerable to coastal change, or to flooding from coastal waters, while also improving resilience of existing developments to long term climate change and advised that the Planning Department and applicant must consider that any future proposals to protect this development from the sea will be considered in line with relevant climate change policy and may therefore not be considered appropriate.

In summary NIEA requested that given the proximity of the proposal to the High Water Mark in this area, the Planning Department must consider the potential impact of proposals on coastal processes and conversely, how coastal processes may impact upon proposals over their lifetime, through decision making processes.

While the Planning Department acknowledge and have considered the comments made in this consultation response, the reason for objection is respectfully set aside given the nature of the works applied for by this application. While the dwelling has been unoccupied for a number of years, its use as a dwelling remains. It is considered that minor modifications could be undertaken without the need for planning permission to make the dwelling fit for residential use. The works proposed by this application are for alterations and extensions to a dwelling, including building upon foundations already in place with a small increase in the footprint. These works represent an improvement to the derelict dwelling to bring it up to modern day standards.

Planning Policy 15 (revised) Planning and Flood Risk.

DFI Rivers in their consultation response had advised that part of the site lies within the 1 in 200 year costal flood plain which has a level of 3.76 mOD. Under Revised PPS 15, FLD1 no development is permitted within the 1 in 200 year coastal flood plain except through meeting one of the exceptions listed under the exceptions heading of FLD 1. The works proposed are considered '*Minor Development*' in that they represent householder development. Given the minor alterations proposed to the dwelling and that foundations are already in place along the southern section of

the dwelling, representation an existing area of hardstanding, it was not considered necessary to request a Flood Risk Assessment in this instance.

This application will be recommended for approval but will not feature on the Council's delegated list. In line with the Council's Scheme of Delegation the application will feature before the Planning Committee due to receiving a material objection from a statutory consultee.

Recommendation:

Approval

<p>Case Officer Signature: Laura O'Hare</p> <p>Date: 15.04.2021</p>
<p>Appointed Officer Signature: Annette McAlarney</p> <p>Date: 15 April 2021</p>

Conditions:

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.

2. The development hereby permitted shall take place in strict accordance with the following approved plan: D07, D06, 01 and 03.

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

3. A suitable and clearly defined buffer of at least 10 metres must be maintained between the location of refuelling, storage of oil/fuels, concrete mixing and washing areas, storage of machinery/materials/spoil etc. and the marine environment.

Reason: To protect the integrity of European protected sites.



Comhairle Ceantair
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Newry, Mourne
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District Council

Application Reference: LA07/2020/1370/F

Date Valid: 28th September 2020

Proposal: Park and Share Car Park, new vehicle and pedestrian entrance to Bann Road with height restrictor barrier and new pedestrian footpath.

Location: 165m east of household recycling centre, Bann Road Castlewellan

Site Characteristics & Area Characteristics:



The site is located along the Bann Road Castlewellan. It is comprised of an existing informal car parking area associated with the adjacent playing fields.



The site is accessed directly from the A50 (a protected route) and located adjacent a residential development known as Forest Park View to the east and the Council Household Recycling Centre to the west. The football pitches are located to the south of the site and accessed via the same entrance.

The site is located outside the development limits of Castlewellan and in an Area of Outstanding Natural Beauty (AONB) as designated in the Ards and Down Area Plan 2015.

Site History:

R/2000/0562/F - Adjacent to 11 Dublin Road, with access off Bann Road, Castlewellan - Housing development - 5 detached dwellings and 10 semi-detached dwellings - PERMISSION GRANTED 19.07.2001

R/2005/1186/F - Bann Road, Castlewellan, Co Down - Development Of Household Recycling Centre & Civic Amenity Site with Amenity Building to Include Offices, Staff Facilities, Storage and vehicle Parking Bays For Down District Council. – Permission Granted 29.03.06

R/2005/1188/F - Bann Road, Castlewellan - Erection Of Two No Prefabricated 2x15 Person Changing Facilities And Two No Prefabricated 2x20 Person Changing Facilities For Existing Sports Pitches With Associated Car Parking Facilities. – Permission Granted 07.06.2006

R/2014/0245/F - Bann Road Playing fields Castlewellan, - Erection of new 2.4. high security fencing to perimeter of existing playing pitch and warm up area. Installation of new floodlighting system and retrospective construction of 1no new ball catch net and 1no replacement ball catch new with associated site works. - PERMISSION GRANTED - 05.08.2014

LA07/2016/0436/F - Bann Road Playing fields Castlewellan, - replacement ball catch new with associated site works. – Permission Granted 05.08.2014

LA07/2017/0457/F - 750m East of House Hold Recycling Centre, Bann Road, Castlewellan, - Demolition of existing changing rooms pavilion and associated work. Replaced with a new changing room pavilion of similar nature - PERMISSION GRANTED – 07.06.2017

Planning Policies & Material Considerations:

In assessment of the proposal consideration has been given to the RDS, SPPS, Ards and Down Area Plan 2015, Planning Policy Statement 21, 2 and 3 in addition to any other material consideration.

