



June 14th, 2018

**Notice Of Meeting**

You are invited to attend the Regulatory and Technical Services Committee Meeting to be held on **Wednesday, 20th June 2018 at 6:00 pm** in the **Boardroom, Monaghan Row, Newry.**

The Members of the Regulatory and Technical Services Committee are:-

**Chair: Councillor C Casey**

**Deputy Chair: Councillor J Rice**

**Members:**

<b>Councillor Andrews</b>	<b>Councillor W Clarke</b>
<b>Councillor G Craig</b>	<b>Councillor D Curran</b>
<b>Councillor G Fitzpatrick</b>	<b>Councillor L Kimmins</b>
<b>Councillor J Macauley</b>	<b>Councillor M Ruane</b>
<b>Councillor G Stokes</b>	<b>Councillor D Taylor</b>
<b>Councillor J Trainor</b>	<b>Councillor H Harvey</b>
<b>Councillor P Brown</b>	

# Agenda

1.0 Apologies and Chairperson's Remarks.

2.0 Declarations of "Conflicts of Interest".

3.0 To agree a start time for the Regulatory and Technical Services Committee Meetings from June 2018 to April 2019 (suggested timetable attached).

 *RTS Meeting dates 2018-2019.pdf*

Page 1

4.0 Action sheet of the Regulatory and Technical Services Committee Meeting held on Wednesday 23 May 2018. (Attached).

 *June Action Sheet.pdf*

Page 2

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## *For Consideration and/or Decision - Planning*

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5.0 May 2018 Planning Committee Performance Report. (Attached).

 *MAY 2018 Planning Committee Performance Report.pdf*

Page 8

6.0 Record of meetings between Planning Officers and Public Representatives 2017-2018. (Attached).

 *Record of Mtgs between Planning Officers and Public Reps.pdf*

Page 12

7.0 Current appeals. (Attached).

 *Current Appeals and Decisions issued in May 2018.pdf*

Page 13

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## *For Consideration and/or Decision - Facilities Management and Maintenance*

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8.0 Report re: bus shelter at Cloughreagh Park, Bessbrook. (Attached).

 *Report re.Bus Shelter at Cloughreagh Park.pdf*

Page 81

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## *For Consideration and/or Decision - Waste Management*

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9.0 Report re: Waste Strategy Initiative: issue of food waste

## **caddies to Primary and Pre-School premises. (Attached).**

 *Report re. Waste Strategy Initiative.pdf*

*Page 89*

## **10.0 Report re. Dog Fouling Issues. (Attached)**

 *Report re Dog Fouling.pdf*

*Page 91*

### *For Noting*

## **11.0 ARC21 Joint Committee Meeting – Minutes of Thursday 26 April 2018. (Attached)**

 *arc21 JC Minutes 260418 Approved.pdf*

*Page 118*

## **12.0 Arc21 Joint Committee Members' Monthly Bulletin 31 May 2018. (Attached).**

 *JC031-31May18-Members' Bulletin.pdf*

*Page 123*

## **13.0 Historic Action Sheet. (Attached)**

 *Historic Action Sheet RTS 20 June 2018.pdf*

*Page 127*

### *Items Restricted in accordance with Part 1 of Schedule 6 of the Local Government Act (NI) 2014*

## **14.0 Provision of burial services accross the Council area. (Attached).**


This item is deemed to be exempt under 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.

 *Report re. Provision of Burial Services.pdf*

*Not included*

## **15.0 Report re: proposed variation to Arc21 MRF Contract with Bryson Recycling. (Attached).**

This item is deemed to be exempt under 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.

 *Report re. Variation to arc21 MRF Contract.pdf*

*Not included*

**REGULATORY AND TECHNICAL SERVICES COMMITTEE**  
**Times to be confirmed at first meeting of Committee**

<b>Date</b>	<b>Time</b>	<b>Location</b>
20 June 2018	6.00 pm	Boardroom, Monaghan Row, Newry
22 August 2018	6.00 pm	Boardroom, Monaghan Row, Newry
19 September 2018	6.00 pm	Boardroom, Monaghan Row, Newry
17 October 2018	6.00 pm	Boardroom, Monaghan Row, Newry
<b>Tuesday 20</b> November 2018 (dash with Planning on Wednesday 21 <sup>st</sup> )	6.00 pm	Boardroom, Monaghan Row, Newry
<b>Tuesday 18</b> December 2018 (dash with Planning on Wednesday 19)	6.00 pm	Boardroom, Monaghan Row, Newry
23 January 2019	6.00 pm	Boardroom, Monaghan Row, Newry
20 February 2019	6.00 pm	Boardroom, Monaghan Row, Newry
20 March 2019	6.00 pm	Boardroom, Monaghan Row, Newry
<b>Tuesday 16 April</b> 2019	6.00 pm	Boardroom, Monaghan Row, Newry
<b>No Meeting in May</b> <b>due to LG elections</b>		

**ACTION SHEET ARISING FROM RTS MEETING HELD ON WEDNESDAY 23 MAY 2018**

<b>Minute Ref</b>	<b>Subject</b>	<b>Decision</b>	<b>Lead Officer</b>	<b>Actions taken/ Progress to date</b>	<b>Remove from Action Sheet Y/N</b>
RTS/072/2018	Chairperson's remarks – letter of best wishes to Councillor Harte and letter of congratulations to Anne O'Shea	<b>Letter of best wishes to Councillor Harte</b> <b>Letter of thanks to Anne O'Shea</b>	Democratic Services	<b>Actioned</b>	Y
RTS/074/2018	Action Sheet – proposal to purchase Christmas illuminations	<b>Officials be granted authority to accept the amended offer of four 3D images to replace 2, subject to officials checking and verifying them before purchase.</b>	K Scullion	<b>Actioned</b>	Y
RTS/076/2018	Notice of Motion – Single Use Plastic Free Council	<b>The establishment of a cross-departmental Officer Working Group to develop an action plan for the adopted Motion. The Working Group to meet and develop an action plan for the issues detailed in the Motion and report back to the RTS Committee for approval on the action plan.</b>	R Moore	<b>To be arranged</b>	N
RTS/077/2018	Car Park Tariff Pre-Review Report	<b>Note the contents of the car park tariff pre review report and Mr Jackson said he would take all</b>	C Jackson	<b>Review to be carried out and reported back in</b>	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
		comments on board and would report back to Committee after the review.		Nov 2018	
RTS/078/2018	Anti Social behaviour in the area to the rear of the Town Hall, Warrenpoint	<p><b>Defer taking a decision on this matter and that the DEA Co-Ordinator convene a Crotlieve Councillors Meeting with officers to discuss suitable ideas to address the issue of anti-social behaviour in the area to the rear of the Town Hall, Warrenpoint.</b></p> <p><b>At the request of Councillor Ruane it was also agreed to invite representatives from Dfi (Roads) to meet with Crotlieve Councillors to discuss the possibility of designating Kings Lane, Warrenpoint, as a pedestrian zone.</b></p>	C Jackson /Shirley Keenan  Shirley Keenan	<p><b>Site meeting arranged for 12 June 2018</b></p> <p><b>Referred to Dfi and awaiting a response</b></p>	N
RTS/082/2018	Bus shelter requests	<p><b>Approval of the recommendations in relation to bus shelter requests contained within Appendix 1.</b></p> <p><b>Officials consider how to effectively monitor usage at</b></p>	K Scullion	<b>In progress</b>	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
		locations where an application failed to meet minimum usage criteria and report back to Committee with recommendations.			
RTS/083/2018	Abandoned boat in Dundrum Bay	Proceed to apply for a Marine Licence for the removal of the abandoned boat at Dundrum Bay and upon receipt of Marine Licence or exemption from licence, arrange for removal of the boat from one of the two selected contractors appointed on the Restrictive List.	K Scullion	In progress	N
RTS/084/2018	Participation in Best Kept/Tidy Towns and Ulster in Bloom Competition	Note this report.  A request from Councillor Fitzpatrick for additional cleansing and refuse collection services to be made available during the weekend of the Feile in County Down (29 June – 1 July 2018), Mr Dinsmore confirmed the Directorate would provide as much additional support as possible.	K Scullion  L Dinsmore	In progress  Actioned.	N  Y

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
RTS/085/2018	Revised charges and incomes - cemeteries	<b>Note this report</b>	K Scullion	<b>Actioned</b>	Y
RTS/086/2018	Libraries NI – sign at Upper Square, Castlewellan	<b>Approval in principle to the request from Libraries NI to erect a sign on Council land at the Upper Square, Castlewellan and to delegate authority to the NS Directorate to agree on size of sign, its location, information contained on the sign and whether this agreement between Council and Libraries NI would be completed by exchange of letter or through a formal Licence Agreement.</b>  <b>Officials check to see if planning permission was required for the erection of this sign and also that Libraries NI be responsible for all costs incurred.</b>	K Scullion	<b>In progress</b>	N
RTS/087/2018	Bulky Collection Service	<b>Direction be given to Customer Services staff receiving requests For Bulky Collection Service, to exercise a 'discretion' with the</b>	<b>L.Dinsmore</b>	<b>Customer Services staff have been advised.</b>	Y



Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
		<p>definition of bagged waste.  <b>Discretion will not be applied to wastes normally presented in wheeled bins or in lieu of a wheeled bin collection. With respect to collection of building and renovation wastes, no change was recommended to the Council Policy. It was however considered that Customer Services Staff be directed to refer specific and occasional requests as would occur, to the Line Manager for further advice and direction.</b></p>			
<b>ITEMS LISTED BELOW WERE TAKEN IN CLOSED SESSION</b>					
RTS/089/2018	Charges for collection and disposal of wastes at Caravan Sites	<p>Defer taking a decision on the implementation of charges for the collection and disposal of wastes at Caravan Sites until the end of the current season, and that a full report, with costings, be brought back to the RTS Committee Meeting in September 2018.</p> <p>Noted that proposed increases should be communicated by Officers through further</p>	L Dinsmore	Collating information at present for report.	

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
		discussions with Operators , with agreement to be achieved in advance of new season charging.			
RTS/090/2018	Bunscoil an Iuir – proposed replacement of heating system	Approval to proceed with replacement of heating system at Bunscoil an Iuir with revised uplifted capital costs as detailed in Section 3.0 of the report dated 23 May 2018.	K Scullion	In progress	N

## Newry, Mourne & Down District Council – May 2018

8

### 1. Live Applications

MONTH 2017/18	NEW APPLICATIONS	LIVE APPLICATIONS	LIVE APPLICATIONS OVER 12 MONTHS
April	129	914	222
May	141	916	217

### 2. Live Applications by length of time in system

Month 2017/18	Under 6 months	Between 6 and 12 months	Between 12 and 18 months	Between 18 and 24 months	Over 24 months	Total
April	510	182	79	33	110	914
May	506	193	78	33	106	916

### 3. Live applications per Case Officer

Month 2017/18	Average number of Applications per Case Officer
April	51
May	49

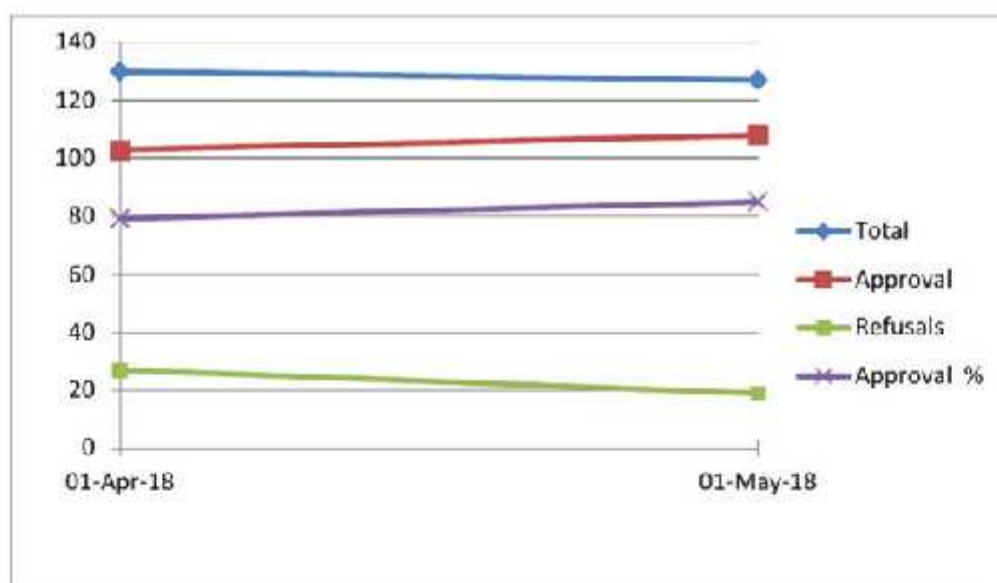
## Newry, Mourne & Down District Council – May 2018

### 4. Decisions issued per month

Month 2017/18	Number of Decisions Issued	Number of Decisions Issued under delegated authority
April	130	111
May	127	119

### 5. Decisions Issued YTD

Month 2017/18	Number of Decisions Issued	Breakdown of Decisions	
April	130	Approvals (103)	79%
		Refusals (27)	21%
May	257	Approvals (211)	82%
		Refusals (46)	18%



### 6. Enforcement Live cases

Month 2017/18	<=1yr	1-2 yrs	2-3 yrs	3-4 yrs	4-5 yrs	5+yrs	Total
April	305	220	101	77	84	124	911
May	325	208	105	81	84	125	928

## Newry, Mourne & Down District Council – May 2018

10

### 7. Planning Committee

Month	Number of Applications presented to Committee	Number of Applications Determined by Committee	Number of Applications Withdrawn/ Deferred for future meeting
11 April 2018	25	20	5
9 May 2018	17	10	7
<b>Totals</b>	<b>42</b>	<b>30</b>	<b>12</b>

### 8. Appeals

#### Planning Appeal Commission Decisions issued during May 2018

Area	Number of current appeals	Number of decisions issued	Number of decisions Allowed	Number of decisions Dismissed	Other decisions
Newry & Mourne	11	7	2	5	0
Down	6	1	1	0	0
<b>TOTAL</b>	<b>17</b>	<b>8</b>	<b>3</b>	<b>5</b>	<b>0</b>

## Newry, Mourne & Down District Council – May 2018

### Statutory targets monthly update - up to April 2018 (unvalidated management information)

#### Newry, Mourne and Down

	Major applications (target of 30 weeks)				Local applications (target of 15 weeks)				Cases concluded (target of 39 weeks)			
	Number received	Number decided/withdrawn <sup>1</sup>	Average processing time <sup>2</sup>	% of cases processed within 30 weeks	Number received	Number decided/withdrawn <sup>1</sup>	Average processing time <sup>2</sup>	% of cases processed within 15 weeks	Number opened	Number brought to conclusion <sup>3</sup>	"70%" conclusion <sup>3</sup> time <sup>3</sup>	% of cases concluded within 39 weeks
April	0	2	110.4	0.0%	99	110	14.1	51.8%	49	6	170.2	55.7%
May	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
June	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
July	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
August	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
September	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
October	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
November	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
December	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
January	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
February	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
March	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
<b>Year to date</b>	<b>0</b>	<b>2</b>	<b>110.4</b>	<b>0.0%</b>	<b>99</b>	<b>110</b>	<b>14.1</b>	<b>51.8%</b>	<b>49</b>	<b>6</b>	<b>170.2</b>	<b>66.7%</b>

Source: NI Planning Portal

#### Notes:

1. GLUDS, TPOS, NMCS and PADS/PANs have been excluded from all applications figures
2. The time taken to process a decision/withdrawal is calculated from the date on which an application is deemed valid to the date on which the decision is issued or the application is withdrawn. The median is used for the average processing time as any extreme values have the potential to inflate the mean, leading to a result that may not be considered as "typical".
3. The time taken to conclude an enforcement case is calculated from the date on which the complaint is received to the earliest date of the following: a notice is issued; proceedings commence; a planning application is received; or a case is closed. The value at 70% is determined by sorting data from its lowest to highest values and then taking the data point at the 70th percentile of the sequence.

## Record of meetings between Planning Officers and Public Representatives 2018-2019

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12

DATE OF MEETING	PLANNING OFFICER'S NAME/S	PUBLIC REPRESENTATIVE'S NAME
23/04/2018	A McAlarney	Cllr W Walker Cllr Andrews
27/04/2018	A McAlarney	Cllr Burgess
30/04/2018	A McAlarney	Cllr Walker
30/04/2018	A McAlarney	Cllr Fitzpatrick
10/05/2018	A McAlarney	Colin McGrath MLA

## Current Appeals

13

**AUTHORITY** Newry, Mourne and Down

**ITEM NO** 1  
**Planning Ref:** LA07/2017/0172/ **PAC Ref:** 2017/A0114  
**APPELLANT** SCS **DEA** Newry  
**LOCATION** Lindsay's Hill Approx 60 Metres South East Of 53-55 North Street  
 Newry BT34 1DD

**PROPOSAL** Renewal of Extant Planning Approval Ref. P/2011/0340/F for residential development of 14 units (of social housing) with new access road from St Clare's Avenue

**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** Informal Hearing **Date Appeal Lodged** 25/09/2017  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

**ITEM NO** 2  
**Planning Ref:** LA07/2017/0687/ **PAC Ref:** 2017/A0168  
**APPELLANT** Steven And Diane Campbell **DEA** The Mournes  
**LOCATION** 30m North Of 94 Greencastle Road  
 Killeel  
 BT34 4DF  
**PROPOSAL** Infill site for new dwelling and garage in existing cluster (amended plans)

**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** Written Reps with Site Visit **Date Appeal Lodged**  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**



## Current Appeals

14

<b>ITEM NO</b>	<b>3</b>	<b>PAC Ref:</b>	2017/A0169
<b>Planning Ref:</b>	LA07/2016/1647/	<b>DEA</b>	Newry
<b>APPELLANT LOCATION</b>	DBM Contracts 20 Metres East Of 6 Daisy Hill Carnagal		
<b>PROPOSAL</b>	Newry/ Erection of two dwellings and retention of retaining walls		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	22/11/2017
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>4</b>	<b>PAC Ref:</b>	2017/A0178
<b>Planning Ref:</b>	LA07/2017/0786/	<b>DEA</b>	Slieve Croob
<b>APPELLANT LOCATION</b>	Walter Watson 4 Drumnaquoile Road Castlewellan		
<b>PROPOSAL</b>	Replacement dwelling and detached garage		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	04/12/2017
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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### Current Appeals

**ITEM NO** 5  
**Planning Ref:** LA07/2017/0856/ **PAC Ref:** 2017/A0181  
**APPELLANT** Brian Hollywood **DEA** Slieve Gullion  
**LOCATION** 20 Lough Road  
 Mullaghbawn  
 RT35 9XP  
**PROPOSAL** Proposed change of use from Spa Centre Business to dwelling with some minor renovations

**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** Informal Hearing **Date Appeal Lodged** 06/12/2017  
**Date of Hearing** 15/03/2018  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

**ITEM NO** 6  
**Planning Ref:** LA07/2017/0319/ **PAC Ref:** 2017/A0188  
**APPELLANT** Mr Sean O'Hare **DEA** Slieve Gullion  
**LOCATION** 10A Limekiln Road  
 Newry  
 RT35 71 X  
**PROPOSAL** Retention of authorised treatment facility for end-of-life vehicles, including access road and all associated site infrastructure, including areas of hardstanding, drainage systems, all buildings, structures, racks, fencing and gates

**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** Informal Hearing **Date Appeal Lodged** 12/12/2017  
**Date of Hearing** 18/04/2018  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

## Current Appeals

16

<b>ITEM NO</b>	<b>7</b>		
<b>Planning Ref:</b>	LA07/2017/0018/	<b>PAC Ref:</b>	2017/A0189
<b>APPELLANT</b>	Rozanna Huq	<b>DEA</b>	Downpatrick
<b>LOCATION</b>	To The South Of 24 Crossgar Road East Crossgar BT30 9ER		
<b>PROPOSAL</b>	Proposed 2no infill dwellings and garages (Amended site plan received re: Site splays).		
<b>APPEAL TYPE</b>	DC - Conditions of Approval		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	11/12/2017
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>8</b>		
<b>Planning Ref:</b>	LA07/2017/0114/	<b>PAC Ref:</b>	2017/A0202
<b>APPELLANT</b>	Mr Vincent McGuinness	<b>DEA</b>	Newry
<b>LOCATION</b>	210m South 30 Low Road Killeavy Newry		
<b>PROPOSAL</b>	Retention of existing industrial units and yard area for use as a waste transfer station. Includes associated car parking, external storage area and weighbridge.		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	22/12/2017
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

17

**ITEM NO** 9  
**Planning Ref:** LA07/2016/0952/ **PAC Ref:** 2017/A0213  
**APPELLANT** D & M Downey **DEA** Newry  
**LOCATION** 113-117 Dublin Road  
 Newry  
**PROPOSAL** RT35 ROP  
 Sub-division of part of existing bulky goods retail warehouse (No 115)  
 to provide 3 No. ground floor class A1 retail units with new shopfronts  
 (the 3 No. units to operate without compliance with the bulky goods  
 condition on approval P/1993/0605); and western extension of site area  
**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** Informal Hearing **Date Appeal Lodged** 18/01/2018  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

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**ITEM NO** 10  
**Planning Ref:** LA07/2016/1331/ **PAC Ref:** 2017/A0214  
**APPELLANT** Ms Joanna Magee **DEA** Downpatrick  
**LOCATION** Lands Adjoining And Between 57 And 61 Churchtown Road  
 Downpatrick  
**PROPOSAL** Two detached dwellings and garages  
**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** **Date Appeal Lodged** 23/01/2018  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

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## Current Appeals

18

**ITEM NO** 11

**Planning Ref:** LA07/2017/0770/ **PAC Ref:** 2017/A0228

**APPELLANT** Mr And Mrs J McPolin **DEA** Slieve Croob

**LOCATION** 13 Downpatrick Road  
Ballynahinch

**PROPOSAL** RT24 RSH  
Proposed detached garage, rear extension to dwelling and extended site curtilage

**APPEAL TYPE** DC- Refusal of Planning Permission

**Appeal Procedure** **Date Appeal Lodged** 20/02/2018

**Date of Hearing**

**Date Statement of Case Due for Hearing**

**Date Statement of Case Due - Written Representation**

**Date of Site Visit**

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**ITEM NO** 12

**Planning Ref:** LA07/2017/0823/ **PAC Ref:** 2017/A0246

**APPELLANT** Adrian McParland **DEA** Slieve Gullion

**LOCATION** Adjacent And 30m South-west Of No.20 Newry Road  
Belleek

**PROPOSAL** Armagh  
Site for dwelling and garage (Policy CTY8)

**APPEAL TYPE** DC- Refusal of Planning Permission

**Appeal Procedure** **Written Reps** **Date Appeal Lodged** 09/03/2018

**Date of Hearing**

**Date Statement of Case Due for Hearing**

**Date Statement of Case Due - Written Representation**

**Date of Site Visit**

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## Current Appeals

19

**ITEM NO** 13  
**Planning Ref:** LA07/2017/1095/ **PAC Ref:** 2017/A0251  
**APPELLANT** Mr William Jordan **DEA** Rowallane  
**LOCATION** 1 Milltown Lane  
 Carstown Road  
 Saintfield  
**PROPOSAL** Detached garage and store (partly constructed)

**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** **Date Appeal Lodged** 15/03/2018  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

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**ITEM NO** 14  
**Planning Ref:** LA07/2017/1175/ **PAC Ref:** 2017/A0252  
**APPELLANT** Stuart Moffett **DEA** Crollieve  
**LOCATION** 15m West And To The Rear Of 81 Cloughanramer Road  
 Newry  
 BT34 1QG  
**PROPOSAL** Erection of a dwelling on a farm

**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** **Informal Hearing** **Date Appeal Lodged** 09/03/2018  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

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## Current Appeals

20

**ITEM NO** 15  
**Planning Ref:** LA07/2017/1627/ **PAC Ref:** 2017/A0254  
**APPELLANT** Mr Gerard Donnelly **DEA** Slieve Gullion  
**LOCATION** 20 Metres East Of 15 Newry Road And 45 Meters North Of 96  
 Maphoner Road Mullaghbawn  
**PROPOSAL** Proposed 2 No. dwellings on an in-fill site

**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** Written Reps **Date Appeal Lodged** 21/03/2018  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

**ITEM NO** 16  
**Planning Ref:** LA07/2017/0795/ **PAC Ref:** 2018/A0020  
**APPELLANT** Mr Laurence Patterson **DEA** Rowallane  
**LOCATION** Drumnacconnell House  
 56 Ballynahinch Road  
 Drumnacconnell West  
**PROPOSAL** Replacement dwelling

**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** **Date Appeal Lodged** 15/05/2018  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

## Current Appeals

<b>ITEM NO</b>	<b>17</b>	<b>PAC Ref:</b>	2018/AO021
<b>Planning Ref:</b>	LA07/2018/0166/	<b>DEA</b>	Slieve Gullion
<b>APPELLANT</b>	Sean Nugent		
<b>LOCATION</b>	60m East Of 86 Slatequarry Road Cullyhanna		
<b>PROPOSAL</b>	Retention of existing farm shed		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission	<b>Date Appeal Lodged</b>	15/05/2018
<b>Appeal Procedure</b>			
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Enforcement Appeal Decision

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87/91 Great Victoria Street  
BELFAST  
BT2 7AG  
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<b>Appeal Reference:</b>	2016/E0048.
<b>Appeal by:</b>	Organic Fertilisers Ltd.
<b>Appeal against:</b>	An enforcement notice dated 8 March 2017.
<b>Alleged Breach of Planning Control:</b>	Unauthorised change of use of land and buildings from the production of mushroom compost to the production of fertiliser for gardening and farming market.
<b>Location:</b>	Land at 21B Ryan Road, Mayobridge.
<b>Planning Authority:</b>	Newry Mourne & Down District Council.
<b>Authority's Reference:</b>	EN/2016/0030.
<b>Procedure:</b>	Hearing and accompanied site visit on 15 August 2017 & hearing on 13 December 2017.
<b>Decision by:</b>	Commissioner Mark Watson, dated 4 May 2018.

### Grounds of Appeal

1. The appeal was initially brought on Grounds (a), (b), (c), (d), (e), (f) and (g) as set out in Section 143(3) of the Planning Act (Northern Ireland) 2011. Ground (a) was withdrawn by the Appellant prior to the exchange of appeal evidence. There is a deemed planning application by virtue of Section 145(5). The Appellant's business is also subject to a waste management licence appeal (ref. 2016/V0001). That decision should be read in conjunction with this appeal decision.

### Claim for Costs

2. A claim for costs was made by the Appellant against the Council. This claim is the subject of a separate decision.

### The Notice

3. The Appellant considered that the red line on the map accompanying the Notice included a sizeable portion of land that did not form part of the Appellant's business. This inclusion of land increased the deemed application fee substantially. The matter of the extent of the site to which the Notice should relate is most appropriately addressed under Ground (b) of appeal. The matter of the deemed application fee will be addressed elsewhere within this decision.