The application was advertised in the local press on 14.10.2020.

Consultations:

In assessment of the proposal it was considered necessary to carry out consultations with the Councils Environmental Health Department and DfI Roads, to which no objections have been received.

Objections & Representations

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

Consideration and Assessment:

The proposal seeks full planning permission for the creation of a park and share car park with 77 new spaces and pedestrian links to Bann and Dublin Roads.

RDS

Two of the 8 aims of the RDS include taking actions to reduce our carbon footprint and improve connectivity to enhance the movement of people, goods, energy and information between places. Policy RG2 of the RDS seeks to deliver a balanced approach to transport infrastructure. To achieve this, it requires improved connectivity, social inclusion and using road space more efficiently and sustainably.

This strategic need for more sustainable transportation is echoed in the SPPS – Paragraph 6.293 emphasises the key role Planning has in improving connectivity and promoting more sustainable patterns of transport / travel. The aim of the SPPS in this regard is to secure improved integration with land use planning, consistent with the regional aims and to facilitate safe and efficient access, movement and parking. In assessing such applications, the Council should be satisfied that there is a need for the development and should consult with the relevant transport authority and consider the environmental impacts and compatibility of the scheme with adjoining land uses.

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the Local Development Plan, so far as material to the application, and to any other material considerations. The site is currently within the remit of the ADAP 2015 and is located within a rural area just outside the settlement limit of Castlewellan.

Principle of Development

Under Policy CTY1 of PPS21, non-specified development will only be permitted where there are overriding reasons why the development is essential and could not be located within a settlement, or it is otherwise allocated for development in a development plan.

In this case, while the site is not zoned for a particular use within the Plan, it occupies an existing informal car park associated with the adjacent playing fields. The Planning Authority consider that there is a need for this proposal as it would help alleviate the parking problems that are occurring in the town of Castlewellan.

It is considered that permitting this proposal would be a good use of existing land and one that would bring benefits to the local community.

In addition, the guiding principle for planning authorities in determining planning applications is set out in Paragraph 3.8 of the SPPS stating 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. It is considered therefore on this basis that the principle of development is acceptable.

PPS 3

Policy AMP 10 of Planning Policy Statement 3: Access Movement and Parking provides the policy context and states that planning permission will only be granted for the development or extension of public or private car parks, including park and ride and park and share where it is demonstrated that they meet the 5 listed criterion.

It is important to point out at this stage that only criterion 1,2 and 5 are relevant to this application and they are listed below

Proposals should demonstrate that

- They do not significantly contribute to an increase in congestion
- Are not detrimental to local environmental quality
- They are compatible with adjoining land uses.

In assessment of the above, it is generally acknowledged by all that parking within Castlewellan town centre has capacity issues, in that while there are several large car parks at Upper and Lower Squares, spaces are being utilised by those who park and commute to work with others, preventing use of the car parking spaces by shoppers attracted to the towns various retail and service businesses.

The proposed site is an existing hard standing area, which is frequently used for informal parking by those attending the playing fields for training and matches. It is considered therefore that this existing area is underutilised, with much of the current parking occurring at evenings and weekends.

The formalisation of this site into a park and share site has the potential reduce the parking issues that are occurring within the town centre of Castlewellan. The creation of 77 new spaces could ease congestion within the town and would not be detrimental to the local environmental quality.

The proposal also includes the erection of 7 new street lights which will be positioned along the southern boundary of the site from the entrance at Bann Road to the Dublin Road. Given the proximity of the neighbouring dwellings at Forest Park View, it is important to consider the impact of these lights on the amenity of the properties.

In assessment of this the Councils Environmental Health Department were consulted. They have advised the Planning Authority that they have no objections to the proposed lighting scheme provided that the lighting is designed and constructed so that there is no intrusion by light on any neighbouring property. The luminaries shall be directed downward such that there is no direct sight line to any part of any residential property.

In assessment of this the Planning Authority consider that the lights are sufficiently separated from the existing dwellings with appropriate street light luminaire so as not to create a nuisance. The dwellings also benefit from the presence of a mature band of trees along the boundary which they share with the car park, this vegetation will reduce the impact of the street lighting.

In consideration of the design of the car park Policy AMP 9 of PPS 3 is also applicable, which requires proposals

- Respect the character of the local landscape
- Not adversely affect visual amenity
- Ensure provision is made for security and the direct and safe access and movement of pedestrians and cyclists within the site.

Based on the above assessment it is considered that the proposal complies satisfactorily with these requirements. It is noted that a new pedestrian access is proposed so users of the park and share can easily access the Dublin Road via a well-lit pathway.

In consideration of the proposed new access Policy AMP 3 - Access to Protected Routes is applicable which states that planning permission will be granted for a development proposal involving direct access onto a protected route where the proposal meets one of the listed criteria.

Category D is applicable in this case which states approval may be justified in particular cases for other developments which would meet the criteria for development within the rural area where access cannot be reasonably obtained from an adjacent minor road.

In this case the access must be taken from the Protected Route. Given the nature of the proposal within the existing context as described above it is considered that the proposal is acceptable. DfI Roads have considered the new access and have no objections to it. It is considered therefore that that the proposal complies satisfactorily with Policy AMP 3.

PPS 2 – Natural Heritage

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

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

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

Conclusion

Having assessed the proposal against the various planning policies and material considerations which apply to the application, it is determined that the proposal is acceptable.

Drawings

The drawings considered as part of this assessment are as follows

L01, L02, HR-4-01, W004 P02

Recommendation: APPROVAL

Conditions:

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.

2. The development hereby permitted shall take place in strict accordance with the following approved plans L01, L02, HR-4-01, W004 P02

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

3. The vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No L.02 bearing the date stamped 22/09/2020 and drainage plan reference W004 P02 prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

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

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

5. The existing natural screenings of the site, as indicated on approved Drawing No L02 shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

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

6. The street lighting hereby permitted shall be designed and constructed to ensure that there is no intrusion by light on any neighbouring property and that the luminaries shall be directed downward to ensure that there is no direct sight line to any part of any residential property.

Reason: To safeguard the amenities of neighbouring occupiers

Case Officer: Claire Cooney

Date 20.04.2021

Authorised Officer: A.McAlarney

Date: 21 April 2021



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

Application Reference: LA07/2017/1779/F

Date Received: 22.11.2017

Proposal: Amendment to planning approval LA07/2015/0782/F. Change from Vestas 27 225kw wind turbine with rotor diameter of 27m to Vestas 52 250kw with rotor diameter of 52m.

Location: Lands Approx. 370m North East Of 32 Ballykilbeg Road, Downpatrick



Site Characteristics & Area Characteristics:

The site is accessed from the Ballykilbeg Road via an established lane which serves detached, dwelling, agricultural out-buildings and farm land. The site is within a larger agricultural grazing field to the rear of a drumlin. The site is relatively level, the larger agricultural field has undulating topography and is bound by a mature hedge. The site itself has no boundary definition as it is part of a larger agricultural field.

The site is located within the Lecale Area of Outstanding Natural Beauty, it is outside the settlement limits of Downpatrick and within a key landscape character area identified as Quoile Valley Lowlands. The area is largely agricultural with farm land and detached dwellings within the drumlin landscape.

Site History:

A history search has been carried out for the site whereby the following has been noted:

R/2011/0474/F - 370m North East of 32 Ballykilbeg Road, Downpatrick, - Erection of 1 No 225kw wind turbine with a hub height of 30m to supplement existing farm business - PERMISSION GRANTED - 26.07.2012

LA07/2015/0782/F - 370m north east of 32 Ballykilbeg Road, Downpatrick, - Amendment to planning approval R/2011/0474/F. Change of hub height from 30m to 40m - PERMISSION GRANTED - 10.06.2016

Consultations

Consultations were carried out with the following bodies

NIEA: Natural Environment Division – No objections

NATS – No objections

Belfast International Airport – No objection

NI Water Windfarms – No objection

PSNI – No Objection

Environmental Health – No objections subject to conditions

Defence Infrastructure Organisation (MoD) – No objection

JRC – No objections

OFCOM – No objection

Arqiva – No objection

SES - not have a likely significant effect on the selection features, conservation objectives or status of any European site.