**Ground (b) – that the matters alleged in the Notice have not occurred**

4. The map accompanying the Notice includes a section of land to the west and rear of the appeal building, comprised of a series of concrete walls previously used as windrush tunnels. These were a means to dry poultry litter naturally. These along with an area of land to the south of the Appellant's building were included within the red line on the Notice map. The surrounding land is controlled by Mourne Compost Limited (MCL), with the Appellant leasing the building and section of yard from MCL. MCL continues to operate a compost production facility on the yard areas to the north of the site. The entirety of that operation is outdoors and the land has full planning permission for retention of a mushroom compost manufacturing yard and storage, as well as a Certificate of Lawfulness of Existing Use or Development (CLEUD) for production of mushroom compost. These planning decisions are addressed in more detail later given their relevance to the appeal site. The Appellant stated that the areas to the west and south of the appeal building referred to above did not fall within the lease for Organic Fertilisers Ltd (OFL). A copy of the lease and map were provided within the Appellant's Statement of Case. The area leased by the Appellant's company is confined to the building and the yard area to the east and "front" of the building. The Council's witness at the first hearing accepted that the area controlled by OFL was smaller than shown in the map, but considered that this did not affect the deemed application fee.
5. From my own three inspections of the site, the area outwith that shown in the Appellant's map accompanying the lease is not in use associated with OFL, despite similar operations taking place (albeit outdoors) on the adjacent land. The windrush tunnels to the rear and west are unused and that area has been fenced off from the OFL operations. From my own observations and the totality of the submitted evidence I agree that part of the land identified in the Council's map accompanying the Notice does not constitute part of the OFL operation.
6. The matter stated in the Notice has therefore not occurred on those parts of the land outside the Appellant's leased area. I shall therefore vary the Notice at Section 2 to read "Land at 21B Ryan Road, Mayobridge, shown edged in red, excluding that area shown cross-hatched, on the accompanying Map PAC1". The appeal under Ground (b) succeeds in respect of that part of the land only identified as the cross-hatched area on the Map PAC1 accompanying this decision.

**Ground (c) – that those matters do not constitute a breach in planning control**

7. The alleged breach in the Notice referred to a change of use of land and buildings from the production of mushroom compost to the production of fertiliser for the gardening and farming market. The Appellant considered that as permission had previously been granted for production of mushroom compost no material change of use had taken place. The planning history for the appeal site provides the baseline for consideration of whether or not a material change of use has occurred.
8. A "compost mixing yard" was granted full planning permission on 21 March 1989 (ref. P/1988/1367/F). Although no map has been retained showing the extent of this sites, the landowner stated that this included the appeal site. Full planning permission was granted on 4 May 2005 for the "retention of mushroom compost manufacturing yard and storage" (ref. P/1993/0151/F). That application covered a

wider land area but included the appeal site in its entirety. A CLEUD was granted on 24 June 2005 (ref. P/2004/1634/LDE) for the "production of mushroom compost (compost from straw, poultry litter, food waste, green waste, gypsum lime and paper)". This CLEUD related to the wider land area but also included the appeal site as a whole. A further planning application was granted full permission on 23 April 2009 for the "erection of phase 3 mushroom compost production building, recomposting shed, mushroom growing tunnels and extension to existing mushroom yard" (ref. P/2006/2143/F). Full planning permission for the "refurbishment of existing mushroom composting shed for change of use to production of fertiliser for gardening and farming market" (ref. P/2011/07779/F) was refused on 5 December 2014. That application, which related to the appeal site itself, was subsequently appealed (ref. 2014/A0290). The appeal was dismissed in February 2016.

9. The Appellant contended that the 2005 planning permission, along with the CLEUD also granted in 2005, allow for the use taking place on the appeal site. He argued that there is no material difference in what was produced under the terms of the CLEUD and what is currently produced on site. His representatives stated that the 2011 change of use application which differentiated between mushroom composting and fertiliser production was predicated incorrectly from the outset and is not an indicator that a change of use has taken place on the site.
10. The 2005 CLEUD allowed for the production of mushroom compost, made up of straw, poultry litter, food waste, green waste, gypsum lime and paper. It did not specify what use class, if any, the stated use was considered to be. The Appellant referred to the online Oxford English Dictionary (OED), which defines a fertiliser as "a chemical or natural substance added to soil or land to increase its fertility". The OED defines compost as "decayed organic material used as a fertiliser for growing plants", with the word fertiliser listed below that definition as a synonym. The glossary to Planning Policy Statement 11 – Planning and Waste Management defines compost as "organic matter decomposed aerobically or anaerobically and used as a fertiliser or soil conditioner". From the definitions of the two terms there is little to distinguish one from another in terms of determining if they amount to a difference in terms of planning use on the site.
11. The primary ingredient used to make the Appellant's products falls under the same European Waste Code (EDW) as the CLEUD allowed for; poultry litter (EDW Code 020106), whilst the remaining components still fall within the other stated elements of green waste, food waste and gypsum lime. Whilst the Appellant occasionally adds small amounts of phosphorous or potassium, I am not persuaded that their inclusion would amount to a material change of use in themselves.
12. The Council and Objectors pointed to the change in process to arrive at the final product. The adjacent MCL operation entails leaving amounts of the material to dry outside naturally over a protracted period of time. The Appellant's process, carried out indoors, entails moisture-checking the material, drying it where necessary and running it through a press to produce the pellets. It was stated that when a customer requests if the material can be left in loose form and bagged accordingly. The process takes only a couple of days from start to finish. The heating process also eliminates any chance of botulism remaining in the litter.
13. The CLEUD is not specific in terms of the form that the end product should take, despite the Council and Objectors pointing to the difference between a loose

- compost and the pelleted product the Appellant now produces. Nor does the CLEUD state the process by which the compost should be produced. Despite the physical difference in terms of a loose product and a pelleted product and the mechanised process carried out indoors to attain the final product, I am not persuaded for the purposes of this appeal that there is a material difference between compost and fertiliser of that it is demonstrative of a material change in use having taken place.
14. Whilst the CLEUD stated "mushroom compost", compost has wider applications for a variety of plants and vegetation. The same material could still be used for growing plants and vegetables other than mushrooms despite its description. Even though described as mushroom compost in the CLEUD, the lack of substantive difference in the core ingredients used as stated in the CLEUD would not persuade me of there being a material difference. Nor would any perceived changes in the mix ratio of litter to other ingredients as was stated by the Objectors. The Council and Appellant pointed to the Appellant's product being aimed at the garden and farming markets. However, the CLEUD did not specify an end product market or user. Given the end product is constituted from the same materials and despite being artificially dried and given a different end form, I am not persuaded that this demonstrates a material change of use has occurred.
  15. In terms of the use class operating on the site, the Council considered that a change had taken place from Class B2: Light Industrial to B3: General Industrial. The Appellant considered that the use remained sui generis and had not changed. The Planning (Use Classes) Order (NI) 2015 (UCO) defines Light Industrial as "use for any industrial process which can be carried out without detriment to amenity by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit". Class B:3 General Industrial is defined as "use for the carrying on of any industrial process other than one falling within Class B2". Even though the Council and Objectors considered the level of odour associated with outdoor drying was less detrimental to amenity than the Appellant's indoor process, outdoor drying would still in itself give rise to odour, even if left inert for periods of time. I am therefore not persuaded that the approved use under the CLEUD would have been B2: Light Industrial in the first instance. The UCO at Article 3(4) lists a series of sui generis uses; i.e. those uses belonging to no particular group or use class within the UCO. The final sui generis use listed is *use as a waste management facility for the collection, transport, treatment, recovery and recycling, transfer and disposal of waste (as defined in Council Directive 2009.98/EC) (9)*. Although the Appellant does bring waste to his facility, that waste is a component used in the adaption of materials to produce compost. I am not persuaded that the operations ongoing on the appeal site can be considered to be a waste management facility.
  16. The UCO defines an industrial process as a process for or incidental to any of the following purposes, two of which are of relevance in this case. These are: "(a) the making of any article or part of any article (including an aircraft, ship or vessel, or a film, video or sound recording)" and "(b) the altering, repairing, maintaining, ornamenting, finishing, cleaning, washing, packing, canning or adapting for sale of any article". Whilst the Appellant does recycle waste in the process of making compost, this is done for the purpose of making the compost as a finished product. This product can be considered to be an article. The process he undertakes also entails the finishing, packing and adapting for sale of that article. Even if a waste management licence would also be required for the handling of the waste that is

used in the Appellant's products, for the reasons given above I consider the use on the site to be B3: General Industrial.

17. The Council and Objectors pointed to the change in character and planning consequences that had arisen from the OFL operation on the appeal site. An Objector referred to the replacement of several older fans on the building with a single larger fan, however, I am not persuaded that this represents a material change in use on the site. A series of complaints had been made to the Council's Environmental Health Department (EHD) in respect of odour and noise. The contemporaneous accounts of the site inspections are not definitive as to the source of the odour, save for one incident I address further below. Nor are the accounts persuasive that the issues were being caused solely, if at all, by the appeal development, particularly when details relating to wind direction, wind strength and precise assessment locations were not always recorded. The fact that MCL has and continues to store large heaps of poultry litter in the open yard areas in proximity to the appeal site which can give rise to odour emissions in themselves, even if the odour might vary in terms of strength or make-up, render conclusively determining that odours are being generated by the appeal development difficult at best.
18. The photos provided by an Objector showing vapour emitting from the appeal building were taken at a time when a gap in the rear wall of the shed was still present, even if the digger in the photo is not working directly at the hole in the wall. The same situation was the case during the accompanied site visit, where odour was evident at the rear of No. 22 Ryan Road. This was during the period when the large hole in the rear wall had not been repaired, thus the building could not operate at the intended negative pressure. There were also several minor holes in the roof of the building. From my own observations during my third visit to the site and the NIEA comments, these repairs have since been carried out. No odour was detectable around the environs of the site, despite OFL operating that day.
19. The one incident recorded in the Council's site investigations where odour was detected and directly attributed to OFL operations referenced the doors being left open in the building, which would explain the detectable odour issue. I am told this is not proper practice and it is normal practice for the doors to be kept closed, except for actual moments of ingress and egress. This was the case during the two unannounced site visits I made, during which OFL was fully operating. The totality of the Council's records of the investigations do not persuade me that the odours detected at complainant receptor properties were a direct consequence of the appeal development and its indoor operations, particularly when open air storage of litter was taking place on the adjacent land.
20. The Council and Objectors referred to previous abatement notices being issued under the Clean Neighbourhoods and Environment Act (NI) 2011 and a Notice under Article 27 of the Waste and Contaminated Land (NI) Order 1997 being issued. Whilst the Appellant did accept a caution for outdoor storage of litter, no further action was taken against the Appellant or OFL. It was the owner of MCL who was prosecuted and fined for activity on land adjacent but outside of the appeal site. Notwithstanding the complaints from neighbouring properties I am not persuaded that the indoor activity and mechanised process in themselves amount to a change in character that suggests a material change in use having taken place.

21. In respect of the recorded noise complaints, these predominantly relate to operations on the site taking place outside of normal working hours. Although not to be condoned, such operations and the noise arising from them, such as at times of late evening or night, when background noise levels would generally be much lower, are not indicative of a material change in use. Rather, they relate to management issues pertaining to the operation of the site. Whilst a tonal noise was noted coming from the appeal building during the accompanied site visit I am told this from a defective conveyor. It has since been repaired and I did not note the tonal noise during my third site inspection despite the conveyors being in operation at that time.
22. The Appellant and his representatives considered that the previous application was predicated wrongly on there being a change of use. The previous appeal decision 2014/A0290, which dismissed the change of use under which the alleged breach in the Notice is framed, did not address whether or not a change of use was required on the basis of the previous planning history because it was not an issue put forward for consideration. The evidential context for that appeal was based on an uncontested starting point of a prospective change of use sought from mushroom composting to production of fertilisers for the gardening and farming markets, as well as various proposed building operations. Thus, I am not persuaded that the previous appeal decision is demonstrative of a change of use having taken place.
23. Having had regard to the totality of the evidence and my own site observations on several occasions, two of which were unannounced inspections, I am not persuaded that the use taking place on the site differs materially from that granted under the CLEUD and earlier planning permission. I consider that no change of use has taken place on the appeal site and the use remains B3: General Industrial. The matters alleged do not constitute a breach in planning control. The appeal under Ground (c) therefore succeeds.

**Ground (d) – that at the date the Notice was issued, no enforcement action could be taken in respect of any breach of planning control**

24. As the appeal succeeds under Ground (c), I need not consider this ground of appeal.

**Ground (a) – that planning permission ought to be granted**

25. As the appeal succeeds under Ground (c) there is no need to consider this ground of appeal and the deemed planning application, including the various planning issues raised by the Council and Objectors. The deemed application fee shall be returned to the Appellant.

**Ground (f) – that that the steps required by the Notice to be taken, or the activities required by the Notice to cease, exceed what is necessary to remedy any breach of planning control**

26. As the appeal succeeds under Ground (c), I need not consider this ground of appeal.

**Ground (g) – that the period specified in the notice falls short of what should reasonably be allowed**

27. As the appeal succeeds under Ground (c), I need not consider this ground of appeal.

#### **Decision**

28. The decision is as follows:-

- The appeal on Ground (b) partially succeeds in respect of the area identified as being outside of the area leased by OFL. Section 2 of the Notice is varied to read "Land at 21B Ryan Road, Mayobridge, shown edged in red, excluding that area shown cross-hatched, on the accompanying Map PAC1";
- The appeal on Ground (c) succeeds; and
- The Notice is quashed.

**COMMISSIONER MARK WATSON**

**Appearances****Planning Authority:-**

Mr D Watson (Newry Mourne & Down District Council)\*  
 Mr O Devlin (Assistant Director Health and Wellbeing,  
 Newry Mourne & Down DC)  
 Mr C Millar (NI Environment Agency)\* #  
 Mr B Begley (NIEA)\* #  
 Ms E McCafferty (NIEA, observing)\*

Mrs L Duffy (Newry Mourne & Down District Council)#  
 Ms G McKinley (Environmental Health, Newry Mourne &  
 Down DC)#  
 Mr P Smith (Newry Mourne & Down District Council)#

**Appellant:-**

Mr S Beattie QC (instructed by TLT Solicitors)#  
 Mr T Bell (Clyde Shanks Planning Development)\*#  
 Mr S Carr (Irwin Carr)\*#  
 Dr C Jordan (Irwin Carr)#  
 Mr A Ryan (TLT Solicitors)#  
 Mr G McGill (Clyde Shanks Planning Dev)#  
 Mr N Reynolds (Appellant)\*#  
 Mr J Dundee (Synergy Engineering & Environment)#

**Third Parties:-**

Mr J McAllister (Objector)\*  
 Mr B Turley (Objector)\*  
 Mr D Redmond (Objector)#  
 Mr G Larkin (Objector)  
 Mrs M Sands (Objector)  
 Mr G Markey (Objector)\*  
 Cllr Fitzpatrick (Objector)#

\*In attendance at accompanied site visit after hearing on 15 August 2017.  
 #In attendance at second hearing on 13 December 2017.



**List of Documents**

<b>Planning Authority:-</b>	<b>'A' Statement of Case &amp; Appendices (Newry, Mourne &amp; Down DC)</b> <b>'D' Draft planning conditions (Newry Mourne &amp; Down DC)</b> <b>'E' Copies of contemporaneous notes and records of Environmental Health Dept. site investigations re third party complaints (N,M &amp; D DC)</b>
<b>Appellant:-</b>	<b>'B' Statement of Case &amp; Appendices (Clyde Shanks Planning Development)</b> <b>'F' Response to Council site investigation records (Clyde Shanks Planning Development)</b> <b>'G' Briefing Note document re Odour Evidence (Irwin Carr)</b> <b>'J' Email re damaged roller shutter door (Clyde Shanks Planning Development)</b>
<b>Third Parties:-</b>	<b>'C' Statement of Case &amp; Appendices (Ryan Road Residents)</b> <b>'H' Two photographs of appeal site in operation (Mr D Redmond)</b> <b>'I' Email confirming date and time of photographs (H) (Mr D Redmond)</b>









# Appeal Decision

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<b>Appeal Reference:</b>	2017/A0161
<b>Appeal by:</b>	Quayside Properties Ltd
<b>Appeal against:</b>	The refusal of Listed Building Consent
<b>Proposed Development:</b>	Demolition of remaining parts of building for health and safety reasons
<b>Location:</b>	2-3 Sugarhouse Quay, Newry
<b>Planning Authority:</b>	Newry, Mourne and Down District Council
<b>Application Reference:</b>	LA07/2015/1123/LBC
<b>Procedure:</b>	Written representations with Accompanied Site Visit on 27 <sup>th</sup> February 2018
<b>Decision by:</b>	Commissioner A Speirs, dated 9 <sup>th</sup> May 2018

## Decision

1. The appeal is dismissed.

## Reasons

2. The main issues in this case are:- whether exceptional circumstances exist, which would render acceptable the demolition of the listed building, and, the effect of the demolition of what remains of this building on the character and appearance of the Newry Conservation Area.
3. Section 80(7) of the Planning (Northern Ireland) Act 2011 states that "In this Act "listed building" means a building which is for the time being included in a list compiled under this section; and, for the purposes of the provisions of this Act relating to listed buildings, the following shall be treated as part of the building – (a) any object or structure within the curtilage of the building and fixed to the building; (b) any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1st October 1973". Therefore, although not all of the subject building is listed, the non-listed part, which is integral to the structure, is also treated as being listed by dint of this statutory provision.
4. Section 91 of the 2011 Planning Act, dealing with applications for Listed Building Consent, states that "in considering whether to grant planning permission for

development which affects a listed building or its setting, and in considering whether to grant listed building consent for any works, a council or, as the case may be, the Department must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”.

5. Section 104 (11) of the Planning (NI) Act 2011 requires that where any area is for the time being designated as a conservation area, special regard must be had to the desirability of:

- (a) preserving the character or appearance of that area in cases where an opportunity for enhancing its character or appearance does not arise;

- (b) enhancing the character or appearance of that area in cases where an opportunity to do so does arise.

Policies BH 10 and BH 14 of Planning Policy Statement 6: Planning, Archaeology and the Built Heritage (PPS6) cited by the Council in its reasons for refusal must be considered in the context of the above.

6. Section 6 (4) of the 2011 Planning Act states that a determination under the Act must be made in accordance with the Local Development Plan, unless material considerations dictate otherwise. The Banbridge Newry and Mourne Plan 2015 (BNMAP) identifies the extent of the Newry Conservation Area and the Plan states that “Conservation Areas have been designated, under Article 50 of the Planning (Northern Ireland) Order 1991, in Bessbrook, Dromore, Newry and Rostrevor in recognition of their architectural and historical interest”. It contains no specific policies in respect of Listed Buildings or Conservation Areas and defers to regional policy with regard to proposals affecting these. It also refers to guidance in the Newry Conservation Area document (DOE NI), December 1992. The latter states that “Formal consent is required for the demolition of a building within the Conservation Area. It will be necessary to demonstrate there is an overriding or exceptional reason to justify the works. Proposals for demolition generally should be accompanied by a satisfactory scheme for replacement or redevelopment in a manner which is appropriate to the Area”
7. The Strategic Planning Policy Statement for Northern Ireland 2015 (SPPS) is a material consideration. It retains various regional policies until councils have adopted a new Plan Strategy. It states that any conflicts between the SPPS and the existing retained Planning Policy Statements are to be resolved in favour of the SPPS. The SPPS contains a policy direction reflecting Section 104 of the 2011 Act. Paragraph 6.18 advises that in managing development within a designated conservation area the guiding principle is to afford special regard to the desirability of enhancing its character or appearance where an opportunity to do so exists, or to preserve its character or appearance where an opportunity to enhance does not arise. It goes on to say that there will be a general presumption against the grant of planning permission for development or conservation area consent for demolition of unlisted buildings where proposals would conflict with this principle.

This general presumption should only be relaxed in exceptional circumstances where it is considered to be outweighed by other material considerations grounded in the public interest.

8. Paragraph 6.15 of the SPPS states that "proposals for the total demolition of a listed building or any significant part of it must not be permitted unless there are exceptional reasons why it cannot be retained in its original or a reasonably modified form. Where consent to demolish a listed building is granted, this should normally be conditional on prior agreement for the redevelopment of the site...". This policy approach is broadly similar to that set out in Policy BH10 of PPS6. Whilst it refers to unlisted buildings only, policy BH14 of PPS 6 – Demolition in a Conservation Area, has relevance in respect of the demolition of any building in a conservation area. It states that "the Department will normally only permit the demolition of an unlisted building in a Conservation Area where the building makes no material contribution to the character or appearance of the area. Where conservation area consent for demolition is granted this will normally be conditional on prior agreement for the redevelopment of the site...". Paragraph 7.17 states that in assessing such proposals the Department will have regard to the same broad criteria outlined for the demolition of listed buildings and is cross referenced to paragraph 6.5 and policy BH 10.
9. In respect of policy BH10, paragraph 6.24 of PPS6 indicates that consent will not be given (for demolition) simply because the redevelopment is economically more attractive to the developer than repair and re-use of the building, or because the developer acquired the building at a price that reflected the potential for redevelopment rather than the condition and constraints of the existing historic building. Paragraph 6.25 goes on, *inter alia*, to refer to the following factors:-
  - (a) the condition of the building, the cost of repairing and maintaining it in relation to its importance and to the value derived from its continued use. Any such assessment will be based on consistent and long-term assumptions. Less favourable levels of rents and yields cannot automatically be assumed for historic buildings. Also, they may offer proven technical performance, physical attractiveness and functional spaces that, in an age of rapid change, may outlast the short-lived and inflexible technical specifications that have sometimes shaped new developments. Any assessment will also take account of the possibility of tax allowances and exemptions and of grants from public or charitable sources. In the rare cases where it is clear that a building has been deliberately neglected in the hope of obtaining consent for demolition, less weight will be given to the costs of repair;
10. The proposal involves removal of the remainder of the original building on the appeal site, which fronts over Sugarhouse Quay and the Newry Canal. The evidence before me indicates that demolition of part of the original building took place at some time in 2004. This was regularised by Listed Building Consent reference P/2005/1507/LB, granted in February 2008, together with a scheme for the redevelopment of the site including incorporation of remaining parts of the

building (P/2005/1506/F). The remaining structure is on the 'Built Heritage at Risk Northern Ireland' register.

11. The appellant company's evidence referred to PPS6 policy BH10 and pointed out that there can be exceptional circumstances where the Planning Authority will permit the demolition of a listed building that cannot be retained. It was also argued that, in stating that "where, exceptionally, listed building consent is granted for demolition this will normally be conditional on prior agreement for the redevelopment of the site", BH10 allows for demolition without a redevelopment proposal being in place. In addition, it was submitted that paragraph 6.23 of PPS6 explains that the demolition of any grade A or B+ (the 2 highest classifications of listed buildings) would require the strongest justification and it thus follows that the lowest category of listed buildings (B2) would require a lower standard of justification.
12. Whilst paragraph 6.23 of PPS6 refers to grade A and B+ listed buildings, this does not imply that a grade B building is of little importance. The headnote of BH10 does not differentiate between grades of listed buildings. I note that paragraph 6.23 goes on to state that "...consent will not be given for the total or substantial demolition of *any* (my emphasis) listed building without clear and convincing evidence that all reasonable efforts have been made to sustain existing uses or find viable new uses, and these efforts have failed; that preservation in some form of charitable or community ownership is not possible or suitable; or that redevelopment would produce substantial benefits for the community which would decisively outweigh the loss resulting from demolition". There is no evidence to suggest that the appellant company has sought to investigate these avenues. I note that the demolition of the front part of the building took place in 2004, before the building was listed, and that this resulted in the first ever 'spot' listing in Northern Ireland. This demolition was unlawful as, at that time, the provisions of Article 51 of the Planning (NI) Order 1991 meant that permission was required for such works in a conservation area. In light of the circumstances, I attach little weight to the appellant company's inference that as consent had been granted for demolition in 2008, in the same policy context as currently exists, the removal of the rest of the building should also be permitted.
13. The appellant company produced evidence in an attempt to demonstrate the unviability of retaining the listed building. The letter from McAlpine & Co. estimates that, based on an annual rental value of £105,623, the capital value of a redeveloped building would be around £630,000; it was submitted that this compares unfavourably with a redevelopment cost of 2.8 million pounds (plus other fees) as estimated by Dunlop Hawthorne Partnership Quantity Surveyors. As there is no scheme for redevelopment of the site before me, I can only assume that this estimate is based on the scheme approved in 2008.
14. I note that the capital value figure produced by McAlpine & Co. has been based on roughly 6 years projected rental income of £105,623. No analysis has been provided to demonstrate the precision of the capital valuation. It is unclear whether the redevelopment cost estimate has been produced taking into account the



availability of grant aid or other benefits available for owners of listed buildings on the Built Heritage at Risk register (as detailed in the letter from NIEA to Quayview Properties Ltd. dated 22.10.2013). As the appellant company's evidence recognises, paragraph 6.24 of PPS6 acknowledges that consent to demolish will not be given simply because redevelopment is economically more attractive to the developer than repair and re-use of the building. As paragraph 6.25 of PPS6 states "any assessment will also take account of the possibility of tax allowances and exemptions and of grants from public or charitable sources".

15. The demolition of the front part of the building took place in 2004. Approval for redevelopment was granted in 2008. Thus, for a period of almost 10 years the remaining building has lain neglected. I was advised that, after the economic recession of 2008, the appellant company lost interest in developing the site. Paragraph 6.25 of PPS6 indicates that, where it is clear that a building has been deliberately neglected in the hope of obtaining consent for demolition, less weight will be given to the costs of repair. Whilst there is no evidence of intentional neglect, the appellant company had ample opportunity to prevent the building deteriorating to the extent that it has.
16. Two reports were undertaken for the appellant company. The condition report by MF Consulting dated 19.8.2015 recommended that demolition of the building would be the safest and most expedient means to secure the site and the adjacent properties. Another visual inspection report dated 13.10.2016 by Albert Fry Associates examined the issue of retention and concluded that "a staged temporary support and controlled take-down approach has been presented which, subject to review by an experienced demolition contractor, offers the potential to retain the front and gable walls of the NW block to eaves level and the other three blocks to their uppermost existing floor level. Opportunities to integrate the remaining fabric, with relevant remediation and conservation measures, within proposed redevelopment of the site may be developed".
17. I recognise that in December 2016 F McParland & Co declined to provide an estimate for "temporary support frame of warehouse" on the basis of the poor condition of the building; I note also the letter from the same company dated January 2018 advising that full or partial demolition of the building should be undertaken. However, there is nothing to suggest that other experienced demolition contractors would have been unable to implement the recommendations of the Albert Fry Associates report. Based on the evidence before me I am not persuaded that the entire building is incapable of being retained, nor can I conclude that there are economic reasons which dictate that demolition of the building is the only option available. I see no reason why the appellant company could not have produced a scheme for redevelopment of the site in accordance with PPS6 policy BH12. There does not appear to be justification to set aside the normal requirements of policy. It would not be appropriate to attach a condition to a listed building consent for demolition requiring that redevelopment proposals would be submitted within an agreed period of time; this would be at odds with the normal requirements of both policies BH10 and BH14. It could also result in a vacant site being created, which could

potentially lie undeveloped for some time and detract from the appearance and character of the conservation area.

18. The appellant company referred to the danger that the existing building poses for neighbouring properties and the difficulties in acquiring insurance for the site. I was not provided with any specific detailed evidence in respect of these points. I noted that the site is closed off and physical remedies exist to prevent trespass. It appears to be difficult, rather than impossible, to secure insurance. A remedy for any danger that the building presents would be to redevelop the site as soon as possible. I am not persuaded that the points raised justify total demolition. I do not accept that there are exceptional reasons why the remaining building cannot be retained in a reasonably modified form. Its demolition would run counter to the presumption in favour of retaining listed buildings and I find that the proposal fails when considered against policy BH10 of PPS6.
19. The appellant company argued that, in the context of policy BH14, where demolition of a building is permissible if it makes no material contribution to the character or appearance of the area, the word 'material' has the meaning of great impact or consequence or significance or relevance. It was also argued that in BH14, the word 'normally' indicates that demolition will not always be conditional on prior agreement for the redevelopment of the site. I disagree with the interpretation of the word 'material'; in my opinion the appellant company has elevated the term to a higher level than policy envisaged by prefacing it with the adjective 'great'. I do not disagree, however, that 'material' could mean being of consequence, significance or relevance, or of having an impact. Whilst I would accept that the building on site is in very poor condition, I would not describe it as a complete ruin and I do not agree with the appellant company's assertion that it is an 'eyesore'. Much of the external stone walling and wall detailing remains, with window and access openings still evident. Historic Environment Division (HED) referred to the historical importance of the mill buildings and it is clear from the evidence submitted that it is one of the earliest warehouses built in Newry. I agree with HED that the building is a tangible link to the past and Newry's important commercial history. I concur that the building is visually linked to the Newry Canal and Sugarhouse Quay, which are historic monuments, when seen from Sugarhouse Quay itself and from New Street and Merchant's Quay. I agree with HED's contention that the building is an important heritage asset to the area, the retention of which reinforces the local distinctiveness of the site and of the surrounding area. I judge that the building makes a material contribution to Newry Conservation Area. I reach these conclusions in respect of the building as it currently exists, and not on the building as it was before the front elements were demolished. I judge that the proposal to remove the remaining structure conflicts with policy BH14 of PPS6.
20. I recognise that redevelopment of the site could make a positive contribution to the area and that any scheme would be subject to PPS6 policy BH12, which requires new development to be in keeping with the character and appearance of the conservation area. This could be achieved whilst still incorporating much of the existing building on the site within the new scheme. I disagree with the appellant

company that demolition of the remaining structures and securing the site would be an improvement on the current situation. Neither the Council, nor Historic Environment Division has sought to prevent redevelopment of the site. The appellant company submitted that, if the site can be cleared, the potential for a new development is very high and this would provide a real environmental economic and social benefit for the community, and Newry as a whole. I consider that retention of the building and its incorporation into a new scheme would offer similar benefits.