Historic Environment Division – Refusal Recommended proposal contrary to BH1 of PPS6

Advertising

The proposal was advertised initially in the local press on 06.12.2017 and on 20.12.2017 following revision of the address, 21.11.2018 following revision of the proposal description and 05.12.2018.

Neighbour Notifications

The relevant neighbours were notified of the proposal on 06.12.2017 and again on 20.11.2018.

Objections and Representations

2 letters of objection have been received

- 95 Vianstown Road raises concerns about the increase in noise pollution from the proposal
- RSPB raises concerns about the impact of the proposal on the Red Kite population within the area.

Planning Policies & Material Considerations:

Full permission is sought for an amendment to planning approval LA07/2015/0782/F. Change from Vestas 27 225kw wind turbine with rotor diameter of 27m to Vestas 52 250kw with rotor diameter of 52m.

In assessment of this proposal, regard shall be given to the Regional Development Strategy (RDS) 2035, Strategic Planning Policy Statement (SPPS), Ards and Down Area Plan 2015, PPS2, PPS3, PPS18, and supplementary guidance Best Practice Guidance to PPS 18 and Wind Energy Development in Northern Ireland's Landscapes (August 2010), PPS21.

Consideration & Assessment

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 6.221 of the SPPS provides strategic policy for renewable energy, the policy is broadly consistent with the policies set out in PPS 18 and 21.

Given the sites rural location, PPS21- Sustainable development in the countryside, provides the policy context which lists in Policy CTY 1 a range of development types which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. Renewable energy projects are one such example and Planning Policy Statement 18 deals with these specifically.

PPS 18 - Policy RE 1

Development that generates energy from renewable resources will be permitted provided the proposal, and any associated buildings and infrastructure, will not result in an unacceptable adverse impact on:

- a) Public safety, human health or residential amenity,
- b) Visual amenity and landscape character,
- c) Biodiversity, nature conservation or built heritage interests,
- d) Local natural resources, such as air quality or water quality, and
- e) Public access to the countryside.

Wind Energy Development

Applications for wind energy development will also be required to demonstrate all of the following:

- (1) That the development will not have an unacceptable impact on visual amenity or landscape character through: the number, scale, size and siting of turbines;
- (2) That the development has taken into consideration the cumulative impact of existing wind turbines, those of which have permissions and those that are currently the subject of valid but undetermined applications;
- (3) That the development will not create a significant risk to landslide or bog burst;
- (4) That no part of the development will give rise to unacceptable electromagnetic interference to communications installations; radar or air traffic control systems; emergency services communications; or other telecommunications systems;
- (5) That no part of the development will have an unacceptable impact on roads, rail or aviation safety;

- (6) That the development will not cause significant harm to the safety or amenity of any sensitive receptors (including future occupants of committed developments) arising from noise; shadow flicker; ice throw; and reflected light; and
- (7) That above-ground redundant plant (including turbines), buildings and associated infrastructure shall be removed and the site restored to an agreed standard appropriate to its location.

Assessment

Policy RE1:

(a) Public safety, human health or residential amenity

In terms of public safety, the location of the turbine has been deemed outside the critical 'fall over' distances as detailed in the accompanying best practice guidance (BPG) for PPS18. The BPG indicates that a safe separation distance for a single turbine is considered to be the height of the turbine to the tip of the blade plus an additional 10% which in this instance would equate to a recommended separation distance of approximately 72.6m.

The issues regarding telecommunications, aviation and military / security safety have been assessed via consultation with the relevant bodies. Their comments have been noted and it is concluded that they have no objections in principle to the proposal.

In assessment of the proposals impact on human health or residential amenity, issues relating to noise and shadow flicker are applicable.

In consideration of the issue of Noise, an acoustic assessment has been carried out and assessed in detail by Environmental Health. It has been concluded that there are no objections to the proposal subject to conditions relating to noise limits and reasonable complaints.

With regard to Shadow Flicker, PPS 18 states that in this region, only properties within 130 degrees either side of north, relative to the turbines, can be affected by shadow flicker. The policy also states that at distances greater than 10 times the rotor diameter from a turbine, the potential for shadow flicker is very low. An analysis of the submitted plans shows that two properties are within the 10 times the rotor diameter distance i.e. Nos 32 Ballykilbeg Road (384m) and 101 Vianstown Road (471.9m). These dwellings lie within the 130 degrees either side of north relative to the turbine.

The applicant has submitted a Shadow Flicker Impact Assessment Report, which concludes that these dwellings (which are referred to as H2 and H5), will fall below the 30 minutes per day and 30 hours per year threshold for shadow flicker exposure.