21. There is no opportunity in this case for enhancing the character or appearance of the Newry conservation area. Retention of the building on the appeal site will preserve the existing character and appearance. The proposal to completely demolish the building conflicts with policies BH10 and BH14 of PPS6, as does the absence of a redevelopment proposal for my consideration. The Council's reasons for refusal are sustained and the appeal must therefore fail.

This decision is based on the following:-

Drawing 01 - sitelocation plan at scale 1:1250

Drawing 02 - Demolition Plan Ground Floor at scale 1:200 @A3

Drawing 03 - Demolition Plan First Floor at scale 1:200 @A3

Drawing 04 - Demolition Plan Second Floor at scale 1:200 @A3

Drawing 05 - Demolition Plan Third Floor at scale 1:200 @A3

all of which were stamped refused on 10 July 2017

**COMMISSIONER ANDY SPEIRS**

**Attendances at site visit**

Planning Authority:- Mr G Murtagh

Historic Environment Division:- Ms N Golden  
Ms J Stokes

Appellant: - Mr A McCready, Architect

**List of Documents**

Planning Authority:-  
Doc A - Statement of Case with Appendices  
Doc B – Statement of case – HED  
Doc C - Rebuttal comments - HED

Appellant:-  
Doc D - Statement of Case with Appendices  
Doc E - Rebuttal comments



# Enforcement Appeal Decision

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<b>Appeal Reference:</b>	2017/E0030
<b>Appeal by:</b>	B & P Cunningham
<b>Appeal against:</b>	An enforcement notice dated 12 <sup>th</sup> September 2017
<b>Alleged Breach of Planning Control:</b>	The unauthorised construction of 10 Apartments
<b>Location:</b>	Land at 65 Armagh Road, Newry
<b>Planning Authority:</b>	Newry, Mourne and Down District Council
<b>Authority's Reference:</b>	LA07/2016/0207/CA
<b>Procedure:</b>	Hearing on 8 <sup>th</sup> February 2018
<b>Decision by:</b>	Commissioner A Speirs, dated 22 <sup>nd</sup> May 2018

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## Grounds of Appeal

1. The appeal was brought on grounds (a), (f) and (g) as set out in Section 143(3) of the Planning Act (Northern Ireland) 2011. There is a deemed planning application by virtue of Section 145(5).

### Ground (a) and the deemed application

2. The main issue in this appeal is whether the development has an unacceptable adverse impact on the residential amenity of neighbouring properties.
3. Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations. Section 6(4) states that where regard is to be had to the Development Plan, the determination must be made in accordance with the Plan unless material considerations indicate otherwise. The appeal site is located within the urban area of Newry as identified in the Banbridge Newry and Mourne Area Plan 2015. It sits outwith any Plan designation. The Plan is silent on development of the subject nature and defers to regional policy on such matters.
4. Other planning policy context for the development is provided by the Strategic Planning Policy Statement for Northern Ireland (SPPS) introduced in September 2015, PPS 7 - Quality Residential Environments, the Addendum to PPS7 – Safeguarding the Character of Established Residential Areas, Creating Places - Achieving Quality in Residential Development, and DCAN 8: Housing in Existing Urban Areas. The Council also referred to Planning Policy Statement 12 – Housing in Settlements (PPS12).

5. Paragraph 6.137 of the SPPS states that "within established residential areas it is imperative to ensure that the proposed density of new housing development, together with its form, scale, massing and layout will respect local character and environmental quality as well as safeguarding the amenity of existing residents". In terms of design paragraph 6.137 goes on to say that "good design should be the aim of all those involved in housing development and will be encouraged everywhere. All new housing developments should demonstrate a high quality of design, layout (including road infrastructure considerations) and landscaping".
6. PPS 12 provides planning policies for housing within the context of the Strategic Planning Guidelines contained in the RDS, and defines considerations to be taken into account when preparing local housing policies in development plans. It is not intended as a development management document and actually states that planning policy in respect of Planning Control Principle 1 is set out in PPS7.
7. Policy QD1 of PPS7 states that "in established residential areas proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas". The policy further indicates that all proposals for residential development will be expected to conform to specified criteria. These include:-

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

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

Paragraph 4.38 of PPS7 states that "the protection of the privacy of the occupants of residential properties is an important element of the quality of a residential environment. It is a particularly important consideration where new development is proposed adjacent to existing properties. Proposals should therefore seek to provide reasonable space between buildings in order to minimise overlooking. This will also assist in providing acceptable levels of daylight to properties". Policy LC1 of the Addendum to PPS7 reiterates that infilling of vacant sites is subject to the criteria applied by policy QD1.

8. Creating Places provides guidance on the layout and design of new housing developments. Paragraph 7.16 of the document states that where development "... abuts the private garden areas of existing properties, a separation distance greater than 20m will generally be appropriate to minimise overlooking, with a minimum of around 10m between the rear of new houses and the common boundary". Paragraph 7.17 indicates that "great care will be needed in designs where new residential schemes, such as apartments, include living rooms or balconies on upper floors as this can cause a significant loss of amenity to adjoining dwellings, particularly where they are close to the boundaries of existing properties. Where such development is proposed on green-field sites or in lower density areas, good practice indicates that a separation distance of around 30m should be observed or, alternatively, consideration given to a modified design. Where such

development abuts the private garden areas of existing properties, a minimum distance of around 15m should be provided between the rear of the apartments and the common boundary". With regard to refuse storage, Creating Places advises that in flat and apartment buildings, refuse storage space may be provided communally, enclosed in a carefully designed building integrated with the overall development.

9. Paragraph 3.22 of DCAN 8 indicates that distance separation, screening, window size and style, orientation and location of rooms and circulation space are some of the factors to consider in relation to ensuring adequate privacy and daylight. Paragraph 3.23 goes on to state that the protection of neighbouring properties from unreasonable loss of light is a well established planning consideration...".
10. The site currently being developed by the appellants comprises the curtilages of Nos.63 and 65 Armagh Road, which were demolished some time ago. The development alleged in the enforcement notice comprises three blocks of two-storey apartments constructed close to the northern boundary of the appeal site, which was previously the curtilage of a two-storey dwelling at No. 65. The ground (a) plea relates to the development that has taken place on site and excludes the block marked 'Possible Future Development' on the loose drawing 03 dated 11.01.18 as produced by Like Architects and attached to the appellants' statement of case.
11. Planning permission for 8 apartments was granted in February 2009, under application P/2007/0234/F, and in August 2011 for 6 apartments under application P/2010/1541/F on what was previously the curtilage of No.63 Armagh Road. The 2011 approval has been implemented and this phase of the overall development is nearing completion. Planning permission for the erection of 12 apartments was granted on the appeal site on 14<sup>th</sup> July 2011 under application reference P/2008/1503/F. The appellants submitted that development had commenced in respect of the latter approval and that this represents a fallback position that is a material consideration in this appeal. Photographs forwarded to the Commission on 15<sup>th</sup> February 2018 show the foundation trench with steel reinforcements in place on 8<sup>th</sup> July 2016 and the foundations having been poured on 9<sup>th</sup> July 2016.
12. Section 63(2) of the 2011 planning act states that "for the purposes of sections 61 and 62, development shall be taken to be begun on the earliest date on which any of the following operations comprised in the development begins to be carried out–  
(a) where the development consists of or includes the erection of a building, any work of construction in the course of the erection of the building".

The construction of the access road into the site did not constitute commencement of development. The construction of the foundations would constitute work of construction in the course of the erection of a building and I recognise that these operations occurred within 5 years of the planning approval. I note that there is a degree of overlap with the foundations that would have been required for the approved apartment block at the right hand side of the entrance to the site. However, it is clear to me that the foundations shown in the photographs related to what has been built on site, which is a block of two apartments, as opposed to the

larger block of 4 apartments granted permission. It seems apparent from the foundations that the appellants did not intend to construct the approved block of 4 units. The building constructed also differs significantly from the 2011 approval in terms of internal layout. I do not consider that what has been built is a minor variation of the approved scheme. Given this, I conclude that the 2011 approval has not been implemented and thus does not represent a realistic fallback position.

13. Approval P/2008/1503/F was granted in the same policy context as currently exists. The Council submitted that the previous decision was a poor one, made by DOE Planning Service, which should not be allowed to fetter the actions or decisions of the new planning authority. Notwithstanding my conclusion in the preceding paragraph, the previous approval on the appeal site is a material consideration that should be accorded appropriate weight. The appellants pointed to the design and layout of the apartments approved under P/2010/1541/F and argued that these also set a benchmark for what is acceptable in the locality. These are located between 7m and 9m from the boundaries with neighbours and there is no doubt that they have resulted in overlooking of dwellings in Violet Hill Avenue. Notwithstanding the appellants' assertions, I am not fettered by that decision and there is no justification for setting aside the rigours of policy and guidance simply on the basis that they have been misapplied in the past.
14. The appellants submitted various plans with their appeal, some showing amendments to the unauthorised buildings, in an attempt to overcome objections to the development. The Council cited Section 59 of the 2011 Planning Act and submitted that the Commission should not consider the amendments. Section 59 applies only in respect of appeals under Section 58 of that Act and does not apply in respect of a deemed application in an enforcement appeal.
15. The unauthorised development involved three distinct parts; these are shown as blocks D, E and F in the drawings contained in appendix 2 of the appellants' statement of case. Block F is a two-storey building containing 2 apartments; one on each floor. This block is roughly 2m closer to Armagh Road than the approved block (K/J) indicated on drawing 11:03:01A stamped granted on 14<sup>th</sup> November 2011. In comparison with the earlier approval, its north-facing elevation is not parallel to the site boundary and its northern apex is around 1m closer to the boundary with No.67 Armagh Road. I note that the first floor apartment has a single bedroom window on the elevation facing towards No.67. I observed that this overlooks both the rear curtilage of that dwelling and the windows of ground floor habitable rooms. Overlooking from a bedroom window cannot be set aside simply because it serves a bedroom; I agree that bedrooms can very often be used at all times of the day, particularly by younger persons. There is undisputed evidence that the previous dwelling at No.65 had only obscure-glazed windows on the first floor gable facing No.67. The appellant offered to install a top-hung obscured glazed window and to switch around the bathroom and bedroom 2 (see floorplan drawing No.3 for house type F in appendix 2 of appellants' statement of case). This could be secured by an appropriate planning condition. The change in layout and glazing would address any issue in respect of loss of privacy at No.67. The impact on the outlook from the dwelling at No.67 would be an improvement when compared with the approved block K/J. The original dwelling at No.65 would have



had an overshadowing effect at No.67 but I consider that block F would not have a significantly greater impact; in fact, shadowing of the rear curtilage of No. 67 would be reduced. Notwithstanding the Council's comments the approved scheme is a material consideration that cannot simply be set aside. I consider Block F, amended as suggested by the appellants, to be acceptable in respect of impact on neighbouring property.

16. Block E comprises a two-storey block of 4 apartments; two at ground floor and two at first floor level. The block sits just over 23m from the eastern site boundary, some 7m closer than the approved block G/H. The rear elevation sits between 4.6m and 6m from the boundary with No.67 Armagh Road. This compares with the 6.8m to 7.8m separation distances as approved in 2011. Whilst any overlooking of No.67 could be addressed by the changes to the design suggested by the appellants, I noted that this block of apartments has a very significant overbearing impact on the rear garden and private amenity space of that dwelling. I agree with the objector that the rear garden of No.67 suffers from an almost claustrophobic effect resulting from the physical presence of the unauthorised development so close to the party boundary. Such an impact would also have existed, albeit less severe, if the approved blocks J, H and G had been constructed as approved; it appears that the earlier approval failed to take into account the guidance contained in *Creating Places* with regard to separation distances and respect for privacy of existing dwellings. Whilst guidance, rather than policy, *Creating Places* recognises that suitable separation distances are required when new development backs onto the rear gardens of existing dwellings. In this case I consider the separation distances to be particularly critical, given that all of the appeal development abuts the curtilage and private rear garden of No.67. I note that the 2011 approval involved kitchen, bedroom and dining room windows/patio-type doors at first floor level directly overlooking No.67; this too conflicted with the guidance in *Creating Places* and the principles espoused in policy QD1. Just because the development as built has addressed this issue does not, in itself, justify the grant of planning permission.
17. The previous dwelling at No.65 was not comparable with block E; although two-storey in height, the original dwelling was significantly smaller and the long rear return was single-storey in height. In my opinion block E has been built unacceptably close to the party boundary and represents an example of the type of bad design that the SPPS and PPS7 seek to resist. My concerns in respect of this issue pertain irrespective of arguments put forward about the positions of gaps between blocks as approved and as constructed. Whilst a reduction in height to single-storey would address the issue, this option was not considered viable by the appellants. The proposed planting within the appeal site would not reduce the overbearing impact of the building and I do not consider that there is any way of ameliorating the impact on the neighbouring dwelling other than by removing the unauthorised development. I find that this element of the appeal development conflicts with PPS7 policy QD1.
18. Block D comprises 4 apartments; two at ground floor and two at first floor level. It has been constructed on a roughly North-South axis in the western part of the appeal site. I note that in the 2011 approval much of this area was allocated for communal car parking. I consider that the approved block E/F would have had little

- impact on No.67. The north-facing gable of the block as constructed faces towards the rear garden of No.67 and is located between 4m and 8m from same. There is a single bedroom window at first floor level which, I noted, overlooks the private rear garden of that property. The appellants offered to amend the design to prevent overlooking of No.67. I note that a window opening requires to be retained as a fire escape route. However, installation of a side hung unit with stained glass or suitable obscured glazing, hinged to prevent views over No.67, could address the issue. Again, this can be secured by a suitable condition. In terms of the impact of the building on No.67, I consider that, due to its position and orientation, block D does not have an overbearing impact and would not significantly reduce the amount of light reaching that property. There are also benefits to No.67 in removing a large area of communal parking, which could have resulted in nuisance in terms of noise and disturbance.
19. Concerns were raised in respect of block D by neighbours in the Clonmore development to the west of the appeal site. I observed the unauthorised development from the rear gardens of the objectors' properties and noted that, due to the difference in levels, and the presence of the fence along the appeal site boundary, only the topmost parts of block D can be seen. The majority of the building lies further from the shared boundary than did the approved block E/F. I was advised that a tall conifer hedge previously ran along this boundary and this would have had an overbearing impact when seen from the rear of the objectors' dwellings. It would also have had an impact on the amount of sunlight reaching their rear gardens. I consider that block D has no greater impact. With regard to overlooking, I noted that there are direct views from bedroom windows in block D of various first floor velux windows in Clonmore. However, I accept that these can be addressed by the measures suggested by the appellants. These include: creation of 'floating' walls to first floor bedroom windows, as shown in drawing 01 revision A (see appendix 2 of appellants' statement of case); and installation of a right-hand hinged (viewed internally) side hung obscure-glazed or stained glass bedroom window on the south-facing gable of block D, together with installation of a velux window to this bedroom to provide additional light. These measures can be secured by condition and would preclude any issues with regard to overlooking, rendering block D acceptable in respect of PPS7 policy QD1.
  20. I note the conclusions of the BRE Client Report on daylight and sunlight at No.67. This concluded that neither the approved scheme nor that constructed would have an impact exceeding the BRE guidelines in respect of windows in the dwelling or the entirety of the rear amenity space; no convincing evidence was provided to dispute the findings of the aforementioned report.
  21. Objectors raised concerns regarding the suitability and safety of the retaining wall along the western site boundary. The reliability of the consultant engineer's report on the stability of the wall was called into question and my attention was drawn to cracks in retaining walls in objectors' property. No detailed technical analysis was provided in respect of objectors' claims and, ultimately, the security of the wall is a matter for the private parties concerned. The issue of storm drainage from the appeal site was also raised. Again, no detailed analysis was presented in support of the objections. I note that stormwater drains have been put in place and I was advised that the system has been adopted. The appellants indicated that any

- drainage issues could be addressed by installing a drain along the site's boundary. This is a matter for the appellants and any affected parties.
22. Concern was raised in respect of the timber fence on the site's boundary with Clonmore. Given that some form of boundary treatment is needed in order to protect the amenity of existing and future residents, I consider that the fence that has been constructed is both necessary and of an acceptable design. One resident was concerned that the fence, as erected, would create a security issue, particularly at No.69 Armagh Road. Criterion (i) of policy QD1 requires that the development is designed to deter crime and promote personal safety. The appellants were willing to amend the height and extent of the fence in order to deal with the issue and I am content that the matters can be addressed by appropriate conditions.
  23. Objectors raised the issue of potential noise, disturbance and pollution caused by the residential use of the site. I am mindful that the site is in a residential area where it is normal to experience the type of noise that residential use creates. I do not accept that the development should be rejected on this ground. I do not consider that the communal amenity space that is proposed to be created to the rear of block D would so adversely affect the amenity of neighbours as to warrant its rejection. It is commonplace for privately owned communal amenity space to abut other gardens. I observed that communal bin stores are proposed for the use of prospective residents and the appellants were willing to utilise a roofed design in order to prevent odours from emanating. I do not consider that a roofed storage area is necessary; in my experience modern domestic bin storage, even if communal, does not result in a disproportionate level of unpleasant odours. Ultimately, unacceptable odour problems can be referred to the Council's Environmental Health Department. I note that the development is to be served by mains sewers and do not accept that sewerage disposal is an issue of concern. I do not accept, given the degree of physical separation, that the unauthorised development which is the subject of this appeal could have any unacceptable impact on the amenity of residents at Nos. 81 and 83 Violet Hill Avenue.
  24. Impact on property prices in the area was raised by objectors. Other than hearsay evidence that an estate agent had indicated that No.67 would be devalued by one third, I was provided with no analysis to support the assertion. I am not persuaded that in this instance the retention of blocks D and F would have a significant or disproportionate effect on property values. Residents stated that concerns, stress, anxiety and fear had affected them as a result of the appeal development. Such matters are commonplace where change takes place as a result of new development in existing residential areas and I am not persuaded that they justify rejecting development which is policy compliant.
  25. The Council considered that a landscaping scheme should be agreed in respect of the appeal development. It accepted that the landscaping shown on the Park Hood drawing 6105-L-100B revision B of January 2018 provided adequate detail. Landscaping is a normal requirement for any residential development and I consider that a suitable condition can secure the provision and maintenance of an appropriate scheme. Given my conclusion that block E should be demolished, it

will be necessary for a new scheme, relating to the retained blocks D and F, to be prepared and agreed with the Council.

#### **Ground (f) – That the remedial steps required by the notice are excessive**

26. The argument in respect of this ground essentially related to the ground (a) appeal in that the appellants argue that it is inappropriate to require removal of development that is acceptable in planning terms. I accept that this argument holds true in respect of blocks D and F but fails with regard to block E. The enforcement notice is amended accordingly.

#### **Ground (g) – that the period for compliance is inadequate**

27. The appellants argued that the period of 56 days specified in the notice was inappropriate. A period of 120 days was sought for compliance. The Council had no objection to this; however, third parties were concerned that an extended period for compliance also extends the length of time the resident at No.67 is adversely affected. Whilst I recognise the latter point, I consider that the appellants should be allowed sufficient time to remedy the situation, whilst salvaging as much reusable material as possible from block E. I consider that a period of three months should be sufficient and the appeal on ground (g) succeeds to this extent.

#### **Decision**

The decision is as follows:-

- The appeal on ground (a) succeeds in respect of blocks D and F, and planning permission is granted subject to the conditions set out below.
- The appeal on ground (a) fails in respect of block E and planning permission for that element of the development is refused.
- Part 4 of the Enforcement Notice is amended to read "Demolish block E and remove all resultant non-reusable materials from the site".
- The appeal on ground (f) fails in respect of block E.
- The appeal on ground (g) succeeds and the period for compliance is extended to three calendar months from the date of this decision.
- The Enforcement Notice, as amended, is upheld.

#### **Conditions**

1. Prior to the occupation of the first floor apartment in block F, the following alterations to the design of the development shall be completed and thereafter permanently retained:-

- Installation of a top-hung, obscure-glazed window on the elevation facing No.67 Armagh Road .
  - Exchange of the bathroom and bedroom 2 as indicated on floorplan drawing No.3 for house type F in appendix 2 of the appellants' statement of case.
2. Prior to the occupation of the first floor apartments in block D, the following alterations to the design of the development shall be completed and thereafter permanently retained:-
- Installation of a right-hand hinged (viewed internally) side hung unit with stained glass or suitable obscure glazing at first floor level on the gable facing toward the curtilage of No.67 Armagh Road .
  - Construction of 'floating' walls to first floor bedroom windows in both apartments as shown in drawing 01 revision A for house type D in appendix 2 of the appellants' statement of case.
  - Installation of a right-hand hinged (viewed internally) side hung obscure-glazed or stained glass window on the south-facing gable of block D (bedroom 2), together with installation of a velux window to the roof above this bedroom to provide additional light.
3. Within 2 months of the date of this decision, additional fencing shall be installed at either end of the western boundary of the site in order to preclude public access to the strip of land running between the existing fence and the boundaries of properties in Clonmore
4. Within 2 months of the date of this decision, the height of the fencing where the appeal site abuts the curtilage of No.69 Armagh Road shall be increased to a height of 2m above the highest existing ground level at the base of the fence.
5. No apartment in blocks D or F shall be occupied until a landscaping scheme for the retained apartment blocks, together with details of future management and maintenance responsibilities, has been submitted to, and agreed in writing with, Newry, Mourne and Down District Council. The scheme shall be implemented within 6 months of the date upon which it is agreed with the Council, or within the first available planting season, whichever is sooner.

## COMMISSIONER A SPEIRS

**List of Appearances at Hearing**

Planning Authority:- Mr D Watson, Planning Department  
Mr P Smyth, Planning Department

Appellants:- Mr W Orbinson, QC  
Mr B Owens, Planning Consultant  
Mr S Hood, Park Hood Associates  
Messrs B and P Cunningham, Appellants  
Mr T Quinn, Quinn Design Associates  
Mr K Pryce, Consulting Engineer

Third Parties:- Mr C Goss, 69 Armagh Road

**List of Documents**

Planning Authority:- "A" – Statement of Case with Appendices

Appellants:- "B" – Statement of Case with Appendices and attachments  
"C" – BRE Client Report  
"D" – Information regarding foundations for block F

Third Parties:- "E" – Statement of Case, C Goss, No.69 Armagh Road  
"F" - Statement of Case, T & J Deery, No.11 Clonmore  
"G" - Statement of Case, TM Morgan, No.12 Clonmore  
"H" - Statement of Case, J Leonard, No.14 Clonmore  
"I" - Statement of Case, A Ulanowski, No.15 Clonmore  
"J" - Statement of Case, L Traynor, No.16 Clonmore  
"K" - Statement of Case, K Syddall, No.81 Violet Hill Ave.  
"L" - Statement of Case, M & C Smyth, No.83 Violet Hill Ave.  
"M" – Copy of DC Officer's Report P/2008/1503/F





# Appeal Decision

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52

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<b>Appeal Reference:</b>	2017/A0158.
<b>Appeal by:</b>	Mr Kieran King.
<b>Appeal against:</b>	The refusal of full planning permission.
<b>Proposed Development:</b>	Retention of existing caravan port at rear of dwelling.
<b>Location:</b>	56A Drumintee Road, Meigh, Newry.
<b>Planning Authority:</b>	Newry, Mourne & Down District Council.
<b>Application Reference:</b>	LA07/2017/0371/F.
<b>Procedure:</b>	Written Representations with Accompanied Site Visit on 5 April 2018.
<b>Decision by:</b>	Commissioner Mark Watson, dated 10 May 2018.

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## Decision

1. The appeal is allowed.

## Reasons

2. The main issues in this appeal are the effects of the appeal development on:
  - the appearance and character of the area; and
  - neighbouring residential amenity.
3. The Banbridge, Newry & Mourne Area Plan 2015 (BNMAP) operates as the statutory local development plan for the proposal. In it, the site lies within the settlement limit of the village of Meigh. It is not zoned for any purpose. The BNMAP offers no specific policy or guidance in respect of the proposed development and is not material. In regard to the appeal development there is no conflict or change in policy direction between the provisions of the Strategic Planning Policy Statement for Northern Ireland *'Planning for Sustainable Development'* (SPPS) and those of the Addendum to Planning Policy Statement 7 – Residential Extensions and Alterations (APPS7). APPS7 policy provisions remain applicable to the proposed development.
4. The site comprises the rear yard area of No. 56A, a one and a half storey dwelling situated on the southern side of the Drumintee Road. The appeal structure comprises a large metal sheet clad caravan port which runs along part of the rear boundary with the housing development adjacent and south, Meadow Court. The structure measures approximately 14.3m long by 4.3m wide, with a ridge height of approximately 4.1m. The steel cladding is painted dark green. The structure adjoins the existing domestic garage for No. 56A and its rear wall sits atop the existing retaining wall that provides the boundary between No. 56A and Nos. 17 and 19 Meadow Court. The front and south-western side of the structure are largely open, the front allowing for vehicle access. The structure houses the

Appellant's mobile campervan. A minor portion of the structure is utilised for small scale domestic storage and a dog pen.

5. Policy EXT1 of APPS7 states that planning permission will be granted for a proposal to extend or alter a residential property where all of 4 criteria are met. EXT1 goes on to state that the guidance set out in Annex A will be taken into account when assessing proposals against the 4 criteria. The objections from the Council fell under criteria (a) and (b). These are respectively that: (a) the scale, massing, design and external materials of the proposal are sympathetic with the built form and appearance of the existing property and will not detract from the appearance and character of the surrounding area; and (b) the proposal does not unduly affect the privacy or amenity of neighbouring residents.
6. Annex A paragraph A11 states that buildings within residential curtilages such as garages can often require as much care in siting and design as works to the existing residential property. It goes on to state that such buildings should be subordinate in scale and similar in style to the existing property, taking account of the materials, the local character and the level of visibility of the building from surrounding views. Paragraph A20 of Annex A states that the external finish should aim to compliment the type of materials, colour and finish of both the existing building and those of neighbouring properties.
7. The appeal structure sits to the direct rear of No. 56A, almost entirely set within the length of its host dwelling. Views of the appeal structure are curtailed to glimpsed and angled views travelling north-east on Drumintee Road, a short distance before No. 56A until just before the frontage of the property itself. From this limited view the structure, although visible given its colour and materials, still reads as subordinate to the host dwelling given its setback and position relative to the dwelling. The backdrop afforded by the two storey dwellings to the south in Meadow Court also assist in this regard. The design of the structure is predicated on its function to accommodate the mobile campervan. This, along with the scale and massing of the structure are not objectionable given the limited views and read within the surrounding built context. The use of corrugated steel sheeting, a more modern material, along with the functional design of the appeal structure reads as unsympathetic to the appearance and character of the host dwelling, No. 56A. However, the extremely limited public views of the structure are such that it does not detract from the character and appearance of the surrounding area. The appeal development does not fully meet criterion (a) of EXT1 of APPS7 and the related provision of the SPPS.
8. Annex A paragraph A31 of APPS7 defines dominance as the extent to which a new development adversely impinges on the immediate aspect or outlook from an adjoining property. The guidance cites the construction of a large blank wall as a possible cause of "hemming in" neighbouring occupiers. The Council raised objection as to the impact on the residential amenity of the dwellings to the rear and south of the appeal structure. It was stated that the rear view from Nos. 17 and 19, though 17 in particular given its closer proximity and relative position to the structure, would be adversely impacted given the direct views into the blank rear of the caravan port. The Council considered the appeal structure to be dominant from this view, but accepted there would be no issue relating to overshadowing or loss of light given the relative orientation of the buildings to one another. The appeal structure is somewhat monotonous in terms of appearance



from the rear of Nos. 17 and 19. However, I do not agree it is dominant, even with the difference in site levels between those properties and No. 56A, particularly since its ridge height still lies at a lower level than the existing garage belonging to No. 56A. I am not persuaded that the residential amenity of No. 17 and No. 19 is unduly affected by the appeal structure or that criterion (b) of Policy EXT1 of APPS7 and the related provision of the SPPS are offended.

9. The Appellant considered that removal of the appeal structure would result in open views between the upper floor windows in No. 17 and the Appellant's own dwelling. In his opinion the appeal structure affords the properties a superior level of privacy than was the structure not there. The occupants of No. 17 Meadow Court wrote a letter of support for retention of the appeal structure. In it they stated that the dwelling they lived in was situated very close to the party boundary and given the higher ground level of No. 56A, the appeal structure was an intervening feature that prevented an unacceptable degree of overlooking from No. 56A into their rear gardens and the dwellings themselves and also vice versa. The occupants of No. 17 stated they purchased their dwelling on the basis of the appeal structure providing a privacy barrier for the rear of their property. The letter also stated that the occupants of No. 19 shared the same views of support for retaining the appeal development.
10. The Appellant pointed to the planning permission granted by the Council for Meadow Court (ref. P/2014/1024/F). He considered that the Council did not properly assess the potential impact on No. 56A and the interrelationship between it and the new dwellings. The Appellant objected at the time the Council was considering the application for the new residential development on the basis of residential amenity. The Council ultimately granted planning permission. Though the processing of that application is not a matter for this appeal, the issue of the relationship between the stated properties and the implications of refusal of planning permission for the appeal structure are a material consideration.
11. Whilst the owners of Nos. 17 and 19 support the retention of the appeal structure, consideration of this issue must also include potential future owners. I accept the Council's point that there is no guarantee potential future purchasers would necessarily feel the same. However, as the Appellant pointed out, the principle of caveat emptor would apply. A potential future purchaser of No. 17 or 19 would be aware of the structure in making any decision to purchase, as was the case when the owners of No. 17 bought that dwelling on the basis the appeal structure provided screening for the rear of that property.
12. The potential effect of the removal of the structure which presently provides a screening element for all three properties involved must now be considered. No. 17 Meadow Court is situated approximately 7m from the common boundary with the appeal property at its closest point, with No. 19 approximately 9m, closer than guidance in Creating Places would recommend as being the minimum acceptable separation distance and depth of rear amenity space. The back to back separation of the dwellings is approximately 18m, which is only slightly below the recommended level. However, that proximity when taken together with the difference in site levels and two storey nature of the Meadow Court dwellings are such that I agree that No. 17 and to a lesser extent No. 19, are uncomfortably proximate to No. 56A and vice versa. This proximity is such that, with removal of the appeal structure, there would be clear views into the rear of No. 56A at both its

first floor and rear garden area from the upper floor windows of Nos. 17 and 19. There would also be corresponding clear views into the rear amenity area of Nos. 17 and 19 and their kitchen and dining areas from No. 56A at ground and first floor level. The use of planting to provide an effective mitigating screen for privacy for all the properties would be problematic at best given the relative site levels involved.

13. The erection of the appeal structure without planning permission cannot be condoned in itself, even if it was mistakenly considered to be permitted development. However, the existing situation provides a better degree of privacy for the occupants of each of the properties than was the appeal structure not there. The sub-par relationship between the appeal property and Nos. 17 and 19 Meadow Court is such that the refusal of planning permission and the removal of the appeal structure would give rise to greater adverse impacts on residential amenity for Nos. 56A Drumintee Road and 17 and 19 Meadow Court. Whilst the appeal development does not fully comply with the provisions of APPS7 and the related aspect of the SPPS, this is not a determining matter given the limited public views of the structure and the consequent lack of adverse impact on the appearance and character of the area. The particular set of circumstances in this case are such that the benefit of retaining the appeal structure outweighs the limited harm to policy as outlined above. The Council's first reason for refusal, although sustained in part, is not outweighed by the benefit to residential amenity in retention of the appeal structure. Accordingly the appeal shall succeed. As the structure is in-situ the Council proffered no draft conditions. I agree that none would be necessary in this case.

This decision relates to the following drawings submitted with the application:

<b>DRAWING NUMBER</b>	<b>TITLE</b>	<b>SCALE</b>	<b>DATE</b>
01	Site Location Plan	1:2500	Mar 2017
02	Site Location & Site Layout	1:2500 & 1:500	Dec 2016
03	Plans & Elevations	1:100	Dec 2016

**COMMISSIONER MARK WATSON**



**List of Appearances**

Planning Authority:- Mrs P Manley (Newry, Mourne & Down District Council)

Appellant:- Mr B Owens (Barry Owens Consulting)  
Mr K King (Appellant)

**List of Documents**

Planning Authority:- 'A' Statement of Case & Appendix (N, M & D DC)

Appellant:- 'B' Statement of Case & Appendices (BOC)  
'C' Rebuttal Statement (BOC)



# Appeal Decision

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<b>Appeal Reference:</b>	2017/A0201
<b>Appeal by:</b>	Mr John Morgan
<b>Appeal against:</b>	The refusal of outline planning permission
<b>Proposed Development:</b>	Two dwellings with detached garages to rear.
<b>Location:</b>	Land 20m north of 24 Ballyvally Road, Mayobridge
<b>Planning Authority:</b>	Newry Mourne and Down District Council
<b>Application Reference:</b>	LA07/2017/0563/O
<b>Procedure:</b>	Informal Hearing on 4 May 2018
<b>Decision by:</b>	Commissioner Pauline Boomer, dated 24 May 2018.

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## Decision

1. The appeal is dismissed.

## Reasons

2. The main issues in this appeal are whether the proposed development is acceptable in principle in the countryside and its impact on visual amenity and rural character.
3. The appeal site is located in the countryside, within the Mourne Area of Outstanding Natural Beauty (AONB) and not within any designation in the Banbridge, Newry and Mourne Area Plan 2015 (BNMAP). The BNMAP, which operates as the statutory Local Development Plan relevant to the appeal site, contains no provisions specific to this proposal for residential development in the countryside. Furthermore, no conflict arises between the provisions of the Strategic Planning Policy Statement for Northern Ireland - Planning for Sustainable Development (SPPS) and any retained policies regarding issues raised by this appeal. Consequently, the relevant policy context is provided by Planning Policy Statement 21 - Sustainable Development in the Countryside (PPS 21).
4. 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. The appellant argued that the proposal was acceptable as a gap site in accordance with Policy CTY 8 of PPS 21. Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. Paragraph 5.32 states that ribbon development is detrimental to the character, appearance and amenity of the countryside. While ribbon development is not defined in policy, it is taken to mean a row of buildings which have a common frontage onto a road or are visually linked when viewed from that road. Policy CTY 8 also states that, in respect of ribbon development, an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of 2 houses within an otherwise substantial and continuously built up frontage. The policy also requires such

- development to respect the existing development pattern along the frontage in terms of size, scale, siting and plot size and to meet other environmental requirements.
5. The appeal site comprises the roadside section of a large agricultural field which lies on the eastern side of Ballyvally Road, within which it is proposed to erect two detached dwellings and garages. Immediately south east of the appeal site there is a detached single storey dwelling with a separate holiday accommodation unit identified as Nos 24 and 24B with a further detached two storey dwelling at No. 24A beyond. Immediately to the north-west, there is a one and a half storey dwelling at No. 20, separated from the appeal site by a laneway serving No. 18. A substantial and continuously built up frontage includes a line of three or more buildings along a road and there is no dispute that the appeal site meets the first element that is required in order to qualify as an infill site.
  6. The 2<sup>nd</sup> element of Policy CTY8 requires that the gap site to be small. The third element requires that any development respect the existing development pattern along the frontage in terms of size, scale, siting and plot size. All parties agreed that the gap is between houses or other buildings and all acknowledged that the existing gap between No. 20 to the north-west and No. 24B to the south east extended to 120m. I do not consider that a gap of this size falls within the definition of "small".
  7. However the appellant contends that the proposed development respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and provided a table of frontage widths, depths and overall plot sizes of all the adjoining properties. I note that he assessed Nos 24 and 24B as lying within a single curtilage which was not disputed by the LPA and is confirmed on the ground with no subdivision apparent and by the planning history.
  8. The frontage width of the entire appeal site along the roadside extends 68m which, if equally divided, would offer each new property a separate frontage width of approximately 34m. I note that these are comparable to the 33m wide frontages of Nos. 24/ 24B and 24A, but significantly smaller than the 58m wide frontage of No. 20. However the width of this field expands as you move eastwards away from the road, with the rear site boundary extending to 90m in width. I note that unlike the appeal site, Nos. 24, 24B and 24A all decrease in width as you move away from the road and it is not therefore appropriate to concentrate only on the frontage widths along the roadside as the appellant has done. The depth of the appeal site is 40m which falls well below that of the adjacent properties which extends from 70m at No. 24/24B to 80m at Nos. 20 and 24A. I calculate that the overall plot sizes vary from approximately 2000sq. m. at No. 24/24B to 2,800 sq. m. at No. 24A and each of the appeal plots would be considerably smaller at approximately 1,700 sq. m. Whilst the frontage widths may be comparable, I find that the two proposed plots within the appeal site would not reflect the size, scale and plot sizes of those adjacent properties at Nos. 20, 24/24b and 24A.
  9. Given the lack of definition along the eastern boundary of the site and the rising gradient, it is readily apparent when travelling in a southerly direction particularly, that the ever increasing gap is widening within the site. On the ground, there is an awareness of how extensive the gap between the existing buildings actually is. In these circumstances, I agree with the LPA that it is the gap between the buildings that offers a true representation of the infill width which is considerably greater than

the total frontage width. Consideration must also be given to assessing whether or not a gap of this size could feasibly accommodate more than two dwellings whilst respecting the existing development pattern. As the combined frontage width of Nos. 24/24b and 24A extends to 66m in total, I must conclude that the 120m wide appeal site has the potential to accommodate more than two dwellings in principle. In these circumstances, as I have concluded that the appeal site is neither small nor respectful of the existing development pattern, I find that it fails to satisfy the 2<sup>nd</sup> and 3<sup>rd</sup> elements that are required in order to qualify as an infill site. In so doing, this concurs with the conclusions reached in Appeal 2016/A0066. In this respect, the LPA have therefore sustained this aspect of the 2<sup>nd</sup> reason for refusal.

10. Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. While ribbon development is not defined in policy, it is taken to mean a row of buildings which have a common frontage onto a road or are visually linked when viewed from that road. As the appeal site lies between Nos. 20 and 24/24B/24A, the appeal proposal would visually link the development to the south east with that immediately northwest. Confusion was caused by the LPA referring to the "creation" of ribbon development in their Statement of Case which conflicted with the wording of the 2<sup>nd</sup> and 4<sup>th</sup> reasons for refusal which made reference to "adding to" an existing ribbon. Clarification at the Informal Hearing confirmed that the LPA considered that Nos. 24A, 24 and 24B read as an existing ribbon of development, agreed by the appellant, and that the introduction of an additional two dwellings on the appeal site would add to that ribbon, extending it to include No. 20. I agree with the LPA's assessment and find that the proposed development would result in a significant extension of the existing ribbon of development further north along Ballyvally Road, resulting in a suburban build-up of development.
11. I acknowledge that the character of the area has already changed as a result of planning approvals granted along certain stretches of Ballyvally Road. At present there are existing gaps in development along the eastern side of the Ballyvally Road which help to retain some rural character and the appeal site, given its size, represent a significant break in development. The appellant argues that as you can visually see buildings on both sides of the gap, one is not readily aware of that break in development. However, given the strong visual linkages between No. 20 and No. 24B, I find that this reinforces the significance of the appeal site which reads as a visual break as shown in the submitted aerial photographs and photomontages. The introduction of two detached dwellings and garages, regardless of their size or height, would not only add to the existing ribbon of development but, in introducing 4 additional buildings within a significant visual break, would further erode the remaining rural character. As the proposal does not constitute an exception to Policy CTY 8, the LPA's objection on grounds of adding to an existing ribbon of development is well founded. In so doing, it also offends criterion (d) of Policy CTY14 which states that any new buildings are unacceptable if they create a ribbon of development. As I conclude that the appeal proposal conflicts with Policies CTY8 and CTY14, that aspect of the 2<sup>nd</sup> reason for refusal and the fourth reason for refusal are sustained.
12. No persuasive overriding reasons were advanced as to why the development is essential and could not be located in a settlement. I therefore consider the LPA's objection to the proposal in principle based on Policy CTY 1 to be well founded and the first reason for refusal is also sustained.

13. The 3<sup>rd</sup> reason for refusal addresses the issue of integration and the LPA remains concerned about the overall visual impact of the proposal on an open and exposed site. The LPA considers that the appeal proposal conflicts with Policy CTY13 as it lacks long established boundaries to aid integration. Whilst the appeal site does benefit from a backdrop of rising ground, the eastern boundary is undefined with only a wooden ranch fence defining the northern site boundary and a post and wire fence along most of the southern boundary. Transport NI (TNI) indicate that in order to achieve the required sightlines of 2.4m by the entire frontage, all of the roadside hedge would have to be removed. The appellant disputes this and argues that given the extensive depth of hedge, most of the hedge could be faced back with only a small central section removed. The appellant failed to provide any details of the existing verge width or any detailed block plan to support this. Given the existing verge is less than 1 metre in depth and in the absence of any evidence to the contrary, I accept the TNI's assessment that the entire roadside hedgerow has to be removed, leaving the appeal site open and exposed, devoid of any vegetation. The appellant indicates that he proposes to introduce new planting with native species hedgerows around all external and internal boundaries which would take time to mature in order to soften the visual impact of the development. This reliance on new planting runs contrary to criterion (c) of Policy CTY13.
14. Taking account of the open nature of the site at present and the reliance on new planting, I am not satisfied that the proposed development will blend into the landscape. I attach little weight to the appellant's assertion that the introduction of new planting around the appeal site would result in planning gain by enhancing the level of integration available to the exposed dwelling at No. 20. As I am not persuaded that a satisfactory level of integration can be achieved as required under Policy CTY13. I conclude that the third reason for refusal has been sustained.
15. As I have found all four reasons for refusal to be sustained, the appeal must fail.

This decision is based on the 1:2500 site location plan received by the LPA on 13 April 2017.

**COMMISSIONER PAULINE BOOMER**



**2017/A0201****List of Documents**

- LPA1: Statement of Case from Newry, Mourne and Down District Council with appendices
- LPA2: Planning Histories submitted as post hearing evidence
- APP1: Statement of Case from Appellant with appendices

**Appearances**

- LPA: Mr Gareth Murtagh representing Newry, Mourne and Down District Council
- Appellant: Mr John Young representing Collins and Collins (agent)  
Mr John Morgan (appellant)
- Observers: Queen's students of Masters in Environmental Planning  
Lecturer Dr Neil Galway



# Appeal Decision

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63

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<b>Appeal Reference:</b>	2017/A0209
<b>Appeal by:</b>	Mr B Morgan
<b>Appeal against:</b>	The refusal of full planning permission
<b>Proposed Development:</b>	Erection of an agricultural building
<b>Location:</b>	Land adjacent to and immediately south east of No.1 Newton Court, Newtown Road, Cloghogue
<b>Planning Authority:</b>	Newry, Mourne and Down District Council
<b>Application Reference:</b>	LA09/2017/1138/F
<b>Procedure:</b>	Informal Hearing on 26 April 2018
<b>Decision by:</b>	Commissioner D McShane, dated 23 May 2018.

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## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. The application submitted described the proposed development as the erection of agricultural buildings and it was advertised accordingly. However, it is clear from the drawing and evidence submitted that planning permission is sought for a single building. The description of development has been amended to reflect this; no prejudice arises.

## Reasons

3. The key issues are:
  - whether the proposed agricultural building is acceptable in principle in the countryside, given its location on a site remote from existing farm buildings; and
  - its impact upon visual amenity.
4. Section 6 (4) of the Planning Act (NI) 2011 requires that the determination of proposals must be in accordance with the local development plan (LDP) unless material considerations indicate otherwise. The Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) operates as a LDP. It does not contain any specific policy provisions for the development of agricultural buildings. The appeal site is located in the countryside outside any designated settlement development limit. The relevant policy context is provided by the Strategic Planning Policy Statement for NI (SPPS) and Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21), which is identified as a retained policy document.

5. Policy CTY 1 of PPS 21 states that there are a range of types of development which in principle are considered to be acceptable. Nine types of non residential development are listed; one of these is agricultural development in accordance with Policy CTY 12.
6. The starting point for making an assessment under Policy CTY 12 is establishing whether there is an active and established agricultural holding. Paragraph 5.56 of PPS 21 advises that for the purposes of this policy, the determining criteria for an active and established business will be that set out under policy CTY 10. The farm holding's DARD business ID number and other evidence to prove active farming were provided and it is accepted that there is an active and established agricultural holding.
7. When a proposed development relates to a new building, as in this appeal, applicants must provide sufficient information to confirm three bullet points. First, it must be demonstrated that there are no suitable existing buildings on the holding that can be used. The main farm holding, comprising 7.5 acres of land, is located at 73 Newton Road where there are three agricultural buildings. It was initially argued that these buildings could not be used because of their size, their failure to meet modern standards for animal welfare and their existing use. It was also argued that they could not be renovated, altered or redeveloped to render them fit for use.
8. A letter from DAERA was submitted that supports the Appellant's claim "that additional cattle housing is required" for the efficient use of the holding. The Appellant supplements his income working as a builder and a farm contractor. In addition to storing animal feed; the building would also be used to store agricultural machinery. The proposed building comprises a 175sqm, 6m high building that is divided internally. One part would comprise a "meal store" and the remainder an "all purpose shed"; the latter would be open on one side. The base of the building would be a smooth cement render finish and the upper part and roof would be green corrugated iron sheeting.
9. The appeal building, sited as proposed, would be located some 55m from a residential dwelling that is outside the farm holding. Notwithstanding that its purpose is to house / provide shelter for cattle, the floor of the proposed building is not slatted and no information on the means of disposing of animal waste was provided. The proposed building would have an unacceptable impact on the residential amenity of No.1 Newton Court, given problems arising from smell. The conclusion reached in this respect is reinforced by the objection from the Environmental Health Department (EHD), who found the proposal to be acceptable only on the basis that a condition would be attached that would preclude the use of the building for animals. However, this would undermine the purpose for the building as set out in the DAERA letter. When this was pointed out to the Appellant, he revised his position and indicated that it would be possible to amend the buildings at No.73 to keep animals but that the new building would still be required to store machinery and feed. It was apparent at the hearing that there is a considerable level of fluidity with respect to the purpose and need for the proposed building and whether the existing buildings at the main holding could be used / amended. As such, I have not been persuaded that the existing buildings at No.73 could not be used.
10. The third bullet point of CTY 12 requires the new building to be sited beside existing farm buildings. It has not been demonstrated that there is any physical reason why the proposed building could not be erected at the main holding at

No.73, where it would be sited beside existing farm buildings. However, the appeal site is located approximately 3kms away. Two previous applications for single dwellings on the appeal site have been refused planning permission under P/2004/2014/O and P/2013/0290/F respectively. Notwithstanding the reference to "existing agricultural buildings" on Drwg 01, there are no buildings on the appeal site. Rather, it comprises part of an agricultural field, which includes an overgrown hard core area, coral crush, 2 no. storage container units, as well as some items of machinery. It does not constitute a farm yard.

11. Policy CTY 12 goes on to state that exceptionally, consideration may be given to an alternative site away from existing farm buildings, provided there are no other sites available at another group of buildings on the holding. In such circumstances, two additional criteria must be demonstrated. Notwithstanding indications that the Appellant intends to expand his farm business along with his father and has recently taken additional land in conacre, I have not been persuaded that the new building located remote from the main farm holding is *essential* (my emphasis) for the efficient functioning of the farm business. Furthermore, no evidence was presented to demonstrate that there are health or safety reasons that would merit an alternative site away from the existing farm. I have not been persuaded that a new building on an alternative site away from existing farm buildings is justified. The LPA has sustained its second reason for refusal based upon Policy CTY 12 of PPS 21.
12. Policy CTY 1 goes on to state that other types of development will only be permitted where there are overriding reasons why the development is essential. The Appellant argues that the new building cannot be erected at the main farm holding as the Appellant does not own land at that location. It was stated in the Statement of Case that the Appellant's mother owned the land. However, at the Hearing, it was confirmed that the land is owned by the Appellant's grandmother. How land on the agricultural holding is to be utilised is a matter for the family. The family stress and land ownership issues in this case do not constitute either an exceptional circumstance as envisioned by Policy CTY 12 or an overriding reason as envisioned by Policy CTY 1. Accordingly, the LPA has sustained its first reason for refusal based upon Policy CTY 1 of PPS 21.
13. In the event that I had found an alternative site away from the existing farm building to be justified, from the identified viewpoints, the proposed agricultural building, which is of an appropriate design and materials, would read against the three dwellings comprising Newton Court, which are located on higher ground. As such, the building would visually integrate into the landscape. Accordingly, the LPA has failed to sustain its third reason for refusal based upon Policy CTY 13 of PPS 21. However, I have already concluded above that the building is unacceptable in principle, therefore the appeal must fail.

This decision is based on Drwg 01, date stamped refused 7/12/2017, comprising:

- Site Location Map (Scale 1:2500)
- Site Layout Plan (Scale 1:500)
- Elevations (Scale 1:100)
- Ground Floor Plan (Scale 1:100)
- Section A-A (Scale 1:100)

**COMMISSIONER D MCSHANE**

**List of Appearances**

Planning Authority:- Mr G Murtagh  
(Newry, Mourne and Down District Council)

Appellant:- Mr J Young (Collins and Collins)  
Mr B Morgan

**List of Documents**

Planning Authority:- "LPA 1" Statement of Case

Appellant:- (AP 1)" Statement of Case

**Submitted at the Hearing**

PAC 1: Mr B Morgan: 2018 Scheme Map (Pages 1-3)



# Appeal Decision

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<b>Appeal Reference:</b>	2017/E0046
<b>Appeal by:</b>	Nu Screen Ltd
<b>Appeal against:</b>	The refusal of a Certificate of Lawfulness for Existing Use or Development
<b>Subject:</b>	Erection of an engineering workshop and the carrying on of a fabrication and glazing business
<b>Location:</b>	70 Ballywillwill Road, Castlewellan, BT31 9LG
<b>Planning Authority:</b>	Newry, Mourne & Down District Council
<b>Application Reference:</b>	LA07/2017/1400/LDE
<b>Procedure:</b>	informal Hearing on 17 <sup>th</sup> May 2018
<b>Decision by:</b>	Commissioner Julie de-Courcey dated 21 <sup>st</sup> May 2018

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## Decision

1. The appeal is allowed in respect of the works relating to the erection of an engineering workshop, shown cross-hatched on Plan PAC 1, and the carrying on of a fabrication and glazing business. This work is lawful and a certificate of lawfulness of existing use or development (CLUD) is attached.

## Reasons

2. A CLUD is a statement specifying what is lawful on a particular date. In accordance with Section 169 (2) of the Planning Act (Northern Ireland) 2011 [the Act] a use or operation is lawful for planning purposes if (a) no enforcement action can be taken against it and (b) it does not constitute a contravention of any of the requirements of any enforcement notice then in force.
3. The application for a CLUD for "*Erection of an engineering workshop and the carrying on of a fabrication and glazing business*" was made to the Council on 8 September 2017, in accordance with Section 169 of the Planning Act (Northern Ireland) 2011 [the Act].
4. Section 169 (4) of the Act states that: "*If, on application under this section, the council is provided with information satisfying it of the lawfulness of the use at the time of the application of the use, operations or other matter described in the application, or that description as modified by the council or a description substituted by it, the council must issue a certificate to that effect; and in any other case must refuse the application*". The Council, not being satisfied that the entirety of the existing workshop was lawful at the time of the CLUD application, issued a refusal notice on 3 November 2017.

5. The plans accompanying the application subject of this appeal were clear in the extent of workshop floorspace that the applicant was seeking to have certified as lawful. They did not include a smaller extension on the building's north-western gable. The CLUD was refused as the building subject of the application had been extended after 8 September 2012 and the Council considered that the extension was therefore not exempt from enforcement action being taken. However, this extension was outwith the scope of the application and is therefore not subject of this appeal. Although part of the same planning unit, the original workshop and subsequent extension are severable operational development.
6. The Council is content that the extent of the workshop subject of the application, not including the more recent extension, was erected prior to 8 September 2012. Therefore, it is exempt from enforcement action by virtue of Section 132 (1) of the Act and lawful in accordance with Section 169 (2) (a) thereof. Subject to the Commission ensuring that the CLUD relates only to the "original" workshop, the Council has no objection to its issue.
7. Issuing a CLUD relating only to the original workshop, erected prior to 8 September 2012, does not fetter the planning authority's discretion, in accordance with Section 138 (1) of the Act, in deciding whether or not it is expedient to take enforcement action in respect of the later extension or any other operations that are materially different from that described thereon. Accordingly, the appeal is allowed.

This decision relates to the development shown on drawing Nos. 01 – 08 inclusive stamped received by the council on 8<sup>th</sup> September 2017.

**COMMISSIONER JULIE DE-COURCEY**

## PLANNING ACT (NORTHERN IRELAND) 2011: SECTION 169

**CERTIFICATE OF LAWFULNESS OF EXISTING USE OR DEVELOPMENT**

The Planning Appeals Commission hereby certifies that on 8 September 2017 the operation described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate was lawful within the meaning of section 169 of the Planning Act 2011, for the following reason:

1. The building, shown cross-hatched on the attached plan (PAC 1), has been used for the purposes stated in the First Schedule for more than five years up to and including the date of the application and the time for enforcement action has expired.

Signed

*Julie de-Courcey*

**COMMISSIONER JULIE DE-COURCEY**

21<sup>st</sup> May 2018

## FIRST SCHEDULE

2. Erection of an engineering workshop, shown cross-hatched on the attached plan (PAC 1), and the carrying on of a fabrication and glazing business

## SECOND SCHEDULE

70 Ballywillwill Road, Castlewellan, BT31 9LG

Notes:

- (1) This certificate is issued solely for the purpose of section 169 of the Planning Act 2011.
- (2) It certifies that the operation described in the First Schedule taking place on the land described in the Second Schedule was lawful 8 September 2017 and was not liable to enforcement action under Section 138 or 139 of the Planning Act (Northern Ireland) 2011 on that date.
- (3) This certificate applies only to the extent of the operation described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operations that are materially different from that described or



which relate to other land may render the owner and occupier liable to enforcement action.