(b) Visual amenity and landscape character

The extent, intact character and cohesiveness of this drumlin landscape make it sensitive to wind energy development. The small scale of the drumlins, their often distinctive profiles and the high concentration of natural and cultural landscape features found here further heighten the area's overall sensitivity. Those areas which are designated as AONB might be especially sensitive.

Although this is often a mainly inward-looking landscape, with a relatively high tree cover that theoretically could screen wind energy development to some degree, the scale of the landscape features and subtle, small scale of the topography mean that this landscape is highly sensitive to wind energy development.

The turbine as existing is clearly visible for a short distance along Ballykilbeg Road, particularly when viewed on approach from the west along Vianstown Road. Views are quite prominent from the short distance between the Ballydugan Road junction with Buckshead Road to Byrnes Nursery and when travelling westwards along Ballydonnel Road. Views can also be obtained when travelling from Russell Cars on Ballydugan Road to 106 Ballydugan Road.

The turbine can appear quite prominent when viewed from some of the above points, it is important to note that the views are, however, quite short, often transient and obtained from roads upon which traffic moves quite quickly.

From some view points, particularly when travelling westwards along Ballykilbeg Road the turbine is effectively screened by the mature vegetation immediately surrounding it.

In consideration of the proposed increase to rotor diameter, it is my opinion that this change will only be apparent for very short distances along Ballykilbeg Road and that it will be difficult to appreciate the changes from some of the long distance views i.e. Ballydugan Road.

(c) Biodiversity, nature conservation and built heritage interests

The proposed turbine is located within extensive improved grassland with hedgerows and mature trees. It is located within the Area of Outstanding Natural Beauty (AONB) as designated in the Ards and Down Area Plan 2015.

The sites 6km south west of Strangford Lough Ramsar / SPA, 9 km north-west of Killough Bay Ramsar / Spa. 2.5km south of Hollymount SAC, 9km south-west of Strangford Lough SAC, 890m east of Ballykilbeg SAC, 2km north-west of Lecale Fens SAC, 4km north-east of Murlough SAC and a significant distance north-east of Carlingford Lough Ramsar / SPA.

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

The impact of the proposal on protected species including Bats, Red Kites and other raptor species birds was extensively considered. NED have concluded that there are no concerns regarding impacts to bats from the proposed turbine amendment and that sufficient survey work has been carried out to determine the impact of the proposal on nesting and breeding raptors and the risk is considered to be negligible.

Built Heritage Interests

There are number of Archaeological sites and monuments in the vicinity of the site.

In assessment of these features, NIEA: Historical Monuments Unit were consulted and following a lengthy consultation they advised that the site is located within an archaeologically sensitive historic landscape, containing a number of regionally significant archaeological sites and monuments which are scheduled for protection under the Historic Monuments and Archaeological Objects Order (1995) NI. The setting of regionally significant sites and monuments are protected by Policy BH1 of PPS6 and by paragraph 6.8 of SPPS.

In assessment of the proposal to increase the rotor diameter to 52m and having reviewed all submitted information, Historic Environment division have concluded that the proposal would have adverse impacts upon DOW 037:044 a counterscarp rath and DOW 037:035 Ballynoe Stone Circle. They consider the proposal to be contrary to Policy BH1 of PPS 6.

It is important to note at this point that HED (Historic Monuments) were not consulted on the original wind turbine application - R/2011/0474/F. They were however consulted on R/2015/0782/F and while they have stated that their advice given on this subsequent application was constrained by this original planning decision, they nevertheless had no objections.

However, in light of the new HED setting guidance 'Guidance on Setting and the Historic Environment' and other casework in NI HED are now highlighting the impacts of this proposal on the settings of nearby monuments.

HED consider that no exceptional circumstances have been demonstrated in this case and this proposal cannot be made acceptable through conditions.

Policy BH1 of PPS 6 states that a presumption in favour of the physical preservation in situ of archaeological remains of regional importance and their settings will operate. Development which would adversely affect such sites of regional importance or the integrity of their setting will not be permitted unless there are exceptional circumstances.

In assessment of this it is noted that the monuments referred to by HED are to remain in situ and this proposal to increase the blade length of the approved turbine will not alter that.

DOW 037:044 a counterscarp rath is located 0.2km north east of the site, while DOW 037:035 Ballynoe Stone Circle is located 2.2 km east of the site.