### **List of Appearances**

Planning Authority: Ms G Cooney

Appellant: Mr T Wilson, Tom Wilson Planning  
Mr P Mc Cullough, Nuscreen Ltd  
Ms C Creaney, Nuscreen Ltd

### **List of Documents**

Planning Authority: "PA 1" Statement of Case

Appellant: "APP 1" Statement of Case



# Enforcement Appeal Decision

Park House  
87/91 Great Victoria Street  
BELFAST  
BT2 7AG  
T: 028 9024 4710  
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E: info@pacni.gov.uk

<b>Appeal Reference:</b>	2017/E0037
<b>Appeal by:</b>	Mr J O'Hare
<b>Appeal against:</b>	An enforcement notice dated 15 <sup>th</sup> September 2017
<b>Alleged Breach of Planning Control:</b>	Unauthorised construction of an agricultural building and creation of unauthorised access Lands between Nos. 47 and 47a Ballintemple Road, Killeavy
<b>Location:</b>	Lands between Nos. 47 and 47a Ballintemple Road, Killeavy
<b>Planning Authority:</b>	Newry & Mourne District Council
<b>Authority's Reference:</b>	P/2013/0150/CA
<b>Procedure:</b>	Hearing on 20 <sup>th</sup> April 2018
<b>Decision by:</b>	Commissioner Julie de-Courcey, dated 8 <sup>th</sup> May 2018

## Grounds of Appeal

1. The appeal was brought on Grounds (a), (b), (c) (f) and (g) as set out in Section 143 (3) of the Planning Act (Northern Ireland) 2011 [the Act].

## Nullity

2. The land to which the Notice relates is described as being between No. 47 and No. 47a Ballytemple Road, Killeavy. The appellant pointed out that the site is at Ballintemple Road, which was the address given on the previous planning application and ensuing appeal in respect of the retention of the building and access. The Council acknowledged its mistake. In considering whether this renders the Notice a nullity as the appellant contends, account has been taken of the following considerations:
  - The Notice was accompanied by a map that identified the site subject of the Notice and was labelled "*Lands between 47 and 47a Ballintemple Road, Killeavy*";
  - In compliance with Article 8 of the Planning (General Development Procedure) Order (Northern Ireland) 2015, the Council's 6 identified neighbours all had addresses at Ballintemple Road – the address that the Commission wrote to them at;
  - Although the press notice used the (incorrect) road name set out on the Notice, 12 letters in support of the appeal were received by the Commission;
  - The appellant said that there is no Ballytemple Road in the whole of Northern Ireland; and

- He submitted a statement of case, attended and was professionally represented at the hearing;

On this basis, the Council's mistake does not render the Notice a nullity and I discern no associated prejudice to any potentially interested party who may have been minded to make representations had the road name been spelled correctly.

3. Section 142 (2) of the Act allows the Commission to correct any misdescription, defect or error in the EN, or vary its terms if it is satisfied that the correction or variation can be made without injustice to the appellant or to the council. I discern no injustice to either party in so doing. Therefore, paragraph 2 of the Notice should be corrected to refer to Ballintemple Road as opposed to Ballytemple Road.
4. The appellant considers the Notice a nullity as the breach and associated remedy incorrectly refer to a "*building*" as opposed to "*buildings*". Account has been taking of the following considerations:
  - The appellant's site layout, floor plans and elevations set out in Appendix 6 of his statement of case do not accurately reflect what exists on the ground. The overall structure consists of two parts. The smaller section/building to the rear has been extended since the plans were drawn. There was no evidence that this extension was added after issue of the Notice;
  - The smaller section/building to the rear has a separate entrance and it is not linked internally to the larger, higher component. There is a 1.2m difference in finished floor levels (FFL). Whereas the front section/building has a pitched roof, the mono-pitched roof at the rear is 3.7m than the adjoining ridge. Their finishes differ;
  - Section 250 of the Act defines a "*building*" as including any structure or erection, any part of a building, as so defined. Notwithstanding the preceding bullet point, this legal definition would allow for variations in FFL, ridge height, design and materials between the component parts of a single building;
  - Split level dwellings are described as a single building;
  - A flat-roofed garage physically attached to a pitched roof house would not normally be described as two distinct buildings; and
  - Notwithstanding the appellant's uncorroborated evidence that the larger section was built before the smaller (subsequently extended) section, when he applied on 6 February 2015 to retain the original structure, he described it as a "*building*". This was the description given on the decision notice and the ensuing appeal decision. He says this was a mistake on his behalf but, there is no evidence that in the 17+ months between lodging the planning application and the Commissioner's site visit, that he sought to correct the alleged misdescription. Extension of the smaller portion aside, I discern no material change in circumstances in the intervening period that would merit a change in description.

Assessing these considerations in the round, I discern no mistake or ambiguity in the Council describing the built development within the red line accompanying the Notice as a "*building*". The Notice is not a nullity on this basis.

5. The appellant said that the Notice was so unclear and ambiguous as regards both the description of breach and the remedy in respect of the lane and hard standing areas adjoining the building, as to render it a nullity. The elevation of the building facing the road is set approximately 83.5m from it. A hardcored lane leads from the point of access off Ballintemple Road to the hardcored area surrounding the building on 3 sides. Reading the Notice within its four corners, the breach of planning control is limited to the agricultural building and access only. Were it to say means of access or lane(way) and make specific mention of the hardcored "yard"/hard standing(s) then it would be clear that the breach subject of the Notice extends to the entirety of the operational development and engineering works that are contained within the red line on the map accompanying it. The remedy only requires the appellant to cease use of the access and permanently stop it up. The literal interpretation of returning the land to its prior condition relates only to demolition of the building and not the lane between the point of access and it or the area around it. The Council confirmed that it intended to enforce only against the building and point of access and not the lane and hardcored areas. The expediency for so doing is a matter solely for it. However, for the avoidance of any doubt, the parties agreed that the wording of Paragraph 4 could be amended without injustice to either so that It reads: "*Demolish building and return the land on which the building stands to its prior condition...*". This variation is consistent with section 144 (2) of the Act.
6. Given the scale of the map attached to the Notice, it is difficult to discern if the entirety of the hardcored area(s) adjoining the building comes within it. However, on the basis of the foregoing, that consideration does not go to the validity of the Notice, as those works are not being enforced against. As the Notice is not a nullity, I shall proceed to consider the other grounds of appeal.

#### **Ground (c)**

7. The appellant pleaded ground (c) only in respect of the access.
8. Part 3, Section 23 (1) of the Act defines "development" and creation of the access involved the carrying out of engineering operations on land thus bringing it within the scope of the definition. Section 23 (3) sets out operations and uses of land that shall not be taken for the purposes of the Act to involve development of the land. Section 23 (3) (d) refers to the use of any land for the purposes of agriculture or forestry and the use for any of those purposes of any building occupied together with land so used. Whilst the access serves agricultural land in addition to the building subject of this Notice, as its creation constitutes operational development, it falls outwith the provisions of Section 23 (3) (d).
9. Part 7 of the Schedule to The Planning (General Permitted Development) Order (Northern Ireland) 2015 [GPDO] sets out permitted development rights in respect of agricultural buildings and operations. Class C relates to the construction, formation, laying out or alteration of a means of access to a road. This right is qualified by Class C1 (a), which states that development is not permitted if it is required in connection with development for which a planning application is necessary under Part 3 of the 2011 Act. The building constitutes development and is not permitted development in accordance with Part 7, Class A of the GPDO. Therefore, retention of the access is not permitted development and

requires express planning permission. Accordingly the appeal under ground (c) fails.

#### Ground (d)

10. The appellant pleaded ground (d) only in respect of the access. The onus is on him to explain why that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters. In accordance with Section 132 (1) of the Act, the access would have to have been substantially complete by 15 September 2012 in order for it to be exempt from enforcement action.
11. The Council's photos show the access in place on 4 October 2013 whereas the appellant's aerial photos show that it was created between 2 September 2010 and 5 June 2013. Mr O'Hare said that one of the first things done when building his house was to lay out the access to it and his farmland. Whilst planning permission for the dwelling was granted on 24 November 2011, he said that the house was occupied in early-mid 2012 and contends that the Council's aforementioned photos show it to be so in October 2013. Whilst the latter show the dwelling to be substantially complete on that date, it is not possible to conclude from the photos that it was occupied. On this evidential basis and the balance of probabilities, I am persuaded that it is more likely than not that the access was not in place on 15 September 2012. Therefore, the appeal on ground (d) fails.

#### Ground (a)

12. The site is in the rural area and within an Area of Outstanding Natural Beauty (AONB) as designated in the Banbridge, Newry and Mourne Area Plan 2015. There is no specific policy in the plan material to this development and it provides limited assistance in dealing with this appeal.
13. The provisions of the Strategic Planning Policy Statement for Northern Ireland (SPPS) are material in all decisions on individual planning applications and appeals. The SPPS sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area. During this transitional period planning authorities will apply the SPPS and retained planning policy statements. Planning Policy Statement 2: "*Natural Heritage*" (PPS 2) and Planning Policy Statement 21: "*Sustainable Development in the Countryside*" (PPS 21) are such retained policy documents. Paragraph 1.12 of the SPPS says that any conflict between them and PPS 21 must be resolved in favour of the provisions of the latter.
14. Policy CTY1 of PPS 21 sets out the types of development that are considered to be acceptable in the countryside. These include agricultural and forestry development in accordance with Policy CTY 12. Therefore, if a proposal complies with Policy CTY 12, it satisfies Policy CTY 1. Policy CTY 12 says that planning permission will be granted for development on an active and established agricultural holding. Paragraph 5.56 of PPS 21 states that the determining criteria for an active and established business will be that set out under Policy CTY 10. As the Council is satisfied that the development subject of the deemed planning application meets those requirements, only the site-specific

- criteria within Policy CTY 12 fall to be considered. Of criteria (a) – (e), the Council is only concerned with the first whereby it is demonstrated that the building and access are necessary for the efficient use of the agricultural holding.
15. Following submission of post-hearing evidence the Council is content that the appellant owns the land shown on the 2013 "farm map" and that there are no other buildings thereon. The 2013 map is not in the usual Departmental format and refers to owned fields rather than those that are part of the appellant's farm business (ID number 654517). Neither does it give the area of each field. The appellant advised that these lands extend to around 8 acres. The 2013 "farm map" and Land Registry information do not preclude the possibility that the extent of the holding has increased in the intervening 5 years and that there may be another building or buildings on such land. Whilst the Council did not specifically say that the deemed application in respect of the building is contrary to the first of the 3 bullet points in Policy CTY 12, I cannot set aside this additional requirement. The appellant has submitted insufficient information to confirm that there are no suitable existing buildings on the holding that can be used. In the absence of a more recent farm map, there is no persuasive evidence that the appellant farms the lands he owns as part of his farm business and to corroborate his contention that the situation is unchanged in the intervening 5 years. Whilst there is no dispute that the business is active and established this is a material consideration in assessing whether the building is necessary for the efficient use of the agricultural holding.
  16. At the date of the Hearing, Mr O'Hare had 18 ewes registered to his flock. He had 15 lambs and a one of the ewes was still pregnant. He said that he had bought 5 ewes and 10 lambs either the day immediately before the Hearing or the one previous to that but that as it would take two weeks until they were tagged, they would not be registered to his flock number (782434) until after that date. In addition, Mr O'Hare had 3 calves registered to his herd number (244650) in December 2017.
  17. At the time of my site visit, 3 of the five animal pens were in use with 3 calves, 2 ewes and 5 lambs therein. Feedstuff, a tractor and trailer and firewood were also stored within the larger section of the building (approximately 180 sq.m.). I was told that the remainder of the flock were in the field fronting Trasna Road and was asked to check that for myself. However, there were no animals in the field. As it is separated from the remainder of the appellant's land by an intervening field, the sheep were unlikely to have had free passage to the neighbouring lands. The building's smaller section is sub-divided into 10 small pens/cages that I was told at the site inspection are used to keep Collie dogs that are trained to work with sheep. I was advised that they were all out on the mountain undergoing instruction. No previous mention was made of this activity and there was no evidence as to whether the space is rented out or if the appellant owns the dogs and trains them himself. Whilst the dogs may work with livestock, their keeping and training does not fall within the definition of "agriculture" at Section 250 of the Act.
  18. The appellant's evidence was not persuasive that the building, compared to a cattle crush/animal pens, is necessary for restraining livestock for veterinary inspection/routine treatment or handling of animals. Reference was made to the Farm Welfare Council's "five freedoms" that the appellant acknowledged: "define

*ideal states rather than standards for acceptable welfare*". He made a generic reference to welfare legislation pertaining to beef cattle as justification for the building but did not cite what statutory provision he was relying on. At any rate, given that 3 calves were acquired last December, it was not explained how the legislative welfare provisions for beef cattle currently apply to his farm business and/or equate to floor space requirements for that size of herd. The appellant referred to situations where the Department for Agriculture, Environment & Rural Affairs consider cattle unfit to be transported but he did not have the guidelines to hand and was unable to provide an authority for his citation.

19. Mr O'Hare placed reliance on the need for the building as an isolation facility but the quotation cited in support of this contention made 3 references to an isolation pen or pens and did not specify that these must be within a building. On the other hand, The Welfare of Farmed Animals Regulations (Northern Ireland) 2012 says that, where necessary, sick or injured animals shall be isolated in suitable accommodation with, where appropriate, dry comfortable bedding. The Welfare of Animals (Transport) Regulations (Northern Ireland) 2006 was relied upon as precluding the transport of sick and/or pregnant animals to a building outwith the holding. However, the appellant did not specify what provision he was referring to. Article 4 thereof states that it is an offence to transport any animal in a way which causes, or is likely to cause, injury or unnecessary suffering to that animal. This does not square with his contention. Indeed, for the period 2008-2013, when the cited legislation was in force, Mr O'Hare leased a farm building a mile from his holding. Convenience aside, there was no persuasive evidence of material change in circumstances in the intervening period that meant that this arrangement, albeit maybe not ideal, could not persist without prejudice to animal welfare.
20. That consideration aside, there is no persuasive evidence that the size of building is commensurate with the current scale of farming activity. That part of it is not in use for agriculture reinforces the conclusion that the proposal is inconsistent with criterion (a) of Policy CTY 12. The appellant's contention that he would not have invested in the building were it not needed, does not outweigh this conclusion. His submission that the building is only 40% of the area that can be erected under agricultural permitted development rights does not assist his case as, Class A of Part 7 of Schedule 1 of the GDPO stipulates that such development is not permitted if the building is not reasonably necessary for the purposes of agriculture within the unit.
21. Of the 3 additional criteria that Policy CTY 12 requires new buildings to comply with the third requires that the proposal is sited beside existing farm buildings. Although the Council has not pursued this concern, it is a policy requirement that I cannot set aside on that basis. The Justification and Amplification text to Policy CTY 12 does not require those buildings to be on the appellant's holding. However, paragraph 6.73 of the SPPS says that new buildings must be sited beside existing farm buildings on the holding. Notwithstanding the Council's stance and Commissioner O'Donnell's apparent reliance on the buildings to the south-west of the appellant's building in appeal decision 2016/A0046, outside his holding, in light of the provisions of paragraph 1.12 of the SPPS, policy requires that the new building must be sited beside existing farm buildings on his holding. In this instance, as the appellant has no other farm buildings on his holding, I must consider whether the building is essential for the efficient functioning of the

business and/or there are demonstrable health and safety reasons. Other than animal welfare issues that have already been considered, the appellant provided no evidence as to why exceptional circumstances apply in this case.

22. The objector raised civil legal matters and a number of other issues that are not pertinent to consideration of the deemed planning application arising under this Notice. Policy NH 6 of PPS 2 relates to AONBs and states that planning permission for new development therein will only be granted where it is of an appropriate design, size and scale for the locality and that 3 additional criteria are met. If the building were acceptable in principle and its size was deemed to be necessary for the efficient use of the agricultural holding, there is no persuasive evidence that its design and scale are out of keeping with the locality and/or the special character of the AONB and I do not consider it to be so. It is of agricultural design, appearance and finish, set below road level, visually related to adjoining development and not out of character with the rural area where such buildings are a common feature. Accordingly, Policy NH 6 of PPS 2 does not weigh against the development subject of the deemed planning application.
23. I note the 12 letters of support submitted by neighbours who say that they have no objection to the building or the keeping of livestock therein. The writers testify to the appellant's family ties to the land, his commitment to agriculture and to this neighbourliness. However, these considerations carry insufficient weight to overcome objections to the building on policy grounds set out in the SPPS and Policy CTY 12. As the latter does not support this aspect of the deemed planning application and there are no overriding reasons why the building is essential, its retention is also at odds with Policy CTY 1 of PPS 21.
24. Whilst each proposal must be considered on its own merits in light of prevailing planning law and policy, allowing the retention of a building that is contrary to policy would set an undesirable precedent for similar proposals. Compliance with planning policy is in the public interest and a matter of acknowledged importance. The failure of this aspect of the deemed planning application to meet the requirements of policy means that it could result in demonstrable harm in this respect.
25. The access serves 4 of the appellant's 7 fields that extend in a linear fashion from Ballintemple Road. It is the sole means of access to those lands and, given the width of the roadside field's frontage, the only possible means of access thereto from the public road save for sharing the access to the dwelling. Apart from mentioning this as a possible alternative, the Council gave no evidence as to: why this would be preferable in terms of visual amenity or road users' safety; or why it considers it not to be necessary for the efficient use of the agricultural holding. Given the separation distance between the dwelling and the existing lane and the size of its curtilage, separation of farm traffic from the amenity area around the dwelling would have benefits in terms of health and safety and relative ease of access for movement of farm vehicles, machinery and animals. Therefore, its retention is consistent with criterion (a) of Policy CTY 12. The Council raised no other policy-based objection to retention of the access and had no associated technical concerns about the adequacy of visibility splays, forward sight distance, radii etc. Therefore, the appeal under ground (a) in respect of the access is allowed and planning permission is granted for its retention.





- The appeal on ground (g) succeeds and the Notice is varied so that Paragraph 4 reads as follows:

**4. What you are required to do**

Demolish building and return land on which the building stands to its prior condition within 6 months from the date of this decision.

- The notice, as varied and corrected, is upheld.

**COMMISSIONER JULIE DE-COURCEY**

**List of Appearances**

Planning Authority:	Mr D Stewart Mr P Smyth
Appellant:	Mr J O'Hare, Appellant Mr S Hughes, Blackgate Property Services

**List of Documents**

Planning Authority:	"PA 1" "PA 2"	Statement of Case Letter dated 30 April 2018
Objector:	"OBJ 1"	Statement of Case from Mr S Murphy
Appellant:	"APP 1" "APP 2" "APP 3" "APP 4"	Statement of Case DARD ovine moved out trace submitted at Hearing (782434) DARD Herd List (244650) Letter dated 26.04.18 and attachments from Mr S Hughes, Blackgate Property Services Ltd

<b>Report to:</b>	Regulatory & Technical Services Committee
<b>Date of Meeting:</b>	20 June 2018
<b>Subject:</b>	Bus Shelter at Cloughreagh Park, Bessbrook, Newry
<b>Reporting Officer (Including Job Title):</b>	Roland Moore, Acting Director Neighbourhood Services
<b>Contact Officer (Including Job Title):</b>	Kevin Scullion, Assistant Director Facilities Management & Maintenance

### Decisions Required

Members are asked to note the contents of the report and provide direction.

#### **1.0** Purpose & Background

**1.1** The Committee will be aware that in July 2016 the Council approved a recommendation to install a bus shelter in Cloughreagh Park, Bessbrook, Newry. The bus shelter was partially installed in February 2017 but works to complete the bus shelter did not proceed. Complaints were received concerning the location of the bus shelter and following consideration at a number of RTS Committees, Slieve Gullion Councillors Meetings and finally at the Full Council Meeting in February 2018 it was agreed that the bus shelter be removed and that an alternative location be sought.

The bus shelter was subsequently removed and discussions with Transport NI have identified a number of potential locations within the development area which are shown on the attached site plan at Appendix 1.

A Council Official was contacted by local residents from the Cloughreagh Park and John F Kennedy Park requesting attendance at a Public Meeting to discuss the issue of why the bus shelter had been removed.

This meeting was held on the 24<sup>th</sup> May 2018 and attendance included Elected Representatives of an MP, MLA and a number of local Councillors and a Council Official. Following the meeting an email was received by the Council Official who attended the meeting, addressed as coming from a number of JFK & Cloughreagh Park residents. The email refers to the following points being noted from the meeting.

***"1) NMDDC consult with residents in the JF Kennedy, Oak Close and Cloughreagh bungalow parks on their opinion on erecting a bus shelter on the originally approved site .NB See chronological paper for date of approval and site location.***

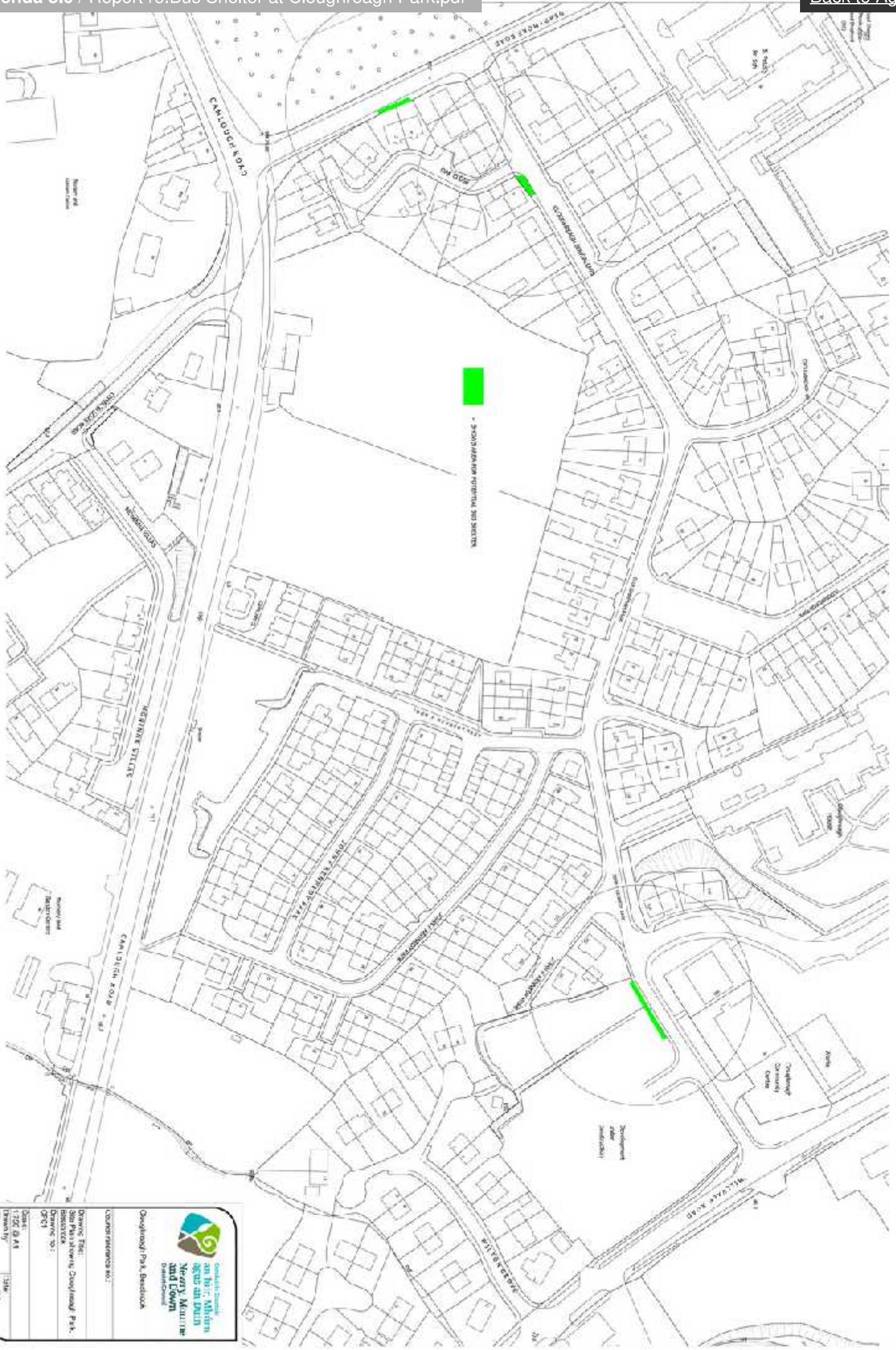
***2) NMDDC consult with residents outlined above on the options of erecting 2 bus shelters located at Cloughreagh community centre and Oak Close***

***3) Translink be asked by NMDDC why some residents and elected members are being told that site outlined in option 1 was feasible, but advising other residents and elected members that it wasn't and allegedly Translink are on record as stating this.***

***4) local residents speak directly to Translink to discuss this matter further seeking clarity as outlined in point 3."***

In relation to point 2 above and the reference to chronological paper, there was no paper

	attached.  It should be noted that the proposal in points 1 and 2 above to consult with residents in the John F Kennedy Park, Oak Close and Cloughreagh bungalow parks may go beyond current Council policy, a copy of which is attached at Appendix 2.
<b>2.0</b>	<b><u>Key Issues</u></b>
<b>2.1</b>	<ul style="list-style-type: none"> <li>• There is currently no bus shelter within the housing development of Cloughreagh Park and John F Kennedy Park to provide cover to those waiting for a bus.</li> <li>• A bus shelter had been installed but was removed following Council decision taken in February 2018.</li> <li>• A meeting was held by local residents of the area on the 24<sup>th</sup> May 2018 which was also attended by local political representatives and a Council Official.</li> <li>• Arising from the meeting a request has been received by the organisers of the public meeting for the Council to respond to a number of issues.</li> </ul>
<b>3.0</b>	<b><u>Recommendations</u></b>
<b>3.1</b>	The Committee is asked to note the contents of the report and provide direction.
<b>4.0</b>	<b><u>Resource Implications</u></b>
<b>4.1</b>	None
<b>5.0</b>	<b><u>Equality and good relations implications:</u></b>
<b>5.1</b>	It is not anticipated that the proposal will have an adverse impact upon equality of opportunity and good relations
<b>6.0</b>	<b><u>Appendices</u></b>
<b>6.1</b>	Appendix 1: Site plan 2 A1 Cloughreagh Appendix 2: Bus Shelter Policy



**Cloughreagh Park, Beedstock**  
 CONSULTANCIES AND SERVICES  
 CONSULTANTS  
 CONSULTANT  
 CONSULTANT

**an t-tí: Mhóin**  
**Stearns Mhóin**  
**SAD LOVIN**  
 CONSULTANTS

Drawn By: ...  
 Checked By: ...  
 Drawn To: ...  
 Date: ...

Scale: 1:1000  
 Title: ...  
 Date: ...

## **Newry, Mourne and Down District Council *Bus Shelter Policy*** Bus Shelter Policy 2015 Version 1.3

### **1. Title**

Bus Shelter Policy

### **2. Statement**

Newry, Mourne and Down District Council ("the Council") is empowered under the Local Government Miscellaneous Provisions (NI) Order 1985, with the consent of the Department of Regional Development to erect and maintain on any road within the District, shelters for the protection from the weather of persons waiting to enter public service vehicles.

Council will erect a bus shelter following local representations where there is shown to be a "need", providing the location does not present a safety or nuisance problem and adequate funding is available.

Bus shelters are provided, particularly for those who have to use public services who may have to stand out in inclement weather.

Relocation of bus shelter should only take place as a result of either road realignment or the bus companies relocating their bus stops. However, it is recognised that from time to time individual requests may arise for relocation of bus shelters and these will be considered by Council on a case by case basis.

### **3. Aim**

The aim of this policy is to ensure the Council is consistent in the application of processes to consider the provision of Bus Shelters.

### **4. Scope.**

This Policy applies to the erection or removal of bus shelters by Newry, Mourne and Down District Council.

The Policy applies to all those who are involved in the erection and removal of bus shelters by Newry, Mourne and Down District Council (including but not limited to employees, agency staff, elected members, other public representatives, contractors, agents, consultants, servants of the Council.) All parties referred to above are responsible for complying with the Council's Bus Shelter Policy and Procedures. Non-compliance with the Council's policy and procedures may result in the Council breaching its' legal obligations.

## **5. Related Policies/Legislation**

The Local Government Miscellaneous Provisions (NI) Order 1985

## **6. Definitions**

*"Need" will be defined as the usage being a minimum of 20 passengers over the period of a day in urban areas and 10 passengers over the period of a day in rural areas.*

This information must be confirmed by Translink or other recognised service provider such as the relevant Education Board (e.g. SELB).

## **7. Policy Owner**

Facilities Management and Maintenance Department

## **8. Contact details in regard of this policy are:**

Kevin Scullion, Assistant Director: Facilities Management and Maintenance

## **9. Policy Authorisation**

MT Authorised on - Not applicable

Development Committee Authorised on 19<sup>th</sup> August 2015

Council Authorised on 7<sup>th</sup> September 2015

## **10. Policy Effective Date 7<sup>th</sup> September 2015**

## **11. Policy Review Date**

*The policy will be revised together with any wider strategic review of assets but not more 4 years from adoption.*

## **12. Procedures**

*Procedures for must be adhered to in the delivery of this Policy.*

## **13. Equality Impact Assessment**

*While the Council will equality screen the Bus Shelter Policy, at this stage of development it is not envisaged it will be required to be subject to an equality impact assessment.*



Bus Shelter Installation and Removal Procedures January 2015 Page 1

**Newry, Mourne and Down District Council  
Procedures for Erection/Removal of Bus Shelters  
MUST be read in conjunction with Policy for Bus Shelters**

## Bus Shelter Installation and Removal Procedures January 2015 Page 2

### 1.0 Background

Bus shelters are provided particularly for those who have to use public services and may have to stand out in inclement weather.

Council will provide a bus shelter where there is shown to be a need, providing the location does not present a safety or nuisance problem and adequate funding is available.

Relocation of bus shelter should only take place as a result of either road realignment or the bus companies relocating their bus stops. However, it is recognised that from time to time individual requests may arise for relocation of bus shelters and these will be considered by Council on a case by case basis.

### 2.0 Procedures for approval/rejection of application to install a bus shelter

Council will not actively seek to install Bus Shelters.

Consideration will be given to the provision of Bus Shelters on the basis of local representations.

All requests for Bus Shelters will be recorded and dated on receipt and provision will be on a first come basis (subject to budget availability).

Need will be established through liaison with Translink or other recognised service provider, such as the relevant Education Board (e.g. SELB), and written confirmation of usage numbers. Usage must be a minimum of 20 passengers over the period of a day in urban locations and 10 passengers over the period of a day in rural locations.

DRD Roads Service and PSNI traffic branch will be consulted on traffic matters associated with the proposed location. There **MUST** be no objections from DRD Roads Service or PSNI traffic branch.

Owners of property within a 50metre radius to the bus stop will be consulted on the installation of the shelter, including the type of shelter. (This will be determined via mapping on the Council Geographic Information System.)

A bus shelter will not be erected if one third or more of home owners/tenants in the vicinity (50 meters radius) confirm in writing that they object to the shelter being located as proposed . Once refused a request may not be reconsidered for a further 12 month period from the original decision.

### **3.0 Installation and purchase of bus shelters**

The Council will endeavour to provide good quality, comfortable bus shelters, purchased in accordance with Public Sector procurement guidance. Where appropriate, they will endeavour to have bus shelters erected free of charge, other than services by Adshel. Council will consider, in Conservation Areas, the erection of shelters in keeping with the area but the cost of such shelters excluding erection and servicing costs shall not exceed £5,000.

### **4.0 Demolition or relocation**

This will be referred to the relevant Committee for a decision.

Where a bus shelter has ceased to be used as indicated by returns from Translink or other service provider such as the relevant Education Board (e.g.SELB), this will give rise to the possibility of removing the shelter.

Where a shelter is removed the Council will leave the site in a tidy and safe manner.

**“The Council reserves the right to remove any bus shelter and in reaching such a decision will take into account all relevant information and may consult with such bodies/groups/individuals, as it considers necessary”.**

<b>Report to:</b>	Regulatory & Technical Services Committee
<b>Date of Meeting:</b>	20 <sup>th</sup> June 2018
<b>Subject:</b>	Waste Strategy Initiative: Issue of Food Waste Caddies to Primary and Pre-School premises.
<b>Reporting Officer (Including Job Title):</b>	Joe Parkes, Assistant Director Waste Management
<b>Contact Officer (Including Job Title):</b>	Liam Dinsmore, Head of Waste Processing

<b>Decisions required:</b>	
To note the contents of the report, and consider and agree to:	
<ul style="list-style-type: none"> <li>• <b>Provide kitchen caddies to Primary and Pre-School free of charge.</b></li> <li>• <b>Implement further recycling for schools in conjunction with the AHC Directorate.</b></li> <li>• <b>Review school brown bin charges as part of the rates estimates.</b></li> </ul>	
<b>1.0</b>	<b>Purpose and Background:</b>
1.1	<p>Council adopted a Waste Strategy Report, December 2017.</p> <p>Within the Waste Strategy Report it has been agreed to review the educational outreach to schools in conjunction with the AHC Directorate. This will be in advance of the new school term and allow issues such as Eco-schools and the environmental calendar to be actioned.</p> <p>Waste Team Officers have been approached by primary schools with regards to the provision of Brown Bin Food Waste caddies for placement in classrooms.</p> <p>Consideration has also been given for variation in the price charged to schools for collection of Brown Bin Waste, however this would be best assessed as part of the rates estimate process late in the year and any changes implemented as part of the new 19/20 budget, in April. This will also allow time to address the present brown bin service and ensure a more robust service to possible new customers.</p>
<b>2.0</b>	<b>Key issues:</b>
2.1	It is considered essential that awareness for recycling issues is commenced as early as possible and indeed that lessons learned by young children with respect to recycling are then brought forward to their homes, resulting in better recycling processes by families.
2.2	Officers are regularly in contact with schools, through a number of means and it is considered that all practicable steps should be taken to assist schools to spread the message that 'it is good to recycle'.
2.3	A kitchen caddy, made available in each classroom, would provide a receptacle into which fruit peelings and uneaten food can be placed for delivery by school staff into their main brown bin.
2.4	Consideration should also be given to the brown collection charge, once the collection service has improved, to promote additional usage of brown bins in schools.

<b>3.0</b>	<b>Recommendations:</b>
<b>3.1</b>	A meeting to be set up between Waste Management and AHC Directorate, to review current educational outreach to schools from a recycling perspective. An update report will then be submitted to the Strategic Waste Working Group in due course.
<b>3.2</b>	Council to approve multiple issue of kitchen caddies to schools on a one off basis, at this stage based on a caddy to be made available for each school classroom, for primary schools collected by the Council. Caddies to be issued/made available free-of-charge and delivered by Council representative as part of the Outreach program. In relation to pre-school facilities, Officers to be enabled to issue a number of free food-waste caddies, where deemed beneficial to both educational and practical to reduce food waste collection tonnages.
<b>3.3</b>	Consideration should also be given to the brown collection charge, once the collection service has improved, to promote additional usage of brown bins in schools.
<b>4.0</b>	<b>Resource implications</b>
4.1	There are no resource considerations with respect to Officer Time, as outreach to schools is undertaken by existing Officers.  Provision of free caddies is considered to be drawn from existing stock as has been provided for free distribution. Uptake of scheme is not known but estimate for issue approx. £1000-£1500.
<b>5.0</b>	<b>Equality and good relations implications:</b>
5.1	No Equality, or Good Relations issues are anticipated.
<b>6.0</b>	<b>Appendices</b>
	<b>N/A</b>

<b>Report to:</b>	Regulatory & Technical Services Committee
<b>Date of Meeting:</b>	20 June 2018
<b>Subject:</b>	Dog Fouling Issues – Cleaner Neighbourhood Report
<b>Reporting Officer (Including Job Title):</b>	Joe Parkes, Assistant Director Waste Management
<b>Contact Officer (Including Job Title):</b>	Liam Dinsmore, Head of Waste Processing

<b>Decisions required:</b>	
To note the contents of the report, and consider and agree to:	
<ul style="list-style-type: none"> <li><b>The proposed recommendation to develop an action plan that addresses dog fouling and litter as highlighted by the Cleaner Neighbourhoods Report 17/18.</b></li> </ul>	
<b>1.0</b>	<b>Purpose and Background:</b>
1.1	<p>Several Members have recently raised issues regarding perceptions to increased littering and especially incidences of dog fouling.</p> <p>The Cleaner Neighbourhoods Report 17/18 (Appendix 1) produced by Keep Northern Ireland Beautiful has also highlighted the issue of dog fouling and litter in the district.</p> <p>As part of the new Neighbourhood Services Directorate, street cleaning services need to be developed to address dog fouling and cleaning requirements across the district with a more robust and uniform approach.</p> <p>Litter Prevention needs to be developed to be inclusive of education/awareness and enforcement.</p>
<b>2.0</b>	<b>Key issues:</b>
2.1	<ul style="list-style-type: none"> <li>Dog fouling is a problem in the district and needs to be addressed, while dealing with the general litter problem.</li> <li>The Cleaner Neighbourhood's Report has highlighted the need to address dog fouling and litter.</li> <li>The opportunity needs to be taken to review the street cleansing operation as part of the implementation of the new Neighbourhood Directorate.</li> <li>Education/awareness and enforcement requires attention, to ensure a more holistic approach to the cleanliness of the district.</li> <li>An action plan needs to be developed to address the cleanliness of the district.</li> </ul>
<b>3.0</b>	<b>Recommendations:</b>
	Note the report and develop an action plan that will address the key issues, including a public campaign to tackle the issue of dog fouling and litter.
<b>4.0</b>	<b>Resource implications:</b>
	The following proposals can be met within staffing resources and budget.
<b>5.0</b>	<b>Equality and good relations implications:</b>
5.1	When undertaking the marketing campaign for Council on this issue, there is the potential for equality implications regarding the production of literature and its availability in alternative formats and languages.
<b>6.0</b>	<b>Appendices</b>
	Appendix 1 : Cleaner Neighbourhoods Report 2017/18

# Cleaner Neighbourhoods Report 2017/18



**KEEP  
NORTHERN  
IRELAND  
BEAUTIFUL**

KEEP  
NORTHERN  
IRELAND  
BEAUTIFUL

Keep Northern Ireland Beautiful is the charity that inspires people to create **cleaner, greener and more sustainable communities**. Through our behaviour change campaigns and education on local, national and global environmental issues we are working to **improve the quality of people's lives, the places they live in and the places they love.**



# Key facts and figures at a glance for the period 2017-2018

**15%**

The number of transects failing to meet the accepted standard for litter has remained at **15%** from last year

**6%**

The percentage of transects with dog fouling present has held steady at **6%**



**273**



schools earned the right to fly a green flag, **25%** of all schools in the country

**12%**

of transects surveyed were completely free of litter, up **7%** from last year

**5%**

The spend on street cleaning services has gone up **5%** to **£45,562,534**

**437**

In 2017, there were an average of **437** litter items washed up by the tide per **100m** of Northern Irish beach, of which **82%** was plastic

**3,158**

Fixed Penalties were issued for **littering** during **2016-17**



(the last complete year for which records are available)

**30%**

of the operational time accrued by a mechanical sweeping machine is wasted because **obstructions** prevent them from reaching the curb or pavement **backline**



**256**

**Adopt A Spot**

groups have adopted a spot in their local area, committing to undertake four clean ups per year in 2017-18



**322**



Fixed Penalties were issued for failing to clean up dog fouling during **2016-17**

(the last complete year for which records are available)

# Foreword

At last, it has dawned on us all that pollution from litter, particularly single use plastics, is having a deadly effect on our fragile Earth. The BBC's excellent Blue Planet 2 and Sky Ocean Rescue are just two of the high profile media programmes to help bring home the horrific scale of the problem. No-one can now claim ignorance as an excuse for their littering.

Perhaps we were seeing the start of that awareness in the Live Here Love Here research carried out in March 2017, when we saw the percentage of people admitting to littering dropping to one in four people, down from one in three the previous year.

Could this be part of the reason that, whilst transects falling the litter standards (15%) and prevalence of dog fouling (5%) have held steady, we have seen a significant rise of transects that are entirely free of litter, up from 5% in 2016/17 to 12% in 2017/18? We know, however, that awareness and logical arguments won't often win the day. The environmental sector needs to better communicate those impactful stories that really provoke and stimulate behaviour change. Strong government action is crucial in combatting pollution and legislation may be necessary to ensure improvements in reducing the amount of non-recyclable materials being littered on a daily basis.

With waste and litter being devolved legislative matters the lack of a Northern Ireland Assembly is a real hindrance. Such a void for such a long period of time is disturbing and prevents any progress at the very time when litter pollution is top of the global news agenda. The political context is challenging, not least for those at the Department for Agriculture, Environment and Rural Affairs (DAERA), who have championed the levy on single use carrier bags, the development of a marine litter strategy and ongoing investment in the data collection detailed in this report.

Let me conclude on a more positive note. Keep Northern Ireland Beautiful, as the Northern Ireland member of the European Litter Prevention Association, has been working hard to get litter on the wider policy agenda. As I write, we are on the brink of an historic event, with the inclusion of litter in the EU Waste Directive amendments (see page 23). At the heart of this is the explicit requirement on both producers and member states to finance and implement litter awareness-raising and prevention campaigns. Irrespective of the impact of Brexit, this is a clear direction of travel and a real opportunity for more producers to join Wrigley's, Coca Cola and McDonald's, and show their commitment to being part of the solution to littering.

The amendments also require the development of a national litter prevention strategy to combat all forms of littering; something Keep Northern Ireland Beautiful has consistently called for in the recommendations in this report. It all goes well this should be implemented by May 2020. We may all hold our breath.

**Dr Ian Humphreys**  
CHIEF EXECUTIVE  
KEEP NORTHERN IRELAND BEAUTIFUL



# Executive summary

Keep Northern Ireland Beautiful is an independent charity that works with the Department for Agriculture, Environment and Rural Affairs, local Councils and businesses to assist in improving our local environmental quality and increasing the cleanliness of our towns and countryside.

Our work includes managing Live Here Love Here, the largest single civic pride and volunteering campaign in Northern Ireland with over 111,000 supporting our campaign in 2017/18. We also manage the Eco-Schools environmental education programme and the main litter survey, which can be viewed and downloaded at: [www.keeppnorthernirelandbeautiful.org/maineletter](http://www.keeppnorthernirelandbeautiful.org/maineletter)

This report is based on a number of sources: the litter and cleanliness data comes from a survey of 1,097 individual transects covering approximately 55km (or 34 miles) of streets and parks across all 11 Council areas, while fixed penalty records, spend on street cleansing data and information on enforcement and education activities was collected directly by Keep Northern Ireland Beautiful from individual local authorities.

## Findings & Insight

- 15% of transects surveyed failed to make the acceptable standard for cleanliness. This is unchanged from last year and shows that more needs to be done for progress to be made across the board. However, with the number of transects completely free of litter increasing from 5% to 12%, it is clear that more resources are being deployed to certain areas. This is the highest level of total cleanliness observed since the Northern Ireland Litter Report began in 2010.

- The incidence of dog fouling has also held steady, with 6% of transects being affected once again. Although High Obstruction Residential areas had the highest percentage of transects affected at 11%, recreational areas actually had the highest fouling rate, at 2.25 per transect. This is perhaps due to the cluster effect, i.e. one dog foul attracting more dog fouls.

- Rural roads and Industrial Shed and Retail areas seem to be disproportionately affected by litter when compared to residential, recreational and other retail areas. 39% of rural transects failed in our surveys, compared to only 3% in Primary Retail. This could be because cleansing resources are being focused on the areas with higher footfall and greater visibility.

- There was also a disparity between Low Obstruction and High Obstruction Residential areas. The failure rate for the low obstruction area was only 3 transects in every 100, the

- joint lowest score in the survey, whereas the high obstruction areas were five times dirtier, with 15% of transects failing. This is perhaps due to the more restricted access to the kerb and pavement for mechanical sweepers in these areas.

- Obstruction to road and pavement sweeping has dropped by an average of 7% across all land uses and Council areas, increasing the amount of litter being collected by mechanical means.

- While the annual spend on cleansing has increased by 5%, the amount of fines being issued for litter and dog fouling has decreased by 13%. This perhaps shows a missed opportunity by Councils, when the cost of cleaning our streets and open spaces could be offset by the revenue generated from littering offences.

At the end of the report, a number of recommendations have been made as to how we can all move towards a litter free future together. They cover both national and local policy makers, but it has to be stressed that we can all do our part when it comes to keeping Northern Ireland beautiful.

## Interpreting this report

**Benchmark** in this report refers to the process of comparing the performance of one council against another, or of comparing NI results to those of other regions of the UK.

**Baseline** refers to the average of the results of the NI Litter Surveys carried out in 2012, 2013 and 2014 with the data mathematically weighted to reflect the amended landuse ratios used in subsequent surveys. Consequently, 'weighted baseline' figures may be different from those given in previous reports.

**Transect** is the term given to an individual survey site. For this survey it is a length of pavement 50m long, extending from the backline into the gully, in recreational areas it is either a 50m length of path plus 1m into the grass on either side, or an area of open space approximately 100m<sup>2</sup>, depending on which is more appropriate.



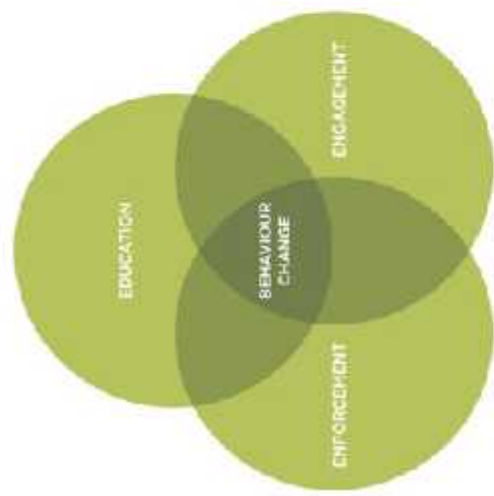
# Keep Northern Ireland Beautiful



Young Reporters  
for the environment



Green Key  
Northern Ireland



**Environmental Education:** Eco-Schools is the world's largest environmental education programme. Focused on behaviour change, it encourages pupil led action. Northern Ireland is the first country in the world to have all its 1,152 schools participating and 25% fly the Green Flag, having reached the international standard.

**Engagement and Volunteering:** The BIG Spring Clean, a part of Live Here Love Here, mobilises tens of thousands of people every year in cleaning up their parks, sports pitches, streets and beaches. Live Here Love Here is raising the bar on anti-social behaviour by building civic pride and stronger communities.

**Environmental Standards:** Blue Flag for beaches and marinas, Seaside Awards, Green Flag for Parks, Green Key for the hospitality industry, the Green Business Award and the NI Environmental Quality Forum all help raise and maintain the quality of the places we live in and visit by setting national and international benchmarking standards.

Keep Northern Ireland Beautiful is the charity that inspires people to create cleaner, greener and more sustainable communities.

Through our behaviour change campaigns and education on local, national and global environmental issues, we are working to improve the quality of people's lives, the places they live in and the places they love.

Keep Northern Ireland Beautiful provides a range of programmes, services and initiatives that include:

For more information on our work contact:

**Dr Ian Humphreys**  
CHIEF EXECUTIVE OFFICER

[ian.humphreys@keepnorthernirelandbeautiful.org](mailto:ian.humphreys@keepnorthernirelandbeautiful.org)

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[www.keepnorthernirelandbeautiful.org](http://www.keepnorthernirelandbeautiful.org)

# Northern Ireland Litter Survey

Keep Northern Ireland Beautiful have been collecting information about the amount and distribution of litter for over ten years.

Recognising in 2012 that litter was not the only indicator of the quality or cleanliness of a space, we began to monitor graffiti, flyposting and pavement staining, as well as specific information about dog fouling.

Readers should note that many of the statistics relate to the presence or absence of the indicator (e.g. litter or dog fouling), rather than the volume or amount dropped. Surveys are a snapshot of a site at the time surveyors arrive, so the results are sensitive to how thoroughly or how recently the survey site has been cleared before data is recorded. Over the course of the 1,097 individual surveys, any effect this may have had is very likely to have been evened out.

The 2017/18 data was collected between July and October 2017.

Councils that participate in the Keep Northern Ireland Beautiful Borough Cleanliness Survey receive additional detail, support and interpretation of this information online through our Data Hub resource. Currently six Councils are participants in this programme.



**Litter** is anything that is dropped, discarded or thrown down by anyone. It includes cigarettes, crisp bags, bottles and cans, receipts and many more things, as well as dog fouling.



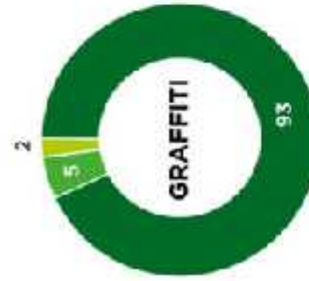
This is what the picture of litter would be like if we do not include dog fouling. We measure this because dog fouling is much more difficult for street cleaning to collect than other types of litter.



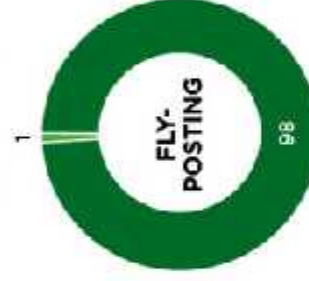
**Detritus** comprises small, broken down particles of synthetic and natural materials and includes dust, mud, soil, rotted leaf and vegetable residues, and fragments of twigs, glass, plastic and other finely divided materials.



**Staining** is all the substances that mark a pavement, and commonly includes chewing gum, oil, drinks stains and heavy discoloration.



**Grffiti** is writing or drawings scribed, scratched, or sprayed illicitly on a wall or other surface in or visible from a public place. Murals and cultural artworks are not considered graffiti.



**Flyposting** is the placing of unauthorised advertising or posters in a public place, and includes stickers, bills and large posters.

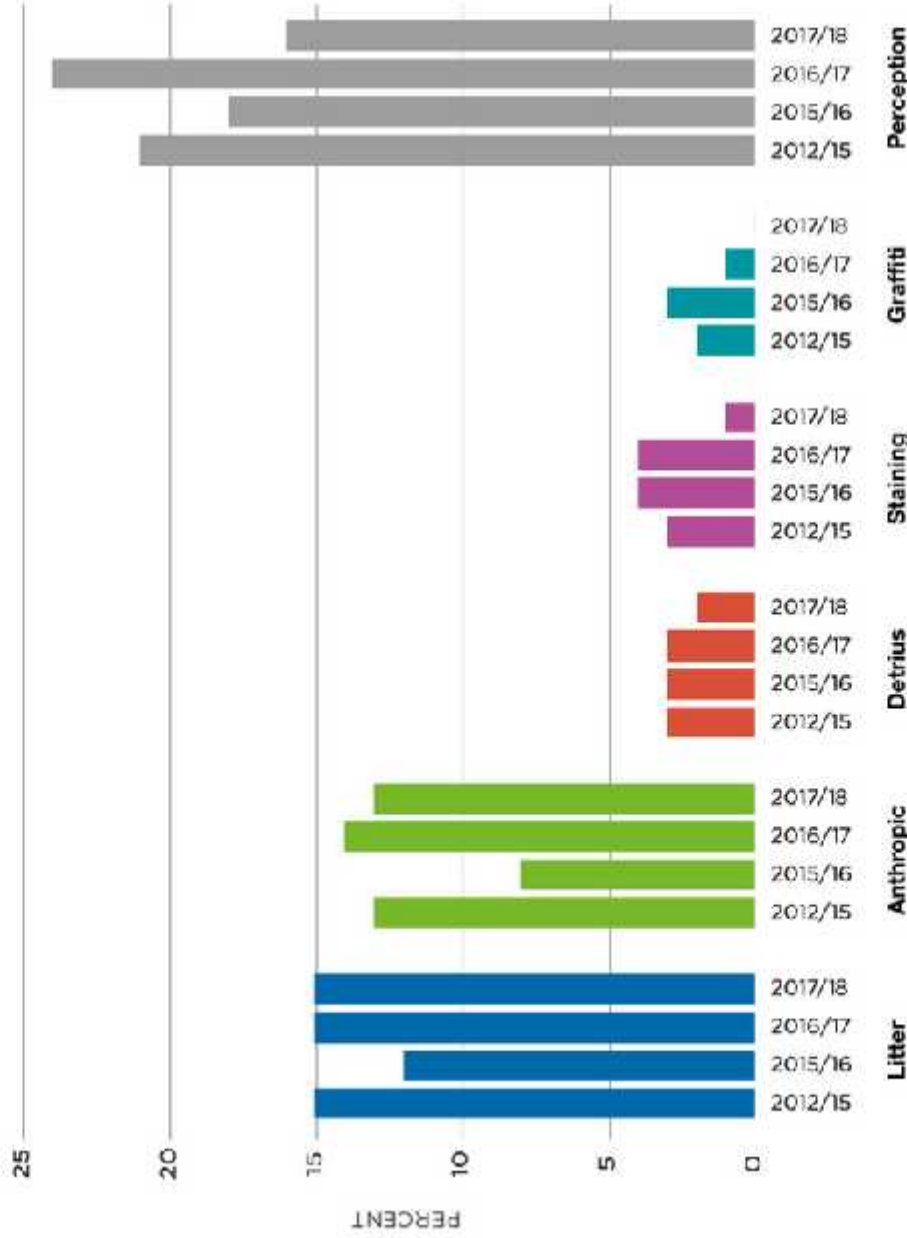
**KEY**

<span style="color: green;">■</span>	<b>Grade A (pass)</b> Completely free of indicator (litter, detritus, graffiti etc.)
<span style="color: lightgreen;">■</span>	<b>Grade B+ (pass)</b> Predominantly free of indicator apart from some small items
<span style="color: yellowgreen;">■</span>	<b>Grade B (pass)</b> Many small indicator items or one larger item
<span style="color: yellow;">■</span>	<b>Grade B- (fail)</b> A few larger indicator items
<span style="color: orange;">■</span>	<b>Grade C (fail)</b> Many larger indicator items
<span style="color: darkorange;">■</span>	<b>Grade C- (fail)</b> Accumulations of larger indicator items
<span style="color: red;">■</span>	<b>Grade D (fail)</b> Transact is heavily affected by indicator, both widespread and accum affected

The rings above show the percentage of transects surveyed that were allocated each of the seven grades available (see key). Each ring represents each of the different cleanliness indicators that we measure in our survey. Totals may not equal 100 due to the rounding up or down of figures to make whole numbers.

### The trend in pollution indicators

2012-15 is the baseline against which current performance should be compared



**Flyposting** has more or less been completely eradicated as a littering issue over the last few years thanks to monitoring, reporting and action from local authorities.