The Planning Authority consider that as 40m high turbine has been approved on site, the increase in rotor diameter from 27m to 52m would not have a materially greater effect on the setting and integrity of these monuments.

Policy BH1 seeks to promote the overall understanding and enjoyment of monuments in State Care as heritage assets rather than places for more general recreation and amenity and it is not considered that this proposal would diminish that.

The Planning Authority consider that it is appropriate in this instance to set aside the comments of Historic Environment Division.

(d) Local natural resources

It is considered that the proposal will not impact detrimentally on local natural resources,

(e) Public access to the countryside

As the turbine is located on private lands, owned by the proposer, it is felt that the proposal will not impact on any rights of way, public access or public roadway.

This proposed turbine will be accessed via the existing laneway and on to Ballykilbeg Road.

Conclusion

Having assessed the proposal against the relevant planning policies and taking into account the input of the Council's consultees along with all other material considerations, it is concluded that the proposed turbine would not have a materially more harmful effect in planning terms than the previously permitted turbine. It is therefore acceptable.

Recommendation: APPROVAL

Drawings

The Drawings upon which this approval is based are as follows: VE01, VE02 and 03.

Conditions

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.

2. The development hereby permitted shall take place in strict accordance with the following approved plans VE01, VE02 and 03.

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

3. The level of noise emissions from the wind turbine (including the application of any tonal penalty when calculated in accordance with the procedures described in Pages 104 - 109 of ETSU-R-97) shall not exceed the values set out in the attached Table 1. Noise limits for dwellings which lawfully exist or have planning permission for construction at the date of this consent but are not listed in the tables attached shall be those of the physically closest location listed in the table, unless otherwise agreed by the Local Planning Authority.

Table 1. Noise Limits

Property	Wind Speed at 10m Height (m/s)								
	4	5	6	7	8	9	10	11	12
Noise Limits, dB L _{A90,10min}									
32 Ballykilbeg Road	36.6	37.7	38.8	39.9	41.0	42.1	43.2	44.3	45.4
30a Ballykilbeg Road	32.9	34.0	35.1	36.2	37.3	38.4	39.5	40.6	41.7
101 Vianstown Road	34.4	35.5	36.6	37.7	38.8	39.9	41.0	42.1	43.2
New property on Vianstown Road (346950,340397)	30.3	31.4	32.5	33.6	34.7	35.8	36.9	38.0	39.1
106 Vianstown Road	29.3	30.4	31.5	32.6	33.7	34.8	35.9	37.0	38.1

Reason: To control the noise levels from the development at noise sensitive locations.

4. Within 28 days of being notified by the Planning Office of a reasonable complaint from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the wind farm operator shall, at his/her expense employ a consultant, approved by the Planning Office, to assess the level of noise emissions from the wind farm at the complainant's property following the procedures described in Pages 102-109 of ETSU-R-97. The Local Planning Authority shall be notified not less than 2 weeks in advance of the date of commencement of the noise monitoring.

Reason: To control the noise levels from the development at noise sensitive locations.

5. The wind farm operator shall provide to the Local Planning Authority the consultant's assessment and conclusions regarding the said noise complaint, including all calculations, audio recordings and the raw data upon which that assessment and conclusions are based. Such information shall be provided within 3 months of the date of the written request of the Local Planning Authority unless otherwise extended in writing.

Reason: To control the noise levels from the development at noise sensitive locations.

6. At the time of erection, the wind turbine hereby permitted shall be fitted with a Low/Medium (Low if its less than 45m above ground level or Medium if it is more than 45m above ground level) Intensity, Omni-directional, Night Vision Compatible, Steady Red Obstacle light at the highest point of the hub. The light should be lit 24 hours a day, seven days a week and it is to warn low flying aircraft that there is an obstacle at this location.

Reason: In the interests of aviation safety

7. The wind turbine hereby permitted shall be removed and the site restored to its former condition within 25 years of the date of this permission, or within 6 months of the cessation of electricity generation at the site, whichever is the sooner.

Reason: To allow the Council to maintain control over this temporary form of development and reconsider the proposal in light of the circumstances then prevailing.

Case Officer: Claire Cooney

Date: 16.04.2021

Authorised Officer: A.McAlarney

Date: 16 April 2021



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

Application Reference: LA07/2021/0208/F

Date Received: 1st February 2021

Proposal: Recreational Path

Location: Dunleath Park Downpatrick

Site Characteristics & Area Characteristics:



The site is located at the playing fields within Dunleath Park Downpatrick. Dunleath Park is an existing amenity open space and recreation area as designated within the Ards and Down Area Plan 2015. The site is located within the settlement limit of Downpatrick and is positioned immediately adjacent the Down Leisure Centre and opposite the Ballyduggan Retail Park.