**“Layby and area under hedge full of litter”**  
Rural road  
**Glengormley**

**“Pristine!”**  
Residential area  
**Ballyclare**

**“Build-up of detritus in parking bays”**  
Residential area  
**Antrim**

**“A few drinks bottles from sports events”**  
Playing fields  
**Randalstown**

**“No litter, but ridiculous amounts of graffiti!”**  
Public walkway  
**Portadown**

**“Incredible concentration of alcoholic drinks bottles and cans”**  
Rural road  
**Armagh**

**“School kids smoking in the trees nearby – lots of cigarette packets and butts on the ground”**  
Residential area  
**Keady**

**“Cars parked all over the pavement”**  
Residential area  
**Belfast**

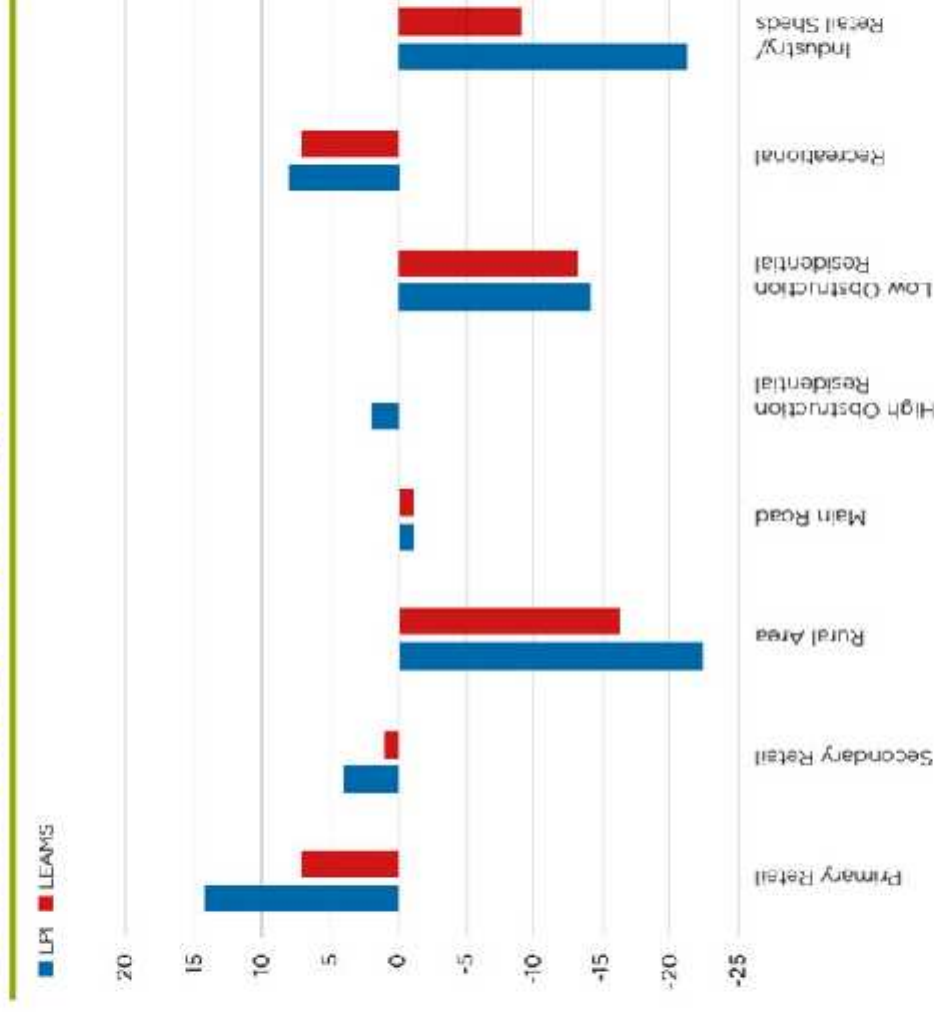
**“Silly-string causing particular staining”**  
Children's play area  
**Ballycastle**

# LEAMS

## Local Environmental Audit & Management System

LEAMS is an alternative method of measuring litter and other indicators, which is used in both Scotland and Wales. Unlike the pass/fail indicator used in Northern Ireland, LEAMS scores are generated by assigning a value to each grade, and then calculating the average value of all the grades assigned. It differs from the Litter Pollution Index (LPI) in that a LEAMS score takes account of how clean or littered a transect is, rather than just whether it is a pass or a fail. For example, Councils A and B might both have an LPI of 12, indicating that 12% of their transects have failed to meet the acceptable standard for litter. However, if all of Council A's failed transects were 'grade D', but all of Council B's failed transects were 'grade C', then Council B would have a higher LEAMS score. This allows for a more accurate analysis of the survey data, which may be preferable for local authorities when setting targets or allocating resources.

## LEAMS vs LPI (Relative to average)



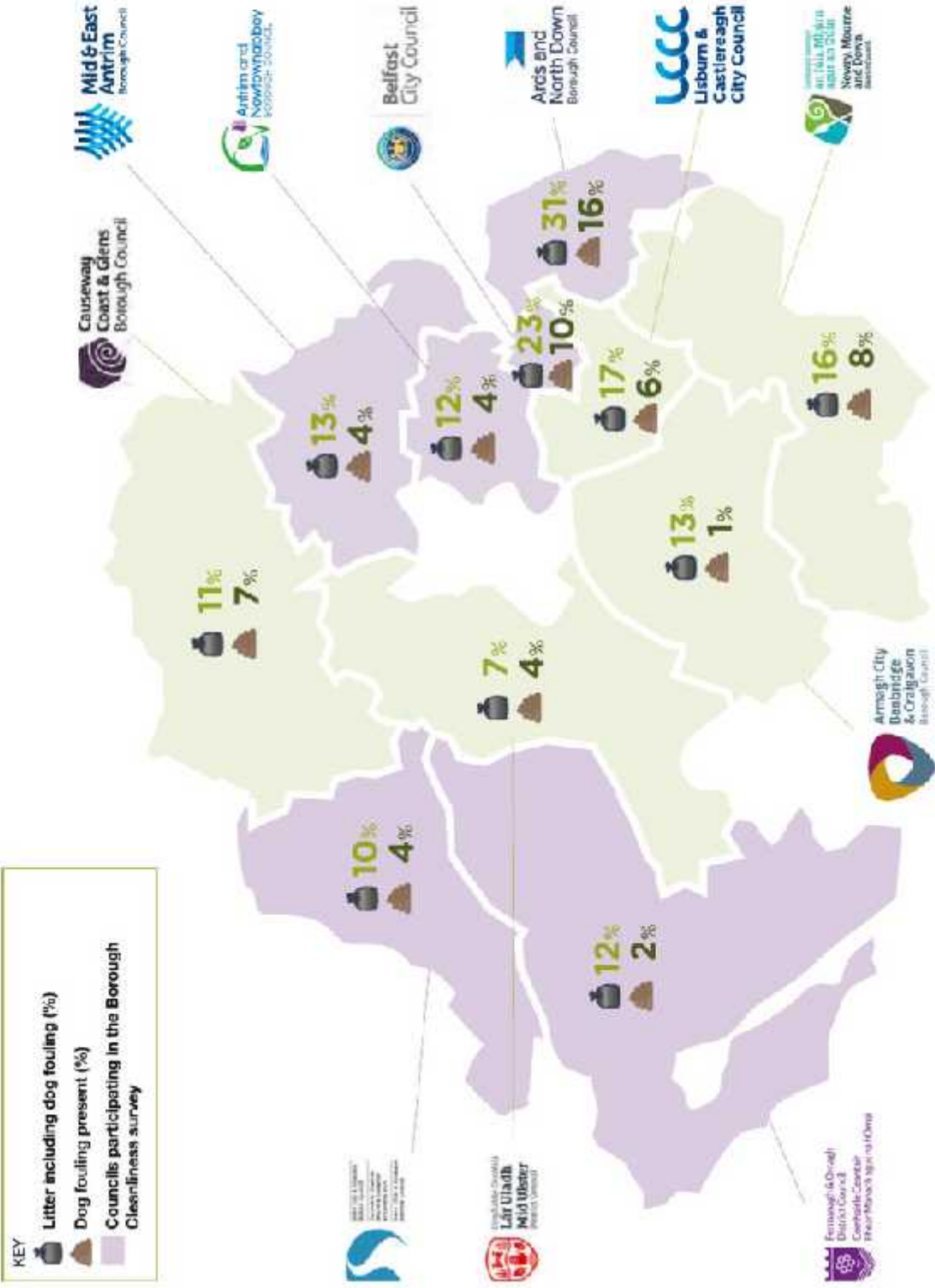
This graph gives a representation of how clean the eight land uses are in terms of both the Litter Pollution Index and the LEAMS score, relative to the mean for each system.

If we look at retail, for example, we can see that the LPI figure would suggest that the 'Primary Retail' transects are much cleaner than average (+14%), whereas the LEAMS score gives a more conservative figure (+7). This indicates that although they had a much better pass rate, they weren't completely clear of litter. Likewise, 'Industrial and Retail Shed' areas look to be much dirtier than average by their LPI (-21%), but with a LEAMS score 9 points below the average, not all the transects failed badly. Going by the LPI scores alone, a Council looking at the graph above might be tempted to divide scarce resources equally between 'Rural' and 'Industrial and Retail Shed' areas, as they appear to be equally as dirty. The LEAMS scores however, show that the rural transects surveyed were in fact dirtier than their industrial counterparts and probably have a greater need of those resources.

# Mapped survey results for each Council

## Transects badly affected by litter or dog fouling

The percentage of transects which fell below the required standard for litter, and the percentage of transects on which dog fouling was observed in each Council area.



## Dog fouling

The improvement in rates of dog fouling across the eight different land uses has been one of the big success stories over the last two years. This year, figures have dropped in all areas apart from Main Road and High Obstruction Residential, although it should be noted that in both of these land uses the 2017/18 figures were still lower than those from 2015/16.

While High Obstruction Residential transects showed the highest incidence rate of dog fouling, it was actually recreational areas which appeared to suffer the most from the cluster effect. Transects affected by dog fouling showed an average of 1.49 dog fouls across the eight land uses, whereas those in recreational areas alone had 2.25 dog fouls. This may be the same dog using the same spot repeatedly, or the presence of dog fouls may be signalling to other dog walkers that they don't need to pick up after their own dog.

There have been successful behavioural change, or nudging campaigns run by various Councils to directly address the issue of dog fouling. Keep Northern Ireland Beautiful has produced a number of posters to help with these initiatives, which are now available upon request. See our website for details.

**AVERAGE FOR ALL OF NI:**

**15%**

**6%**

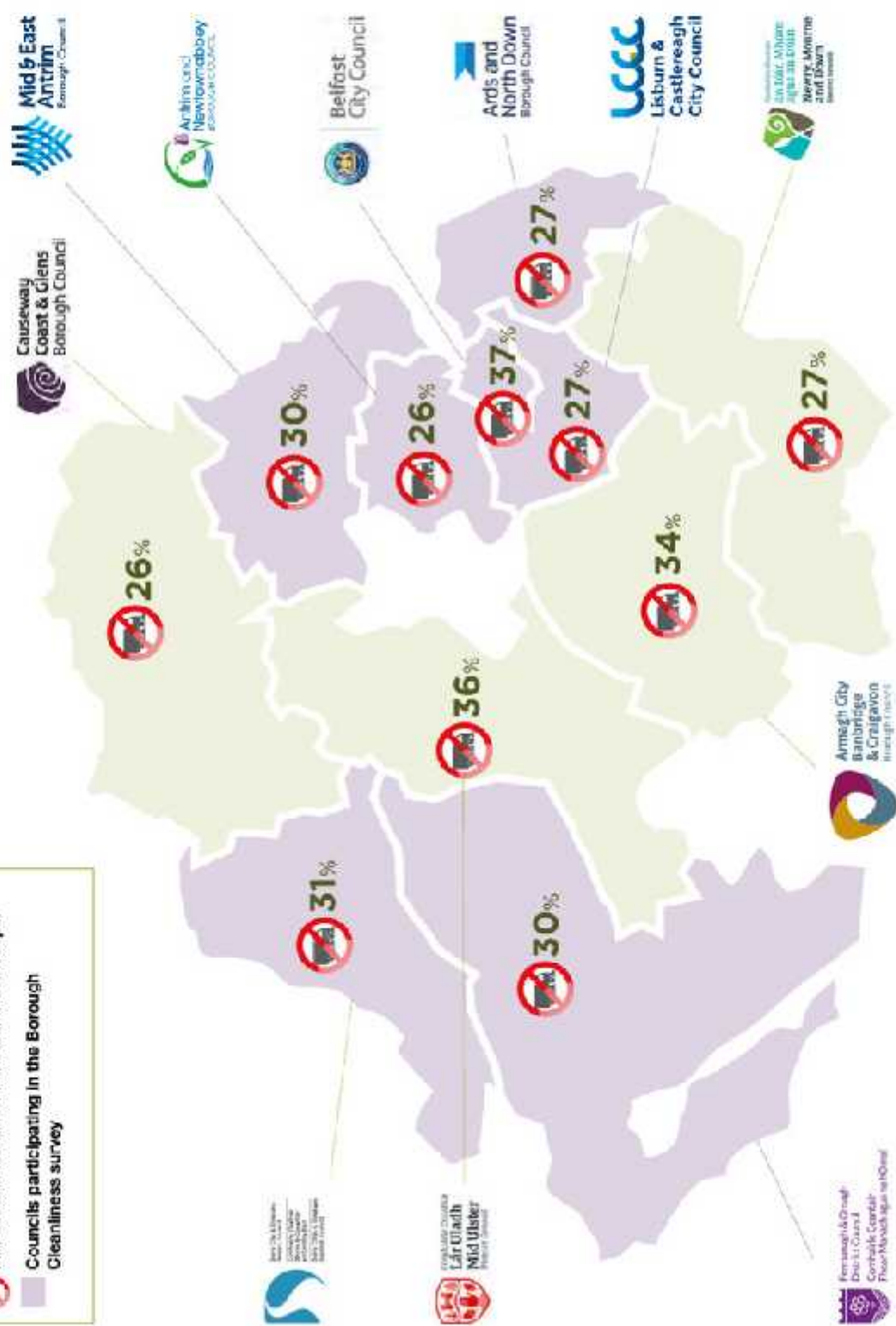


### Obstruction to sweeping

The average percentage of each transect that a mechanical sweeper would not be able to access in each Council area. The analysis is based on the ability of standard-size sweepers to access the korb and channe and for the smaller angle-operator versions to travel along the pavement. The availability of such machines to Councils is not considered.

**KEY**

- Inaccessible areas for a mechanical sweeper
- Councils participating in the Borough Cleanliness survey



**AVERAGE FOR ALL OF NI:**

**30%**

A significant issue in any cleansing routine is ability to fully exploit the cleansing resources available. If a mechanical sweeper is unable to access an area then the choice becomes: a) leave any litter and detritus; b) task a sweeper on foot to an area, or c) schedule a return to an area in the hope that the obstructions will have moved. The majority of obstructions are parked cars preventing access to the korb, but other obstructions, especially in retail areas, include fixed signs, movable signs, inappropriately placed street furniture and poorly designed sites that would prevent access, especially outside retail areas.

### Cleansing spend

The total average spend on street cleansing across all of Northern Ireland in 2016/17 was £45,562,532. With a total of 799,208 households in Northern Ireland this means that on average every rate payer was charged £57.44 for cleaning the streets, even if they are not personally a litterer.

Please note that these figures relate to 2016/17, and are therefore one year behind the figures in the rest of this report. Because of careful auditing and the public presentation process public finances go through, the approved figures are only made available in autumn of the following year.

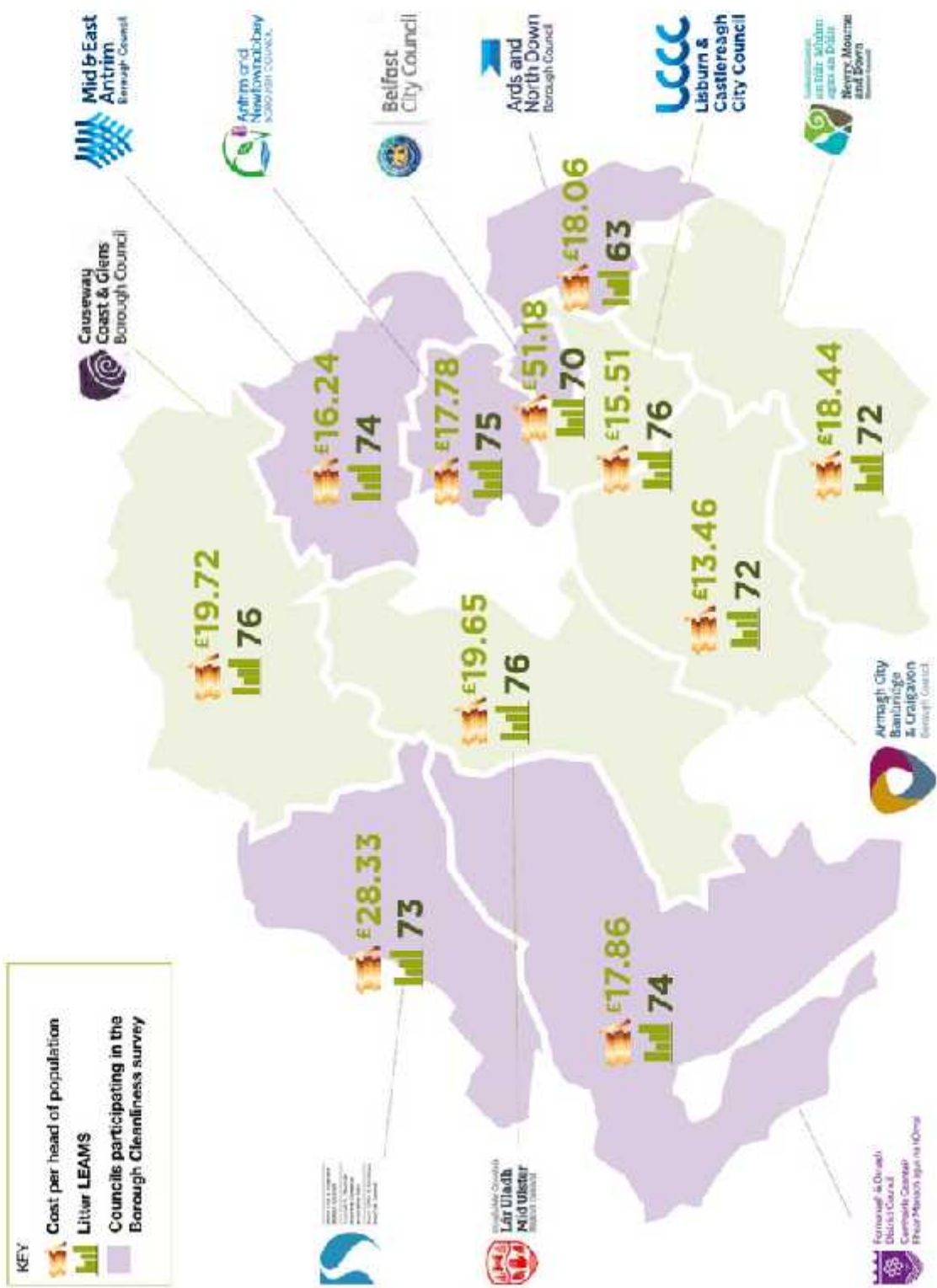
AVERAGE FOR ALL OF NI:

£24.32

70

### Cleansing spend vs LEAMS

Litter LEAMS was calculated from survey data collected by trained surveyors between August and October 2017. Spending figures were collected from individual Council financial statements, which are available on Council websites (reported on 30/01/18), and the projected population of each Area from the NI Statistics and Research Agency.



### Fixed penalties vs LEAMS

FPM figures were provided by each Council in response to requests for the information. Litter LEAMS was calculated from survey data collected by trained surveyors between August and October 2017.

**KEY**

 Fixed penalty notices issued

 Litter LEAMS

**AVERAGE FOR ALL OF NI:**

 **287**

 **70**



# Marine litter

Keep Northern Ireland Beautiful conducts four surveys on ten reference beaches every year on behalf of the Department for Agriculture, Environment and Rural Affairs.

This survey was designed to provide a baseline figure against which to measure progress toward what is termed Good Environmental Status (GES) under the European Marine Strategy Framework Directive.

In March 2018, Keep Northern Ireland Beautiful published their 2017 Marine Litter Report, receiving wide coverage across all media channels. The report highlights the many effects of marine litter, including the harm it poses to wildlife, along with the particular issue of microplastics.

The full report can be found here:

[www.KeepNorthernIrelandBeautiful.org/marinelitter](http://www.KeepNorthernIrelandBeautiful.org/marinelitter)



Volunteers have removed close to 1,000,000 pieces of litter from ten beaches since the surveys began in 2012.



Between September 2012 and October 2017, an average of 510 items of litter were observed per 100m of beach around Northern Ireland. Those items break down as shown here:



**Wood**  
10

**Plastic gloves (heavy duty)**  
12

**Plastic string and cord diameter < 1cm**  
66

**Plastic and polystyrene pieces < 2.5cm**  
60

**Plastic fishing nets**  
9

**Tyres/belts**  
3

**Plastic and polystyrene pieces > 2.5cm**  
71

**Other cloth items**  
6

**Medical**  
1

**Other glass items**  
4

**Other plastic items**  
38

**Plastic drinks caps and lids**  
33

**Plastic food wrappers**  
27

**Other rubber items**  
9

**Plastic bags**  
16

**Other metal items**  
14

**Paper**  
3

**Plastic drinks containers**  
42

**Drink Cans**  
21

**Other sanitary items**  
6

**Oil drums/ jerry cans**  
1

**Plastic shotgun cartridges**  
8

**Bottle caps**  
2

# Live Here Love Here

## In 2017, Live Here Love Here:

- Supported over 111,000 volunteers in clean-ups and other civic pride actions
- Removed 141 tonnes of litter
- Operated a Small Grants Scheme that was 5 fold over-subscribed, which supported 143 projects
- Developed and delivered significant media coverage including TV, outdoor and social
- Grew with the welcome addition of McDonalds from the business sector in 2017 and we are delighted to have Lisburn and Castlereagh City Council on board from 2018 onwards

## Community Awards 2018

The Live Here Love Here Community Awards, hosted by Keep Northern Ireland Beautiful, celebrate the tremendous efforts of groups and individuals across the province who embody the values of Live Here Love Here. This year's event, held in the Belfast Harbour Commissioner's Office was sponsored by ISL Waste Management Ltd. Compere'd by TV Presenter Joe Mahon, the evening was filled with inspirational tales from volunteers who have and continue to instil pride in our local communities through practical environmental action.

Applications for the Live Here Love Here Community Awards 2018 will be launched late 2018 on our website at [www.liveherelovehere.org](http://www.liveherelovehere.org)



These organisations are partners in Live Here Love Here (Lisburn and Castlereagh City Council from April 2018):



## The Edge Youth Centre



Ballynahinch is a community often defined by high suicide rates or traffic jams on the way to Newcastle. Since beginning this project, we have seen a new definition for our town - unity, hard work and investment. We are seeing young people and their parents, grandparents, neighbours coming together for a cause that will bring about a space that will benefit the community on many levels. A space to connect and learn, qualifications, new hobbies and interests, new relationships, food for families struggling financially and the support to develop these skills in their own homes/ gardens, young people learning the importance of giving back and having an interest in our society etc. In the three months we have been building the garden I have seen an improvement in generations in our community finding a common interest, teaching each other new skills and seeking ways of using the tunnel to bring about support to the wider community.

A highlight for me has been the generosity in the volunteers offering their time and resources to help the construction process; from giving up time, taking holidays in their work to help us, donating items from their homes that they no longer use or see purpose for in garden etc.

## Melmount & East Bank Estates Community Associations Forum



Our project was to develop a vacant piece of disused and over grown land within the Ballycolman Estate that would promote community cohesion, enhance the area concerned and engage local people in environmental initiatives. After consultation with the local community association it was felt that a mini allotment would best serve the project. Our area of concern suffers from high levels of deprivation and unemployment and has suffered greatly from our troubled past. The mini allotment would facilitate a safe and peaceful area for local residents to sit and ponder and find ease from stress related issues and concerns.

The mini allotment is aimed at encouraging our younger folk to take part in environmentally friendly initiatives that will enhance the immediate area and educate them on the varying aspects of a positively maintained environment as well as the healthy benefits of home grown produce. The project was delivered in conjunction with the Strabane Health Improvement Project which is made up of people from various backgrounds, ages and health requirements. A lot of these people suffer from alcohol and drug related issues arising from the political conflict and has such this project afforded them the opportunity to positively give something back to the local community as well as being appreciated and involved in local community action and development.

The project also brought together people from different religious and ethnic backgrounds in an initiative that allowed for the promotion of good community relations throughout the immediate area.



Before and after photographs of the project.

# Education and awareness campaigns

Alongside the Live Here Love Here campaign, Councils and community organisations run various education initiatives and workshops which buttress wider-scale campaigning.

All eleven Councils were offered the opportunity to contribute a case study for this section.

## Scoop that Poop

In January, Ards and North Down Borough Council launched a major new campaign aimed at reminding all dog walkers to 'Scoop that Poop' or face a hefty £80 fine. The Council is determined to address dog fouling as it has the potential to ruin residents' and visitors' enjoyment of our otherwise beautiful outdoor spaces. The key messages of the campaign are **supervise** your dog at all times, **pick up** their waste and **bin it** (any litter bin will do), and **report** offenders to help the Council target enforcement efforts where they will be most effective.

The campaign supports and reinforces the Council's recently transformed approach to bringing environmental vandals to task, with the number of dog fouling fines issued between 1 April and 31 December 2017 increasing by 68% and £62,000 worth of fixed penalty fines being imposed for dog control and littering offences.



Keeping with the environmental protection theme, this campaign was funded from a new fund established by Arts and North Down Borough Council using some of the landfill tax savings generated by the phenomenal response of householders to a range of new household waste recycling initiatives. The new £200k Recycling Community Investment Fund ensures that the Council 'pays back' to the community for its efforts on recycling, using saved landfill tax to help further protect and enhance the local environment of the Borough; this type of reinvestment will continue as long as the residents of the Borough continue to sustain and improve their recycling habits.



## Adopt-a-Street

Adopt-a-Street is a scheme launched by the legacy Craigavon Borough Council in November 2013. Armagh City, Banbridge and Craigavon Borough Council currently supports groups across the Borough, who go out to clean and maintain their areas in between times that the street cleansing teams are there. The Council hands out litter pickers, gloves, bags and hi-viz gear if necessary and can offer collection of bags as part of the scheme. To date the Council has approximately 100 areas adopted and registered with the scheme.

The last recorded figures show that approximately 5,000 black bags of litter have been collected through the initiative.



## Wheelee Big Challenge with Belfast City Council

2017 saw pupils from 34 Belfast schools investigate and engage in practical actions to reduce waste, particularly food waste, in school and at home by reducing, reusing and recycling. Botanic Primary School placed food caddies in all their classrooms and managed to reduce the food in their bins by over 90%. They went on to impress the judges at the Wheelee Big Challenge competition in June and scooped first prize and £500 for their eco work.

Ruth Van Ry, Environmental Education Manager, Keep Northern Ireland Beautiful said: *"The Wheelee Big Challenge is an action based, fun project and competition for all schools in Belfast to think about how they could improve the environment by reducing waste and recycling more. We are delighted to be once again supported by Belfast City Council and are looking forward to seeing all the interesting ideas from schools. We invite all school pupils in Belfast to put their eco-thinking caps on and get involved".*

Alderman Tommy Sandford, Chair of the People and Communities Committee, Belfast City Council said: *"We are pleased to be working with Keep Northern Ireland Beautiful again on this competition, building on the success of the past few years. This competition gives schools the opportunity to win great prizes while helping to protect the environment and reduce waste disposal costs. With research showing that around a third of food is wasted, we hope this competition will encourage pupils and their families to think about the food they waste at home and in school and do something about it."*



# Eco-Schools

Eco-Schools forms an important element of the anti-littering education package in most Councils in Northern Ireland.

The Eco-Schools programme was developed by the Foundation for Environmental Education, is actively run in 67 countries around the world and is acknowledged as the world's largest pupil led environmental education programme, engaging over 15 million young people. It also provides an excellent foundation for delivering many of the 17 Sustainable Development Goals. There are now 273 schools across Northern Ireland that have been awarded the coveted Green Flag, the pinnacle of the programme. As well as undertaking detailed learning on three environmental topics, schools must maintain a litter free environment to achieve the Green Flag. Schools are reassessed every two years, ensuring that all participating pupils receive regular anti-litter messaging.

At the heart of the Eco-Schools programme is a very simple 7-step process supporting long-term behavioural change and promoting the environmental message beyond the school gates into the surrounding community. Northern Ireland was the first country in the world to have every school registered with the programme.

Eco-schools operates with the support of:



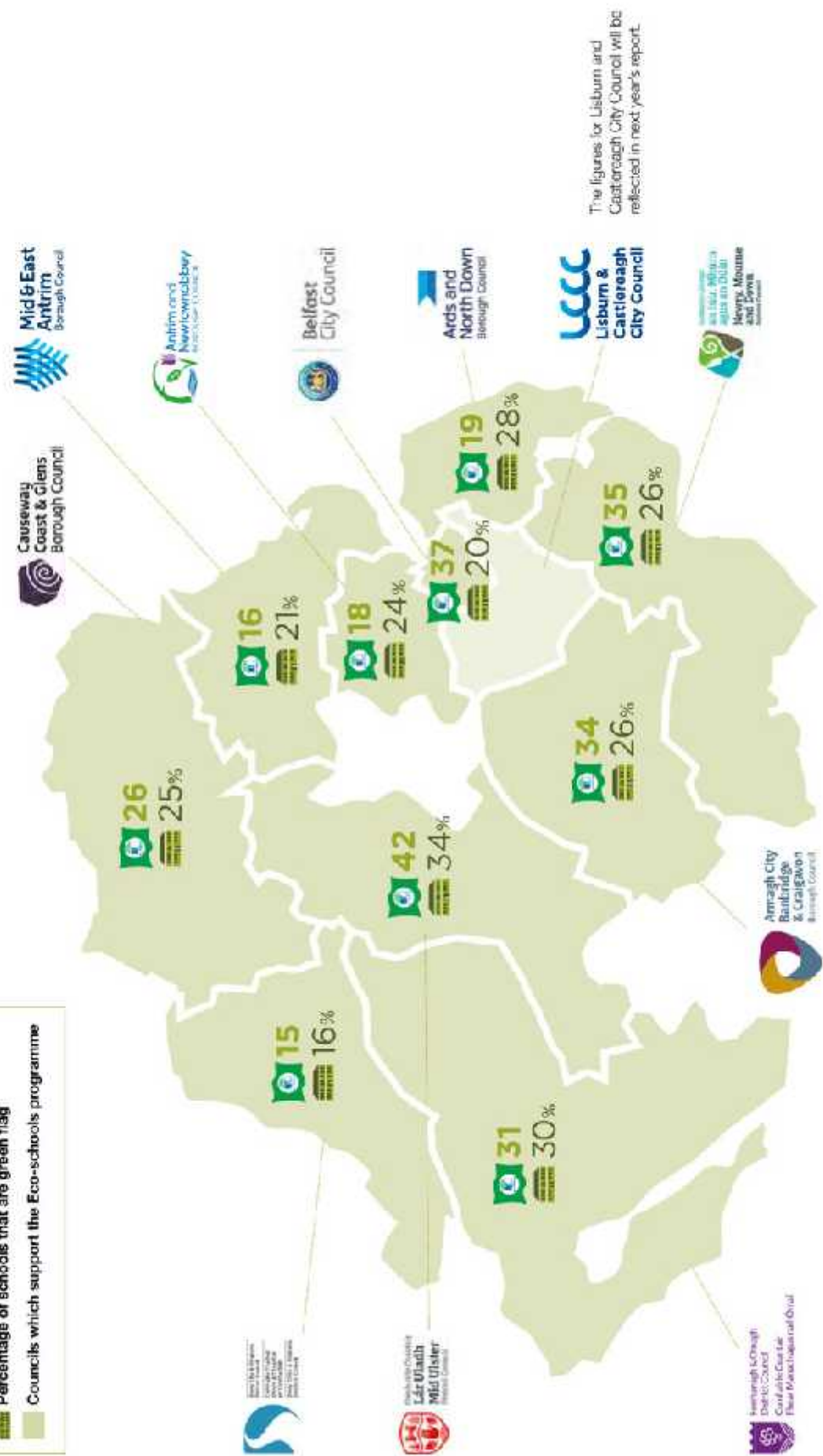
## Eco-Schools green flags in Northern Ireland

Number and percentage of schools in each Council which held a Green Flag on 20/03/2018. Lisburn and Castlereagh City Council have committed their support to the programme from April 2018.

**KEY**

-  Number of Schools that fly a green flag
-  Percentage of schools that are green flag
-  Councils which support the Eco-schools programme

AVERAGE FOR ALL OF NI:  
 25%



The figures for Lisburn and Castlereagh City Council will be reflected in next year's report.

# The rural litter issue



39% of rural transects surveyed in 2017/18 were unacceptably polluted by litter.

Compare this to both primary (3%) and secondary retail (13%) and it is clear that there is a difference in the volume of rubbish accumulating in these areas. This is most likely explained by the way cleansing resources are allocated to each area. In the main towns and cities, sweepers and teams of litter pickers are deployed on a daily basis, whereas very few Councils are able to clean the rural roads in their areas very often, due to fears over the health and safety of their staff.

\* Average LFI across both Primary and Secondary Retail areas.

# Sources of litter



During the survey, a decision is made by the surveyor as to the most likely source of the litter found in each transect.

most common sources of litter. It should be noted that multiple sources can be ticked for one transect. From the table below we can see that more litter is coming from motorists and less from pedestrians this year when compared to 2016/17. This is mostly due to the increase in rural litter, 95% of which comes from passing cars.

The reasoning is based on type of litter, land use, footfall, presence of fast food outlets and the weather. The graphic above shows the four

Sources	2016/17	2017/18
Pedestrian	77%	74%
Motorist	27%	30%
Postal workers	3%	3%

# EU Waste Directive Amendments

For the first time ever, the EU is set to have a cohesive policy on litter and the prevention of littering set out in a legally binding text. This is potentially a monumental moment for all the EU member states, but how much of this will be transitioned across in the first instance to the UK and then adopted by our Northern Ireland Assembly after Brexit is yet to be seen.

## The breakthrough actions are as follows:

- Litter is a shared responsibility** between competent authorities, producers and consumers and they all must now play a defined role in the fight against littering behaviour.
  - Dropping litter must be an offence** across all member states and the penalties should be effective, proportionate and dissuasive.
  - National litter prevention strategies** must be adopted by member states as an integral part of their waste management plan to combat and clean up all forms of littering.
  - The link between land and marine litter strategies is key** to their success and member states must take full account of their EU marine environment and water directives when their national litter prevention strategies are being created.
  - Member states must identify and address products that are the main sources of littering and take measures to prevent and reduce litter from these sources.**
- Producers must pay for public information and communication campaigns on the prevention of littering.** Products not covered by an existing scheme will now have to be included.
  - EU member states are required to develop and support campaigns** to raise awareness on the issue of waste prevention and littering.
  - The EU Commission is charged with promoting information exchange** between member states and those involved in producer responsibility schemes.  
Keep Northern Ireland Beautiful has been campaigning for some of these steps to be taken for a number of years, as outlined in the recommendations of previous reports. These have evolved over time and our recommendations overall reflect on these recent amendments to the EU Waste Directive, along with other issues such as single use plastics that have captured the public's imagination and brought important issues into sharper focus.

# Recommendations

These recommendations are what Keep Northern Ireland Beautiful believes would be necessary to meaningfully reduce littering, dog fouling and related environmental incivilities in Northern Ireland. We have given priority to those recommendations that deal with the cause, rather than the effects.

## For national policy makers

1. **Northern Ireland needs a comprehensive litter strategy that tackles the causes of litter.** This would need to include a joined up approach across education, credible levels of enforcement, increased public engagement, and the sharing of scarce resources.
2. **Hold all bodies with responsibility to equal account.** Although not legally responsible for litter collection, the Department of Infrastructure, particularly Transport NI and the Rivers Agency, should be held to account on an ethical basis for the appropriate cleansing regime of all areas in their remit. This includes actively managing and penalising contractors who fail to collect litter before cutting or clearing work is undertaken. Other public and private land managers should also be held to the same standard.
3. **Support initiatives and campaigns to reduce particularly harmful types of litter.** The spotlight has been shone on single use plastics as posing a real long-term risk to our environment and wildlife. More should be done to address such issues, including the promotion of viable eco-friendly alternatives and spreading of best practice throughout the hospitality industry.
4. **The Assembly; relevant Departments; beverage producers and environmental groups should examine the costs, benefits and hurdles to adoption of a container deposit return scheme.** Such schemes have, at a cost, been effective

in reducing this item of litter where they have been introduced. The process should consider the practicality of introducing this and other viable options on an all-island basis, all UK basis and solely for Northern Ireland.

5. **Clear obstructions from streets to improve cleansing outcomes.**

Consideration should be given to a requirement that residential areas are kept clear of vehicles between designated times on given days in a month, to allow unimpeded access for street sweeping. With almost one third of a mechanical sweeper's operational time wasted due to parked cars blocking access, this would significantly improve the outcomes from street cleansing operations while reducing the resources required.

6. **Clear guidance is required for the treatment of littering by the courts.** This should contain structured guidance against

which fines, penalties and other options issued during court proceedings can be set. This would ensure that fair and reasonable penalties are applied consistently, removing the opportunity to cheat the system and take to court a defence case that is without merit, on the possibility that the sentence will be less costly than paying the original Fixed Penalty Notice.

7. **Adopt a suitable benchmark for all land managers.** This entails the development of a local environmental quality performance indicator for all Councils and other major land managers, based on the current surveys carried out by Keep Northern Ireland Beautiful.

## For local policy makers

1. **Schemes that reward desired behaviours should be promoted on an equal footing with enforcement.** Examples of these schemes have already been successfully trialed in parts of Northern Ireland and are growing in popularity across most Council areas.
2. **Provide education for new dog owners.** New owners should be required to attend a basic awareness course when registering a dog for the first time. Ignorance of welfare issues and owner responsibilities should not be allowed to reduce the amenity of shared spaces.
3. **Prioritise behaviour change above provision of additional disposal facilities.** The presence of one or more bins on a transect has no statistically significant impact on litter or dog fouling outcome suggesting that bins that are there are often ignored. To reduce the number of people who litter it would likely be as cost effective, if not more so, to invest in ways of encouraging bin use than to simply install more bins.
4. **Support initiatives and campaigns to reduce particularly harmful types of litter.** The spotlight has been shone on single use plastics as posing a real long-term risk to our environment and wildlife. Local businesses could be encouraged to adopt the alternatives through a reduction in rates or subsidised purchasing scheme.

**5. Councils should work for a consensus on support for, and application of, enforcement practices.** An apparent

'postcode lottery' in enforcement rates creates a resentment of the system, rather than an understanding and positive attitude towards it. Harmonisation is needed to project a clear and unambiguous message to the public regarding the treatment of offenders.

**6. A greater role should be played in Public Realm procurement and planning by cleansing service departments.**

Examples of cluttered layouts, inappropriate street furniture selection and primacy of aesthetic considerations impair the ability of cleansing services to maintain an environment, resulting in increased maintenance spending and reduced amenity over the lifespan of the scheme.

## For other agencies

**1. Study in greater detail the link between litter and dog fouling and social cohesion, economic progress and deprivation.** Litter has been linked to

depressed economic performance in the local area. Understanding what effect littered streets have on high street shopping may help to revitalise town centres. High levels of litter have also been linked to social problems, including disrepair and a rise in antisocial behaviour and criminal activity. Effective solutions to the litter issue may raise the standard of living, economic outcomes and even mental health in many areas, and improve social cohesion.

**2. Study in greater detail the effect of poorly kept private land on surrounding public areas.** Resources are required

to determine the extent to which poorly kept private space, litter and scrap lying in gardens, and state of repair has an effect on the amount of litter in the public space. This would allow us to understand better the relationship between littering by residents and by transients, and help formulate effective focused solutions to local littering issues.

## Education and awareness raising actions

**1. Improve co-operation between stakeholders.** Better integration of existing programmes such as Eco-Schools and Live Here Love Here with Council messaging on litter and waste, could allow for development and production of a larger or more diverse range of resources, and facilitate a more consistent approach across individual channels and agencies.

**2. Share information and ideas more widely.** Greater sharing of information should be the norm, including sharing of education and enforcement endeavours through groups such as the Technical Advisory Group, Chief Environmental Health Officers Group and the NI Environmental Quality Forum. This could improve the quality of individual actions by making available a wider range of skills, experience and creativity, as well as greater resources.

And if you still don't think neighbourhood cleanliness is a problem...



To discuss how we can work together to tackle littering please contact:

**Freddie Harris**  
CLEANER NEIGHBOURHOODS MANAGER

[freddie.harris@keepnorthernirelandbeautiful.org](mailto:freddie.harris@keepnorthernirelandbeautiful.org)

T: 028 9073 6920

[www.keepnorthernirelandbeautiful.org](http://www.keepnorthernirelandbeautiful.org)



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Registered Charity No XR36767 NI Charity No NIC102973 Company No NI33848 VAT Reg No 860 2036 57



**ITEM 4**  
**ARC21 JOINT COMMITTEE**  
**Meeting No 030**  
**Hosted by Ards and North Down Borough Council**  
**MINUTES**  
**Thursday 26 April 2018**

**Members Present:**

Councillor M Rea  
 Councillor M Magill  
 Alderman R Gibson (*Deputy Chair*)  
 Councillor A Cathcart  
 Councillor D O'Loan (*Chair*)  
 Councillor R Wilson  
 Councillor B Adger  
 Councillor G Craig  
 Councillor D Curran  
 Councillor W Clarke

Antrim and Newtownabbey Borough Council  
 Antrim and Newtownabbey Borough Council  
 Ards and North Down Borough Council  
 Ards and North Down Borough Council  
 Mid and East Antrim Borough Council  
 Mid and East Antrim Borough Council  
 Mid and East Antrim Borough Council  
 Newry, Mourne and Down District Council  
 Newry, Mourne and Down District Council  
 Newry, Mourne and Down District Council

**Members' Apologies:**

Councillor B Duffin  
 Alderman A Carson  
 Councillor G Milne  
 Councillor J Bunting  
 Councillor M Collins  
 Alderman J Tinsley  
 Councillor O Gawith  
 Councillor L Poots

Antrim and Newtownabbey Borough Council  
 Ards and North Down Borough Council  
 Belfast City Council  
 Belfast City Council  
 Belfast City Council  
 Lisburn & Castlereagh City Council  
 Lisburn & Castlereagh City Council  
 Lisburn & Castlereagh City Council

**Officers Present:**

J Quinn  
 G Craig (*Secretary*)  
 H Campbell  
 K Boal  
 J Green  
 R Burnett  
 M Laverty  
 D Lindsay  
 T Walker  
 T Smith  
 P Thompson  
 R Moore

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 Antrim and Newtownabbey Borough Council  
 Ards and North Down Borough Council  
 Belfast City Council  
 Lisburn & Castlereagh City Council  
 Mid and East Antrim Borough Council  
 Newry, Mourne and Down District Council

**Officers' Apologies:**

G Girvan  
 N Grimshaw  
 C Campbell  
 H Moore

Antrim and Newtownabbey Borough Council  
 Belfast City Council  
 Belfast City Council  
 Lisburn & Castlereagh City Council

The Chair welcomed Councillor Willie Clarke as the new representative from Newry, Mourne and Down District Council to the meeting. He also welcomed Roland Moore and Tim Smith from Newry, Mourne and Down District Council and Lisburn & Castlereagh City Council respectively.

#### **Item 1 - Conflicts of Interest Statement**

The Chair read out the Conflicts of Interest Statement. There were no conflicts noted.

**Action: Noted**

#### **Item 2 - Apologies**

Apologies were noted.

**Action: Noted**

#### **Item 3 - Minutes**

The minutes of Joint Committee meeting 029 held on 29 March 2018 were proposed and seconded.

**Action: Agreed**

#### **Item 4 - Matters Arising from the Minutes**

Page 7 - Annual Declaration of Interests Forms - Mr Craig presented Members with a form to be completed and signed accordingly in compliance with the Joint Committee policy.

**Action: Noted**

#### **Item 5 - General Data Protection Regulation**

Mr Craig presented a report to inform the Joint Committee on the preparations underway for compliance with the new General Data Protection Regulation.

He reported that the Data Protection Act 1998 is being updated and the new General Data Protection Regulation (GDPR) comes into force on 25 May 2018.

He advised that Data Protection legislation is governed by the Information Commissioners Office and guidance on the new Regulation has been provided to assist organisations with the process of keeping up to date with the legal requirements. The approach being adopted by the Joint Committee is to follow the guidance provided by the ICO.

Mr Craig advised Members that advice was being sought from the GDPR experts in Belfast City Council and that a Data Protection Lawyer from Arthur Cox Solicitors had also been engaged to provide legal advice on compliance issues.

He reported that the next stage was to carry out an internal audit to ensure arc21 are compliant by the deadline of 25 May and every effort is being made to meet this deadline.

Mr Craig advised that he would provide an update on arc21's progress at the next meeting.

**Action: Mr Craig**

Following discussion the Joint Committee agreed to note the report.

**Action: Noted**

**AGENDA**

### **Item 6 - NI Kerbside Composition 2017 - Presentation**

Mr Burnett presented a summary of the outcomes of the NI Kerbside Waste Composition Study 2017 facilitated by WRAP on behalf of DAERA and undertaken by RPS.

He reported that the study included a sample of 150 households from each council proportional to the overall social economic make-up of the council. The kerbside reciprocals were collected and the materials collected hand sorted to identify what was being put into the various bins. Residents were unaware of their participation in the study and the results were presented through a number of bar and pie charts.

In summary, Mr Burnett reported that the results of the kerbside collection included: food waste at 22.9%; followed by paper and cardboard at 18.5%; garden waste at 14.9%; dense plastic at 9.1%; and glass at 7.1%.

However the residual composition was made up as follows: food waste 24.7%; paper and cardboard at 15.6%; healthcare waste at 12% (this includes nappies); dense plastic at 9.9%; plastic film at 9.9%; and glass at 7% which shows that there is still a lot of waste which is not begin separated out of the black bin. It was agreed that more can be done to extract more waste from the residual bin and that public education was key to this.

Mr Quinn advised that the Environment Secretary, Michael Gove, has initiated a review of packaging legislation which is a very topical issue at present with new targets for Producer Responsibility in Europe. He further advised that he had been invited to participate in a workshop in London examining the Producer Recovery Note system.

Following discussion, it was agreed that Mr Burnett would circulate a copy of the presentation to Members and Officers for information.

**Action: Mr Burnett**

The Chair advised Members that the meeting would now go In Committee which was proposed and seconded accordingly.

### **In Committee**

The Chair read out section 4.15 of the Councillors' Code of Conduct.

Matters of a confidential and commercially sensitive nature were discussed under this agenda item and recorded accordingly.

Following discussion on the commercially sensitive matters, the Chair advised Members that the meeting would now return to the main agenda but whilst 'in committee' there were four matters discussed as follows:

<b><u>Item 7 - In Committee Minutes of Joint Committee Meeting No. 029 held on 29 March 2018</u></b>	<b>Action: Agreed</b>
<b><u>Item 8 - Matters arising from the Minutes</u></b>	<b>Action: Noted</b>
<b><u>Item 9 - Residual Waste Treatment Project</u></b>	<b>Action: Noted</b>
<b><u>Item 10 - MRF Contract Dispute and Variation Proposal Update</u></b>	<b>Action: Noted</b>

## Out of Committee

The Chair advised Members that the meeting would now return to the main agenda which was further proposed and seconded.

### Item 11 - Contracts and Performance Update

Ms Boal and Mr Burnett presented a report to advise the Joint Committee on the prevailing monthly situation pertinent to the operational performance of the service and supply contracts.

A summary of the key discussions is replicated as follows:

- *On track for compliance with 2017/18 NILAS targets.*
- *Deliveries for Compost Awareness Week 2018 have commenced.*
- *Contractual obligations result in the MRF monthly payments increasing in line with CPI i.e. 2.5%.*
- *There was one rejected load into Bryson Recycling in March 2018.*

There were no further issues raised.

Following discussion, the Joint Committee agreed to note the report.

**Action: Noted**

### Item 12 - Call for Evidence on Using the Tax System or Charges to Address Single-use Plastic Waste

Mr Burnett presented a report to advise the Joint Committee on the call for evidence originating from HM Treasury relating to the possible introduction of a tax on single-use plastic waste.

He reported that in January, the Prime Minister launched the 25 Year Environment Plan, outlining the government's new ambitions for protecting the environment. The plan sets out steps to tackle a wide range of environmental issues, including plastic waste and the impact it has on the marine environment. The Prime Minister announced that the government has pledged to eradicate all avoidable plastic waste by the end of 2042 and will publish a Resources and Waste Strategy later this year.

A key element of the government's plan to eliminate avoidable plastic waste was to examine how economic incentives can be used to encourage more sustainable behaviour.

This call for evidence will explore how changes to the tax system or charges could be used to reduce the amount of single-use plastics we waste in order to deliver better environmental outcomes, which would be the primary objective of any such intervention. Specifically, the government would like to understand how further economic incentives can be effective in continuing to reduce waste from single-use plastics by reducing unnecessary production, increasing reuse, and improving recycling.

Mr Burnett reported that consultation with a number of parties is currently ongoing with a view to ensuring a response is submitted which will be in the best interests of local government generally and arc21 in particular. This may entail a response which does not specifically follow the questions suggested in the document.

He advised that arc21 will be attending a select meeting of Council Officers in London on the 11 May 2018 at which the call for evidence will be discussed and this will further help to inform our response.

The closing date for submissions is 18 May 2018.

Following discussion, the Joint Committee agreed to note the report.

**Action: Noted**

### **Item 12 - AOB**

Mr Craig advised Members that with Councillor Stephen Burns stepping down from the Joint Committee last month, a vacancy had arisen on the Audit Committee and sought nominations from Members for this position. Councillor Alistair Cathcart was proposed and seconded by Members to serve on the Audit Committee.

**Action: Agreed**

### **Next Meeting**

The Chair advised that the next scheduled meeting of the Joint Committee was due to be held on Thursday 31 May 2018 at 10.30am and hosted by Belfast City Council.

**Action: Noted**

Date: \_\_\_\_\_

Chairman: \_\_\_\_\_



**JOINT COMMITTEE**  
**31 May 2018**

123

**MEMBERS' MONTHLY BULLETIN**

The purpose of this Bulletin is to provide Members with an executive summary of the various agenda items which will be considered by the Joint Committee at its forthcoming meeting. The titles highlighted in blue relate to the various agenda items.

**Item 3 - General Data Protection Regulation - Presentation by Rosemary Lundy, Arthur Cox Solicitors, and written report by George Craig****For noting**

The Data Protection Act 1998 is being updated and the new General Data Protection Regulation (GDPR) comes into force on 25 May 2018.

GDPR applies to the Joint Committee and this report is provided to update Members of the action being taken to ensure compliance with the new Regulation.

Data Protection legislation is governed by the Information Commissioners Office and guidance on the new Regulation has been provided to assist organisations with the process of keeping up to date with the legal requirements.

The approach being adopted by the Joint Committee is to follow the guidance provided by the ICO and engage the services of an expert in Data Protection Law.

As at 25 May 2018, the effective date under the law, the Joint Committee was deemed to be compliant.

The Joint Committee is asked to note the report.

**Item 4 - Minutes of Joint Committee Meeting 030 held on 26 April 2018****For approval**

The Joint Committee's approval is sought for the minutes of the meeting held on 26 April 2018.

**Item 5 - Matters Arising****'IN COMMITTEE' ITEMS - COMMERCIALY CONFIDENTIAL**



**JOINT COMMITTEE**  
**31 May 2018**

**Item 6 - Minutes of Joint Committee Meeting 030 held on 26 April 2018 held 'in committee'**

**For approval**

The Joint Committee's approval is sought for the minutes of the meeting held on 26 April 2018 'in committee'.

**Item 7 - Matters Arising**

**Item 8 - Residual Waste Treatment Project**

**For noting**

**Judicial Review of decision to grant planning permission** - the judgement of the High Court was handed down on 14<sup>th</sup> May 2018. The judgement was that the Department for Infrastructure did not have the vires to make the decision to grant planning permission to develop the land at Hightown Quarry in the absence of a Minister.

Since the announcement of that decision, the Department for Infrastructure lodged an appeal and a date for the hearing by the Court of Appeal has been set for 25 June 2018.

**Grid Connection** - An extension of time has been granted by the Utility Regulator to the end of August 2018 to complete the technical studies.

**April 2018 Eunomia Report** - the limited circulation of a report dated April 2018 prepared by Eunomia for the 'Noarc21' objector groups seemed to have given rise to some recent interest from the mainstream media and comments from various sources reported by them in relation to the "need" for the arc21 residual waste treatment project. arc21 have now acquired a copy of this report and have reviewed it. Essentially the report promotes the export of waste as a long-term strategy for Northern Ireland waste management.

The Joint Committee is asked to note the report.

**Item 9 - Proposed Variation to MRF Contract with Bryson Recycling**

**Recommendation for approval**

It is recommended that a proposed variation to the terms of the contract with Bryson Recycling be accepted for the duration of the 9-month extension period which expires on 31 December 2018.



**JOINT COMMITTEE**  
**31 May 2018**

The Joint Committee is asked to endorse the recommendation for consideration and approval by participating Councils.

### **Item 10 - WEEE and Batteries Service Contracts**

#### **Recommendations for approval**

The Joint Committee is presented with recommendations following a recent tender process for the provision of services in connection with the collection and processing of WEEE and Batteries.

It is recommended that the tenders be awarded as follows:

<u>Contract</u>	<u>Contractor</u>
1. WEEE ( 4 lots)	European Recycling Platform
2. Batteries	European Recycling Platform

The Joint Committee is asked to consider and approve the recommendations.

### **OUT OF COMMITTEE & RETURN TO MAIN AGENDA**

### **Item 11 - Contracts and Performance Update**

#### **Recommendations for approval**

Type 1 organic waste tonnages increased by 28% when compared with March 2018 tonnages whilst there was a 31% increase in Type 2 material in the corresponding period.

All Councils received bagged compost for compost giveaways and promotions during Compost Awareness Week, 6<sup>th</sup> – 12<sup>th</sup> May 2018.

New walkway at forecourt of ReGen.

Potentially dangerous objects received at Bryson House from Council deliveries.

The Joint Committee is asked to endorse the recommendations in relation to the Landfill and Bring Sites contracts and note the rest of the report.



**Item 12 - Call for Evidence on Using the Tax System or Charges to Address Single-use Plastic Waste****For noting**

HM Treasury have made a call for evidence relating to the possible introduction of a tax on single-use plastic waste and arc21 have submitted a response within the prescribed timescale.

The Joint Committee is asked to note the report.

**Item 13 - Audit Committee Update****For noting**

The business to be dealt with by the Audit Committee at the meeting to be held on 31 May 2018 is set out in the Executive Summary attached to the report.

The Joint Committee is asked to note the report.

**Next Meeting: Thursday 28 June 2018 to be hosted by Lisburn & Castlereagh City Council**

HISTORICACTION SHEET – REGULATORY AND TECHNICAL SERVICES COMMITTEE MEETING20 June 2018

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
		<b>RTS MEETING – 18 MAY 2016</b>			
<b>RTS/78/2016</b>	<b>Council Public Amenity Space near the Council public toilets at Castlewellan</b>		<b>K Scullion</b>	It was further agreed that the suggestion of providing dancing fountains in Castlewellan Square would be investigated.	<b>N</b>
<b>RTS/87/2016</b>	<b>Tender for final capping at Drumanakelly Landfill Site</b>	<b>Agreed to tender for the final capping at Drumanakelly Landfill Site</b>	<b>J Parkes/L Dinsmore</b>	Stage 5 Capping works are progressed with Capping presently approximately 90% complete.	<b>N</b>

20 June 2018

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
		<b>RTS MEETING – 9 DECEMBER 2015</b>			
<b>RTS/142/2015</b>	<b>Old Furniture at Council Recycling Sites</b>	<b>Council adopt a policy that people leaving old furniture at Council amenity sites be given the opportunity to donate it to charity and that expressions of interest be sought from charitable organisations to collect this furniture for upgrading and re-use.</b>	<b>J Parkes/L Dinsmore</b>	Expressions of Interest Document has been completed but is currently held pending consideration of other issues relating to operation of Civic Sites. It is anticipated that report will be transferred to a later meeting of RTS. Position remains as previous, with intent that this matter will be progressed by June 2018.	<b>N</b>