The site is flat and extends from Market Street / Ballyduggan Road to those residential properties located to the south and east of the site.

Site History:

R/2011/0253/F - Dunleath Park Playing Fields, Ballyduggan Road, Downpatrick, - Proposal is for erection of a sports pavilion containing changing facilities, gymnasium, cafe and other ancillary facilities together with associated car parking and sports pitches - PERMISSION REFUSED - 17.05.2012

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 8 and 15, and any other material consideration.

The application was advertised in the local press on 17.02.21

The relevant neighbours were notified of the proposal on 07.04.21

Consultations:

A consultation was carried out with DfI Rivers to which no objections have been received. Verbal confirmation from HED HM in relation to sites location within an Area of Archaeological Potential, they have advised no objection.

Objections & Representations

No objections or representations have been received.

Consideration and Assessment:

The proposal seeks full planning permission for the creation of a recreational path along the perimeter of Dunleath Park. The path will be 2.55m wide and 1.75km long. It will be formed with stone and compacted dust.

The Planning Act (NI) 2011 requires that the determination of proposals must be in accordance with the local development plan (LDP) unless material considerations indicate otherwise.

The Ards and Down Area Plan 201 (ADAP) operates as a LDP. The site is located within the settlement limit of Downpatrick and within an existing area of open space and recreation as designated in the plan. There are no operational plan policies relevant to this proposal.

The Strategic Planning Policy Statement for Northern Ireland (SPPS), which sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area states that one of the regional strategic objectives for open space, sport and outdoor recreation is to safeguard existing open space. It is considered that this proposal will enable increased use of an already existing outdoor provision and therefore complies with this strategic objective.

In addition the guiding principle for planning authorities in determining planning applications is set out in Paragraph 3.8 of the SPPS stating that sustainable development should be permitted having regard to the development and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. It is considered therefore that the principle of development is acceptable.

PPS 8

Policy OS 1 – Protection of Open Space is applicable in this case. As the proposal is maintaining and further enhancing an existing area of open space it is considered that it complies satisfactorily with the policy requirements.

PPS 15

The Flood Maps NI indicate that the site is affected by fluvial and coastal flooding and it is traversed by a culverted watercourse known as Plank Drain. The site is also affected by watercourses known as Pemberton Park Stream and Pemberton Park Stream Extension to the south-eastern boundary of the site. Consequently DfI Rivers have been consulted. They have advised the Planning Authority that they have no objections to the proposal but advised that it is the responsibility of the applicant to ensure that the proposed flood risk measures outlined in the submitted Flood Risk Assessment are assessed and mitigated.

DfI Rivers have requested the provision of a 5m working strip to enable access to the watercourses at all times. The applicant has provided this information and the Planning Authority are content with that shown.

PPS 6

The site is located within an area of Archaeological Potential and a fortification DOW 037:110 is within the vicinity of the site. In assessment of these features it is considered that the site is sufficiently removed from DOW 037:110 and given the limited ground works involved to create the path it is unlikely to disturb any previously unrecorded buried archaeological remains that may exist in the area. No further consideration of this issue is therefore required.

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 acceptable in planning terms and approval is recommended subject to the following conditions.

Non-Delegated application in line with Councils Scheme of Delegation which requires presentation to Planning Committee.

Drawings

The drawings considered as part of this assessment are as follows

Drawing No 01

Recommendation: APPROVAL

Conditions:

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.

2. The development hereby permitted shall take place in strict accordance with the following approved plans 01

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

3. The 5m maintenance strip within the development along the adjacent watercourses as shown on Drawing No 01, shall be retained in perpetuity. It should be protected from impediments (including tree planting, hedges, permanent fencing and sheds), land raising or future unapproved development.

Reason: To ensure access to and from the maintenance strip is available at all times

Case Officer: Claire Cooney

Date: 21.04.2021

Authorised Officer: A.McAlarney

Date: 21 April 2021

TRACKING ACTION SHEET ARISING FROM PLANNING COMMITTEE MEETINGS

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
		PLANNING MEETING – 1 AUGUST 2018			
LA07/2017/1261/0	Thomas Mageean – proposed dwelling and garage – site abutting 20 Junction Road, Saintfield	Defer application to enable the Council's Legal Advisor to consider issues raised regarding ownership of the application site (Mr Thomas Mageean); the farm business in the name of Mr Bernard Mageean, who takes land in conacre from his brother and this farm business being altered by adding the applicant as an additional member of the business and in so doing have the applicants buildings at No. 20 Junction Road included within the farm business criterion © of CTY10	Annette McAlarney	Await legal advice.	N
		PLANNING MEETING - 13 FEBRUARY 2019			
LA07/2015/0149/F	Change of use of building to provide storage and distribution of fuel with alterations and new bulk fuel tank in yard – site	Withdrawn by the Planning Department to allow further consultation to be completed	A Davidson	Remains under consideration	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
	between 54 and 58 Edenappa Road, Jonesborough				
		PLANNING COMMITTEE MEETING – 24 JULY 2019			
LA07/2018/1787/F	Proposed extension to existing Materials Recovery Facility Building – 23 Downpatrick Road, Killough	Defer this application, which the Committee agreed was an exception under FLD 1, and refer the completed Flood Risk Assessment to Rivers Agency to be reviewed.	A McAlarney	Application to come back to Committee June 2021 Committee	N
		PLANNING COMMITTEE MEETING – 16 OCTOBER 2019			
LA07/2019/0773/0	Dwelling – to rear of 71 Church Street, Downpatrick	Withdraw from the addendum list for a meeting with Planners, applicant and agent	A McAlarney	Agent to submit revisions...awaited	N
PLANNING COMMITTEE MEETING 11 MARCH 2020					
LA07/2019/1455/F	New access to dwelling in substitution to that approved under planning ref: LA07/2018/0118/F – 30m SE of 8 Outlacken Road, Belleeks, Newry	Defer for further discussions and agent/applicant to provide evidence to show that the former approved existing access is no longer available to the applicant and that under Policy an alternative access can be granted	A Davidson	Remains under consideration. New agent on application.	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
PLANNING COMMITTEE MEETING 26 AUGUST 2020					
LA07/2019/1302/F	Provision of a dwelling with associated parking and amendment to application R/2011/0794/f to remove parking area for apartments and replace with shared amenity space - to rear of Nos 65-69 South Promenade, Newcastle.	Defer Planning Application LA07/2019/1302/F to allow the applicant to provide evidence that sight lines can be secured for this proposal.	A McAlarney	Awaiting consultation response from DFI Roads on new info submitted.	N
LA07/2019/1087/0	Replacement dwelling and garage - approx. 50m NE of 21 Drakes Bridge Road, Crossgar	Removed from the agenda as agent unable to attend	A McAlarney	Agent has engaged Ecologist to provide outstanding info for Planning Dept	N
LA07/2019/1134/0	Replacement dwelling - 90 Manse Road, Darraghcross, Crossgar	Removed from the agenda as agent unable to attend	A McAlarney	Agent has engaged Ecologist to provide outstanding info for Planning Dept	N
PLANNING COMMITTEE MEETING 23 SEPTEMBER 2020					
LA07/2020/0176/F	Proposed rural infill detached dwelling and garage – 45m north of 5 Molly Road Lower, Jonesborough	Defer for 3 months to allow time for the garage to the north of the proposed site to be built and then application to be re-considered	A Davidson		N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
PLANNING COMMITTEE MEETING 15 DECEMBER 2020					
P/2013/0189/F	Sports Complex to include 1 no full size pitch, club house, floodlighting and private entrance onto Warrenpoint Road, and all associated site works	Site visit to be arranged	P Rooney	Site visit held 05-03-2021 Committee May 2021	N
LA07/2020/0719/F	171 Rathfriland Road Dromara Off site Replacement Dwelling	Defer to give the applicant an opportunity to submit evidence to support their case	A McAlarney	Committee May 2021	N
PLANNING COMMITTEE MEETING – 8 APRIL 2021					
LA07/2020/1394/O	90m West of No16 Desert Road Mayobridge Newry BT34 2JB. Proposed 1 1/2 Storey dwelling (Ridge Height of 7.5m) and garage	Remove from addendum list for full presentation at May Committee Meeting	M Keane	Committee May 2021	
LA07/2019/1375/F	Lands immediately south of 17 Leitrim Road Ballymaginaghy Castlewellan Co Down - Erection of 2 Dwellings	Site visit to be arranged	A McAlarney		
<u>LA07/2020/0299/F</u>	Adjacent to 7 Annacloy Road North Dunnanelly Downpatrick - Single storey dwelling	Site visit to be arranged	A McAlarney		
END					